

## ANALYSIS OF CRYPTO-CURRENCIES' COMPATIBILITY WITH REQUIREMENTS OF CURRENCY IN SHARĪ'AH

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### **Abstract**

This paper aims to investigate whether crypto-currencies are compatible with requirements of currency in Sharī'ah. Using doctrinal research as well as empirical methodologies, the paper has consulted classical works of fiqh as well as modern fatwas, papers and YouTube videos where Nigerian scholars have discussed the legality of cryptocurrency. The paper finds that currencies have either intrinsic value in themselves as in case of gold and silver or their value depend on the economic strength of countries that back it which are elements cryptocurrencies do not appear to have fulfil. Although few scholars have accepted to categorise it as fiat currency, majority do not accept it due to this particular quality as well as other features that make it uncertain and volatile. The paper recommends that Muslims who deal with cryptocurrencies should be careful in their dealings within it so that its market volatility will not cause them serious detriments.

Keys: Crypto-currencies, bitcoins, *nuqūd* (currency)\_requirements, Shari'ah

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## 1. Introduction:

As information communication technology continues to grow, online transactions have caught up with the developmental phase as money is transferred from one person to another. Whether it is planned or not, transactions have largely moved to electronic space. As a result, money being transacted is largely only electronic with no physical transfer of money or its possession. This might have naturally led to bitcoin, an electronic currency that is exclusively, only, electronic.

On November 1, 2008, a computer programmer going by the pseudonym Satoshi Nakamoto sent an email to a cryptography mailing list to announce that he had produced a “new electronic cash system that's fully peer-to-peer, with no trusted third party.”<sup>1</sup> Among other things, the email expounded, the source code, technology and concept of what came to be known as the blockchain. Together with the blockchain, he launched the first ever cryptocurrency, the Bitcoin. The blockchain, while not an earthshattering, disruptive or incremental technology, was considered a foundational one.<sup>2</sup>

Bitcoin can be acquired by downloading a digital wallet, or creating an account on an online exchange. When purchasing Bitcoins, any preferable currency by the purchaser can be exchanged with Bitcoin in one of the many online exchanges. When one receives Bitcoins, he gets a code in his digital wallet. Just as Bitcoins can be purchased online, but also in real life by receiving the codes of the Bitcoins one purchases. Bitcoin is built up as a peer-to-peer model. Money transfers between users are collected in what is known as blockchains. The transactions that are not yet finished is collected in a block; the block contains a reference to the previous block thereby making a chain. The transactions are sorted by time in order to avoid using the same Bitcoins in two transactions simultaneously.<sup>3</sup>

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<sup>1</sup> The full email can be found on the Satoshi Nakamoto Institute archive of all known Satoshi Nakamoto writings, available at [www.nakamotoinstitute.org](http://www.nakamotoinstitute.org)

<sup>2</sup> Harvard Business Review: Blockchain Is Foundational, Not Disruptive, CCN, (4/03/2021), <https://www.ccn.com/harvard-business-review-blockchain-is-foundational-not-disruptive/>

<sup>3</sup> Mariell Landaas Sunde, *Bitcoin – a Currency or an Asset?* (Master thesis in Economics and Business Administration, Business Analysis and Performance Management, Norwegian School Of Economics, Bergen, 2019), 9.

Bitcoin (BTC) price reached its all-time high in 2021, as values exceeded over 65,000 USD in November 2021. The particular price hike was connected to the launch of a Bitcoin ETF in the United States, whilst others in 2021 were due to events involving Tesla and Coinbase, respectively. Tesla's announcement in March 2021 that it had acquired 1.5 billion U.S. dollars' worth of the digital coin, for example, as well as the IPO of the U.S.' biggest crypto exchange fueled mass interest. The world's most well-known cryptocurrency, however, suffered a notable correction in April 2021 after speculation on government regulation. Another reason, according to experts, was an electricity blackout in the Xinjiang region in China. This unexpected development led to a decline in the Bitcoin hashrate - how many Bitcoins are being mined – and potentially spooked investors into selling their assets. According to a 2020 research based off IP addresses from so-called hashers that used certain Bitcoin mining pools, more than half of all the Bitcoin mining occurred in China.<sup>4</sup>

As legal entities across the world contend on their approach to this new-found currency, Muslim scholars have greatly varied in their view on whether this currency is valid and can be used for transactions. This is because the traditional and well-established concept of what is recognized as money is radically different from what a Bitcoin represents. Thus, this paper intends to present jurists argument for and against Bitcoin as a valid currency in Islamic law. The paper begins with outlining the Shari'ah concept of money, role of government in monetary policies as well as an analysis of jurists' position on transacting with bitcoins. This analysis will show us the varying juristic arguments over the validity or otherwise of Bitcoin.

## **2. Concept of *Nuqūd* (money) in Islamic Law**

At its very core, money is something that is used to represent the value of other things. But for something to be able to continue representing value, the people who are using it must continue trusting that a medium of exchange is indeed valuable and more importantly, its value will

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<sup>4</sup> Bitcoin (BTC) price per day from Apr 2013 – November 25, 2022 (*in U.S. dollars*), Statista (25/11/2022) <https://www.statista.com/statistics/326707/bitcoin-price-index/> accessed on 25/11/2022.

persist for a long time so that they will still be able to benefit from it in the future.<sup>5</sup>

Literally, the term *nuqūd* (currency) is the plural of *naqd*; and refers to revealing something. Thus, *naqd al-darāhim* (literally revealing silver coins) means investigation and analysis of silver coins to determine its authenticity.<sup>6</sup> Technically, *nuqūd* is referred to anything that can be accepted as a medium of exchange as well as the measurement of values of properties and services whether they are made of gold, silver, copper and even modern paper currency.<sup>7</sup> It is also described as the price (*thaman*) unlike commodities.<sup>8</sup> This is because a commodity is acquired because it is needed while the money as represented by a currency is usually acquired to serve as a means to certain goals. One of the major feature of money according to the Palestinian Fatwa Council (Dar al-Iftā') is that it must be publicly available for acquisition.<sup>9</sup>

#### Value in Currency

Gold and silver have intrinsic value. In other words, they are valuable in themselves even if they are not processed or minted. Fiat currencies on the other hand have no such intrinsic value. So, what exactly gives our modern forms of currency—whether it's an American dollar or a Japanese yen—value? Unlike early coins made of precious metals, most of what's minted today doesn't have much intrinsic value. However, it retains its worth for one of two reasons. First, in the case of "representative money," each coin or note can be exchanged for a fixed amount of a commodity. The dollar fell into this category in the

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qa<sup>5</sup> Martin Quest, Cryptocurrency Master Bundle, Everything You Need To Know About Cryptocurrency and Bitcoin Trading, Mining, Investing, Ethereum, ICOs, and the Blockchain, accessed from: < <https://www.pdfdrive.com/cryptocurrency-master-everything-you-need-to-know-about-cryptocurrency-and-bitcoin-trading-mining-investing-ethereum-icos-and-the-blockchain-e184666203.html> > on 17/11/2022.

<sup>6</sup> Abu al-Husain Ahmad bin Fāris bin Zakariyyā, *Mu'jam Maqāyīs al-Lughah*, (Dar al-Jil, Beirut, 1991), 5:476; Ahmad bin Muhammad bin Ali al-Fayyūmī al-Ḥamawī, *al-Miṣbāḥ al-Munīr fī Ḥarḥ al-Sharḥ al-Kabīr*, (Al-Maṭba'at al-Amīriyyah, Cairo, n.d.), 2:847.

<sup>7</sup> Muhammad Uthman Shubair, *al-Madkhal Ilā Fiqh al-Mu'āmalāt al-Māliyyah*, (Dar al-Qalam, Cairo, n.d.), 27.

<sup>8</sup> Yusuf Kamal, *Fiqh al-Iqtisād al-Naqdī*, (Dar al-Qalam, Cairo, n.d.), 27.

<sup>9</sup> Fatwa titled: High Fatwa Council prohibits dealing with bitcoin on the Website of the Palestinian Dar al-Iftā' <http://darifta.org/news/shownew.php?title> accessed on 1/5/22.

years following World War II, when central banks around the world could pay the U.S. government \$35 for an ounce of gold. In other words, the paper money represented some claim on physical metal and could legally be redeemed for that metal on demand. However, worries about a potential run on America's gold supply led President Nixon to cancel this agreement with countries around the world. By leaving the gold standard, the dollar became what's referred to as fiat money. In other words, it holds value simply because people have faith that other parties will accept it. Today, most of the major currencies around the world, including the euro, British pound and Japanese yen, fall into this category. Fiat money moreover derives its value from the trust in the government and its ability to levy and collect taxes.<sup>10</sup>

Some Muslim scholars are very critical of this development and question why Muslim countries accepted the American move away from gold coin which is what Islam has conceived as a standard currency.<sup>11</sup>

### 3. Functions of Currencies in Islam:

While talking about Sharī'ah rulings on currencies in Islam, many jurists have taken their time to investigate issues that are generally related to currency which has greatly inspired contemporary researchers on Islamic economic system. Some of the functions of currency cited can be gleaned in the following paragraphs:

#### i. Money as a Medium of Exchange

One of the essential functions of a currency since man began using it is its function of being a medium of exchange to obtain that which is needed. This means it facilitates people's needs of obtaining that which they desire easily unlike what was obtainable in trade by barter. According to Imam al-Ghazālī, Allah created them (i.e. gold and silver) to justly control values of properties. A second wisdom for which they are created is that they are means to obtaining commodities. This is because such currencies are recognized as **valuable** in themselves even though there is no particular need to their substance. Owning them

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<sup>10</sup> Office of the Historians, "Milestones: 1969-1976: Nixon and the End of the Bretton Woods System, 1971-1973

<sup>11</sup> Haitham bin Jawād al-Ḥaddād, *Ḥukm al-Ta'āmul bil-'Umlat al-Elektroniyyah al-Mushaffarah*, 9 (website).

makes it easy to own other things; unlike if one has garment, cannot own food item if the owner of the food item does not need the garment.<sup>12</sup>

This function has been alluded to by the Prophet, peace be upon him in a Hadith narrated by Abu Hurairah, may Allah be pleased with him who said: the Prophet, peace be upon him has appointed a man over Khaibar and he brought him dates of fine quality. The Messenger of Allah, peace be upon him asked him: are all dates of Khaibar like this? The man replied: “I swear by Allah; they are not, O Messenger of Allah. We take one Sā’ of this kind for two, and even for three (of lesser quality). Then the Messenger of Allah, peace be upon him said: Do not do that. Sell the mixed dates for Dirhams (silver coins), then buy the fine dates with the Dirhams.”<sup>13</sup> The point is that the Prophet, peace be upon him has explained that the currency as represented by silver coins is the most suitable means for the exchange of varying commodities as exchange of particular commodities that are of similar types can lead to usury as implied in the Hadith.

## ii. Measure of Value.

Another major function of currency is that it is a fair measure for the value of commodities and services. Varying values of commodities and services requires a relatively constant element recognised by most people as it represents fair measure for the value of things. . This will ensure that such commodity or service will have fair price for each other’s belonging and distant parties from disputes. According to Ibn Rushd, because achieving equality in exchanging different things is difficult, gold and silver coins are provided to value them.”<sup>14</sup>

On his part, Imam al-Ghazālī states that Allah has created gold and silver as controllers and mediums between commodities to value them. Thus, it can be said that this particular camel costs one hundred (100) silver coins and this measure of saffron (crocus) costs one hundred

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<sup>12</sup> Abu Ḥamid al-Ghazālī, *Ihyā’ ‘Ulūm al-Dīn*, (Dar al-Ma’rifah, Beirut, n.d.), 4:502.

<sup>13</sup> Bukhari, Hadith No. 2303; and Muslim, Hadith No. 1593.

<sup>14</sup> Abu al-Walīd Muhammad bin Ahmad bin Muhammad bin Rushd al-Qurṭubī (Ibn Rushd the Grandson), *Bidāyat al-Mujtahid wa Nihāyat al-Muqtaṣid*, (Dar Ibn Hazm, Beirut, 1999), 1:502.

(100) silver coins. As these two different valuable properties are measured by the same currency, it can be stated that they have the same value.<sup>15</sup> Ibn Muskawaihi has also observed that the reason why things are valued with different currencies so that partnerships and transactions can be valid and the determinant of exchanges can be obvious. Gold coin can equate between different commodities through addition and subtraction so that equity can be achieved. This makes it possible for a farmer and a carpenter to deal fairly with each other; and this is civil justice.<sup>16</sup> Ibn Taimiyyah has also stated that the objective of currencies is to be a criterion or yardstick of properties or commodities to be a means of knowing their values; and they are not necessarily for use or enjoyment by themselves.<sup>17</sup>

#### 4. Role of the State in Issuing a Currency

Al-Qara Dāghī has observed that many jurists have discussed the State power as exclusive in the issuance of acceptable legal tenders.<sup>18</sup> According to Ibn Khaldūn, minting currencies is a function of the State by necessity as such authority creates a distinction between authentic and forged currencies. Forging can be avoided through stamping the known symbol of Sultan.<sup>19</sup> Imam Ahmad was narrated to have said, it is inappropriate to mint silver coins but in the official house of minting with the Sultan's permission. This is because if people were licensed to mint it by themselves, they will commit atrocities.<sup>20</sup> This suggests that such exclusive authority cannot be shared with the public or private individuals as is the case with the most popular cryptocurrency, the Bitcoin.

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<sup>15</sup> Abu Hāmid Muhammad bin Muhammad al-Ghazālī al-Ṭūsī, *Ihyā' 'Ulūmi al-Dīn*, (Dar al-Ma'rifah, Beirut, n.d.), 4:91.

<sup>16</sup> Abu Ali Ahmad bin Muhammad bin Ya'qub Muskawaihi, *Tahdhīb al-Akhlāq wa Taḥhīr al-A'rāq*, (Maktabat al-Thaqāfah, Egypt, n.d.), 1:127.

<sup>17</sup> Abu al-Abbās Ahmad bin AbdulḤalīm bin Taimiyyah al-Ḥarrānī, *Majmū' al-Fatāwā*, (Mujamma' Malik Fahad, Madina, 1416H/1995), 29:471.

<sup>18</sup> Ali Muḥyiddīn al-Qarah Dāghī, *Ḥaqībat Qarah Dāghī al-Iqtiṣādiyyah: Al-Madkhal ilā al-Iqtiṣād al-Islāmī*, (Dar al-Bashā'ir al-Islāmiyyah, Beirut, 1431H/2010), 2:1:488.

<sup>19</sup> Abdurrahman bin Khaldūn, *Muqaddimat Ibn Khaldun*, (Al-Matba'ah Al-Sharafiyyah, Egypt, 1327H), 139.

<sup>20</sup> Abu Ya'lā Muhammad bin al-Ḥusain bin Muhammad bin Khalaf al-Farrā', *al-Aḥkām al-Sulṭāniyyah*, (Dar al-Kutub al-Ilmiyyah, Beirut, 1421H/2000), 181.

This means available currency in circulation must be in consonance with that which is needed such that it will not result in inflations and deflations. In addition, as the purpose of money within Islam is not its mere acquisition and hoarding nor using it as a means of price fixing rather it is to facilitate transactions. In fact, the obligation of zakah and other peculiar maintenance means Islam has discouraged hoarding money as these obligation means they must be deployed to the market which is much more beneficial to the public at large.<sup>21</sup> Jurists have also expressly stated that the government should monitor markets such that whenever forged currencies appear in the market, they can take an action to stop it and punish those who are responsible thereto.<sup>22</sup>

Ibn Taimiyyah has also discussed the dangers of unregulated currency in circulation. He states that it is advisable for the Sultan (government) to mint money for the citizens; and its value must fair for their transactions. The citizens must not be wronged and those in authority should not trade in the minted money. Using their preexisting currencies should also not be banned as such will be an injustice. Instead, to protect public interest, its value should be minted and replaced without any profit if the government so wishes. The cost of minting should be paid from the public treasury (*bait al-māl*). This is because trading in minted currencies after its production by the state creates injustice for the citizens.<sup>23</sup>

This is eerily reminiscent with the motivation of Satoshi Nakamoto as his goal was to create a “purely peer-to-peer form of electronic cash” that would not require trust in third parties for transactions and whose supply cannot be altered by any other party.<sup>24</sup> In other words, Bitcoin would bring the desirable features of physical cash (lack of intermediaries, finality of transactions) to the digital realm and combine them with an ironclad monetary policy that cannot be manipulated to produce unexpected inflation to benefit an outside party at the expense of holders.

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<sup>21</sup> Al-Qarah Dāghī, *ibid* (n 18), 2:1:488.

<sup>22</sup> Ahmad bin Yahya Al-Wansharīsī, *al-Mi'yār al-Mu'rab*, (Moroccan Ministry of Endowment and Islamic Affairs, 1401H/1981), 6:407.

<sup>23</sup> Ibn Taimiyyah, *ibid* (n 17), 29: 469, 474.

<sup>24</sup> Satoshi Nakamoto, Bitcoin: A Peer-to-Peer Electronic Cash System, [https://www.usssc.gov/sites/default/files/pdf/training/annual-national-training-seminar/2018/Emerging\\_Tech\\_Bitcoin\\_Crypto.pdf](https://www.usssc.gov/sites/default/files/pdf/training/annual-national-training-seminar/2018/Emerging_Tech_Bitcoin_Crypto.pdf) accessed on 6/12/2022.



World War I saw the end of the era of monetary media being the choice decided by the free market, and the beginning of the era of government money. While gold continues to underpin the global monetary system to this day, government edicts, decisions, and monetary policy shape the monetary reality of the world more than any aspect of individual choice. The common name for government money is fiat money, from the Latin word for decree, order, or authorization.<sup>25</sup> The oldest recorded example of fiat money was jiaozi, a paper currency issued by the Song dynasty in China in the tenth century. Initially, jiaozi was a receipt for gold or silver, but then government controlled its issuance and suspended redeemability, increasing the amount of currency printed until it collapsed. The Yuan dynasty also issued fiat currency in 1260, named chao, and exceeded the supply far beyond the metal backing, with predictably disastrous consequences. As the value of the money collapsed, the people fell into abject poverty, with many peasants resorting to selling their children into debt slavery.<sup>26</sup>

## **5. Adapting Cryptocurrency to Sharī'ah Principles:**

### **i. Treating Cryptocurrency as a Fiat Currency**

One of the strongest arguments that validates Bitcoin as a currency is the fact that it is intended to serve as a currency or money by its creator(s), it serves the function of fiat money through which a commodity of equivalent value can be purchased which demonstrates its value.<sup>27</sup>

Secondly, it is accustomed as a valued currency by a particular group of people and use it as a medium of exchange in buying and selling. This demonstrates its currency status since it has gained acceptance among the people as customs are authoritative.<sup>28</sup> It can however be

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<sup>25</sup> Saifedean Ammous, *The Bitcoin Standard: The Decentralized Standard to Central Bank*, (Wiley, 2018), 53 < <https://infolearners.com/ebooks/the-bitcoin-standard-pdf/> > accessed on 10/12/2022.

<sup>26</sup> Ibid.

<sup>27</sup> Yasir bin Abdurrahman Ālu AbdulSalam, *al-Umulāt al-Iftirāḍyyah*, (Paper presented at the Centre for Specialised Research on Contemporary Affairs in Sharī'ah, Muhammad bin Su'ūd University), 24.

<sup>28</sup> Sāmī al-Suwalim, *Al-Nuqūd al-Mushaffarah*, (Markaz al-Tamayyuz al-Baḥthi, Muhammad bin Su'ūd University, Riyadh, 1439H/2018), 3.

argued that mere acceptance by the people of a substance as currency does not make it a legal tender unless it is backed by the government. Jurists have agreed that the responsibility of issuance of money lies with the state to maintain standard and prevent forgery as well as protection of public interest as discussed above.<sup>29</sup> A cryptocurrency on the other hand is not issued by a State which guaranteed its standard and value. This can be seen in bitcoin's volatility as no state has guaranteed its value.<sup>30</sup>

A cryptocurrency can however be adapted to this principle agreed upon by jurists. Digital currencies backed by states like eNaira by the Central Bank of Nigeria or Digital Tange issued by National Bank of Kazakhstan, Norway CBDC issued by Norges Bank, em-cash issued by the government of Dubai and JAM-DEX issued by Bank of Jamaica among others. These can be said to be guaranteed and protected by State just like fiat money and will have the same legal basis with fiat money or paper currencies.

Likewise, the claim that cryptocurrency is similar to a fiat currency. Fiat money is a government-issued currency that is not supported by a physical commodity like gold or silver. Instead, it is backed by the government that issued it. Its value is derived from the relationship between supply and demand as well as the stability of the authority issuing it as well as strength of its monetary policies. Most modern paper currencies are fiat currencies, including the U.S. dollar, the euro, and other major global currencies.<sup>31</sup> Unlike Bitcoin which gain its value due to its demand, these currencies however gain their values from the economic strength of the State that issues it.

The claim that Bitcoin or any other cryptocurrencies has been accustomed as a currency that is acceptable is not necessarily valid.

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<sup>29</sup> Nizāmuddīn al-Balkhī et al, *Al-Fatāwā al-Hindiyyah*, (Dar al-Fikr, 1310H), 3:215;

Malik bin Anas, *Al-Mudawwanah al-Kubrā*, (Dar Šādir, Beirut, n.d.), 3:5; Muḥyiddīn Abu Zakariyyah Yahya bin Sharaf Al-Nawawī, *Rauḍat al-Ṭālibīn wa 'Umdat al-Muflīn*, (Al-Maktab al-Islamī, Damascus, 1412H/1991), 2:258; Muhammad bin Muflīh bin Muhammad bin Mufrij, *Al-Furū' wa Taṣḥīḥ al-Furū'*, (Mu'assasat al-Risalah, Beirut, 1424H/2003), 4:133.

<sup>30</sup> Mustafa Walīd Shawīsh, *Hal Yajūz al-Ta'āmul bil-bitcoin*, accessed at <http://www.walidshawish.com> on 10/11/2021.

<sup>31</sup> Investopedia, Fiat Money: What It Is, How It Works, Example, Pros & Cons, <https://www.investopedia.com/terms/f/fiatmoney.asp> accessed on 10/11/2021.

This is because one of the requirements of an authoritative custom is that it should be prevalent and generally applicable under all circumstance.<sup>32</sup> This condition has not been fulfilled by cryptocurrencies as many countries like China, Bolivia, Algeria, Egypt, Ghana, etc. have restricted its use and not all businesses accept it as a mode of payment.<sup>33</sup> Nevertheless, one can also argue that this condition can be satisfied in some countries where it is accepted as a legal tender and States have not prohibited its use. This will obviously equate it to fiat currencies issued by these State even though a Bitcoin is not under the control of any Central Bank. These countries include the United States, European Union, Canada, Australia and El Salvador has adopted it as a legal tender. Other countries like France, Denmark, Germany, Iceland, Spain, the United Kingdom and Japan consider Bitcoin transaction as legal and have developed regulation to guide its trade and use.<sup>34</sup>

## ii. Treating Cryptocurrency as a Commodity

A Bitcoin and other popular cryptocurrencies are not issued by States through their Central Banks do not qualify them to be legitimate legal tender but a commodity that can be bought and sold. Likewise, it does not represent a commodity as was with paper currencies before the US cancelled direct convertibility of dollars into gold due to declining gold reserve. Its value is based on supply and demand.<sup>35</sup> This argument can however be countered by the fact that cryptocurrencies are created to serve as money and a means of exchange away from Central Bank's ability to regulate issuance of currencies and not to be a commodity.<sup>36</sup> It has no intrinsic value by itself which is contrary to what a commodity

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<sup>32</sup> Şaleh bin Ghānim Al-Sadlan, *al-Qawā'id al-Fiqhiyyah al-Kubra wamā Tafarra'a 'anhā*, (Dar Bilansiyyah, Riyadh, 1417H), 353.

<sup>33</sup> Bitcoin ban: these are the countries where crypto is restricted or illegal (25/08/2022), at [www.euronews.com/next/amp/2022/08/25/bitcoin-ban-these-are-the-countries-where-crypto-is-restricted-or-illegal-2?espv=1](https://www.euronews.com/next/amp/2022/08/25/bitcoin-ban-these-are-the-countries-where-crypto-is-restricted-or-illegal-2?espv=1) on 9/10/2022.

<sup>34</sup> FINSMES, Which Countries Have Legalized The Use Of Bitcoin? (22/03/2022) <https://www.finsmes.com/2022/03/which-countries-have-legalized-the-use-of-bitcoin.html> accessed on 9/10/2022.

<sup>35</sup> Asmā' Mahmud Muhammadi, Al-Ta'āmul bil-'Umulāt al-Iftirādiyyah in 4 (2019) JCIA 607-660 @627; CFI, Fiat Money (25/01/2022) accessed at <https://corporatefinanceinstitute.com/resources/knowledge/economics/fiat-money-currency/> on 9/10/2022.

<sup>36</sup> Nayif al-'Ajmi, Fatwa by on lawfulness or prohibition of Bitcoin accessed at <https://www.youtube.com/watch?v=-5T2gEDJHo> on 10/8/2022.

is.<sup>37</sup> Its acceptance as a consideration in some transaction is not intended to acquire it by itself rather it's the value of conventional currencies that it represents.<sup>38</sup> In other words, anyone who wants to acquire a bitcoin, his intention is to obtain the conventional currency like dollar or naira to attain his real world goals through these conventional currencies.

## ii. Treating cryptocurrency as a Special Currency

Special currencies are form of currencies that are only acceptable as a means of exchange in a particular region of the State. It is recognized as valid legal tender for those who accept it only and the government shall retain the right to stop its use to protect public interest. Example of this type of currency can be seen in a fatwa of Hanafī jurists in the lands of Mawara' nahar who ruled that debased silver coins known as Ghaṭārīfah<sup>39</sup> and al-'Adālī<sup>40</sup> are valid currencies from which zakat must be issued. They describe them as "our most valued money just like pure silver coin; and we are most aware of what our currency is." They have also opined that these currencies can be sold in exchange with other currencies at different quantities.<sup>41</sup> Imam Malik bin Anas was also narrated to have said, if a particular people have accepted a minted hide and skin in a particular form, I would have disliked it for them to sell it for gold or silver and not conclude delivery before separation.<sup>42</sup> Here, Imam Malik has adapted the minted skin to a valid currency and therefore the ruling that in currency exchange (*ṣarf*) parties must take possession of what they exchanged before parting. Ibn Taimiyyah was also narrated to have said that there is no clearly most encompassing definition of money of currency but what people have accustomed and

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<sup>37</sup> Shamsuddīn Muhammad bin Abdullah al-Zarkashī al-Miṣrī al-Hanbalī, *Sharḥ al-Zarkashī 'alā Mukhtaṣar al-Kharqī*, (Dar al-'Ubaikan, Riyadh, 1413H/1993), 2:513.

<sup>38</sup> Munir al-Shāṭir, *Al-Taujīh al-Shar'ī lil-Ta'āmul bil-Umulāt al-Ifṭirāḍiyyah: Al-Bitcoin Namudhajan*, in (2018) *Majallat Mashūrah*, 25,26.

<sup>39</sup> Ghaṭārīfah is attributed to Ghiṭrīf bin al-'Atā' al-Kindī, the Governor of Khurasan during the reign of Harun al-Rashīd (Mahmud bin Ahmad bin Musa a-Ghaitābī Badruddīn al-'Ainī, *Al-Bināyah Sharḥ al-Hidāyah*, (Dar al-Kutub al-Ilmiyyah, Beirut, 1420H/2000), 8:411).

<sup>40</sup> Al-'Adālī is also another debased silver currency attributed to a leader of a region in Central Asia. (Al-'Ainī, *ibid.*).

<sup>41</sup> Muhammad bin Ahmad bin Abi Sahal Al-Sarakhsī, *al-Mabsūṭ*, (Dar al-Ma'rīfah, Beirut, 1414H/1993), 2:17.

<sup>42</sup> Malik bin Anas, *ibid*, (n 26), 3:5.

conceived as money.<sup>43</sup> Sheikh Bashir Aliyu Umar Kano has also held a similar view. According to him, there is no difference between a Bitcoin and other conventional currencies. As a result, it will be treated like any other currency. His argument is that since it has been accepted by certain category of people as a legal tender, it will be treated as thus. He even quoted the above opinion of Imam Malik where he opined that if a particular people accept skin as a currency, he will treat it as a currency.<sup>44</sup>

This category of special currencies can accommodate bitcoin as a valid currency as some categories of a global community have accepted as a valid means transaction online and have actively pursued its acquisition and possession.

## **6. Transacting in Virtual Currencies:**

Modern jurists have differed on the legality or otherwise of dealing with virtual currencies including Bitcoin. Some fatwa issuing bodies like Egyptian Dar al-Iftā',<sup>45</sup> the Dubai General Board for Islamic Affairs and Endowments<sup>46</sup> as well as the Palestinian Dar al-Iftā' have all opined that transacting in virtual currencies is prohibited.<sup>47</sup> The same opinion was also held by some contemporary scholars like Ali Jum'ah,<sup>48</sup> Abdullah Muhammad Ālu Muṭṭlaq, a member of the Saudi

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<sup>43</sup> Ibn Taimiyah, *Majmū'*, ibid (n 17), 19:251.

<sup>44</sup> Dr. Bashir Aliyu Umar, Hukuncin Bitcoin, Ethereum Da Sauran Cryptocurrency A Musulunci, *Arewarmutv*, <https://youtu.be/XtaHHj14P74> accessed on 17/11/2022.

<sup>45</sup> Fatwa titled: Mufti of the Republic explains ruling on dealing with virtual currency dated 1/1/2018 on the Egyptian Dar al-Iftā' website: <http://daralifta.org/ar/Viewstatement.aspx?sec=media&ID=5617> accessed on 1/5/22.

<sup>46</sup> Fatwā titled: Ḥukm al-Ta'āmūl bil-bitkoin" Fatwa No. 89043 dated 30/1/2018 on the website of the General Authority on Islamic Affairs and Endowments, Abu Dhabi, UAE: <https://www.awqaf.gov.ae/ar/pages/fatwadetail.aspx?did=89043> accessed on 1/5/22.

<sup>47</sup> Fatwa titled: High Fatwa Council prohibits dealing with bitcoin on the Website of the Palestinian Dar al-Iftā' <http://darifta.org/news/shownew.php?title> accessed on 1/5/22.

<sup>48</sup> Fatwa of Dr. Ali Jum'ah in Sharī'ah Ruling on investing in Bitcoin accessible at: <https://www.youtube.com/watch?v=JdpSJrBLyug> accessed on 7/1/2022.

Council of Grand Scholars,<sup>49</sup> Sheikh Ahmad al-Hajjī al-Kurdī,<sup>50</sup> Sheikh Sani Uma Rijiyar Lemo<sup>51</sup> and Sheikh Aminu Umar Daurawa.<sup>52</sup>

According to the Egyptian Dar al-Iftā', the reason for the prohibition of bitcoin transaction is because it involves risks, uncertainty (*gharar*) and ambiguity (*jahālah*). The Egyptian mufti, Shauqī 'Allām, states that it is dealing in Bitcoin is prohibited in the Sharī'ah or even using it as a means for buying, selling, etc. He also makes the point that because these currencies have not been accepted by regulating authorities which makes it an illegal money, it will not be lawful to be acquired and disposed in. Similarly, elements of ambiguity (*jahālah*), uncertainty (*gharar*) as well as probability of cheating in its exchange with other currencies can lead to causing detriments to individuals and even states. Another detrimental aspect of Bitcoin transaction according to the mufti is the fact that the currencies is preferred by those who want to keep their identities hidden beside the fact that these people are not necessarily acquainted with rules and practice of international transactions that seeks to reduce risks as well as creates confidence in transactions. The mufti has also made the point that the responsibility of production and issuance of currency is exclusive to the legitimate authorities who have the power as well as the responsibility of determining the standards of such currency.<sup>53</sup>

The Palestinian Dar al-Iftā' has also made a similar fatwa. According to the fatwa, it is not lawful to buy or sell Bitcoin due to extreme uncertainty (*gharar fāḥish*) which may constitute an element of gambling. Similarly, it is a currency whose originator is unknown nor does it have a guarantor as conventional currencies do. Bitcoin is also

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<sup>49</sup> Abdullah Muhammad Mutlaq, a member of the Saudi Council of Grand Scholars in a fatwa published in Sabiq electronic newspaper where he warned of dealing in cryptocurrencies saying, its dangers are many. Accessed from: <https://sabq.org/NGZvjV> accessed on 12/5/2022.

<sup>50</sup> Fatwa of Dr. Ahmad al-Hajjī al-Kurdī, a member of Fatwa Council in the Kuwaiti Ministry of Endowments <http://www.alraimedia.com>

<sup>51</sup> Dr Sani Umar Rijiyar Lemo, Mene ne Halaccin Cryptocurrency? - <https://www.youtube.com/watch?v=aMtRKIYGfjA> accessed on 24/10/2022.

<sup>52</sup> Sheikh Aminu Ibrahim Daurawa, Hukuncin Yan Crypto Currency A musulunci <https://www.youtube.com/watch?v=FfVULadiq8k> accessed on 24/10/2022.

<sup>53</sup> Fatwa titled: Mufti of the Republic explains ruling on dealing with virtual currency dated 1/1/2018 on the Egyptian Dar al-Iftā' website: <http://daralifta.org/ar/Viewstatement.aspx?sec=media&ID=5617> accessed on 1/5/22.

highly volatile and risky as well as potential exposure to theft and other online frauds.<sup>54</sup> Another point mentioned by the Palestinian Dar al-Iftā' is the limit of Bitcoins to 21 million coins which, in the opinion of these researchers, makes its hoarding likely unlike other conventional currencies.

Another fatwa that prohibits dealing with Bitcoin currency is that which was issued by the Turkish Fatwa by its Supreme Council in the Directorate of Religious Affairs. Their reasoning was the ambiguity of its nature and high probability of using it for fraudulent purposes.<sup>55</sup>

In the opinion of Sheikh Rijiyar Lemo, money is either something with intrinsic value like gold and silver or backed by the State and its value is defendant on the strength of the country's economy. No one knows who produces a bitcoin. It neither has an intrinsic value like gold or silver nor is it backed by the State. Another feature of currency mentioned is its instability which is common for a cryptocurrency like Bitcoin. Its steep rise and fall make it similar to gambling due to the extreme uncertainty in its market value.<sup>56</sup>

Other reasonings behind their prohibition is that a virtual currency does not have real essence or physical presence. Instead, it is coded computer data whose existence is but imaginary and ambiguous. They have also reasoned that production and issuance of standard currencies is an exclusive authority of governments through its Central Banks which a cryptocurrency does not conform to.

A second opinion held that dealing with Bitcoin is lawful. This opinion is held by some scholars like Nayif al-'Ajmī as well as the preferred view of Islamic Economic Forum and other contemporary researchers.<sup>57</sup>

One of the major reasonings behind this lawfulness is based on the maxim, *al-Aşlu fī al-Aşyā' i al-Ibāḥah* (the Norm of Sharī'ah regarding things is lawfulness). This naturally implies that unless the Lawgiver has prohibited a particular thing to stand as a currency, it will

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<sup>54</sup> Palestinian Dar al-Iftā fatwa titled: Supreme Fatwa Council prohibits dealing with Bitcoin published on 4/1/2018 on the Council's Website:

<http://darifta.org/news/shownew.php?title> accessed on 14/09/2022.

<sup>55</sup> Anatol Website <https://goo.gl/KVqoyr>

<sup>56</sup> Sheikh Sani Umar Rijiyar Lemo, Fatawowin Rahma on Rahma TV ... Youtube..

<sup>57</sup> Nayif al-'Ajmī, <https://www.youtube.com/watch?v=UiZx0R-K7fE>

remain lawful. However, the applicability of this maxim to anything must fulfill its basic requirements such as absence of harm which one may argue that the anonymity of Bitcoin and secrecy of its transaction has made it a heaven for illegal activities. Thus, the effect of the maxim will not be applicable to it.

## **7. Conclusion**

Bitcoin which is one of the most popular cryptocurrencies has been described as new electronic cash system that's fully peer-to-peer, with no trusted third party. This implies that a bitcoin gained its value from its acceptance by a particular category of people and it is not under any State control for regulation. On the other hand, money in Sharī'ah is described something of intrinsic value like gold or recognized by the State as a legal tender as is the case of fiat by necessity. In Islam, currency serves as a medium of exchange as well as a measurement of value. The State is mostly responsible for issuance of currencies to determine and maintain its standard, and not for profit making.

Contemporary scholars have differed on whether a cryptocurrency has met with the requirements as well as functions of currency in Islam. While some have recognized it as any other fiat currency, most scholars and fatwa council around Muslim world in general and Nigeria in particular have expressed doubt on whether cryptocurrencies have qualified requirements of a currency in Islam. Some scholars have also argued that bitcoin should be categorized as a commodity as it is a means to acquiring fiat currencies like dollar and Naira. Others have argued that it should be recognized a special type of currencies accepted by a group of people since there were such known currencies *Ghaṭārifah* and *al-‘Adālī* which jurists have recognized during their times.

On the legality of transacting with cryptocurrency as a medium of exchange, most Councils of fatwa and Muslim scholars have opined that it is not a valid means of transaction as the basic requirement of a fiat currency has not been met. For this reason, Muslims are enjoined to be careful in their acquisition and dealing with Bitcoin or any other similar currency. This is because of the potential harm and loss associated with these currencies as has been recently seen with the collapse of Bitcoin.