

Study of Cryptocurrency Transaction through Fiqih Rules Approach (*Qawa'id Fiqhiyah*)

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Abstract

Cryptocurrency is a digital currency as part of the results of technological innovation and development. Its flexible existence makes people interested in making transactions with this cryptocurrency. The function of this currency is not much different from fiat currency in general, but crypto currency does not have a physical form because transactions use the internet network. So in this study, after conducting an analysis, it was found that the phenomenon of cryptocurrency transactions is included in the fiqh rules regarding harm and customs, according to the fiqh rules regarding the damage that a person is prohibited from committing acts that could endanger himself and also other people where the high fluctuating prices lead to speculation, which can cause harm, namely the risk of economic bubbles. Basically, the existence of cryptocurrency as a virtual currency is permissible because it has been recognized by various communities, but it must see legality and recognition by the government as a right and obligation of the government. Included in the issuance of the currency. Based on the analysis of fiqh rules about customs. It can be explained that cryptocurrency transactions are included in 'urf fasid because the transactions do not meet the requirements of 'urf authentic, even though their existence has begun to be recognized by the public so that it can be concluded that cryptocurrency transactions during observations through the fiqh rule approach have not found aspects that allow cryptocurrency transactions to be included in transactions that are prohibited by the Shari'a because they contain speculation that gives rise to gharar and maysir. Future prospects cannot be known because there are no underlying assets, and there is no financial authority to oversee them.

Keywords: cryptocurrency, fiqh principles (*qawa'id fiqhiyah*), transactions

Introduction

As a foundation for Muslims in carrying out their daily activities to understand the meanings of Islamic teachings (*maqashid al-shari'ah*) more thoroughly, the

existence of qawaid fihiyyah becomes something very important in responding to new problems that arise as a result of the times.

The development of the times is characterized by technological developments. This can affect all aspects of human life, such as in obtaining information and also interacting with one another. in the current era, for example, economic activities can be carried out virtually, or you don't have to have meetings, this provides extraordinary benefits, especially in the ease of transactions, and time becomes more efficient and more flexible. In addition to changes in the way of transactions in economic activities, technology has also changed the medium of exchange used in transactions. At the first appearance of the medium of exchange, we were familiar with the barter system; until now, we are dealing with digital money known as cryptographic-based cryptocurrencies.

Some examples of cryptocurrencies are: Lisk, Ripple, Ether, Litecoin, MaidSafeCoin, StorjCoinX, Ethereum, Dash, Doge-Coin, Zcash, Monero, and Bitcoin (BTC), and the most traded now is Bitcoin.

The estimation of the emergence of cryptocurrency is more due to restrictions by regulations in a country, privacy limitations, imposition of transaction fees, inflation, and so on, where this is considered to have occurred when using fiat money as a medium of exchange in transactions (Wijaya, 2018). However, this cryptocurrency does not have underlying assets and is not regulated by financial authorities, so it is not safe (Ausop & Aulia, 2018)

In general, cryptocurrency has the same function as fiat money, and the difference is that cryptocurrency does not have a physical form; transactions are carried out online in the form of blocks of data, which then blocks that store data will relate to each other and form a decentralized network or peer to peer Networks. (P2P).

The existence of cryptocurrency is still being debated among the Muslim community, both in terms of regulation and legality. Indonesia, where the majority of its people are Muslim, certainly requires legal certainty regarding cryptocurrency transactions. So it is necessary to conduct a study of legal certainty to legalize transactions on financial product innovations by experts, researchers, and so on so that every Muslim, in particular can avoid transactions that are not permitted by religious law.

There has been previous research that has discussed the theme of cryptocurrency transactions but has only looked at it from the perspective of Islamic law in general, such as research conducted by Kusuma, et al (2020), Ausop et al, (2018), and Nurhisam (2017).

Based on this, this paper was created to review/re-develop cryptocurrency transactions that are already widely used by the public. With a different approach to



analysis tools, namely using an approach through the principles of fiqh (qawa'id fiqhiyah), which is qualitative in nature.

Literature Review

Qawa'id fiqiyah

Qawaid Fiqhiyyah is formed from two words, namely: the words qawa'id and fiqhiyah, and both words have their own meaning. Etymologically, the word qawa'id comes from the Arabic word qa'idah, which means regulations, laws, or building foundations.

The use of the word "qawa'id" in the Koran with the understanding of these principles or foundations is contained in QS Al-Baqarah verse 127 as follows: (Surat Al-Baqarah). Meaning: *And (remember), when Ibrahim raised (built) the foundations of the Baitullah with Ismail (while praying): "O Lord, we accept from us (our deeds), verily You are the All-Hearing, All-Knowing"* (QS Al-Baqarah:127).

Terminologically or according to syara' rules are as follows: (Al-Syafi'I, 1993)

Meaning: Rules are provisions that are general and can be subject to each of these provisions various types of specific laws. While the word fiqhiyah comes from the word fiqh, which means to understand or understand something, then the addition of yes' functions to categorize or type. The use of the word fiqh in the sense of "understanding," we can see in QS al-Taubah 122:

Meaning: It is not proper for the believer to go all (to the battlefield). Why not go from each class among them some people to deepen their knowledge of religion and to warn his people when they have returned to him so that they can take care of themselves (QS al-Taubah/122)

The terminological understanding of fiqh or according to syara' is as follows.

Meaning: Fiqh is an understanding of the laws of syarak, which relate to human behavior taken from detailed syarak arguments.

Based on the explanation of the meaning of qawa'id and fiqh, it is found that the meaning of qawa'id fiqhiyah, according to Imam Taj al-Din al-Subky is as follows:

Meaning: Provisions that are general in nature (kulli), which can cover several branches of fiqh, which are many, and with these provisions, the laws can be known.

According to Mustafa az-Zarqa, Qowaidul Fiqhiyah is: the basics of fiqh, which are general and concise in nature in the form of laws containing general syara' laws for various legal events that fall within the scope of these rules (Berutu, 2019).

Previous scholars differed in their definition, but from all the reports above, there is the same substance that the fiqh rule is "the basis of fiqh law which is kully). This means that the fiqh rules are general in nature and can be applied to the scope of

the juz'i; the scope of the juz'i applies to af' aalu al-mulallaf (the actions of amukallaf) (Sudirman, 2013).

The Urgency of Fiqh Rules

The area of discussion and issues of Islamic law is very broad, so memorizing them one by one or determining each law is not easy for people who study Islamic law, even experts. Therefore, an alternative solution that can be done to overcome it is to formulate fiqh principles which are generalizations of these fiqh problems, and each generalization can accommodate similar problems.

Methods for Formulating Fiqh Rules

In formulating fiqh principles, Islamic jurists generally use a method called inductive reasoning, which means a way of reasoning or thinking that departs from specific statements to determine general laws or rules. Or in another expression, induction is a method of drawing conclusions based on specific circumstances to be treated in general. In the context of this method of forming fiqh rules, ushul fiqh experts examine the verses of the Al-Quran and the Sunnah of the Prophet in order to explore the values and norms contained therein to further formulate a fiqh rule in the form of a proposition that perfect although sometimes simple. Not only that, but they also conducted research on fiqh laws and issues, then formulated a fiqh rule.

The blasphemy of Qawaid Fiqhiyyah

Al Hariri, an expert in Islamic jurisprudence, said: "In conclusion, it can be said that if there is a clear argument from sources that deal directly with a particular case, then the legal basis must be based on that argument. However, if there is no evidence whatsoever for the case, there is no problem if the fiqh principles become evidence in the case, as long as these rules do not deviate from the Al Quran, Al Hadith, and other sources of Islamic law.". (Gustani,)

The Five Main Principles of Fiqh

1). The first rule is the rule regarding the Motive of an Action

Formulation of the rules: *al-umuru bimaqasidiha*, which means the law of each case depends on its purpose. The argument for this rule is found in the Al-Quran surah Al-Ahzab verse 5, which reads:

Meaning: There is no sin on you for what you make mistakes in it, but (which is sinful) what your heart intends (QS. Al Ahzab / 5.)

Apart from what is explained in the verses of the Al-Quran above, the preparation of this rule is also based on the words of the Prophet, namely:

Meaning: (Narrated) Ibn Umar, that the Messenger of Allah said, "Verily, human actions depend on their intentions, and everyone will get something according to what he intended. (HR Bukhari)

2). The second rule is the rule of Confidence and Doubt

Formulation of the law: *al-sure, la yuzalu bi-syak*, which means something that has been believed cannot be removed by something that is still in doubt. The evidence for this rule is found in the following hadith of Rasulullah SAW:

Meaning : (Narrated) from Abu Sa'id al-Khudri RA, he said, said the Messenger of Allah. : If one of you has doubts about his prayer and does not know whether his prayer has been three cycles or four cycles, then let him throw away doubts and establish what he has believed (HR.Muslim)

3). The third rule is the rule of Hardship and Relief

Formulation of the regulations: *al masyaqqah tajlibut at taysir*, which means that difficulties can bring convenience. The argument for this rule is found in the Al-Quran Al-Baqarah verse 185, which reads:

Meaning: Allah wants ease for you all, and Allah wants difficulties for you all (QS. Al-Baqarah / 185).

The argument for this rule is also explained in the following words of Rasulullah SAW:

Meaning: (Narrated) from Jabir bin Abdillah, he said: Rasulullah saw. Said: Account was sent to bring a true and tolerant religion. (Reported by AlKhathib al-Baghdadi in the book Al-Tarikh)

4). The fourth rule is the rule of loss

Formulation of the rule: *ad dharurah yuzalu*, which means that evil is removed. The evidence for this rule is contained in the following words of the Prophet Muhammad:

Meaning: "(Narrated) from 'Ubādah ibn al-Shāmit that the Messenger of Allah. Has decided that there should be no actions that endanger others and harm oneself.

5). The fifth rule is the rule of custom

Formulation of the rule: *al adatu muhakkamah*, which means that habit can be considered a law. The evidence for this rule is contained in the Al-Quran Surah Al-'Araf verse 199, namely:

Meaning: And command to do good and turn away from stupid people (QS Al-A'raf/199)

The argument for this rule is also explained in the hadith of Rasulullah SAW as follows:

Meaning: What is considered good by Muslims, then is also good in the sight of Allah (HR Ahmad)

Cryptocurrency Transaction

Cryptocurrency is a digital or virtual currency where transactions are carried out only through the network (internet). Different from fiat-type currencies that are printed like paper and coins, cryptocurrency is designed based on cryptography by solving math problems (Finasialku.com). Cryptographic technology helps cryptocurrencies not be easily duplicated or transferred to other parties who cannot access them and are not the owners.

Cryptocurrency can be said as a digital asset with a design to be used as a cryptographic-based medium of exchange through encryption algorithms for securing financial transactions, controlling additional new units, as well as validating and verifying asset transfer activities. The decentralized control of each type of cryptocurrency works with distributed ledger technology through a blockchain system that functions as a database in public finance transactions (Priyatno, 2021).

Cryptocurrencies are digital currencies that are not centralized by banks and are created using computer encryption technology recorded on the Blockchain platform. Cryptocurrency transactions are carried out without intermediaries, meaning digital payments go directly from sender to receiver.

One of the most well-known cryptocurrencies is Bitcoin which is also known as the first cryptocurrency. This Bitcoin was created by a programmer named Satoshi Nakamoto.

Blockchain mechanism

Blockchain is a platform used in running cryptocurrency digital currency. The function of blockchain technology is to manage and maintain each additional data stored in each block. The blocks that keep the data will relate to each other and form a decentralized network or Peer to Peer Network (P2P). In the blockchain, any data that has been stored or recorded cannot be edited or falsified. A P2P network is a network of deals. Therefore this system is able to present a completely new and efficient system of payment and transaction processing in the form of digital money.

The blockchain work pattern includes: (Satoshi, 2016)

- 1). Every new transaction will be propagated to all nodes in two directions (peer to peer).
- 2). Next, the node collects all new transactions made into blocks,
- 3). The entire process of the node validates the transaction against the block; when the validation process is successful, and there is proof of work, the block broadcasts to all nodes, then the proof received by the node that the cryptocurrency has never been used (no double spending), then the node receives the transaction block, which Then a new block is created.

Cryptocurrency mechanism

Using cryptocurrencies or cryptocurrencies, the basic concept is recording the entire history of ongoing transactions, including the value of the transaction and its purpose. When someone sends money to the recipient, all information will be provided to both parties; this is equipped with a private key for security in the form of a digital signature (Hamin, 2020).

Cryptocurrencies are usually governed by defined protocols that determine how many coins can be created, how they are made, and how the integrity of the ledger is protected. The protocol is meant to be on par with government regulations and laws that support fiat money, and their power will affect the trust in digital currencies and, therefore, their supply and demand, typically cryptocurrency blockchains are organized in such a way that it is difficult or impossible to change the protocol (Siswantoro, 2020).

Use of cryptocurrencies

Cryptocurrency is not only used as a means or means of payment but is also used for investment and trading. Many companies use crypto money as a means of payment. However, the legality status of the crypto currency itself is unclear. It still varies and is still changing in various countries.

The existence of this cryptocurrency is not allowed in all countries, and there is also a country that prohibits or limits the use of this cryptocurrency. In the 2018 Library of Congress, there are at least eight countries that absolutely prohibit the use of cryptocurrencies, including Algeria, Egypt, Morocco, Bolivia, Nepal, the United Arab Emirates, and Pakistan. Whereas implicitly in various other countries, such as Bangladesh, Bahrain, Colombia, Iran, and Indonesia (The Law Library of Congress, 2018).

In Indonesia, the use of cryptocurrency as a means of payment in the country is considered illegal. Law No. 7 of 2011 concerning Currency in Article 1 Paragraph 1 it is explained that the means of payment accepted and considered valid in Indonesia is only Rupiah. This prohibition is also emphasized through PBI (Bank Indonesia Regulation No. 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing. However, the existence of cryptocurrency in Indonesia is not illegal. The Government, through Bank Indonesia, allows the use of cryptocurrency to be stored or traded as assets with risks borne individually. This is evidenced by the

issuance of a permit for the establishment of Bitcoin Indonesia, now known as the Indonesia Digital Asset Exchange (Indodax) (Priyatno, 2021).

The legal umbrella for the use of cryptocurrencies as investment and trading assets was issued in May 2018 by BAPPEBTI (Indonesian Commodity Futures Trading Supervisory Agency), namely Regulation number 5 of 2018 concerning amendments to BAPPEBTI regulation number 99 of 2012 concerning Acceptance of Customers Electronically On-Line in the Field of Commodity Futures Trading.

Research Methods

The method used in conducting this study was library research, where in studying, the researchers used library data sources derived from articles, reading books, news, and other documents. Then the data that has been collected is analyzed using an approach through fiqh principles (toward fiqhiyah) which is descriptive qualitative and developed in accordance with the research objective of studying cryptocurrency transactions using the fiqh rules approach (Qawaid Fiqiyah).

Analysis and Discussion

Cryptocurrency Transaction In The Fiqh Rules (Qawaid Fiqhiyah)

Currently, cryptocurrency users use it more for speculating and trading tools. It aims to gain profits from investing and trading activities with speculation. This Islam contains elements of gharar, maysir, and usury. It can be seen that currently, the price of cryptocurrency moves politically with high costs and instability, so the value fluctuations are high. This is synonymous with speculation on price differences. This price difference is included in gharar and maysir if it is used for investment and cryptocurrency trading. We know that conducting both economic and financial transactions with speculation is prohibited in Islam because it can cause harm to the perpetrators of these transactions.

Based on the things explained above, the authors found several related fiqh principles, namely: Rules regarding harm.

The formulation of the rule, which means damage is removed

And it is explained in the following hadith of Rasulullah SAW:

Meaning: "(Narrated) from 'Ubādah ibn al-Shāmit that the Messenger of Allah. Has decided that there should be no actions that endanger others and harm oneself.

Based on the rules of fiqh and the words of the Prophet. Above, it can be seen that Islamic law is determined to build benefits for humans and eliminate harm, both that has occurred and will occur. Therefore the danger must be eliminated (al-dharar yuzalu), and the danger cannot be eliminated by causing or carrying out other dangers (al-dharar la yuzal bi al-dharar al-ghair). It can also be explained that based on this principle, a person is prohibited from committing acts that can endanger himself and also others. Crypto money transactions contain speculation with high price fluctuations, which can be dangerous where someone will be harmed, which will lead to harm. Some of the disadvantageous aspects of using cryptocurrencies include being vulnerable to the risk of economic bubbles, resulting in a detrimental impact on the wider community. In addition, cryptocurrencies are not issued by central government authorities, and there is no supervision or monitoring from the central government, so they can cause great harm, both for money laundering, terrorist crimes, and so on.

If viewed from the opinion of Imam Al-Ghazali regarding the conditions for something, it can be said that money is: first, the money is printed and circulated by the government. The two governments stated that the money was legal tender in an area, and the three governments had gold and silver reserves as a measure of the money in circulation. So this is not found in crypto money, where crypto money is not printed like paper and coins and is circulated by the government, but cryptocurrency printed cryptocurrency is designed based on cryptography by solving math problems. Digital type currency, whose transactions are carried out through the internet network. Then cryptocurrency is not the official currency of a country. Then cryptocurrency is measured by the currency itself, namely bitcoin.

The above is also in accordance with the rules of branch fiqh, which reads: dar'umafasidbmuqaddamun 'ala jalbi al-mashalih, which means rejecting mafsadat is more important than attracting benefit.

It can be explained that cryptocurrency money transactions can cause great harm, and in the absence of a physical form, crypto money is considered gharar and maysir, so it brings little benefit. On the basis of the above, it can be said that it is better to avoid cryptocurrency transactions because they cause big problems not only for individuals but also cause economic bubbles that can harm the wider community.

However, when viewed from its use, this cryptocurrency has started to develop or has started to get used to being used in various countries because of its ease of access where transactions use technology. If we look at the rules of fiqh, according to the author, what is suitable in addressing this is the rule of customary law, namely, *al adatu muhakkamah*, which means that habit can be considered as law.

Jalaluddin al-Suyuthi stated that customs could be recognized as law when these actions have indeed taken place continuously and repeatedly and have been agreed as existing. Transactions using crypto money are indeed a habit that is carried out continuously, but its existence is not all people agree, and not all countries allow it. So that it can be said that crypto money transactions, when viewed from the fiqh rules above, are included in *urf'fasid* because they do not meet the *urf'* requirements that are justified by *syara'*, namely:

- 1). Cryptocurrencies are hard to accept because they don't exist in physical form
- 2). Cryptocurrency transactions are carried out repeatedly and are recognized by many people but do not have clear legality.
- 3). There are *gahara* and *masyir*, which lead to speculation, and this is prohibited by the texts in both the Koran and hadith.
- 4). Can bring harm *Karen* causes economic bubbles that can harm the wider community.

Based on the explanation of the criteria and requirements for *'adah* and *'urf* above, it can be seen that not all good customs can simply be accepted as the same thing as Islamic law but must be selective. So here, the author concludes that cryptocurrency transactions include *urf'fasid*, namely habits that are not in accordance with *syara'*.

Conclusion

Cryptocurrency (cryptocurrency) results from technological innovation and development that uses the blockchain system. Transactions are easier, faster, and cheaper, and confidentiality is maintained and can then be carried out across countries and even across continents. This is a positive impact on the perpetrator of the transaction.

In practice, cryptocurrency transactions are more widely used for speculation, which causes *gharar* and *maysir*. This is a form of harm that causes damage, and this



element is prohibited in Islamic religious principles. This problem can be studied with the approach of the rules of fiqh calm harm.

Furthermore, in the discussion of the muamalah aspect, knowing the rules of fiqh "basically, every muamalah activity is permissible until there is evidence that prohibits it." Basically, the existence of cryptocurrency as a virtual currency is permissible because it has been recognized by various communities, but it must see legality and recognition by the government as a right and obligation of the government. Included in the issuance of the currency is to avoid the possibility of harm that could occur in the future. This can be studied in the approach of fiqh rules regarding customs. In the study of customs, it is explained about the distribution of 'urf, namely 'urf fasid and 'urf shohih, with the conditions. Cryptocurrency transactions are included in 'urf fasid because the transaction does not meet the requirements of 'urf authentic. So it can be concluded that cryptocurrency transactions during observations using the fiqh rule approach have not found aspects that allow cryptocurrency transactions to be included in transactions that are prohibited by the Shari'a because they contain speculation that gives rise to gharar and maysir.

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