

CRYPTOCURRENCY AS A MEANS OF INVESTMENT AND PAYMENT ON ISLAMIC LAW PERSPECTIVE



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Abstract

Advances in science and technology affect people's lifestyles, including the field of muamalah. Cryptocurrency is used as a means of investment and payment transactions in the modern era. The need for ijtihad to address the presence of digital currencies in Islamic law because it is a new problem and there is a discourse of contemporary Indonesian scholars who approve and prohibit it. The research aims to uncover and find legal solutions of the use of Cryptocurrency as an investment and payment tool. The research method uses descriptive – qualitative literature studies. The results of the study found that the use of Cryptocurrency as an investment tool prohibited because there is a vagueness of the object, has no asset guarantee and high elements of gharar. While its function as a medium of exchange in the digital era in Islamic law is not prohibited on the condition that the transaction has agreed and understood each other's mechanisms and there is legality from the government.

Kemajuan sains dan teknologi mempengaruhi gaya hidup masyarakat tak terkecuali bidang muamalah. Temuan Cryptocurrency digunakan sebagai alat investasi dan transaksi pembayaran di era modern. Perlunya ijtihad menyikapi kehadiran mata uang digital dalam hukum Islam karena termasuk persoalan baru dan terjadi diskursus ulama kontemporer Indonesia yang menyetujui dan melarangnya. Penelitian bertujuan untuk mengungkap dan menemukan solusi hukum dari penggunaan Cryptocurrency sebagai alat investasi dan pembayaran. Metode penelitian menggunakan studi literature yang bersifat deskriptif-kualitatif. Hasil penelitian menemukan bahwa penggunaan Cryptocurrency sebagai alat investasi tidak boleh digunakan, sebab ada ketidakjelasan objeknya, tidak punya jaminan aset serta tinggi unsur gharar-nya. Sedangkan fungsinya sebagai alat tukar di era digital dalam hukum Islam tidak dilarang dengan syarat yang bertransaksi itu telah sepakat dan saling memahami mekanismenya serta ada legalitas dari pemerintahan.

INTRODUCTION

The dynamics and progress of the development and progress of modern science and technology have had a major impact on all lines of human life on the surface of this earth, one of which is in the aspect of economic and business activities.¹ Various new issues and forms of modern muamalah are emerging and mushrooming in the virtual and real world, such as hedging, securitization, money market, capital market, e-commerce and including e-money or digital currencies.² Similarly, there has been a rapid development of banking and financial institutions, including leasing (multifinance), mutual funds, stock waqf, multilevel marketing.³

Related to digital currencies (Cryptocurrency) or e-money has emerged and developed in the global world presented by experts or computer scientists and mathematicians of the world.⁴ Various kinds and names are very much emerging in

¹ Nurcholish Majid, *Islam, Kemodernan, Dan Keindonesiaan* (Mizan Pustaka, 2008), 109.

² Chairul Iksan Burhanuddin et al., "Muamalah Market Disruption in The Middle of Modern Markets in Islamic Economic Perspective," *Studies of Applied Economics* 40, no. 1 (2022); Ali Murtadho, "Model Aplikasi Fikih Muamalah Pada Formulasi Hybrid Contract," *Al-Ahkam* 23, no. 2 (2013): 125 – 42.

³ Agustianto, "Reformulasi Fikih Muamalah Di Era Modern," *Iqtishad*, 2015.

⁴ Anton Surya Jaya and Tiyas Vika Widyastuti, *Legalitas Cryptocurrency Di Indonesia* (Penerbit NEM, 2022), 4.



cyberspace which are much loved and in demand by the public with various motives and goals. All this cannot be inhibited in the life of modern man whose psychological tendencies are instant and fast paced and there are no more limits of space, time and power.⁵ The presence of this digital currency will certainly fulfill their wishes and of course also cannot be separated from the pluses and minuses.⁶ The presence of digital currency (Cryptocurrency) among Muslims has raised pros and cons about its existence. The fatwa of the Indonesian Ulema Council expresses its legal opinion that the use of electronic money or digital currency is permissible while still setting several provisions to allow it.⁷ A different opinion is expressed in the East Java NU Fatwa which says that the use of digital money or crypto currencies is not in accordance with Islamic law and is haram.⁸ The same thing was also stated by Muhammadiyah in its fatwa Tarjih also said the law on the use of digital currencies (crypto money) as an investment is haram and as a medium of exchange.⁹

The existence of a discourse of figures /scholars about the position of digital currencies with somewhat varied opinions is the purpose of this study comprehensively related to the use of Cryptocurrency, both used as an investment tool and for payments. The presence of digital money in the modern era is undeniable, even a challenge in the economy. As Muslims, this progress certainly raises its own questions and challenges, whether Islamic law allows Muslims to use this digital money or is it prohibited in this modern era.

Digital currency (Cryptocurrency) or also called crypto money is a medium of exchange whose transaction techniques are carried out virtually or through the internet.¹⁰ In principle, cryptocurrencies are created or created from a series of popular codes called blockchain. Because it is made from a series of digital codes, this currency has no physical form, and also cannot be duplicated and tracked by its owner.¹¹ Thus, the way it is stored and used is certainly different from traditional currencies or what is called fiat by crypto money actors.¹² It can be said that digital currency (crypto money) is a digital asset developed for exchange media that uses cryptography,¹³ whose purpose is to secure financial operations and transactions. It can be said that digital currency (crypto money) is a digital asset developed for exchange media that uses cryptography also controls the creation of additional units and validates asset transfers.¹⁴ Therefore, it can be concluded that this digital currency serves as a substitute for paper money.¹⁵ It should be understood that this type of currency is not regulated by the government and is not an official currency.¹⁶

This digital currency has various forms of its name, of the many names it is the most popular called bitcoin. Besides bitcoin, there are other names ethereum, litecoin,

⁵ Zhara Shafira Uswatun Khasanah, "Analisis Performa Mata Uang Virtual (Cryptocurrency) Menggunakan Preference Ranking Organization Method for Enrichment Evaluation (Promethee)," *Journal of Science and Technology* 14, no. 1 (2021): 2.

⁶ Ana Toni Roby Candra Yudha et al., *Fintech Syariah: Teori Dan Terapan* (Scopindo Media Pustaka, 2020), 52.

⁷ Nur Kholis, "E-Money Dan Cryptocurrency Dalam Pandangan Islam," *Informatika UII*, 2021.

⁸ Khomarul Hidayat, "PWNU Jatim Keluarkan Fatwa Haram Uang Kripto, Akan Diusulkan Ke Mukhtamar NU," Kontan, 2021.

⁹ Ariyani Yakti Widyastuti, "Kini Giliran Muhammadiyah Resmi Haramkan Kripto, Apa Sebabnya," 2022.

¹⁰ Haruli Dwicaksana, "Akibat Hukum Yang Ditimbulkan Mengenai Cryptocurrency Sebagai Alat Pembayaran Di Indonesia," *Jurnal Privat Law* 8, no. 2 (2020): 187–93; Hari Sutra Disemadi and Delvin Delvin, "Kajian Praktik Money Laundering Dan Tax Avoidance Dalam Transaksi Cryptocurrency Di Indonesia," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, no. 3 (2021): 326–40.

¹¹ Leo Ajoansyah, "Sejarah Dan Perkembangan Uang Kripto," kominfo, 2021.

¹² Berry A Harahap et al., "Perkembangan Financial Technology Terkait Central Bank Digital Currency (Cbdc) Terhadap Transmisi Kebijakan Moneter Dan Makroekonomi," *Bank Indonesia* 2 (2017): 1–80.

¹³ Kriptografi adalah suatu ilmu mempelajari bagaimana cara menjaga agar data atau pesan tetap aman saat dikirimkan, dari pengiriman ke penerimaan tanpa mengalami gangguan dari pihak ketiga. Menurut Bruce Schneier kriptografi adalah ilmu pengetahuan dan seni menjaga message-message agar tetap aman (secure). Ary Hidayatullah, "Pengenalan Kriptografi Dan Pemakaiannya Sehari-Hari," researchgate, 2016.

¹⁴ Dewi Indrayani Hamin, "Crypto Currensi Dan Pandangan Legalitas Menurut Islam: Sebuah Literature Review," *JAMBURA: Jurnal Ilmiah Manajemen Dan Bisnis* 3, no. 2 (2020): 127–39.

¹⁵ Muhammad Jais, "Cryptocurrency Dalam Perspektif Syariah, Artikel (2022)," RMOL ACEH, 2022.

¹⁶ Cut Niswatul Chaira, "Konsep Mata Uang Dalam Ekonomi Islam (Analisis Bitcoin Sebagai Mata Uang Virtual)," *Ekobis: Jurnal Ekonomi Dan Bisnis Syariah* 3, no. 1 (2019): 2.

ripple, stellar, dogecoin, cardano, tether, monero, and tron.¹⁷ Thus quite a lot of variants of this digital money are even called by experts the number can be thousands which develops in accordance with technological developments. One of the greatest technological inventions in the modern world that is attracting a lot of public attention is the phenomenon of *Cryptocurrency*. According to some opinions, this is the greatest technological invention in the past ten years.¹⁸ *Cryptocurrencies* became very popular in a very short period of time *Cryptocurrency* represents a digital asset, whose main purpose is as a medium of exchange, and while doing that, it uses cryptography so that all transactions are secured, everything that just appears is controlled by its own system. It can be said that *Cryptocurrency* is a subset of digital currencies. The first *cryptocurrency* ever created was Bitcoin, in 2009. After that, many other *Cryptocurrencies* appeared on the market, but they were called altcoins, because they represented a mix of Bitcoin alternatives. Bitcoin does not have a centralized system; no one can control it completely, as in the electronic banking system. In the banking system, few institutions can issue currency and print money. But things are different with cryptocurrencies that use cryptography to collect all information and data, and everything passes through the blockchain, which represents a distributed ledger. Therefore, the government does not have the power to produce new units; everything is controlled through a virtual digital ledger. It is still unknown who created Bitcoin; the only thing that is publicly known is that it was someone or perhaps a group of people by the name of Satoshi Nakamoto who made it happen.¹⁹

Until this year, many similar systems have emerged with managers and application systems that are different from Cryptocurrency, such as Bitcoin and the like, but are still included in the block chain system. For this system to work, there are many people from the general public called miners. The task ahead will be to use computers for validation and timestamp transactions, as the process adds to the ledger when using a special timestamp scheme. And also get a great incentive for this action.²⁰

METHODS

The research method using literature studies is descriptive – qualitative. The primary data source consists of; articles, websites, journals in related print and electronic media, and secondary data consist of; Books of fiqh, tafsir and books relevant to this study. This research will be elaborated starting from the development of *Cryptocurrency*, the concept of currency in Islamic law and the discourse of Islamic legal experts through religious organizations in Indonesia about *Cryptocurrency*. The results of this study were concluded from the analysis in an inductive approach.

RESULTS AND DISCUSSION

History of the Discovery and Development of *Cryptocurrencies*

The invention of digital currency or crypto money initially appeared in the 1980s with the discovery of an American computer scientist and mathematician named David Chaum who invented a special algorithm that later became the basis of modern website encryption and electronic currency transfers today. Furthermore, David Chaum developed his invention until the 1990s and gave birth to a digital currency called DigiCash. It's just that this innovation failed to develop. Nevertheless, David's invention has an important role in the development of cryptocurrencies. A dozen years later, a reliable software engineer named Wei Dai in 1998 created b – money which has a more modern complex concept and system than DigiCash which represents an anonymous

¹⁷ Muhammad Jais, "Cryptocurrency Dalam Perspektif Syariah, Artikel (2022)."

¹⁸ Monia Milutinović, "Cryptocurrency," *Ekonomika* 64, no. 1 (2018): 105–22, <https://doi.org/10.5937/ekonomika1801105m>.

¹⁹ Milutinović.

²⁰ Satoshi Nakamoto, "Bitcoin: A Peer – to – Peer Electronic Cash System," *Decentralized Business Review*, 2008, 1 – 9, www.bitcoin.org.

electronic cash system.²¹ It's just that b-money also failed to develop and never had the opportunity to be used as a medium of exchange.²² And after that, Nick Szabo found the *gold bit*. It is considered a direct precursor to the creation of Bitcoin. BITS Gold represents a mechanism used for decentralized digital currencies, but never fully accepted and implemented. The idea is for cryptographic puzzlers with their computers, and through this network, all solved puzzles will be sent to a public registry called Byzantine-fault-tolerant and they assign a public key solver.²³ In 2008, the proposal for Bitcoin was released, and many people suspected that it was Szabo who created it, but this time under the name Satoshi Nakamoto. He categorically denies it, but there are many studies and researchers trying to prove that it was actually him. When Ethereum appeared in 2015, they named one of their subunit value tokens "Szabo".²⁴

The development of digital currencies or crypto money reached a bright spot in 2008. In this year Satoshi Nakamoto published a book entitled; *Bitcoin A Peer to Peer Electronic Cash System*. In this book, Satoshi's post to the mailing list discusses cryptography. Then in 2010, other cryptocurrencies began to emerge, and the first Bitcoin exchange also took place in the same year. Since then the price of cryptocurrencies has increased significantly.²⁵ This is what makes many people mine cryptocurrencies that circulate in such large quantities. However, the price has decreased in recent years due to government regulations and legal protection. In the context of Indonesia itself, crypto money is still considered not as legal tender or transaction.

According to observers, the progress of digital money development shows an increase in popularity, both in the Indonesian market and in the international market. Especially in Indonesia, based on data obtained from the Ministry of Trade (Kemendag), it shows that until the end of May 2021, the number of crypto currency assets reached 6.5 million people. When calculated, this number increased by almost 50 percent when compared to 2020, which only recorded 4 million perpetrators.²⁶ Therefore, the presence of this digital currency has become the focus of people's attention and something that is loved and it is certain that in this modern era which is marked by an all-online era will affect the life and lifestyle of someone who wants something fast and easy.

Since no one can control what happens with cryptocurrencies, the UK government commissioned the Treasury for a study of cryptocurrencies to look at their role and significance, and could they change anything, or affect the UK economy in any way. And also, in this way they will see if there is a need to organize this type of exchange. The first appearance of a Bitcoin ATM was in Austin, Texas, in 2014. It was installed by Robcoin's founder, Jordan Kelley, and has a scanner that can recognize documents issued by the government, such as driver's licenses or passports. In 2017 a large number of Bitcoin ATMs were installed everywhere around the world. The most important thing about *Cryptocurrency* and especially Bitcoin is that it cannot be controlled by any server or authority, it is completely secure and there is a greater chance for humanity to be wiped off the face of the earth, than for transactions or users on this platform to be exposed.²⁷

The idea was to create a digital cash system, which would work on the principle of a peer-to-peer network and files would be shared like this. That's what *Cryptocurrency* is all about. So, there is no server that controls this platform, but each peer should have a list that has all transactions so as to see if some future transactions are valid. It is possible to simplify the definition of cryptocurrency is (as limited entries

²¹ Milutinović, "Cryptocurrency."

²² Leo Aijoansyah, "Sejarah Dan Perkembangan Uang Kripto."

²³ Milutinović, "Cryptocurrency."

²⁴ Milutinović.

²⁵ Leo Aijoansyah, "Sejarah Dan Perkembangan Uang Kripto."

²⁶ Mutia Fauzia, "Mata Uang Kripto Dan Cara Kerjanya," kompas.com, 2021.

²⁷ Milutinović, "Cryptocurrency."

in a database no one can change without fulfilling specific conditions) as a limited entry in a database that cannot be changed by anyone without meeting certain conditions.²⁸

The Use and How Cryptocurrencies Work

The mechanism works on a simple principle that can be referred to as p2p (peer – to – peer) technology. Each peer has a record consisting of the entire history of every transaction. When someone gives a certain amount of Bitcoin to someone else, that file is signed by the private key, and once the key is signed, the transaction is broadcast on the network and sent from one peer to all other peers. There is a certain period of time that needs to elapse for some amount to be confirmed. Confirmation is an important concept in cryptocurrency because it's all about confirmation. A transaction can be forged while pending, but when confirmed, it will become a stone and become part of a historical transaction on the blockchain. Miners are the only ones who can confirm these transactions; they take them, mark them as legitimate, and let them spread through the network.²⁹

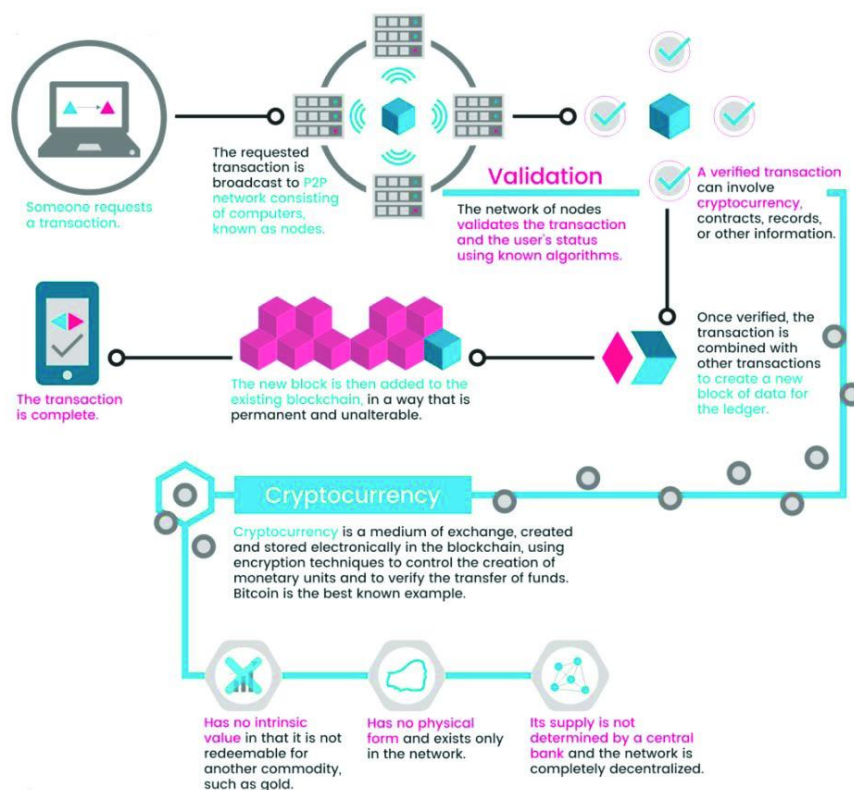


Figure 1. Account Creation and Transaction Confirmation Process

Source: Monia Milutinović, "Cryptocurrency," *Ekonomika* 64, no. 1 (2018).

As mentioned at the beginning, digital currency, or cryptocurrency, is a currency that uses cryptography as collateral. Cryptographic email registration itself is a method used to protect information and communication channels through the use of code. With this cryptographic method, Cryptocurrency users cannot be manipulated. The point is that cryptocurrency transactions cannot be faked. The recording of cryptocurrencies is usually centralized in a system called blockchain technology.³⁰

In the concept of how digital currency, or cryptocurrency, works, there are three keywords attached to it: digital, encrypted, and decentralised. This means that this currency is not the same as conventional currency; it is not controlled by a central authority in terms of the value of the money, so controlling and managing this currency

²⁸ Milutinović.

²⁹ Milutinović.

³⁰ Mutia Fauzia, "Mata Uang Kripto Dan Cara Kerjanya."

is fully held by the users of the cryptocurrency itself through the internet. So the use of crypto money, according to Satoshi Nakamoto, as an electronic payment system is based on cryptographic evidence, not just trust. The cryptographic proof exists in the form of transactions that are verified and recorded in a programme called *Blockchain*.³¹

Please note for fans of *Cryptocurrency* trading that the types of money traded are very diverse, including bitcoin, reaching 10,000 types, and for Indonesian content, there are 229 types of crypto assets that have been registered with the Commodity Futures Trading Supervisory Agency (Bappebti). When narrowed down by global market capitalization, according to Coin Market Cap data, there are five types of the most popular cryptocurrencies that have the largest market capitalization in US dollars, namely Bitcoin, Ethereum, Binance Coin, and Cardano.

Each of these crypto assets has its own characteristics. Bitcoin is a digital currency or cryptocurrency with the largest market capitalization or valuation in the world, with a total market valuation of 671.78 billion US dollars, or around Rp. 9,673.63 trillion. Until now, the number of bitcoins traded in the market has been 18.73 million, keeping the selling price traded per piece at 64,000 US dollars. Then the largest cryptocurrency is also called Ethereum, with the largest market capitalization of 261.58 billion US dollars, or 16.83 percent of the total market valuation of cryptocurrencies, and a selling price per piece of 2,200 US dollars.³²



Figure 2. Global Market Cap of Cryptocurrencies
Source: Today's Cryptocurrency Prices by Market Cap <https://coinmarketcap.com>.

Thus, the general description of the circulation of digital money in international and national markets has shown its existence is growing and, at the same time, a challenge, especially for Muslims. Indeed, in this modern era, cash payments have begun to be replaced with digital money, or e-money. And previously we knew the existence of debit and credit cards; now there is, again, digital currency, whose existence is expected to, facilitate transactions.

In the reality of international and national community life, which has implemented and used digital money as a means of payment, such as for capital payments for KRL and Transjakarta transportation, including toll road utilization, BI has announced that all

³¹ Mutia Fauzia.
³² Mutia Fauzia.

toll gates in Indonesia only accept payments with digital money. This service is increasingly used and needed by modern society because it facilitates daily activities.

However, according to observers, the payment process using digital money has advantages (plus) and disadvantages (minus). According to Egy Setya Ramadhan, there are several advantages and disadvantages to digital money. Among the advantages of using digital money are the following:³³ The transaction process is faster because payments made using digital or electronic money only attach the card to the machine, and then automatically the transaction has occurred, as follows: *First*, it is easy to carry and very practical; just access it from a smartphone or computer. The choice feature in each virtual wallet that you use facilitates all kinds of transactions.

Second, Free change means that transactions using digital money are carried out at the right price without any returns. *Third*, it can be directly used without going to an ATM, meaning that digital money actors and users can directly make transactions anywhere in a relatively short time and more efficiently. *Fourth*, it is safer and protected from various dangers, meaning that user money stored in virtual wallets is safe without worrying about theft. It's just that for this security, of course, it also needs to be tried by maintaining your password and access.

In addition to the benefits and advantages obtained by digital money users in transactions, there are also several weaknesses and things that will harm users if they are not careful in their use. Among the disadvantages and shortcomings, the following can be put forward:³⁴*first*, Potentially wasteful, meaning that for digital money users, it is very easy to unconsciously make them always use it, or, in other words, psychologically make someone wasteful (excessive). *Second*, Prone to hacking, meaning those data processing systems are vulnerable to being breached by hackers, triggering personal data theft and account hijacking.

Those are some of the advantages and disadvantages of using digital money, but the advantages and benefits obtained for users are actually more supportive and relevant to the life of modern society, which really wants every activity to be fast and easy, and this is a characteristic of modern life. It's just that the weaknesses mentioned above are used as caution and vigilance when using digital money transactions and are not to be avoided or abandoned. Therefore, someone who has the desire to invest and transact with digital money learns in advance how it works and its mechanisms so that he is not stuck with a speculative business

Conception of Currency in Islamic Law

Islam is a perfect religion, and its teachings cover various aspects and dimensions of human life, the world, and the Hereafter. The teachings and provisions relating to the intricacies of worldly life are popularly called *muamallah*. Of the many discussions studied in the field of *muamalah*, this is the problem of transactions (*aqad*), and in transacting, an important and determining factor is currency as an intermediary that functions as a medium of exchange. Before Islam came, the Quraysh had trade relations with several neighboring countries. However, they had no currency printed, where dinars (gold money) came from Rome, dirhams (silver money) came from Persia, and only a few dirhams came from Yemen.³⁵ It can be said that the currency circulating in the Arab lands is an outside culture adopted by the Arabian Peninsula..

Because the money had different sources in shape and scale, the Quraysh were satisfied with it using scales called *tibr*.³⁶ This is explained by Al-Baladziri saying, "The Quraysh already had a measure of money in the time of Jahiliyah, and then when

³³ Egy Setya Ramadhan, "Untung Dan Rugi Uang Digital," tagar.id, 2021.

³⁴ Egy Setya Ramadhan.

³⁵ Ibn Taimiyah, *Majmu' Al-Fatawa* (Madinah: Majma' al-Malik al-Fadhl Thiba'ah al-Mushhaf al-Syarif, 1995), 469.

³⁶ Ahmad Hasan Al-Hasani, *Tathawwur An-Nuqud Fi Asy-Syari'ah Al-Islamiyah* (Jeddah: Dar al-Madani, 1989), 75.

Islam came, Islam established its system that was in force at that time. The Quraysh weighed silver in a measure called dirhams and gold in a measure called dinars, with the ratio for every ten dirhams equal to seven dinars. They also have the size of *sha'irah* with a value of one—sixty dirhams, *auqiyah* with a value of forty dirhams, and *nawah* with a value of five dirhams. They buy and sell with Tibr according to that value. And when the Prophet Muhammad (peace be upon him) came to the city of Makkah in the event of the *futhuh* (conquest) of Makkah, he decreed it to them.³⁷

In the time of the Prophet (peace be upon him), his policy was not to change the monetary system but to establish something that had been used by the Quraysh before Islam came. This shows that the terminology of the monetary (financial) system is changing in Islamic law, and man, from the perspective of commitment to Islam, can make terminology about the value of money and its form and other things that are appropriate to the conditions and times.³⁸

On the other hand, the most important thing in relation to the monetary system is to make rules for its determination, ensure the safety of financial interactions, and not deviate from the provisions set for it. This is what the Prophet Muhammad (peace be upon him) did, because he left it to people to make terminology about certain money, accompanied by rules that realise benefits and avoid evil. This is proven by the Sharia, which prohibits everything that results in a shock in the value of the currency (purchasing power), such as the prohibition of the practise of usury, hoarding goods (*ihthikar*), and waste (*tabzir*). Likewise, the prohibition to play with currency or fraud in it is because the impact is the loss of human confidence in money.

Furthermore, during the time of Abu Bakr al—Shiddiq's companions, there was no change in currency. This was due to the short length of his tenure, in addition to his policy focus being preoccupied with fighting apostates and dissidents. In the caliphate of Omar ibn Khathab, he carried out financial reforms in the form of creating and printing new currencies and controlling the monetary system.

To understand the substance or nature of currency in Islamic Sharia, one can be guided by several *dirawayat* that indicate that money is something that is known and used as a means of payment in *muamalah*. In one narration, Omar ibn Khathab once made a statement about money with the phrase, "I want to make dirhams out of camel skin". Then he said, "If so, the camels will run out," so Umar did not do so. This narration shows that the government (*ulil amri*) has the authority to determine, choose, and make currency from any material in any form as long as it can realise the benefit of the people and at the same time does not violate sharia law.³⁹

In the context of jurisprudence, Ulama differ when determining the nature of currency according to Islamic law. Such differences of opinion can be expressed as follows:

- 1) The first group says money is a form of creation and is limited only to dinars (gold) and dirhams (silver) printed as currency. According to their view, God created gold and silver to be two currencies that were used as a means of barter and as a measure of value.⁴⁰ Imam al—Ghazali expressed his opinion on gold and silver, "Among the blessings of Allah is the creation of dirhams and dinars, and with both the world is established. Both are stones of no merit in their kind, but man desperately needs both."

Ibn Qudamah says, "*Verily the price of gold and silver is the value of wealth and trading capital, with which mudharabah and sharikah came to pass, and he was created*

³⁷ Ahmad bin Yahya bin Jabir Al—Baladziri, *Ansab Al-Asyraf; Asy-Syaikhi: Abu Bakar Ash-Shiddiq Wa Umar Bin Al-Khaththab* (Muassasah Asy—Syira', n.d.).

³⁸ Ibnu al—Qayyim al—Jauzy, *I'lam Al-Muwaqqi' iin Rabb Al-'Alamin* (Beirut: Dar al—Khilafah, n.d.).

³⁹ Jaribah bin Ahmad Al—Haritsi, *Al-Fiqh Al-Iqtishadi Li Amiril Mukminin Umar Ibn Al-Khaththab, Terj. Asmuni Solihan Zamakhasyri, Fikih Ekonomi Umar Bin Al-Khaththab* (Jakarta: Khalifa, 2006).

⁴⁰ Jaribah bin Ahmad Al—Haritsi.

for it. And so because of its authenticity and its creation came the trade prepared for it."⁴¹ Al-Maqrizi said: "Indeed, the money that is the price of the goods sold and the value of the work is only gold and silver. It is not known that in riwayat the shahih as well as the weak of the classical and contemporary ummah used money other than both".

2) The second group says that money matters are a matter of terminology. The meaning is that everything that is in human terminology and accepted among them as a measure of value, then it is called money. According to Imam Malik, "If people allow among them skins to become cheques and currency, I will accrue them if they are sold for gold and silver because of the similarity of value".⁴² And when Imam Ahmad bin Hambal was asked about the use of money with the majority of copper, he replied, "If it is something that is referred to in their terminology as money, like fulus then it is okay".⁴³

According to Shaykh al-Islam Ibn Taymiyyah, money goes back to the human terminology that something is money, and it takes various forms according to the diversity of human traditions and customs, and he denies the existence of money that is certain by the law of shari'i or natural law (creation). In this context he said: "As for dinars and dirhams, there are no known natural or shari'i restrictions on them, not even references to 'urf and applicable terms. It is on this basis that they judge dirhams and dinars based on their traditions."⁴⁴

Based on the above explanation, it can be concluded that there are different fuqaha's opinions about the nature of money. The first opinion says that money is something made and printed whose raw materials are gold and silver and should not be sought and made from other materials. The reason is that gold and silver are God's special creations. Another case with the second opinion that says that money is a term made by man. So, the currency is not limited to only gold and silver but also includes other materials agreed upon by the community together, so it can be used as money or a tool. Therefore, the issue of currency is left to the customs of the people, and there are no definite and binding provisions in the syara.'

Discourse on the Use of Cryptocurrencies

The discovery of digital currency in economic activities is the result of the development and progress of modern science and technology. In the context of Islamic law, the findings of this digital currency can be categorised into contemporary problems, commonly referred to as *masail al-Fiqh*, which of course are not expelled from differences or *ikhtilaf al-ulama'*. This is because *ijtihad's* dominance makes it so difficult to find its law because there is no Nash postulate, and both the Qur'an and the hadith explicitly explain the law.

In relation to the use of this digital currency, whether it can be justified and in accordance with Islamic sharia or not, some opinions of scholars and experts who are members of certain groups formulate the results of *ijtihad* as follows:

1. Fatwa of the Indonesian Ulema Council (MUI)

The 7th Ijtima' Ulama Fatwa Commission of the Indonesian Ulema Council was held on November 9–11, 2021, in Jakarta and was officially closed by the Minister of Religious Affairs of the Republic of Indonesia, Yaqut Cholil Qaumas. This *ijtima'* was attended by 700 participants, consisting of elements of the Leadership Council of the Central Indonesian Ulema Council, members of the fatwa

⁴¹ Abdurrahman bin Muhammad Ibnu Qudamah, *Al-Mughni* (Riyadh: Maktabah al-Riyadh al-Haditsah, n.d.).

⁴² Malik bin Anas, *Malik Bin Anas, Al-Mudawwah Al-Kubra, Jld.3*, (Kairo: Dar Al-Fikr, Tt.), Hal. 90-91 (Kairo: Dar al-Fikr, n.d.).

⁴³ Malik bin Anas.

⁴⁴ Taimiyah, *Majmu' Al-Fatawa*.

commission of the Central MUI, and leaders of commissions, agencies, and institutions at the Central MUI. When establishing the law using digital currency (cryptocurrency) for Muslims, the scholars who are members of the Indonesian Ulema Council (MUI) set their fatwas, which can be concluded as follows:

- a. The use of cryptocurrency as a legal currency is haram, because it contains *gharar* (deception), *dharar* (danger), and is contrary to Law number 7 of 2011 and Bank Indonesia (BI) Regulation number 17 of 2015
- b. *Cryptocurrency* as a commodity or digital asset is not legally traded because it contains *gharar*, *dharar*, and *qimar* and does not meet the requirements of *sil'ah*, namely: it has a physical form, has value, is known in an exact amount, has property rights, and can be handed over to the buyer.
- c. *Cryptocurrency* as a commodity or asset that qualifies as *sil'ah* (goods), has an underlying, and has clear legal benefits is legal to be traded.

2. Fatwa of Nahdatul Ulama (NU)

The East Java Nahdatul Ulama (NU) regional administrator issued a haram fatwa for cryptocurrency or crypto money. Haram fatwas are issued because there is an element of speculation that can harm others. PWNU deputy chairman KH Ahmad Fahrur Rozi said the fatwa was decided in accordance with the results of the study of the Bahtsul Masail institution.⁴⁵ According to KH Ahmad Fahrur Rozi, the reason for the issuance of haram laws related to cryptocurrencies is based on several considerations, as follows;⁴⁶ Crypto money cannot be used as an investment instrument, because in it it is known that there is an element of speculation that can harm others. (b) In the law of buying and selling, there must be a principle of erasure, while in this cryptocurrency, what happens to someone is like gambling because the perpetrators tend to speculate without knowing what the cause is. (c) Buying and selling must have the willingness and no element of fraud. Unlike the case with cryptocurrencies, more people do not know what is happening in the movement of the currency, both up and down in price, so it is pure speculation, similar to people gambling.

The same thing was also stated by Khatib Syuriah PWNU East Java, KH Syafruddin Syarif that the crypto currency does not meet the criteria as a commodity (*sil'ah*) in terms of being a means of buying and selling because the goods or *sil'ah* must be real, while crypto money is considered fictitious or virtual. He further explained that there are seven conditions for these goods under Islamic law to be sold, including: *First*, the item is sacred and tangible. *Second*, it can be used by buyers in sharia 'with comparable utilisation. *Third*, it can be handed over as hissy or real (*maqdurun ala taslimihi hissana*) and also as shari'i. *Fourth*, the contracting party controls the implementation of the contract. *Fifth*, knowing either physically by way of seeing or by the characteristics of the goods *Sixth*, survive or avoid usury contracts. And *seventh*, safe from damage until the goods reach the hands of the buyer (*al – qabd*),⁴⁷

Thus, he said cryptocurrencies do not meet the requirements of a currency in *fiqh* because they are not included in the category of 'an musyahadah (real or physical goods) and also cannot be included in The 7th Ijtima' Ulama Fatwa Commission of the Indonesian Ulema Council was held on November 9–11, 2021, in Jakarta and was officially closed by the Minister of Religious Affairs of the Republic of Indonesia, Yaquut Cholil Qaumas. This *ijtima'* was attended by 700 participants, consisting of elements of the Leadership Council of the Central

⁴⁵ Hidayat, "PWNU Jatim Keluarkan Fatwa Haram Uang Kripto, Akan Diusulkan Ke Mukhtamar NU."

⁴⁶ Hidayat.

⁴⁷ Anonymus, "NU Jatim Tegaskan Uang Kripto Fiktif," CNN Indonesia, 2021.

Indonesian Ulama Council, members of the fatwa commission of the Central MUI, and leaders of commissions, agencies, and institutions at the Central MUI. When establishing the law using digital currency (cryptocurrency) for Muslims, the scholars who are members of the Indonesian Ulema Council (MUI) set their fatwas, which can be concluded as follows: category *syai'un maushuf al-dzimmah* (goods guaranteed).⁴⁸ There are a series of reasons or arguments put forward by scholars who are members of the PWNU East Java community related to the law of using digital money, or crypto money. In principle, all the reasons used refer to and compare with the formulation of classical jurisprudence, which sets out some of the requirements for allowing a Muslim to muamalah, specifically to trade.

3. Fatwa of Muhammadiyah

Furthermore, the official website of Muhammadiyah explains that the use of crypto currency is legally haram. The fatwa stipulation on the law of digital money, or crypto money, is contained in the Fatwa Tarjih decree, stipulating that cryptocurrency is legally haram both as a means of investment and as a medium of exchange. In his view, cryptocurrency as an investment tool, according to the Tarjih and Tajdid Councils, has many shortcomings when viewed from the perspective of Islamic law. One of them is its highly obvious speculative nature. The value of Bitcoin, for example, is highly *volatile*, with unnatural increases or falls. In addition, the cryptocurrency contains *gharar* (hoax) or obscurity. Bitcoin is said to be just numbers without any underlying assets or assets that guarantee crypto assets, such as gold and other valuables.⁴⁹

It was further conveyed that this speculative and *gharar* nature is forbidden by Islamic sharia, which postulates the Qur'an and hadith. One of the verses that are used as the basis of the law is the word of Allah in Q.S. al-Maidah verse 90 and the hadith of the Muslim narration, which contains the prohibition of the Prophet (peace be upon him) from *gharar* behaviour. Another case is that cryptocurrency is used as a medium of exchange; according to Muhammadiyah, the law is permissible based on the original law in muamalah. Muhammadiyah allows the use of cryptocurrency as a medium of exchange if two conditions are met: acceptance by the public and authorization by the state. In this case, it is represented by its official authority, such as the central bank.⁵⁰ This is a brief explanation related to the Muhammadiyah fatwa on the use of digital currencies (crypto currencies). This fatwa stipulates that digital money is unlawfully used as an investment tool on the grounds that it is loaded with *gharar*, *dharar*, and *speculation*. However, if this digital money is used as a medium of exchange, it is allowed provided that there is public agreement and authorization by the state.

Cryptocurrency on Islamic Law Perspectives

The presence of digital currency (cryptocurrency) is a positive impact of the development of modern science and technology in the field of muamalah. Therefore, social changes in the field of muamalah always develop so quickly due to the acceleration of globalisation. Therefore, the teaching of muamalah jurisprudence is no longer enough to rely solely on classical jurisprudence books because many formulations of past muamalah jurisprudence are no longer relevant to the current context. And it is inevitable that the formulations of muamalah jurisprudence must be reformulated in order to answer all problems, specifically about modern financial transactions.

In the context of jurisprudence, the nature of currency leads to inevitable differences of opinion; some say that the currency is only gold and silver and should not

⁴⁸ Anonymus.

⁴⁹ Rr.Ariyani Yakti Widyastuti, "Muhammadiyah Resmi Haramkan Kripto," tempo.com, 2022.

⁵⁰ Rr.Ariyani Yakti Widyastuti.

be from others, and even extreme opinions arise, among which Al – Maqrizi says that the money that is the price of goods is only that which comes from gold and silver, and using currency other than gold and silver will bring damage, destruction, and damage to the order of human life, such as destroying. Money, harming one's property, rising prices, cutting off supply.⁵¹

Different opinions are expressed by other scholars, such as Ibn Taymiyyah's saying that money goes back to the human terminology that something is money, and it takes various forms according to the variety of human traditions and customs.⁵² The author is interested in and agrees with what Ibn Taymiyyah stated that money is only terminology agreed upon by humans, and in the current era there is a digital currency that is already known to humans in the modern era, so it can be said to be a currency and can be used for investment and as a medium of exchange in multifaceted life in the modern era, which is characterized by a life full of scientific and technological advances. Digital currency (cryptocurrency) can be used as an asset and also as a means of payment, with the following considerations and requirements:

First, digital currency (cryptocurrency) is a virtual currency protected by a secret code. This type of currency and its legal use are not found in the existence of *nash* or explicit postulates on this subject, both in the Qur'an and hadith and Ijma' Ulama. To establish the original law, in theory the establishment of Islamic law, according to ulama ushul can be returned to the rules of jurisprudence as follows:

الأصل في المعاملة الإباحة إلا أن يدل دليل على تحريمها

*The original law in muamalah is permissible until there is another proposition that forbids it.*⁵³

As long as there are no arguments and arguments to ban it, the existence of this currency and its use can be justified.

Secondly, in principle this digital currency (crypto money) according to Muhammad Idris is a digital asset designed to work as a medium of exchange that uses strong cryptography to secure financial transactions, control the creation of additional units, and verify the transfer of assets, then its existence has actually been clearly virtually not in the real world and not something speculative and contains gharar. This is the same as buying and selling the unseen in classical jurisprudence; the law is permissible for the expert (one opinion). Therefore, for someone who wants to invest in it, it is necessary to understand and master technology first, and those who do not understand technology should not invest in digital money because it will bring glory to them later. While leaving something that violates the law is mandatory.

Third, although digital currencies (cryptocurrencies) have advantages in transacting, the disadvantages and risks of this currency are quite costly for someone. According to experts, there are several risks associated with digital money, including;⁵⁴ (a) Resiko mata uang kripto relative cukup besar karena media pertukarannya hanya The risk of crypto currencies is relatively large because the medium of exchange only uses cryptography without any guarantee of assets from the investment, (b) The price fluctuations of digital money are very high, so it becomes one of the tools of trade transactions classified as speculative. (c) Cryptocurrency trading positions do not become assets but are traded like derivatives markets. This condition has great potential

⁵¹ Jaribah bin Ahmad Al – Haritsi, *Al-Fiqh Al-Iqtishadi Li Amiril Mukminin Umar Ibn Al-Khaththab*, Terj. Asmuni Solihan Zamakhasyri, *Fikih Ekonomi Umar Bin Al-Khaththab*.

⁵² Jaribah bin Ahmad Al – Haritsi.

⁵³ A. Djazuli, *Kaidah-Kaidah Fikih* (Jakarta: Prenada Media Group, 2007), 10.

⁵⁴ Laura Elvina, "Risiko Bermain Crypto," Kompas.tv, 2021.

for fraud, embezzlement, and fraudulent transactions. Looking at the many risks of crypto money rather than the profits obtained, it can be returned to the rules: ⁵⁵

درء المفاسد مقدم على جلب المصالح

Denying damages takes precedence over taking benefits.

Thus, the use of digital currencies with various risks that are quite dangerous to users, compared to the benefits obtained, the law is haram in a saddu dzari'ah (preventive) manner.

Fourth, although the currency is human terminology when treating it according to Ibn Taymiyyah ⁵⁶ The government has the authority to print and circulate the money. The government declares that the currency is legal tender in a country, and the government has gold and silver reserves as a measure of money in circulation. Because digital currency (crypto money) has not yet been recognized as legal tender by Bank Indonesia (BI), it is not permitted to be used as a means of payment in Indonesia. This is in accordance with the provisions in Law No. 7 of 2011 concerning currency, which states that currency is money issued by the Unitary State of the Republic of Indonesia. Although the Ministry of Trade, through the Commodity Futures Trading Supervisory Agency (Bappebti), only allows trading crypto assets in the Crypto Asset Physical Market and not as legal tender,

CONCLUSION

The research found that the government's recognition of legality clearly states that cryptocurrency cannot be used as a medium of exchange. *Cryptocurrency* trading positions do not have collateral assets but are traded like derivatives markets. This condition has great potential for fraud and embezzlement in transactions. Therefore, this type of currency should also not be used as an investment because the gharar element is quite high. However, according to Islamic law, it is not prohibited to use it as a medium of exchange if there is a guarantee of the safety of financial interactions and it avoids forms of misappropriation. Therefore, the government's participation in legalising this transaction is a necessity, and specifically in Indonesia, the role of BI (Bank Indonesia) as the authority has issued regulations to legalise it.

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⁵⁵ Amir Syarifuddin, *Ushul Fiqh Jld.2* (Jakarta: Kencana, 2009).

⁵⁶ Taimiyah, *Majmu' Al-Fatawa*.

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