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### Islamic Legal Views in Muamalah and Cryptocurrency

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#### Abstract

**Background:** Muamalah based on Islam is part of one's activities in seeking world welfare by not leaving the hereafter. This study is important because a person in a transaction must be based on values with the principles of honesty, fairness and not harming each other. The purpose of this study is the law of cryptocurrency transactions based on Islamic law relating to gharar, maasyir, tadli and usury.

**Research Methods:** This research method uses normative law. This is done by examining library research with a conceptual approach model.

**Research Results and Conclusion:** Muamalah in Islam must not contain elements of gharar, usury, masyir and tadlis. Cryptocurrency cannot be used for financial transactions because it contains elements of gharar, usury, masyir and tadlis.

**Keywords:** Cryptocurrency, Gharar, Usury, Masyir and Tadlis

#### 1. Introduction

Economic activity in Islam limits economic activity based on monotheism, justice, freedom, profit and ta'awun <sup>[1]</sup>. Every economic activity of a Muslim is part of worship to Allah SWT, so every transaction must be halal or lawful. According to Sharia. The goal of Islamic economics is to achieve wealth in this world and the hereafter. Several economic and financial activities include electronic finance and digital finance. Electronic money is defined as a means of payment that fulfills the elements; based on the value of money previously stored with the issuer and the value of money stored electronically on data media such as servers or chips. If a digital or electronic wallet is in the form of electronic money, located on a server, in other words server-based, it must first be connected to the issuer's server.

Regarding halal e-money, DSN issued an MUI fatwa, electronic money is a means of payment that fulfills the following sections: paid in advance to the issuer based on a nominal amount of money; The nominal amount of money is stored electronically on a registered data carrier; the nominal amount of electronic money managed by the issuer is not a deposit as referred to in the law that regulates banking; and used as a means of payment for merchants who are not electronic issuers.

Muamalah Legal Principles. The research results show that there are two principles or principles in muamalah, namely general principles and special principles. There are four main points in the general principle, namely <sup>[1]</sup>; 1) every muamalah is basically permissible if there is no argument against it; 2) bring benefits and avoid losses; 3) and fairness.

The coral reef argument is as follows;

Muamalah is done voluntarily, not pretending;

*يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ بَأْتُوا الصَّالَاتِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا. - النساء: 29*

*"O you who believe, do not eat each other's wealth in a vanity way, except by way of trade that applies with your likes and likes. And do not kill yourselves, verily Allah is most merciful to you. (QS. An Nisa: 29).*

#### 2. Muamalah with consideration of benefits and avoid harm

*“عَنْ عِبَادَةَ بْنِ صَامِتٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا ضَرَرَ وَلَا ضِرَارَ. رواه أحمد وابن ماجه*

From Ubadah bin Shamit; that the Messenger of Allah stipulated that it was not permissible to do harm and could not repay harm.

Muamalah is carried out by maintaining the values of justice,

*279: البقرة. - فَإِنْ لَمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ وَإِنْ تُبْتُمْ فَلَكُمْ زُؤُوسٌ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ*

“So if you don't do (abandon the rest of usury), then know that Allah and His Messenger will fight you. And if you repent (from taking usury), then for you the principal of your wealth; you do not persecute and are not (nor) mistreated”. QS. Al-Baqarah: 279.

On the contrary, there are several principles that are prohibited in Islam, namely<sup>[1]</sup>; 1) Maysir; 2) Riba 3) Gharar; 4) tadli; 5) enter into contracts with people who are legally incompetent, such as crazy people, minors, people who are forced, and others. This study examines the meaning of muamalah and cryptocurrency trading.

### 3. Research methods

The type of research used is normative legal research, namely research that establishes law as a constructive standard system, which is the standard for Islamic cryptocurrency legal decisions. This normative legal research is carried out through a conceptual study of library materials (library study) by obtaining literature, journals and other literature that supports and has the problems studied.

### 4. Ethical Clearance

This research has passed the research ethics test.

### 5. Research Findings

#### The principle of Muamalah in Islam

On the contrary, there are several principles that are prohibited in Islam, namely<sup>1</sup>; 1) Maysir; 2) Riba 3) Gharar; 4) tadli;

#### 1.) Maysir or Qimar

Masyir is a form of gambling which assumes that if a player wins, the player who loses will benefit and vice versa (e.g., gambling). In this case Allah SWT says;

“O you who believe that (drunkenness), drunkenness, gambling, (sacrifice) to idols, lottery with arrows, are abominable acts, including those of satan. So, stay away from those actions for the sake of fortune.

Maysir is a type of gambling event where the winner must obtain certain documents from the losing party. Ideally the term can be interpreted as gambling or betting. In addition to being prohibited, this act is also classified as a grave sin. A common feature of maysir transactions is that there is an element of speculation, in the form of pooling the assets of all players with an agreement that the winner will take all or part of the assets of other participants so that only one party can win. This act often uses two different terms, maysir and qimar. But both refer to the similarity of meaning, with the following characteristics; Qimar and maysir were played during the Jahiliyah period, also known as *juzur* and *siam*. The essence of qimar and maysir is to bet and try their luck to determine who wins or loses (a game of chance).

Likewise with the causes of property ownership according to Islam. Maysir in the financial context means a person's ability to gain financial benefits in the form of certain assets belonging to the opposing party when he wins a prediction based solely on chance. The argument for the prohibition of the practice of maysir is Surat Al-Maidah<sup>[5]</sup> verse 90 describing maysir as gambling and fortune with arrows.

From the Sunnah there are words of the Messenger of Allah, may God bless him and grant him peace, in Sahih al-Bukhari,

مَنْ قَالَ لِصَاحِبِهِ: تَعَالَ أَقَامِرَكَ فَلَيْتَصَنَّقِي

"He said to his brother: 'Come on, I bet you. then he must do good. (Narrated by Bukhari and Muslim)

The scholars interpret this hadith as a prohibition on maysir, because when Muslims ask for a bet, they have to give "kafar" or pay a fine to cover their sins, and that doesn't have a bad impact on us. to the world or beyond. Another reason for banning Maysir is because the business only benefits one party and the other party is harmed, so it is a win-lose solution. This is certainly not in accordance with Islamic principles of economic justice and a win-win solution. In addition, the economy in the eyes of Muslims contributes to the welfare of society through the results of its own hard work. Meanwhile, maysir is a speculative opportunistic business with a large nominal risk of loss. In order for a transaction to be considered as a goal, several factors must be met, namely: there is a bet, a bet is an action that contains uncertain circumstances and carries a risk of loss for other parties and a risk of profit.

The second winner is about Muqab. Muqabil is one of the elements of maysir, namely the existence of a muqabil who risks money or property collected with the intention of consuming other people's property. Unlike business because challenges come in the form of risks that arise in an effort to achieve goals. Third, the winning party gets the losing party. Maysir gives ownership to the winning party, not to the losing party. This, of course, causes losses, although it is not profitable for both of them.

#### 2.) Gharar

Gharar, namely uncertainty in transactions due to uncertainty due to non-compliance with Shari'a. Gharar transactions have the effect of causing injustice to one of the parties to the transaction, so that it is prohibited in Islam<sup>[2]</sup>. The legal basis for the prohibition of buying and selling comes from the Hadith of the Prophet. Who explained that "The Prophet Muhammad saw. The prohibition of selling and buying gharar." Types of Gharar in Islam From the explanation above we understand that buying and selling gharar goods is synonymous with carrying out transactions that violate Islamic teachings, including;

First, buying and selling goods that have not been delivered. According to this type, the gharari element lies in the object of its business. Even though both parties know the form of the goods delivered, the seller does not transport the goods when the contract is made. In addition, the seller does not know when to hand over the goods to the buyer. An example of such gharar is the sale of motorbikes that are not in the control of their owners because they are stolen.

Second, buying and selling things that don't exist yet. An example of gharar buying and selling is when there are no items to be sold. For example, buying a calf in an embryonic state without asking much from its mother. Another example is selling a bird in the sky when it is unclear whether the seller will catch it.

Therefore, there is uncertainty about the seller's ability to deliver the goods sold. However, if it is certain that the item can be obtained, for example by buying and selling fish in a private pond and it is immediately caught, then it does not include gharari. Third, buying and selling of goods at unknown prices. In this category, the element of ghara is the

nominal price of the item. For example, currently a pair of brand X shoes sells for Rp. 2 million if paid in full. However, if purchased tomorrow, the price will rise to IDR 2.7 million per pair. The difference is, if you pay it in installments, the total nominal value is IDR 2.7 million. Therefore, the exact price of a pair of shoes is unclear, because it all depends on how payment is made and when the transaction is made. Fourth, buying and selling of goods whose nature is unknown. Another type of gharari is a transaction whose object nature is not clear. An example you may come across is selling oranges that are still on the tree and claiming that the fruit has a sweet taste. In fact, the seller does not choose and taste it.

Ibn Taimiyah *sallallahu alaihi wasallam*, said Ibn Taimiyah: "In fact, many muamalah that are prohibited in the Qur'an and Sunnah are due to practicing justice and prohibiting crimes, both small and large. - For example: using other people's property by lying, usury and with corn (with games). Therefore, the Shari'a prohibits selling and buying gharar and buying and selling gambling because it has the nature of taking property by lying. Both forms of buying and selling are factors that cause hatred and hostility between people.

### 3.) Tadlis (fraud)

Tadlis, namely fraud arising from defects in traded goods. In a hadith of the Prophet SAW narrated by Abu Hurairah, he said: "The Messenger of Allah forbade buying and selling by stoning, and forbidding buying and selling in which there is fraud." Tadlis can arise due to four things, namely quantity, quality, price and time of delivery of goods<sup>[3]</sup>. The explanation is as follows; 1) Number of tadlis, ie. The traders in the market reduce the weight of goods sold. 2) Tadlis quality, ie. Hide the deficiencies of the goods offered. 3) Tadlis price fraud, this is because the buyer does not know the market price, therefore traders deliberately increase the price of their goods from the actual price. 4) Tadlis delivery is a form of fraud by the seller to the buyer to send the goods not arriving on time without explaining the reasons to the buyer.

### 4.) Ziyadah

Riba or "Ziyadah" means addition, while usury technically means taking additional capital (equity) for futile purposes. In general, usury is an increase in debt. That is, the addition of debt both in quality and quantity, a lot or a little, is usury which is forbidden. In other words, technically, usury means the fraudulent acquisition of excess assets or capital. There are several definitions of usury, but in general there is a common theme which emphasizes that usury is a side benefit or from fraudulent buying and selling or borrowing, or contrary to the principle of *mu amalat* in Islam.

The Basics of Riba According to the Word of Allah SWT:

أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً سَرًّا نَّكْوًا اللَّهُ لَعَنَكُمْ تَقْلِبُونَ - ١٣٠

O you who believe! Do not eat usury multiplied and fear Allah so that you will be successful. (QS. Al Imran: 130).

The prohibition of usury is based on the hadith of the Prophet SAW: "Abi Hurairah.

Prophet SAW. said: Gold and gold of the same type and weight, silver and silver of the same type and weight; Anyone who gives or asks for more is a loan shark." (HR. Muslim). In addition, in the advertisement there is usury

which is divided into usury *qordh* and usury *yadi*. The scholars also stated that all of this was prohibited based on an agreement based on the Qur'an and Hadith. Islam strictly forbids usury in the verses of the Koran and the Prophet's mantra, for example: Al-Quran surah al-Baqarah verse 275: "Allah justifies buying and selling and forbids usury." Al-Quran Surah Ali Imran verse 130: "O you who believe, do not take by multiplying."

## 6. Discussion

### 6.1 Cryptocurrency Transaction Practices in Indonesia

In modern business, the role of money is growing and transaction processes are increasingly diverse. Online deals are subject to change at any time, and precious metals such as gold may also be available for early auction. The development of electronic money so far has spread and been widely used by various groups of people through bank cards, smart cards and electronic money. The role of technology is currently re-evolving and giving birth to a new system, especially in relation to payments by issuing cryptocurrency-based virtual currencies, and the payment method that has arisen to meet this demand is cryptocurrency.

Cryptocurrency itself is a technology with a block-driven database that is commonly used as a digital currency, but has unavoidable advantages and disadvantages. One of the advantages that cryptocurrency offers in transaction activities is saving time and effort, because it can be done with a computer or other appropriate digital device, in addition to the peer-to-peer business model or from sender to receiver, but still stored. in crypto currency.

Networking is also a clear advantage of this technology. Cryptocurrency users tend to have minimal risk as they do not have to face the losses due to counterfeiting or inflation that usually occurs with minted currencies. However, cryptocurrencies, like cryptocurrencies, do not have assets and are not regulated by the Indonesian Financial Services Authority/OJK, so they are included in illegal activities. Cryptocurrency is a new way to transfer technology so fast in the 4.0 revolution era. Indonesian cryptocurrency is unofficial and controlled by the government because it violates the law. Cryptocurrency is basically a decentralized digital currency, which means a way of carrying out transactions without a third party as an intermediary that allows money laundering to occur.

Cryptocurrency money laundering cases are caused by the anonymous feature, so the system cannot track and protect real identities<sup>[27]</sup>. Cryptocurrencies in Indonesia have advantages and disadvantages, one of which is not fulfilling several factors and general criteria as a currency, coupled with a statement issued directly by the Indonesian government on February 6 2014 stating that cryptocurrencies are not a means of valid payment. in Indonesia country.

Seeing these phenomena and facts, it is necessary to conduct repeated research and analysis from the point of view of religious and technological experts to address the increasing use of digital money in people's lives. However, from the point of view of Islamic Sharia teachings, the legality of using cryptocurrency and the law on its use in transactions are still advantages and disadvantages (*khilafiyah*), especially among economists and scholars, because cryptocurrency is a world currency. Used by country, it is not enough to stick to one scholar without comparing them

with other scientists, but their ideas must be compared over time to get clear information and use it as a reference for the community.

The concept of cryptocurrency as a currency is still widely debated among experts, moreover some researchers are still exploring it, and cryptocurrency as a means of payment still requires a lot of consideration regarding its impact and benefits. Cryptocurrency is not in accordance with Islamic law because it contains *gharar* and *dharar*, because the creator is not known with certainty, there is no authority that guarantees the legitimacy of transactions, has no real value, and cannot be distinguished from highly volatile price speculation. Cryptocurrency contains elements of *Maysir*<sup>[28]</sup> and is only used as a profit and loss tool.

## 6.2 Cryptographic Practice from an Islamic Perspective

Islam has a method and source of reference for determining law, namely the source of the Qur'an and the second al-Hadith, both sources are analyzed by the mujtahids as a reference for determining the law, besides that the mujtahids also know another method. Law enforcement such as *qiyas*, *maslahah mursalah* ad-zariah and others. The method of establishing *syar's* law is known as the science of *ushul fiqh*. If every transaction activity must be avoided in vain, which means that the transactions carried out must comply with or not violate the values of Islamic teachings, then there is nothing that is detrimental, in vain, wasted and wrong in the transaction.

This cryptocurrency is not fully Sharia Compliant due to the different opinion of the scholars regarding digital currency<sup>[4]</sup>. The results show that there are still gaps in digital currency mechanisms to take Islamic perspectives into account, such as safeguarding real assets and legal authorization<sup>[5]</sup>. The study concluded that trading cryptocurrencies such as Cryptocurrency, Ripple, and Ethereum is not Sharia<sup>[6]</sup> compliant.

From the results of this study, it was concluded that cryptocurrencies have more disadvantages than advantages<sup>[7]</sup>. And according to Islamic law, investing in digital cryptocurrencies in digital cryptocurrencies is illegal<sup>[8]</sup>. Cryptocurrencies have very high risks and are illegal-Islamic like *corn*, *gharar* and the possibility of harming its users<sup>[9]</sup>. Some of the problems described in this study are *gharar*, *usury*, *masyir* and *tadlis*.

1.) Cryptocurrency Research Articles and *Gharari* Elements. The use of cryptocurrency as a means of business transactions contains elements of *gharar*<sup>[10]</sup>, its legal status is *haram*. *Gharar* is a commercial transaction that creates uncertainty for the parties regarding the quantity, materiality, quality, time of delivery and even the object of the transaction. May be speculative. This uncertainty violates sharia principles which ideally are transparent and mutually beneficial. Thus, Islam views *gharar* as something that is detrimental to parties, especially buyers. In fact, if the consumer pays first without seeing the object of the transaction, if it turns out he doesn't like the product, it will certainly cause disputes or compensation. In addition, the results of the study show that the existence of cryptocurrency cannot be accepted as money because it contains *gharar* elements<sup>[10]</sup>. In addition, the use of cryptocurrency is still sporadic<sup>[11]</sup>. Crypto transactions are legal but illegal because there are speculations, *gharari* and *maysir*<sup>[12]</sup>. Cryptocurrencies are significant fluctuations (ebb

and flow) in observed value and are thus a subject of debate within the Islamic finance community<sup>[13]</sup>.

2.) Cryptocurrency research articles and elements of *usury*. The research results argue that cryptocurrency has no *usury* because transactions have no additional fees and time delays. Meanwhile, other studies suggest that Cryptocurrency as a means of money laundering is correlated with risks such as loans; the more the risk profile the higher the *riba*<sup>[16, 17]</sup> market.

From some of the results of this study it can be stated that Cryptocurrency is a means of money laundering and contains a *usury* market. In general, *usury* is the addition of debt. That means, every addition to debt, whether quality or quantity, a lot or a little, is *usury* which is forbidden. In another sense, while in technical terms, *usury* means fraudulently obtaining additional assets or principal.

3.) Cryptocurrency research articles and social elements. Cryptocurrency cannot be used as a commodity in Sharia, because it still contains speculative elements (*maysir*)<sup>[11]</sup>. Transactions in cryptocurrencies are legal but against the law because there is speculation, *gharar* and *maysir*<sup>[12]</sup>. The results show that there is an element of *maysir* (betting)<sup>[14, 15, 10, 16]</sup>. Cryptocurrency cannot be used as a commodity in Sharia Derivative Contracts, because it still contains a speculative element (*maysir*) which is *chancy*<sup>[11]</sup>. Because it contains *obscurity* (*jahalalah*), the element of speculation is high and can harm individuals and the state<sup>[17]</sup>.

Cryptocurrency is decentralized, meaning that it is not controlled by a central government or Central Bank, so most decisions are taken due to speculation<sup>[18]</sup>. Cryptocurrency has a very high risk because its value can rise or fall rapidly and unpredictably. Meanwhile, from the point of view of Islamic law, the law of cryptocurrency transactions is *haram lighairihi*<sup>[19]</sup>. Cryptocurrencies have investment instruments containing elements of *maysir* (betting) and as business transaction instruments contain elements of *gharar*<sup>[11]</sup>. Cryptocurrency if used as a business instrument does not contain *maysir* (betting)<sup>[14]</sup>.

4.) Cryptocurrency research articles and *tadlis* elements. Cryptocurrency contains an element of fraud. The results show that the academic literature identifies 29 different types of cryptocurrency fraud<sup>[24]</sup>. A 190% increase in cryptocurrency fraud cost Australian consumers \$6.1 million Australian dollars (\$4.3 million) in 2018. It is also possible to identify that the most common type of cryptocurrency fraud is money laundering and it has been shown that the second most frequent fraud is pyramids. finance based on a Ponzi scheme<sup>[20]</sup>.

## 7. Conclusion

Muamalah in Islam must not contain elements of *gharar*, *usury*, *masyir* and *tadlis*. Cryptocurrency cannot be used for financial transactions because it contains elements of *gharar*, *usury*, *masyir* and *tadlis*.

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