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Islamic Legal View on Buying and Selling Bitcoin

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ABSTRACT

The term "cryptocurrency" refers to a form of digital or virtual currency that does not exist in tangible form like paper money. That cryptocurrency can only be used with internet-connected PCs, laptops, smartphones, and other devices. Cryptosystems that make use of the blockchain system have a number of advantages, including the speed, convenience, and security of transactions, as well as the ability to be used in all nations and continents. However, there is still room for improvement in the circulating cryptocurrency, including the absence of supervisory authorities. Experts, including Islamic scholars, are constantly debating the advantages and disadvantages of using cryptocurrencies. The Koran, al-Hadith, Qiyas, and Sad-Adzariyah are the sources used in this study to examine the dynamics of cryptocurrency use from the perspective of ushul fiqh. Increasingly, cryptocurrency transactions are used for speculation, which violates Islamic principles. According to Surah Al-Qur'an An-Nisa verse 29, the elements of superiority are gharar and maysir, so the use of cryptocurrencies is permitted subject to certain conditions. Additionally, a country's legality must be clear for cryptocurrency to be used safely.

Keywords: Buying, Selling, Bitcoin, Islamic Principles, Cryptocurrency

Introduction

Indonesia is a developing country with diverse ethnicities, cultures and religions. One of the dominant and largest religions in Southeast Asia is Islam. In Islam, the concept of buying and selling is known (Deari et al., 2020). Buying and selling have occurred since Islam began to develop in various parts of the world and was developed by the Prophet Muhammad Allahu alaihi wasallam (Siddique et al., 2022). As social beings in this modern era, people are increasingly facilitated by the development of technology and information. In the field of muamalah, namely about the relationship between humans, one of them is buying and selling, and in society carrying out buying and selling transactions. People need an object as a medium of exchange in the form of money that functions as a legal means of payment according to Article 1, paragraph 2 of Law no. 7 of 2011 concerning currency (Hasan, 2020).

Every day life revolves around money. In today's modern society, the economic mechanism is based on economic activities like buying and selling, leasing, exporting and importing, and so on, all of which require money as a smoothing tool to achieve a goal. According to some, money is the blood of the economy (Hasan, 2022). In today's world, economic activities frequently undergo a number of shifts as a result of the passage of time, such as the emergence of previously unheard-of goods or services. Humans traded using a barter system before money was used as a payment method. A type of economic system in which goods are traded in exchange for other goods is known as the barter system economy. Each thing capabilities as cash (Suharni, 2018). In the global economy, economic actors have identified money as a means of transaction and agreed upon money as a medium of exchange. (Ozili, 2021).

Al-Nisa (4) verse 29 and al-Maidah (5) verse 90 serve as the foundation for legal discussion of the use of virtual currency as an investment

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَأْكُلُوْٓا اَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ اِلَّآ اَنْ تَكُوْنَ
تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ ۗ وَلَا تَقْتُلُوْٓا اَنْفُسَكُمْ ۗ اِنَّ اللّٰهَ كَانَ بِكُمْ رَحِيْمًا

"O you who have believed, do not consume one another's wealth unjustly but only (in lawful) business by mutual consent. And do not kill yourselves (or one another). Indeed, Allah is to you ever Merciful".

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instrument and a business transaction instrument. Says Allah SWT:

The bitcoin network's database contains every bitcoin transaction. Buyers and sellers will be automatically recorded in the bitcoin database network whenever a bitcoin transaction occurs. In almost every country, regulations have been enacted to regulate the handling of commodities and e-commodities in response to the trend of new digital money models (Rejeb et al., 2021). That permits bitcoin to deftly acquire legitimate security more. Canada, Singapore, Malaysia, and China are among the nations that have successfully adopted bitcoin as an electronic commodity (Hamin, 2020).

In the meantime, there are advantages and disadvantages to using this digital currency in Indonesia because it does not meet a number of the same requirements as the Indonesian currency. On February 6, 2014, the Indonesian government held a press conference to make it clear that bitcoin and other virtual currencies are not legal in Indonesia. Fintech has, in fact, been the main topic of several events and a lot of current financial news in Islamic and conventional finance. Several nations, including Bahrain and the United Arab Emirates, established a regulatory sandbox in advance, and Indonesia followed suit (Widyastuti & Hermanto, 2021).

Literature Review

Cash has a long history and has come a long way since it was first discovered by humans. Compared to trading, exchange is simpler when money is present. The need for convenience, speed, and security in business will rise as a result of the globalization of today's economic progress (Shafira et al., 2021).

The rise in cash from one year to the next suggests that science and innovation will unavoidably advance. Cryptographic money, also known as virtual money, is one such increase in cash. This is a response to the problems with the current installment system. A type of computerized cash that is not managed and is typically controlled and distributed by the owner is called virtual cash (Huda & Hambali, 2020).

Advanced money that can be exchanged within an organization (online) is cryptocurrency money. Digital currency, in contrast to printed money, is made to solve cryptographic numerical problems. Because it is based on cryptographic innovation, this currency cannot be easily copied or transferred to other groups that are not its owners. The term "virtual cash" refers to an online creation in which the boundaries of reality, such as power terms, which are typically added to standard monetary norms, are abolished. Someone claiming to be Satoshi Nakamoto created the virtual currency, which initially appears to be Bitcoin. However, people have not yet come to know the real character. Regarding some forms of virtual monetary, unmanaged computerized cash typically controlled and distributed by the owner (Dwi et al., 2021).

It is against the law in Indonesia to accept cryptocurrency as a form of payment. Law No. According to Article 1 Paragraph 1 of Law No. 7 of 2011, the only form of payment that is accepted and considered to be valid in Indonesia is the Rupiah. PBI (Bank Indonesia Regulation No.) also emphasizes this prohibition. Concerning the Implementation of Payment Transaction Processing, 18/40/PBI/2016 (Hamin, 2020).

The use of this cryptocurrency is explicitly restricted or prohibited in some nations, while others explicitly permit it. At least eight nations, including Algeria, Egypt, Morocco, Bolivia, Nepal, the United Arab Emirates, and Pakistan, banned cryptocurrencies in 2018, according to the Library of Congress. While implicitly in numerous other nations, including Iran, Indonesia, Bangladesh, Bahrain, and Colombia (Jati & Zulfikar, 2021).

In the economic system, the process of using money is very long. Al-Ghazali offers the following comprehensive explanation for his theory regarding the development of money: ".... Food is the most important thing, followed by human settlements as a place to live. The demand for currency then arises as a result of these activities. How is it possible to determine the ratio of clothing to food for someone who wants to buy food with clothing? These transactions involve a variety of means of exchange, such as clothing-wearing animals, even though these items are unusable (Sajidin, 2021).

They are able to compare (needs) between the two people who are transacting through the intermediary. Therefore, we require mining materials, a long-lasting item. So copper, gold, and silver were used to make money (Al & Bintarto, 2022).

One of the amazing discoveries of the past hundreds of years is money. Some researchers argue that this kind of computerized money requires clarity and cannot be seen in real terms from the perspective of Islamic law. Additionally, this raises the possibility of fraud and automatically implies that cryptocurrency contains Gharar elements. And from what we know, if it contains gharar, it is tyranny and includes Islamicly forbidden transactions (Akhter, 2015).

In the relationship between humans, business transactions are a matter of muamalah, or charity. There are arguments demonstrating its prohibition

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in all muamalah matters, including legal business transactions. The origin of muamalah is legal. If the Qur'an and hadith do not imply that the transaction is haram, it is halal or permitted (Pasaribu et al., 2011).

Al-Maidah (5) verse 90 serves as the foundation for legal discussion regarding the use of virtual currency in both investment and business transactions. Says Allah SWT:

O you who have believed, indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful.

The verse above explains that vanity must be avoided in every transaction. When interpreted, the term "vanity" can mean a variety of things, such as that every transaction must adhere to or not violate Islamic teachings.

The word vanity comes from the word bathala-yabthulu-bathlan, which means "damaged," "useless," "fake," and "useless." Vanity has no meaning in either this world or the next. According to Tafsir al-Munir, ribawi transactions, maysir (gambling elements), gharar, and other similar practices are in violation of Islamic law. The contract is null and void as a result of vanity alone (Hasan, 2021).

At the moment, cryptocurrency users primarily use it as trading and speculative tools. It aims to profit from speculation-based investments and trading. that gharar, maysir, and usury are all practices in Islam. The value of cryptocurrencies still fluctuates greatly, with high price volatility and instability. That is the same as betting on price differences. Therefore, the intention to profit from the price difference falls under the categories of gharar and maysir when used in cryptocurrency trading and investment (Widyastuti & Hermanto, 2021).

The system was a trading system in ancient times. After some time, people started using Dinars and Dirhams as tools for trading, but this practice didn't last long because it was seen as dangerous. They also have a tendency to make mistakes, and in the end, the state prints paper money to replace them. Indonesian researchers proposed two ideas for cryptographic electronic money, namely (Jati & Zulfikar, 2021):

1. Can be used as a trading mode
2. Not planned as a venture device because the value of electronic money (crypto) could be better (changes frequently).

As an innovation and technological development that makes use of the blockchain system, the existence of cryptocurrencies has a number of beneficial effects, such as making transactions faster, easier, and more secure. It is applicable to nations and continents alike.

When discussing muamalah aspects, Islamic religious teachings acknowledge the rules of fiqh, which state that "basically every muamalah activity is permissible until there is evidence that prohibits it." Due to the recognition it has received by a variety of communities, the existence of cryptocurrency as a virtual currency is legal; However, the government's right to legality and recognition must be viewed as an obligation. The purpose of the currency's issuance is to safeguard against potential harm.

Currently, cryptocurrency transactions are used more as speculation, resulting in elements of gharar and maysir, which are prohibited in Islamic principles as vanity or components (Hamin, 2020).

The Concept of Money in Islamic Economics

Al-naqdu-nuqud is the etymological root for money in Islamic economics. Al-naqdu, which means the good of dirhams, holding dirhams, and cash, is one of the multiple meanings of the word. Because Arabs typically do not use the word nuqud to indicate price, the Qur'an and hadith do not contain the word nuqud. The term "dinar" was used to refer to gold-based currency, while "dirham" was used to refer to a silver-based medium of exchange. Additionally, they use the word "ain" to denote gold dinars and wariq to denote silver dirhams. In the meantime, cheap goods can be purchased using the phrase "full," which is copper money (Rejeb et al., 2021).

Islamic economics has a very different view of money than conventional economics does. Firm money is considered to be money in Islamic economics, not capital. Money belongs to the community in Islamic economics (money represents public goods). Anybody who hoards money or is unproductive reduces the money supply, which can lead to a recession (Islamia & Putri, 2022).

It is the same as hindering the smooth buying and selling process if someone deliberately accumulates money that is not spent. The implication is that the economy's process of exchange is hindered. In addition, having a lot of money or assets can make it easier for people to have bad traits like greed, laziness, and greed to do charity (zakat, infaq, sadaqah), which hurts the long-term viability of the economy. As a result, Islam forbids monopolizing wealth and the accumulation of wealth. Another difference is that Islamic economics views money as a flow and capital as a stock, while conventional economics views money as having multiple meanings (Firdaus et al., 2020).

The Concept of Money in the Conventional Economy

Money as a medium of exchange and money as capital are interpreted as interchangeable (back and forth) by conventional economics. However, money is frequently associated with capital. Western economists also interpret money differently. Money (capital) is defined by Irving Fisher as a flow concept, whereas money is defined by the Cambridge School (Marshal-Pigou) as a stock concept. Private goods and money (Endriani, 2015).

Money is viewed as a public good and a flow concept in Islam. The idea of flow implies that money must move. Money flows become private property when they become public goods (stock concept). Private interests take ownership of the money.

Money is only recognized as an intermediary form, medium of change, or unit of account under the Islamic concept of money utility. Money is not a commodity because we benefit from its function rather than from the currency itself.

From an Islamic economic perspective, the nature of the economy can be better if money exists. That is, it is maintained, and humans (economic actors) move more assets around. Zakat, infaq, almsgiving, waqf, and other practices can go more smoothly with money. Activities in the private, public, and social sectors can move more quickly when funds are available (Prayidyaningrum & Djamaludin, 2016).

A separate market with money as a commodity and goods as a price is created by the system of interest and functions that can be compared to commodities in conventional economics.

Cryptocurrency technology

The use of cryptographic technology makes it harder to duplicate or transfer cryptocurrencies to third parties who are unable to access them and are not their owners. A cryptographic-based medium of exchange, cryptocurrency is a digital asset that is used to secure financial transactions, control additional new units, and validate and verify asset transfer activities through algorithm encryption (Rejeb et al., 2021).

Through a blockchain system that acts as a database in public finance transactions, the decentralized control of each type of cryptocurrency works with distributed ledger technology.

Transaction System

Most of the time, the rules for governing cryptocurrencies are clearly defined protocols that dictate how many coins can be made, how they are made, and how the ledger's integrity is safeguarded. The powers of the government, which are intended to be comparable to those that support fiat money, will impact confidence in digital currencies. Accordingly, its market interest are managed, making it troublesome or difficult to change its working convention. Blockchain technology is used by cryptocurrencies to guarantee the security of all transactions. Blockchain is a distributed, open ledger that stores coded transactions (Mutmainah et al., 2021). In practice, it is similar to a chequebook that is distributed by a lot of computers all over the world. The records of transactions are stored in "blocks," which are connected to each other on a "chain" of previous cryptocurrency transactions. The user's every transaction will be checked again. Additionally, aliases and transactions cannot be manipulated by users. There are three primary terms that can be used to understand how cryptocurrencies work: transcription, digital, and decentralization. Cryptocurrencies, in contrast to conventional currencies like the Rupiah, which are managed entirely by users via the internet, are decentralized (Hasan, 2019).

Use of cryptocurrencies

Digital currency is a computerized resource intended to fill in as a mode of trade that utilizes solid cryptography to get monetary exchanges, control the most common way of making extra units, and confirm resource moves. Distributed ledger technology, or a blockchain, is how each cryptocurrency's decentralized control works. A blockchain is a database of public finance transactions. The first decentralized digital currency was Bitcoin, which was first made available as open-source software in 2009. More than 4,000 altcoins, or variants of bitcoin or other cryptocurrencies, have been created since bitcoin's launch (Widyastuti & Hermanto, 2021).

In addition to being used for payment, cryptocurrencies are also used for cryptocurrency investment and trading. Laszlo Hanyecz used Bitcoin to buy two large Papa John's pizza pans, making it the first time cryptocurrency was used for a transaction. Hanyecz exchanged 10,000 Bitcoins for Bitcoin. After that, up until this point, numerous businesses or websites that accept payments, including Amazon, Namecheap, WordPress, and a number of well-known brands, utilize cryptocurrency as a method of transaction (Jati & Zulfikar, 2021).

Cryptocurrencies in Islamic law

Islam has its methods and references for determining or establishing cryptocurrency law, both from primary sources, the Koran and al-Hadith. The mujtahids look at both sources as references when making laws. In addition, the mujtahids are familiar with the qiyas, maslahah, and mursalah ad-zariah methods of establishing

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regulations. The science of ushul fiqh is the method for establishing Islamic law (Soemitra et al., 2021).

Sadd- adzariah

One of the ijtihad methods for determining Islamic law laws is qiyas. Qias refers to taqdiru assyay'i bi ghairihi, which entails measuring an object against a standard and matching its characteristics. According to Imam al-Ghazali, the meaning of qiyas is determining the law based on cases that are similar to one another through a process of conformity or similarity on illat (the cause of law) between the two (Sakirman, n.d.).

Four requirements must be met by the pillars used in the qiyas method to determine the law. The second is that far'un (branch) must be spelled out in the texts, and the legal decision must be made in accordance with ashl. The fourth is illat (legal motive), which is a particular condition that is used as a basis for taking ashl law (Mufid, 2018). The third is hukmul al-ashl (basic law), which is the fundamental rule that is written in the texts and that the law will refer to as far'un. The hadith of Imam Malik can be used to support cryptocurrency law.

From Malik, Nafi', and Abdullah ibn Umar, Yahya informed me that the Prophet sallallaahu' alaihi wasallam forbade the purchase and sale of hablu al-hablah. In the Jahiliyah community, "a person sells a camel whose fetus will be born, but the fetus is still in its mother's stomach" (al-Muwatha, 1359). This is the practice of buying and selling. The preceding hadith provides an explanation for the prohibition against marketing hablu al-habla—a camel fetus that is still in its mother's womb. Due to the nature and character of the jahalah (unknown), selling and buying are prohibited. The emergence of aspects of gharar and maysir, which lead to speculation (chance), is the result of the element of jahalah. With the ashl of buying and selling hablu al-habla, cryptocurrency transactions can be compared to hablu al-habla transactions. The other person trades and buys cryptocurrency. The purchase and sale of hablu al-habla is against the law of Alshl. Illat, or legal reasons, are to share similarities with transactions that are unclear (jahalah), either in quantity or quality (Asrowi, 2018).

MUI's DSN views on Crypto

The Indonesian Ulema Council (MUI) has decided that it is against the law to use cryptocurrencies like bitcoin and Ethereum. The MUI fatwa prohibits cryptocurrency not only as a currency, but also as a product or digital asset.

A cryptocurrency, which is generally defined as virtual, digital, or cyber money that contains trade (commercial) value and is in the form of coins or tokens, is one of the most recent developments in modern financial transactions, particularly in the digital world (Huda & Hambali, 2020).

This money is different from the official currency that is used in a country and is issued by a central bank, for example. Blockchain technology underpins the operation of this currency. A blockchain is a digital transaction in which each individual's records are linked together in a list called a "chain" through a computer network (Mutmainah et al., 2021).

Thus there are at least three important entities (elements) in this blockchain and cryptosystem, namely: (a) transactions; (b) recording and verification systems as well as (c) a place for storing transactions. Regarding muamalah laws with cryptocurrencies, several religious fatwa authority institutions forbid it, such as al-Azhar through Majma' al-Buhuts al-Islamiyah and Dar al-Ifta Egypt. The MUI has issued a fatwa that bitcoin trading is illegal (Julianti & Apriani, 2021)

As to, it is seen from different sides, in particular as a venture instrument and a mechanism of trade inside the system of Business Morals. First, crypto is a tool for investing. When viewed from the perspective of Islamic law, this cryptocurrency has numerous disadvantages as an investment tool due to its obvious speculative nature. As a type of cryptocurrency, bitcoin's value fluctuates greatly, with unusual increases and decreases (Muhammad & Ilyasa, 2019).

Bitcoin investments contain gharar (obscurity) in addition to their speculative nature, like gambling. Bitcoins are just numbers without any underlying assets (like gold and other valuables, which are assets that guarantee bitcoins). The use of cryptocurrencies is similar to a barter scheme so long as neither party is unhappy or breaks any rules. However, if you use the sadd adz-dzari'ah argument (preventing evil), using cryptocurrencies becomes problematic (Suzuki, 2013).

The public's acceptance of the standard currency is the first requirement for its use as a medium of exchange. Second, the state ratifies it and represents it through its official authority, like the central bank. The use of bitcoin as a means of exchange in our nation has not yet been made legal, and there is no official authority in charge of bitcoin. Not to mention when it comes to safeguarding bitcoin users (Juanda & Rohmawati, 2018).

Bitcoin is just one example of a cryptocurrency with drawbacks. Therefore, it is against the law to use cryptocurrencies as a means of exchange and investment.

Fatwa of the National Sharia Council, which reads

"Currency buying and selling transactions are permissible with the following conditions: not for speculation, and there is a need, if transactions are made in similar currencies, the value must be the same and in cash (attaqabudh). If different types, it must be at the exchange rate that applies at the time of the transaction and cash."

According to Islamic law, Bitcoin can be used as a medium of exchange. However, there must be handover (taqabudh) and the amount must be the same if the type is the same. According to him, the law of Bitcoin as a medium of exchange is mubah (permissible) for those who are willing to use and acknowledge it, based on the aforementioned considerations (Abduh, n.d.).

However, because Bitcoin is regarded as a means of speculation rather than an investment, the law allowing for Bitcoin as an investment becomes illegal. To put it another way, it is only a tool for making and losing money, not a business that makes money. Three ways of buying and selling are against Islamic law (Sholikhin et al., 2019):

1. Mulamasah buys and sells goods where every touch means it is sold.
2. Munabadzah is buying and selling with throwing techniques. Items that are hit by the throw are bought.
3. Muhaqalah is buying and selling plant products still in the field with similar plant products that can be measured. Muhaqalah is like bartering, but one of them is still not harvested.

Buying and selling munabadzah on the futures market is analogous to trading cryptocurrency because the price at the end of the deal is influenced by the speed of the system's response, which shows different price activity after every second pause. As a result, the futures market's cryptocurrency transactions contain elements of ignorance and speculation. However, due to the certainty of the exchange price, the law can be applied to peer-to-peer, network-to-network, and spot market transactions (one-point trading) (Hidayat, n.d.).

Conclusion

As an innovation and technological development that makes use of the blockchain system, the existence of cryptocurrencies has a number of beneficial effects, such as making transactions faster, easier, and more secure. It is applicable to all nations and continents.

When discussing muamalah aspects, Islamic religious teachings acknowledge the rules of fiqh, which state that "basically every muamalah activity is permissible until there is evidence that prohibits it." Because it is recognized by a number of communities, cryptocurrency can exist as a virtual currency. After closing Itjima Ulama in Jakarta on November 11, 2021, Ni'am stated, "The use of cryptocurrency as a legal currency is illegal because it contains gharar, gharar and is contrary to Law number 7 of 2011 and Bank Indonesia Regulation number 17 of 2015." The purpose of the currency's issuance is to safeguard against potential harm.

In practice, cryptocurrency transactions are currently used more as speculative transactions, which contributes to gharar and maysir, Islamic prohibitions against vanity and components. The buying and selling of pregnant camel fetuses, known as "hablu al habla," serves as the foundation for cryptocurrency transactions. It is risky to use cryptocurrency as an investment tool because it involves a lot of speculation.

The sad adzariah (ushul fiqh) method, which attempts to prevent something that has a negative impact with ambiguity and incorporates aspects of gharar and maysir, also makes use of cryptocurrencies. In addition, there will be negative outcomes as a result of confusion regarding the legality of cryptocurrency use, such as the misappropriation of funds and their use to finance terrorism and money laundering activities. Therefore, its usefulness is less important than its prevention of harm.

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