

Legal Protection for Cryptocurrency Holders as a Means of Conducting Transactions in the Digital Age

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ABSTRACT

The problem in this research is about the binding power of the use of cryptocurrencies in electronic business transactions as a medium for buying and selling transactions. Meanwhile, money in Islam is the same as the currency that is determined in the policy in Indonesia, namely it has value, is generally accepted, and has a certain type that has been determined. In addition, what is called a legal medium of exchange is only recognized as an asset, not a legal currency in Indonesia. This research uses a normative legal (library-based) approach with a statute approach to analyze legal regulations for crypto asset owners in conducting digital transactions in Indonesia. Based on the results of the research, it is known that there are differences between policy provisions electronic transactions and currency laws as well as the provisions of the Civil Code. The difference that exists occurs in business transactions using cryptocurrencies as currency in buying and selling transactions in the digital era using the internet network. The use of crypto does not have binding force in even though the terms and pillars of the agreement have been met. because it still contains elements of gharar, dharar and qimar in accordance with the opinions of the scholars and hasik of the 7th MUI Ijtima Ulama Year 2021. Therefore, their use as a medium of exchange is considered prohibited and lacks legal protection under Indonesian law.

INTRODUCTION

The presence of Cryptocurrency or Crypto (digital currency) in the world is no exception to Indonesia. Currently, Indonesia has experienced very advanced development and has begun to enter the digital era which is marked by the existence of information technology in the form of the internet (Hidayat et al., 2023, p. 1). This is the focus of the government or policy makers and even scholars to study the issue of regulation of the emergence of cryptocurrencies (Safitri, 2022).

In understanding the existence of Crypto, through a political superstructure, the state has sought to intervene in regulations regarding the construction of Crypto legality with the Regulation of the Commodity Futures Trading Supervisory Agency (Bappebti) Number 7 of 2020 concerning the Determination of the List of Crypto Assets That Can Be Traded in the Physical Market of Crypto Assets and Number 8 of 2021 concerning Guidelines for the Implementation of Trading in the Physical Market of Crypto Assets. The state through the regulation has stated that the implementation of Crypto in Indonesia is legal for trade (Shabrina, 2020, p. 5). Fintech companies are innovating in the growing financial industry by utilizing technological advancements. Public interest in fintech is quite high because it is a solution that is in line with today's all-digital lifestyle changes (Ismail, 2024; Szwajca, 2020). The existence of fintech makes the payment system and buying and selling transactions more efficient because it is economical. Although it is cost-effective, it does not reduce the level of

effectiveness of fintech in its use in people's daily economic activities (Amartha Blog Team, n.d.).

Not only Bank Indonesia, OJK has also issued regulations that focus more on technology-based lending services (fintech lending) contained in the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-based Money Lending Services (POJK 77/2016), which was later revoked with the promulgation of POJK Number 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services (POJK LPBBTI/Fintech P2P Lending). The lack of financial literacy of the people in Indonesia has an impact on many people who are victims of fraud under the guise of illegal investment or online loans. Second, there is still low consumer protection in the financial sector, even though consumer protection is a requirement that needs to be strengthened to increase public trust. Third, there are many regulations in the financial sector that need to be updated—there are at least 17 regulations in the financial sector that have been in effect for quite a long time (Otoritas Jasa Keuangan, n.d.).

The development of financial asset types driven by the convenience offered by financial intermediaries has resulted in increased complexity of financial management and systems. This complexity can lead to a financial crisis, so it must be balanced with increased financial fairness and openness (Balls et al., 2018; Fligstein et al., 2017; Saadaoui, 2015). This can be realized by building an automated system that not only simplifies the transaction process, but also provides security and convenience to the transaction process in order to minimize the complexity of the financial system. The basic concept of Bitcoin is to create a decentralized transaction authority system without a third party who can verify using the concept of a digital signature on every transaction (Rasji, 2023, p. 1714). Cryptocurrencies or crypto assets have a large enough supply and demand that they are included in the commodity futures trading category. A commodity is an object or item that can be traded easily, can be handed over in its form and is also easy to exchange for items/products of the same type and easily stored for a certain period of time, so that it can be traded by investors on the futures exchange (Atikah, 2023, p. 530).

Previous studies have examined cryptocurrencies from various perspectives. Hidayat et al. (2023) discuss the legality of cryptocurrencies from both legal and Islamic perspectives, highlighting concerns regarding uncertainty and risk. Dwicaksana and Pujiyono (2020) analyze the legal consequences of using cryptocurrencies as a payment instrument in Indonesia, concluding that such use is inconsistent with existing monetary regulations. Meanwhile, Atikah (2023) emphasizes the lack of legal protection for crypto asset investors, particularly in the absence of comprehensive regulatory frameworks. Although these studies provide important insights, most of them focus separately on legal, economic, or sharia aspects without comprehensively examining the binding legal force of cryptocurrency transactions in electronic business practices. This gap indicates the need for further research that specifically analyzes the legal protection of cryptocurrency holders in the context of digital transactions, particularly in relation to the validity of agreements under civil law and their compliance with Indonesian regulations and Islamic principles. The urgency of this study lies in the increasing use of cryptocurrencies by the public, despite the absence of clear legal guarantees and the potential risks associated with their use (Ayodeji et al., 2023; Wronka, 2024).

Based on the description of mining above, the author is interested in conducting further research and discussion on the issue of legal protection for crypto asset owners in the digital era. Therefore, the author is interested in choosing the title of the research "Legal Protection for Crypto Asset Owners As A Means of Conducting Transactions in The Digital Era". Therefore, this research aims to analyze the legal binding force of cryptocurrencies as a means of transaction in the digital era and to examine the legal protection available for cryptocurrency holders under Indonesian law. In addition, this research seeks to evaluate the compatibility of

cryptocurrency transactions with civil law provisions and Islamic legal principles. This research is expected to provide both theoretical and practical contributions. Theoretically, it contributes to the development of legal studies in the field of digital transactions and financial technology, particularly regarding the legal status of cryptocurrencies. Practically, it provides insights for policymakers in strengthening regulatory frameworks, for the public in understanding the risks and legal implications of using cryptocurrencies, and for future researchers as a reference for further studies on digital financial law and legal protection in the digital economy.

METHOD

This legal research was normative legal research, or library research, which used legal materials as the main source in conducting the research. The approach method in this study was the statutory and case approaches. The statute approach was interpreted as research that incorporated legal materials regarding laws and regulations as basic reference materials. The case approach (Case Approach) was carried out through the study of cases or problems related to the topic being researched.

Data collection in this study was carried out through library research by collecting, reviewing, and analyzing relevant legal documents and literature. The collected legal materials were then systematically organized to facilitate analysis. The data analysis technique used was qualitative descriptive analysis, which was conducted by interpreting and analyzing legal norms, comparing regulatory frameworks, and identifying inconsistencies or gaps in existing regulations. The analysis also examined the legal validity of cryptocurrency transactions based on the provisions of Article 1320 of the Civil Code and relevant regulatory frameworks, as well as their conformity with Islamic legal principles.

RESULTS AND DISCUSSION

Mechanism of Use of Cryptocurrencies in Electronic Transactions

Based on Bank Indonesia Regulation Number: 11/12/PBI/2009 concerning Electronic Money, Electronic Money is a means of payment that meets the following elements:

- a. Issued on the basis of the value of the money deposited in advance by the holder to the issuer;
- b. The value of money is stored electronically in a medium such as a server or chip;
- c. Used as a means of payment to traders who are not the issuers of the electronic money; and
- d. The value of electronic money deposited by the holder and managed by the issuer is not a deposit as referred to in the law governing banking.

Then the value of money stored electronically in a medium that can be transferred for the purpose of payment transactions and/or fund transfers to the party making the agreement. So that the electronic money used can be used and proven both physically and in form (Peraturan Bank Indonesia No. 11/12/PBI/2009). Electronic money which is described as a public need for non-cash payments using electronic money is explained in the general provisions of Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money that is organized as one of the non-cash payment instruments in the territory of the Unitary State of the Republic of Indonesia is still carried out in rupiah. Then in order to provide benefits to the Indonesian economy, and is done while still prioritizing the application of the principles of prudence, risk management, and healthy business competition. So that the use of electronic currencies is in line with the policies that apply in the unitary state of the Republic of Indonesia (Peraturan Bank Indonesia No. 20/6/PBI/2018). Buying and selling transactions in the era of payment systems with digital systems in the global era or the industrial revolution 4.0 are all online and transparent using cryptocurrencies. This kind of payment system

according to the Civil Code is related to selling on the purchase of Article 1457, which is an agreement with which one party makes himself or herself to hand over an object, and the other party to pay the price that has been promised. Based on the provisions of the above laws and regulations, the use of electronic currencies in Indonesia can be carried out in accordance with the standards that have been set. However, in contrast to cryptocurrencies that are circulating as currencies that are only regulated in regulations, the existence of electronic currencies/crypto in Indonesia is different from the policy stipulations because it does not meet the existing conditions, and there are several things that cause cryptocurrencies to not be legal in Indonesia because there is no legal device that specifically regulates them.

In addition, with server-based and RFID chip-based systems, Crypto is through a peer-to-peer server network or called Blockchain. The security of the rupiah is easier to manipulate and crypto is difficult to counterfeit, the rupiah has a limited range while crypto is wider and the logo is owned by the Bank while the crypto belongs to the joint (Dwicaksana & Pujiyono, 2020, pp. 190–191). Therefore, all risks related to ownership/use are borne by the owner/user himself. Another policy that strengthens is Bank Indonesia Regulation Number 17/3/PBI/2015 concerning the Obligation to Use Rupiah where Rupiah must be used for all transactions in the territory of the Unitary State of the Republic of Indonesia, the use of other means of payment other than Rupiah in Indonesia can be subject to criminal sanctions such as imprisonment and fines except for acts that are exempt in the applicable law (Fatwa DSN-MUI No. 116/DSN-MUI/2017). Based on the characteristics of the currency between crypto and the currency that applies in accordance with the currency policy that has been determined in order to have legal protection. Likewise, cryptocurrencies that are not regulated as a currency that applies according to the provisions of laws and regulations so that their use is not in line with justice because every user if there is a problem gets justice from the law that regulates it. Therefore, these problems can be easily solved. So that the digital rupiah is different from cryptocurrency because it is not regulated by any regulator and some of its supply is limited (Afrizal & Marliyah, 2021, p. 32).

Buying and Selling Using Cryptocurrencies in Digital Transactions

Payment systems using crypto can provide conveniences, for example, how to pay without using a credit card, bank account, or other intermediaries. Then the digital money is stored specifically in a computer device that can be used as cash in making transactions. This is different with online currencies that use a third party in this case the Bank, because the crypto is directly given by the sender to the recipient without using an intermediary.

Meanwhile, in terms of advantages, it is very flexible when used in any country, it is not affected by the political conditions of the government and as a new form of public savings with the convenience of the system because there are no bank intermediaries. So that with the many weaknesses that virtual money has, it can result in losses to the user community (Anggraeni, 2022, p. 73). The implementation of the use of crypto in companies in Indonesia that use it as a means of payment is found in two cafes in Bali. Both businesses use digital payment methods, one of which is accepting payments using crypto as a legal means of payment.

Buying and selling with crypto by someone is not easy to do because the process to get it goes through the stages that have been set by the organizer. Among the first stages, if you want to buy and sell, you need to have a wallet first so that each user has an address (crypto account) to receive or send to others. After having a wallet and address, the person looks for a service that provides the exchange. If these stages have been passed, the transaction can be carried out, and recorded by the system without the supervision of the competent authority. Therefore, this is what causes transactions made by users to be different from the policy

provisions, so it is not recommended to be carried out by the public because the risks posed are quite large (Ardiyanto & Feliyani, 2022, p. 115).

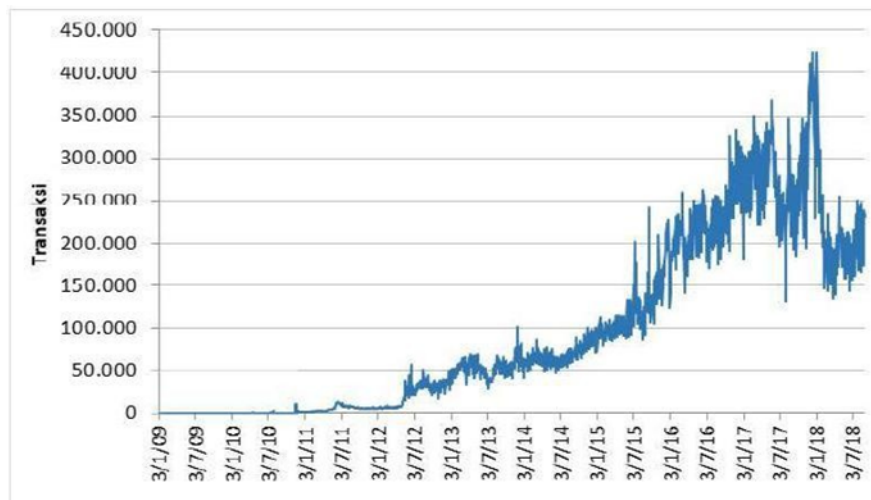


Figure 1. Crypto Transaction Charts

Source: Nizar, Muhammad Afdi, 2018

Based on the image above, the number of bitcoin transactions is still very small. On average throughout 2009, the number of bitcoin transactions was only about 90 transactions per day. It then increased to 69,000 transactions per day on average in 2014. The highest daily average transaction occurred in early January 2018 which reached 425,000 transactions. After that, the number of transactions continued to show a sharp downward trend until the average number of transactions in the first 8 months of 2018 reached 209,000 transactions per day, smaller than the previous period. In the 2017 period, transactions reached 276,000 per day. Based on the explanation above, it can be said that the use of crypto cannot be used as a legal means of payment because the transaction medium in Indonesia is rupiah. The above explanation shows that currencies that have existed since ancient times can be used as a medium of transactions, because they are known and valuable and accepted by the general public (Wahyuddin, 2009, p. 49).

The validity of electronic contracts in buying and selling transactions using cryptocurrencies therefore requires that the digital transaction activities comply with the provisions of Article 1320 of the Civil Code regarding the conditions for the validity of the agreement. Therefore, transactions using virtual currencies like this are very difficult to fulfill, because contracts born from buying and selling digital with payment methods through currencies with a cryptographic system are not valid. In addition, the responsibility of each party involved in this transaction, namely the seller, buyer, payment system operator, and expedition party, can be seen in terms of the obligations of each party and also seen from the losses caused by the fault of the parties involved. So that the agreement is binding by the relevant parties in accordance with the applicable laws and regulations in Indonesia. aqad buying and selling in Islam.

The Financial Services Authority reminds the public not to make transactions with the digital money because there is no regulation that legalizes it as a currency and has great risks. In addition, it is also not to make investments because there is no underlying, and the financial sector is not allowed to facilitate and make transactions using cryptocurrencies and the like that are in popularity or non-fungible tokens (NFTs). Therefore, based on this statement, crypto is not allowed to be used as a transaction medium by authorities who have a supervisory function

over financial service institutions. So that if it is done, the transaction can be canceled because the transaction tool has not been legalized.

Crypto Civil Law Perspective

Crypto is essentially an asset whose value is determined by supply and demand, only it has no intrinsic value, like a legalized commodity. Likewise, if a loss occurs, it is not borne by an institution or individual and is not supported by the government because its value depends only on the belief that the money can be exchanged for goods and services of a particular country's currency. So that the use of this currency is very vulnerable to losses and crimes due to the weak legality that regulates it.

Then when organizing digital money as mentioned in Article 4, each party acting as an Organizer must first obtain permission from Bank Indonesia. However, it is different from what is done by the implementation of cryptocurrencies which is only based on the governing body of PT. and the Ministry of Commerce. Various policy differences owned by virtual currencies have resulted in the issuance of Bank Indonesia's policy that establishes a legal currency through PBI No. 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing and PBI No. 19/12/PBI/2017 concerning the Implementation of Financial Technology because virtual currencies are motivated by various risks. So that the guarantee to the users of the currency cannot be held responsible by the government (Nizar, 2020, p. 16).

Digital transactions using cryptocurrencies have conditions as a medium of exchange or means of payment which have been explained in Article 46 Paragraph (2) and Article 47 Paragraph (1) and Paragraph (2) in Government Regulation No. 82 of 2012, namely an explanation of the implementation of electronic systems and transactions. Digital transactions are not said to be valid and can be canceled by aggrieved parties or parties who suffer losses if they still do not comply with the provisions of the policies that govern them. So that all derivatives of crypto products are not a legitimate transaction medium because they do not have the agreement of the financial authorities in Indonesia (Thistanti et al., 2022, p. 9).



Figure 2. Financial Services Authority
Source: OJK Indonesia 2021 Instagram Account

The OJK does not supervise and regulate crypto assets, but by the Commodity Futures Trading Supervisory Agency (Bappebti) of the Ministry of Trade. Therefore, it is very clear that the currency is not a legal and legal transaction medium but an asset that can be traded on the commodity futures market in accordance with the policy provisions of the Ministry of Trade. The issuance of a policy regarding cryptocurrencies does not guarantee that it can provide legal protection for investors for the use of digital money used in their business activities. Therefore, because the legal protection aspect has not been regulated, especially if the organizing company suffers losses and cannot return the investor's capital. Crypto does not violate the Currency Law so that this fourth condition is met, but what happens is that the digital money is used as a transaction medium in Indonesia, the contract is null and void because it violates the provisions of the law. So that all forms of transactions that use crypto as a legal means of payment are not in line with the applicable policies in Indonesia (Romadhoni, 2019, pp. 52–53).

The above explanation shows that the binding force on a buying and selling transaction can be said to be valid if it meets the conditions and the principles of the agreement both sharia and legal. Then, if the transaction uses virtual currency that has not been legalized by a country, the media is not in line with the applicable policy and its implementation is null and void. The cancellation of an agreement is due to not meeting the requirements, such as transactions using crypto that are not in accordance with the Criminal Code because they cannot show their form. So every transaction is like this.

CONCLUSION

The findings indicate a legal and normative tension in cryptocurrency use: from an Islamic legal perspective, crypto lacks binding force despite fulfilling contractual elements, as it is still considered potentially harmful, uncertain, and thus impermissible until such risks are eliminated. In contrast, under the Civil Code and Bappebti Regulation No. 5 of 2019, cryptocurrency transactions can be legally binding as objects of agreement, but only within the scope of digital asset trading. Meanwhile, Bank Indonesia maintains that the Indonesian rupiah is the sole legal tender, and using other forms of payment may lead to criminal sanctions, reinforcing legal certainty, justice, and public benefit. Future research should examine how regulatory frameworks and Islamic legal interpretations can evolve to address the risks of cryptocurrency while potentially accommodating its use in a way that ensures both legal compliance and ethical acceptability.

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