Cryptocurrency and Crypto Assets in the Perspective of Islamic Legal System Philosophy

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Abstract
The purpose of this research is to determine whether or not cryptocurrencies are legitimate in Islam as both a currency and a commodity. This is research done in a library. The research is descriptive-analytical and uses Jasser Auda’s Islamic legal philosophy approach to try to explain cryptocurrency law. The findings demonstrate that, from the standpoint of Islamic legal philosophy, the law governing cryptocurrency as a currency is comprehensive (tafsil). Whether it is halal or not by looking at how the goal was achieved, specifically (benefit). If the cryptocurrency has clear benefits, such as the existence of underlying assets and the government's role in realizing the general benefit (maslahah ammah), it can be considered halal. Similarly, cryptocurrencies that lack clear regulations and are not backed by assets will be haram due to the possibility of mafsadat. Despite the fact that cryptocurrencies are regarded as al-Ma’l al-ma’nawiyyah because they do not conform to the objectives of sharia in assets (maqashid as-shari’ah fi al- ma’l), the law of cryptocurrencies as assets (crypto assets) is not valid. This research certainly has limitations, especially related to field data, namely interviews with cryptocurrency business actors. Therefore, to develop further research, not only juridical research but also juridical-empirical research.

Keywords: crypto, cryptocurrency, crypto asset


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Introduction

Technological advances from time to time are unstoppable, including advances in technology in the economic field. Cryptocurrency is one of the spectacular technological achievements in the field of economics. Cryptocurrency is a digital asset supported by blockchain technology. Cryptocurrency became known in 2008 with the appearance of a white paper under the pseudonym Satoshi Nakamoto (Arjun Kharpal, 2018). Although lucrative, cryptocurrencies can have a negative impact in various sectors. Monetary policy holders and central banks are warning against the risks posed by cryptocurrencies. Mt. Gox, the world’s best-known and largest bitcoin company went bankrupt in 2014 as its cryptocurrency vanished (Jen Wieczner, 2018).

A technology with new innovations in the financial markets will not be without its problems. Problems in cryptocurrency can arise from a variety of perspectives. In the perspective of Islamic law, there are two opinions on the legal status of cryptocurrency. The first opinion allows cryptocurrency by arguing that cryptocurrency is a new technology that has the potential to support the development of sharia finance with various conditions. This first opinion also argues that the absence of clear and relatively volatile evidence is not necessarily impermissible. The second opinion does not allow cryptocurrencies with the argument that this practice is very potential for gharar, the absence of monetary equivalent value and is prone to being used for illegal activities (Mohd Noh & Abu Bakar, 2020).

The author realizes that after the emergence of cryptocurrency as a technological invention in the concept of finance, there are several studies that examine cryptocurrency with various perspectives. On this basis, the researcher wants to explain the originality of research that is relevant to previous research, as follows. Research, Mohad Shahid Mohd Noh (2020), explains that according to the results of his research using the maqashid as-shari’ah approach by considering maslahah and mafsadah through SWOT analysis, it is said that cryptocurrency contains more harm (mafsadat) than its benefits (Mohd Noh & Abu Bakar, 2020).

Next, Asep Zaenal Ausop, bitcoin as a type of cryptocurrency is haram lighairihi. This conclusion was reached using the qiyas method. Bitcoin is similar to buying and selling fish in the water. Both have the same illah, which is the same element of gharar. Asep Zaenal also analyzed the status of bitcoin using the maslahah-mursalah method. Bitcoin is something illegal so that it will have an impact on harm (mafsadat) (Asep Zaenal Ausop, 2018). Furthermore, Zidna Aufina, bitcoin transactions are something haram in the perspective of sharia. This conclusion is drawn because the contract in bitcoin transactions is fasid (broken). The unfairness of the bitcoin transaction contract is because it contains impermissible elements such as gharar, shubhat, maysir, and dharar (Zidna Aufama, 2018). Similar research was written by Dewi Indrayani Hamim, saying that the law of Cryptocurrency is haram. The haram of Cryptocurrency is haram lighairihi. This conclusion is drawn because Cryptocurrency contains elements of gharar (Dewi Indrayani Hamim, 2020).

Research, Raden Muhammad Arvy Ilyas, according to this study that bitcoin transactions are something that is still debated by scholars, therefore it must be abandoned by quoting the hadith about subhat matters. Raden Muhammad also explained that the status of bitcoin in Indonesia is unclear about its legality (Raden Muhammad Arvy Ilyas, 2019). Based on the various previous studies above, this
research focuses on the review of the philosophical approach to the Islamic legal system initiated by Jasser Auda on cryptocurrency.

Method
The type of Islamic legal research in this study is normative-philosophical Islamic legal research, with an Islamic legal philosophy approach. The theory used is the system theory in \textit{maqashid as-shari'ah} as a philosophy of Islamic law Jasser Auda. In the realm of application, the various properties of the Islamic legal philosophy system approach, such as cognition, wholeness, openness, relational hierarchical relations, multidimensionality, and meaningfulness will be used to explore and identify the various elements of the Islamic legal approach to cryptocurrency issues.

As for data analysis, the interactive analysis method is used as the analysis procedure of the Miles and Huberman model. Data taken from secondary sources were reduced (data reduction) so as to find themes and discussion points that are in accordance with the research, then presented (display) in the form of narratives. Data collection and reduction can be done simultaneously during data collection in the field. After data collection and data reduction, it is then analyzed to draw conclusions that can answer the research problem question (Matthe B. Miles, 1992).

Result
Systems Approach in Islamic Legal Philosophy
According to Waryani, the word Islamic legal philosophy is a new term. However, according to him, the genealogy of Islamic legal philosophy can be traced in classical literature from \textit{al-Mustasfa} by al-Gazali to \textit{al-Muwafaqat} by ash-Shatibi. The terminology of Islamic legal philosophy in the work of classical scholars is termed \textit{maqashid as-syari'ah}. The meaning of \textit{maqashid as-syari'ah} itself is the purpose of Allah in revealing His \textit{shari'ah} for the benefit of humans. With the approach of Islamic legal philosophy, according to Waryani, Islamic law will be in accordance with time and place (\textit{salih likulli zaman wal makan}) (Waryani Fajar Riyanto, 2012). In line with Waryani Syamsull Anawar said that Islamic law is more flexible and universal when \textit{maqashid as-shari'ah} is used as an approach. According to him, the discourse of \textit{maqashid as-shari'ah} among scholars at the end of the 20th century has experienced a fairly rapid development. \textit{Maqashid as-shari'ah} in the hands of scholars is used as a tool to answer contemporary problems (Syamsul Anwar, 2015).

Although \textit{maqasid as-syari'ah} has been considered a new part of the approach to Islamic law, its application can cause difficulties if this theory is not renewed (Hengki, 2017). Jasser Auda is one of the contemporary Muslim figures who succeeded in revitalizing \textit{maqashid as-shari'ah} by making it a philosophical basis for thinking in producing Islamic law and collaborating with system philosophy as an analytical knife. Amin Abdullah said that Jasser Auda’s achievement in concocting \textit{maqashid} is a new thing that has not been thought of in the previous \textit{maqashid as-shari'ah} discourse (Jasser Auda, 2015). ‘Jasser Auda’s refitalization of \textit{maqashid as-Shari'ah} can be seen in six features of system philosophy as follows:
- Cognitive features (\textit{al-idrākiyyah-cognition}).

The cognitive feature according to Jasser Auda is a component of the Islamic legal system that separates revelation from its cognition. With this feature, fiqh experiences a shift in meaning from divine truth claims to human understanding of
divine truth. This feature provides a paradigm that a faqih's legal knowledge cannot be claimed as divine knowledge (Hengki Ferdiansyah, 2017).

The explanation above can be understood that Auda believes that Islamic law is a dynamic product of thought that can change with changes in place and time. Through this, the products of Islamic legal thought can be debated again for their validity towards something that is more in line with existing conditions. Through this feature Auda proposes the need to understand urf and fiqh at a deeper level that goes beyond mere consideration in their application.

Features of Wholeness (al-kuliyyah-wholeness).

The feature of wholeness according to Auda is a comprehensive paradigm in the approach to Islamic law. This paradigm requires interconnectivity between various components of Islamic law. This feature is one of Auda's theses to complement the classical ushul fiqh paradigm. Because according to him, the paradigm used in classical ushul fiqh tends to be atomistic and reductionist. Auda pointed out that the atomistic approach in classical fiqh is seen in solving legal problems using only one argument without linking to other arguments. This is different if using maqashid as an approach because it does not only use one argument but several arguments so as to bring out the purpose behind the provision of certain laws (Jasser Auda, 2008). Amin Abdullah offers a solution in applying the principle of holism initiated by Auda through thematic interpretation which is no longer limited to legal verses, but makes all verses of the Qur'an a consideration in deciding Islamic law (Jasser Auda, 2008).

Features of openness (al-infitahiyah-openness)

According to Jasser Auda that a system in order to stay alive must maintain the openness of the system (open system). Likewise, in order for the Islamic legal system to continue to live, it is necessary to open itself up. To realize openness and self-renewal in Islamic law Auda offers two steps in sequence.

First, legal reform with cognitive culture (tsaqafah al-mudrikah) and worldview. According to Auda, cognitive culture is based on a person's mental framework and the intricacies of reality that they perceive and interact with the outside world. According to him, this cognitive culture is in line with the theory of urf (custom) that has been applied in classical ushul fiqh. However, here Auda provides a broader range of urf. Based on his cognitive character, he says that urf is what a faqih (nadhariyyat al-maarifah) considers to be urf as long as it does not contradict the basic principles of maqasid as-syar'ah. Auda also emphasized that the second point of view must be competent, based on scientific evidence (Jasser Auda, 2008) Auda proposes the faqih perspective here as an extension of the urf method to simply accommodate changes in Arab customs. Amin Abdullah said that Auda’s ideas at least have implications for the Islamic legal system to be more open to advances in natural, social and cultural sciences (Jasser Auda, 2015).

Second, through philosophical openness, legal reform. According to Auda, Islamic law can undergo self-renewal by being open to the philosophy and other components of a competent worldview embraced by a faqih. According to Auda’s argument, ushul fiqh is in a sense a philosophy of Islamic law. As a result, ushul fiqh can certainly maintain a degree of openness to philosophical values, which usually develop in tandem with the development of human knowledge (Jasser Auda, 2008). Thus it can be understood that Auda emphasizes awareness to place Islamic law as an
open legal system from various aspects of its components to suit the development of human civilization.


Auda stated that (concept-based categorizations) are the right categorization to use in reforming legal methods. He added that the categorization is an integrative and systematic method, not just determining right or wrong, but contains various criteria that can create a number of categories simultaneously. The implication of the relational hierarchy feature, namely the level of benefit (*maslahat*), whether *daruriat, hajiyat or tahsiniat* can be viewed at the same level and importance. In contrast to the classical *maqāshid* level classification that uses a feature-based categorizations paradigm, so the hierarchy of maslahat tends to be rigid (Jasser Auda, 2008).

The explanation above shows that Auda expects that there is no rigid term for the level of Islamic legal arguments, but all legal arguments can occupy the same position and are interrelated, so there is no term of priority scale for their role as a basis for formulating law.

Features of multi-dimensionality (*ta'adud al-ab'ad*- multidimensionality).

According to Auda’s explanation, the Islamic legal system is multifaceted. Therefore, according to him, the approach to Islamic law does not require a binary opposition paradigm. Because, according to him, the criteria for legal arguments that are considered opposite can actually go hand in hand with each other. He claims to be able to resolve the issue of contradictions in other Islamic legal propositions (*ta'arud al-adillat*) and reduce the dichotomy between qat'i and zanni propositions through a multidimensional approach (Jasser Auda, 2008). From this it can be seen that Auda does not want the dichotomy of the arguments for determining Islamic law, because he views them as integrative.

Intentionality Feature (*al-maqasidiyyah*-purposefulness).

According to Auda, the existence of maqashid shariah is a feature of intentionality in the Islamic legal system. He views maqāshid shari'ah as a core feature that should not be overlooked in any approach to Islamic law. However, he points out that this aspect of intentionality cannot be separated from a number of other aspects of Islamic law (openness, wholeness, relational hierarchy, and multidimensionality). This is because in the system theory approach, there is no independence of features. All features must be able to work together and integrate with each other to carry out their functions in achieving a common goal (Jasser Auda, 2008).

Auda added that the existence of maqasid shariah in the Islamic legal system is in the position of purpose (ghayat) which is not monolithic and mechanistic. This means that the Islamic legal system can produce various objectives of Islamic law (maqasid shari‘ah) through various means, conditions and results of goals while still referring to the main sources of Islamic law (al-Qur'an and Hadith), not only based on the legal thinking of Islamic jurists (fuqaha) (Jasser Auda, 2008).

Discussion

Cryptocurrency and Crypto Asset

Cryptocurrency in language according to (Mohd Noh & Abu Bakar, 2020) is taken from two words namely crypto and currency. The word crypto refers to the
encryption or cryptography designed by the instrument and then added to the blockchain database. While the word currency refers to an instrument that is recognised by its users as a medium of exchange.

The definition of cryptocurrency in terms according to Rosic is an internet-based medium of exchange that uses cryptographic functions to conduct financial transactions. Blockchain technology is used by cryptocurrencies to achieve decentralisation, transparency, and immutability. The decentralised nature of the blockchain makes cryptocurrencies theoretically immune to government control and interference, which is the most important characteristic of cryptocurrencies.

From the above characteristics of cryptocurrency, the majority of international organisations classify cryptocurrency into virtual currency. The European Banking Authority (EBA) as cited by Alexander Sugiharto (Alexander Sugiharto & Muhammad Yusuf Musa, 2020) categorises cryptocurrency as virtual currency. This can be seen from the way the EBA defines cryptocurrency as a digital representation of value that is used by individuals or legal entities as a medium of exchange and can be transferred, stored or traded electronically. It is not issued by a central bank or other public authority and does not need to be linked to a fiat currency. This is how the ECB defines cryptocurrencies as unregulated digital currencies. It is usually issued and controlled by its developers, and is used and accepted among members of a particular virtual community.

Bank Indonesia (BI) as a financial authority institution in Indonesia also includes cryptocurrencies into virtual currencies. BI defines virtual currency as "digital money issued by parties other than the monetary authority that is obtained through purchase, gift transfer, or mining" (the process of creating some new virtual currencies involves complex mathematical processes). This digital money is generated/controlled by members of the virtual community. Therefore, virtual currency (cryptocurrency) is prohibited by Bank Indonesia whether selling, buying, or virtual currency for several reasons: Virtual currencies are not a form of currency; their exchange rates are highly volatile, making them susceptible to bubble risk; there is no official administrator or responsible authority; there is no underlying asset backing the virtual currency; and there is little consumer protection.

Tokens fall into the category of crypto assets. Crypto assets are digital assets that are recorded on a distributed ledger, the name comes from the cryptographic security mechanism that is used publicly (open distributed ledger). EY categorises the types of crypto assets as shown in the diagram below:

**Figure 1**
Types of Cryptocurrencies

```
+--------------------------+
| Crypto Asset             |
|                         |
| Cryptocurrencies         |
| Tokens (Crypto-asset other than cryptocurrency) |
| Other                    |
| Intial Coin Offering (ICO) |
| Future Innovations?      |
| Colored coins            |
| MAG                      |
| Hybrid                   |
| Security                 |
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As explained above, a token can have an underlying-asset and that asset can be anything of value. As Dian Kartika Rahajeng said,(Dian Kartika Rahajeng, 2021) in the cryptocurrency world there are asset-backed crypto tokens. Asset-backed tokens are digital tokens based on blockchain technology that signify that the value of the token is derived from something that represents ownership of real-world physical assets, such as natural resources like gold or oil. Therefore, the use of cryptocurrencies is essentially the use of a digitised version of the right to own resources that physically exist.

**Stablecoins**

The discussion related to stablecoins is closely related to tokenisation, namely asset-backed tokens. Stablecoins are a new type of cryptocurrency. Stablecoins are digital tokens that are usually transacted on distributed ledgers. Some stablecoins are pegged to other assets such as USD, gold and cryptocurrencies that are designed to keep the value of the currency consistent or value over time.

As a medium of exchange, stablecoins are similar to other electronic money. However, the application of blockchain's distributed ledger makes stablecoins more secure than the centralised system of electronic money, which is vulnerable to heckler attacks, technical glitches or natural disasters. In addition, the use of electronic money is a closed platform so that it can only be transacted between users and merchants who are members. On blockchain technology, stablecoins can be transacted globally, quickly and efficiently (Arif Widodo, 2020). Some types of stablecoins in terms of the basis on which their assets are pegged are as follows (Alexander Sugiharto & Muhammad Yusuf Musa, 2020).

**Collateralized by Fiat Currency**

Stablecoins that are collateralised with fiat currency generally come in the main forms of fixed redemption value and variable redemption value. Stablecoins that promise a fixed redemption value like tether have a fixed face value in physical currency. For example, one USD for one Tether. A stablecoin that offers a variable redemption value that does not have a fixed redemption amount, the owner of the stablecoin can redeem with a portion of the assets allocated to the stablecoin. However, the value of these assets can fluctuate according to developments over time. Examples of stablecoins collateralised with various physical currencies.

**Collateralized by Commodities**

Stablecoins that are collateralised with a commodity such as gold. So when a stablecoin owner redeems, that owner can redeem it for the collateralised commodity allocated to the stablecoin (fixed quantity), but the stablecoin owner can also receive physical money of the same value as the commodity (fixed amount).

**Collateralized by Cryptocurrency**

Stablecoins that are collateralised with cryptocurrency or virtual currency. Like Maker's stablecoin (MakerDao), based on the whitepaper published on the makeordao.com website, the Dai Stablecoin System uses a leveraged system with Ethereum (ETH) as collateral through unique smart contracts called Collateralised Debt Positions (CDPs). This makes CDPs provide ETH as the only collateral accepted on the system.
**Non-Collateralized (Control by Algorithm)**

In general, stablecoins have collateral that is used as a reference to the value of the stablecoin (pegged), but there are types of stablecoins that do not have collateral as a reference to their value. The stability of the value of stablecoins is governed by an algorithm-controlled monetary policy. The algorithm will manage the supply of the stablecoin to keep the value of the stablecoin consistent.

Stablecoins can be used by anyone (for retail or in general) or only limited to a few actors such as financial institutions or selected clients of these financial institutions. However, the use of stablecoins is not without risk, because the use of stablecoins and the same as other cryptocurrencies is very contained, especially can be used for money laundering and terrorism financing, cyber security, data protection and tax compliance (Alexander Sugiharto & Muhammad Yusuf Musa, 2020).

**Crypto as a Currency (Cryptocurrency) Islamic Legal Philosophy Perspective**

Auda argues that Islamic law (fiqh) is a product of Islamic legal thinking from a faqih on shari'ah. Therefore, fiqh as an interpretation must be separated from the shari'ah itself. This is what Jasser Auda calls the cognitive feature (al-iddrakiyyah-cognition). This understanding has implications for fiqh which is flexible and dynamic. Therefore, the products of Islamic legal thought are very likely to be debated again for validity that is more in line with existing conditions.

The following is the legal reasoning for scholars who do not allow cryptocurrency. The great Egyptian Mufti Shaykh Shawki Allam as quoted by Khoirunnisa Harahap in 2018 forbade cryptocurrency on the grounds that it has the potential for crimes such as money laundering and is prone to fraud (Khoirunnisa Harahap dkk, 2022). In the Fatwa Commission of the 7th Ijtima Ulama of the Indonesian Ulema Council, MUI banned cryptocurrency as a currency on the grounds that it contains gharar and dharar and violates Law Number 7 of 2011 and Bank Indonesia Regulation 17 of 2015. The same thing was conveyed by the Turkish government authorities who banned cryptocurrencies on the grounds of the potential for maysir and gharar (Majllis Ulama Indonesia, 2022).

There are several authorities that allow cryptocurrency as a currency as follows. Fatwa of the South African Islamic Seminar (Dar al-'Ulum Zakariyya) as quoted by Teddy Kusuma, that cryptocurrency (bitcoin) qualifies as money so it is allowed to be traded. However, the conditions can be called money when it has been approved by the relevant government. Likewise, Malaysia legalised cryptocurrency which received legalistas from the government. The Malaysian government issued GOLDX as a legitimate cryptocurrency because it is supported by the price of gold and has received legality from the Islamic authorities in Kuala Lumpur Malaysia (Teddy Kusuma, 2020).

Looking at the arguments built by the two camps, at least a red thread can be drawn that the authorities who do not allow cryptocurrency as a currency that is used as a substitute for legal currency because of the negative impact caused by cryptocurrency. As for the authorities who allow cryptocurrency as a currency, it is only limited to the type of cryptocurrency that has been legalised by the government, while cryptocurrencies that are not legalised by the government are not allowed. Seeing this, the researcher leans towards the second opinion. Because Islamic law as the third feature conveyed by Jasser Auda must be open (al-infitahiyyah-opennes).
According to Meera, an object can be said to be money if it has several characteristics of money, as illustrated in the table below.

Table 1

<table>
<thead>
<tr>
<th>No</th>
<th>Currency Characteristics</th>
<th>Fiat Currency</th>
<th>Cryptocurrency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Intrinsic value</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>Divisibility</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>3</td>
<td>Homogeneous</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Durable</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>Circulating</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>6</td>
<td>Rare</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>7</td>
<td>Stable value</td>
<td>Yes *</td>
<td>No</td>
</tr>
</tbody>
</table>

From the table above, it can be concluded that cryptocurrency has fulfilled the five characteristics of money presented by Meera. According to him, an object that has fulfilled the five conditions in the bag is called good money, while an object that fulfills all the above requirements is called excellent money (Ahmad Kameel Mydin Meera, 2018). Cryptocurrencies as per the table above have no intrinsic value and no stable value. Similar to fiat currencies, cryptocurrencies have no intrinsic value. Nonetheless, cryptocurrency as a currency has been accepted by thousands of merchants around the world. Bapeti data in 2021 as presented by Fahmi Ahmad Burhan shows that Indonesian crypto asset customers in 2021 reached 7.5 million people. This figure jumped 87.5% compared to 2020 which only reached 4 million people. Not only the number of customers continues to creep up, the value of crypto transactions has even increased to 478.5 trillion by July 2021.

Although according to Meera, an object that has the five characteristics it offers can be said to be good money, but there is one side that is very urgent is the stability of value. Cryptocurrencies have high volatility so that this element of stability is very difficult to achieve. Furthermore, how cryptocurrency is seen from the function of money. According to Adiwarman Karim, the function of money is as a medium of exchange and not a commodity (Adiwarman Karim, 2001). The same thought was conveyed by Ibn Qoyyim al-Jauzy quoted by Farza Adam. He said that money is only used to obtain goods, not money itself. The entire economic system will suffer and enter a state of crisis if money is used as a commodity and becomes a medium of exchange. Seeing what Ibn Qoyyim said that the function of money is as a medium of exchange to get commodities and money is not a commodity itself makes cryptocurrency not have this function. Because the majority of transactions carried out in cryptocurrency transactions are not as a medium of exchange but as a commodity that will be sought for price gains when the price position rises. Or, it can be said that people who use cryptocurrency only want to make money through investment and trading.

According to Rawwas Qal’ah Ji, the legitimate condition of currency is that it is issued by a financial institution authorised to issue it to achieve public benefit (maslah ‘amah) (Muhammad Rawas Qal’ah Ji, 1999). The same thing is required by al-Ghazali as quoted by Khairunnisa Harahap that the use of currency must be issued by the authority of the government as a valid means of transaction (Khairunnisa Harahap dkk, 2022). What is required by Rawwas Qal’ah Ji and al-Ghazali to guarantee a public good
is not fulfilled in cryptocurrency, because the characteristics possessed by cryptocurrency are not controlled by any central authority and are immune to government control and interference. This characteristic makes cryptocurrency unacceptable as a currency by the majority of countries in the world. Because adhering to the rule of rejecting deterioration takes precedence over attracting benefit (dar'u al-Mafasid Muqadam 'ala jali al-masalih).

The role of the government in this cryptocurrency issue can be understood from the framework of Siyasah Syar'iyyah, which is a legal policy that oversees all its citizens in the form of rules in accordance with sharia for benefit (Ibn Qyyim al-Jauziyyah, n.d.). Within this siyasah shari'iyyah framework, it does not rule out the possibility of cryptocurrency legally becoming legal when cryptocurrency has been controlled by the government. Because after all, along with the rapid development of technology and the culture of using cryptocurrency that is inevitable and has a positive impact on economic development, this must be responded wisely.

Citing one of Jasser Auda's theories, namely (fath al-Zara'i) opening the means to achieve the benefit and maqashid. Auda quotes an opinion from al-Qarafi that the means that lead to haram goals must be closed, and the means that lead to halal goals must be opened. al-Qarafi as quoted by Auda connects the rank of the means with the rank of the goal, and he suggests three levels of goals, namely the worst (al-aqbah), the best (al-afdal) and the middle (mutawassitah) (Jasser Auda, 2008).

The original theory of muamalah is permissible (mubah) as long as there is no sign of its prohibition (Thalhah, 2014). From this rule that transactions using cryptocurrency are basically in a permissible position. However, any economic activity must avoid falsehood as mentioned in Q.S: an-Nisa: 29. In terms of terminology, the word batil in Munir's Tafsir book as quoted by Khairunnisa Harahap is something that is forbidden by Islamic law, such as ribawi transactions, maysir, gharar and so on. Cryptocurrencies as currencies have the potential for gharar and maisir if they are not supported by assets. This is different if cryptocurrency is supported by assets, according to Meera, it will avoid gharar and maisir. As can be seen in the table below.

<table>
<thead>
<tr>
<th>Feature</th>
<th>Fiat Currency</th>
<th>Cryptocurrency Which are not Asset-backed</th>
<th>Cryptocurrency Asset-backed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Levels of gambling (maisir)</td>
<td>Medium</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>Level of uncertainty</td>
<td>Medium</td>
<td>High</td>
<td>Low</td>
</tr>
</tbody>
</table>
According to the data presented in the table number 4 above, cryptocurrencies backed by tangible assets such as gold have low levels of uncertainty and gambling, contribute to *maqashid as-Shari'ah*, and achieve socio-economic justice. A follow-up question is whether there is such a thing as Islamic money. To quote Meera, anything labelled as Islamic must contribute to the realisation of *maqashid as-Syari'ah*. Therefore, if there is a money or payment system that can help achieve *maqashid as-Syari'ah* then this currency is Islamic and vice versa.

Cryptocurrency if it has an impact on the goodness and benefit of the economy in general and is well regulated by the government with the aim of realizing the welfare of citizens then the legal status of cryptocurrency can change as a form of opening a means to benefit as offered by Jasser Auda. Fath al-Zara’i offered by Auda can be applied to stable coins. Stablecoins are intended to overcome the distance between the blockchain and the financial system. With a price stabilization mechanism, the exchange rate of stabelcoins is maintained in accordance with the reference currency associated or commodities such as gold and silver. The advantages of blockchain technology can be obtained without the need to risk price volatility (Arif Widodo, 2020).

**Crypto assets as commodities from the perspective of Islamic legal system philosophy**

To refer to the term crypto asset, refer to EY (Global leader in assurance, tax, transaction and advisory services) as explained in the previous discussion. EY divides crypto assets into two, namely cryptocurrency and tokens (crypto assets other than cryptocurrency). Tokens according to Alexander as quoting the opinion of the world bank is a representation of digital assets, specifically tokens have no intrinsic value but tokens have underlying assets (Alexander Sugiharto & Muhammad Yusuf Musa, 2020).

In the Fatwa Commission of the 7th Ijtima Ulama of the Indonesian Ulama Council, the Indonesian Ulema Council (MUI) decided that cryptocurrency as a commodity or digital asset cannot be traded because it contains *gharar*, *dharar*, and *qimār* and does not fulfill the requirements of *sil'ah*, which are as follows: The existence of physical form, easily determined value, property rights, and the ability to be returned. However, according to MUI, cryptocurrencies that meet the *sil'ah* requirements and have underlying and clear benefits are legal to be traded. The same thing was conveyed by PW LBM NU Jawa Timur regarding the prohibition of cryptocurrency as a commodity. According to him, cryptocurrency cannot be used as a commodity or merchandise. The reason that is used as a basis is because cryptocurrency does not have a real form or physical form as a condition for commodities not to have benefits on it. (Compas.com, n.d.) The Yogyakarta NU LBM, in contrast to MUI and the East Java NU LBM, allows cryptocurrency as a medium of exchange (*al-tsaman*) and commodity (*al-nutsman*). The LBM asserts that cryptocurrencies fulfill both requirements - it has a benefit (*muntafi*), is transferable (*maqdur ala taslimah*), and is accessible to both parties (*ma’lumun lil ţigidain*).
Crossing opinions on the legal status of crypto assets is a natural thing depending on the point of view in assessing it. In principle, the law of crypto asset transactions is permissible (mubah) as long as there is no sign (qorinah) that forbids it. This is as the rule in muamalah al-aslu fi al-Mu'amalah al-Ibahah illa ma dalla dal'ilu 'ala tahrimiha. To see the validity of Crypto assets as an object in buying and selling (al-Ma'qūdū 'alaith), it is necessary to see the conditions for something to be used as an object of buying and selling transactions.

According to Wahbah az-Zuhaili there are five conditions for something to be used as an object of sale and purchase transactions, namely: the object of the transaction exists when the contract is made (an yakuna al-mabi' mawjudan hina al-'aqd), the object of the transaction is property (al-mal) and is valid in sharia (al-mutaqawwam), the item is a property right (an yakuna al-ma'qud 'alaīh mamlukan lisohibihi), the object of the transaction can be handed over at the time of the contract (an yakuna al-mabi' maqduran 'ala taslimihi), the object of the transaction can be known in type and nature (an yakuna al-ma'qud 'alaīh ma'luman qadruhu wa sifatuhu) (Wahbah az-Zuhaili, 2008).

From this definition according to Wahbah az-Zuhaili property can be in the form of physical things (al-a'yān) and benefits (al-manāfi'). This second type according to az-Zuhaili is all non-physical property (al-ma'nawiyyah) as well as the rights of everything contained in ownership. According to him, rights are assets because rights are the basis of ownership. Ibid, 592. From this, crypto assets are ma'nawiyyah property because crypto assets are not in physical form and in them there are ownership rights.

The majority of scholars limit something to be said to be property if it is accepted by custom (urf). This is stated by Imam as-Suyuti uruf is as a basis in considering a property (al-maliyyah) (as-Suyūtī, 2002). By universal custom (urf) crypto assets can be used as objects of sale and purchase transactions because they have the characteristics of valuable assets (qiymah maliyyah), can be handed over and traded. Although in urf crypto assets can be accepted as property but whether this urf can bring a benefit. Because according to Wahbah az-Zuhaili the basis for determining urf is benefit (al-maslahah) (Wahbah az-Zuhaili, 2008).

The benefit in crypto assets can be seen from the extent to which the realization of the objectives of sharī'ah in property (maqasid as-syarī'ah fi al-Amwal). According to Ibn 'Ashur, there are five objectives of shariah in property, namely: circulation of property (rawaj al-Mal), clarity of property (wuzuh al-Mal), protection of property (hīdż al-Mal), legal formal property (tsabat al-Mal), justice in property (al-'Adl fi al-Mal) (Muhammad at-Tahir Bin 'Asyur, 2001). Rawaj al-Mal according to Ibn 'Ashur is the circulation of property (circulation) to as many people as possible among the people in a way that is permitted by the Shari'ā, and not limited to certain circles. According to him, Rawaj as maqasid as-Shararī'ah in muamalah with wealth is understood from the texts that encourage significantly that muamalat transactions carried out more massively and widely.

The realization of the circulation of wealth as a goal in sharia according to Ibn 'Ashur because the essence of mu'amalah is the transfer of wealth distribution from one person to another. This is reinforced by some legal provisions in mu'amalah and wealth empowerment. Some texts both al-Qur'an and hadith that encourage massive circulation of wealth are Q.S al-Muzammil verse 20 which juxtaposes the lafadz of business people with Islamic mujahids. Islamic law allows buying and selling transactions during the
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Hajj, which was considered an abomination in the pre-Islamic era. As stated in Q.S al-Baqarah verse 198.

The second objective of Shari'ah in the property is wuzuh al-Mal. The clarity of the property referred to by Ibn 'Ashur is the property that is used as an object must be clearly known in its form and boundaries so as to avoid disputes caused by the claims of other parties to the property in question. The argument built by Ibn 'Ashur in the form of sharia testimony and rahn or collateral in debt and credit (Muhammad at-Tahir Bin ‘Asyur, 2001).

There are two important things to see the extent of the realization of maqasid as-Shari'ah wuzuh al-Mal, namely government authorities and assets that support cryptocurrencies. In crypto assets that are not supported by monetary authorities to oversee or guarantee the existence of crypto, this makes crypto clarity in terms of wuzuh al-Mal not achieved. Meera in Chowdhury also stated that cryptocurrencies are not supported by real assets. Cryptocurrencies are not free from the risks associated with exchange rate volatility, market manipulation, and regulatory risks (Peters, G.W., Chapelle, A., & Panayi, 2016). Therefore, many creditors are reluctant to support cryptocurrency companies due to the risk of money laundering (Seele, P, 2016) As a result, cryptocurrencies are not a legal form of payment, cryptocurrency issuers are anonymous, cryptocurrencies have no central authority or government backing, cryptocurrencies are highly speculative, and cryptocurrencies are a conduit for money trading and illegal practices.

In terms of threats, this crypto is at risk of being misused for illegal activities, as well as a risk to financial stability as it is not backed by any assets and lacks consumer protection.(Yuneline, 2019) In addition, the circulation of cryptocurrencies in the economy is also untraceable. As such, governments or regulatory bodies could lose control of the economy, especially if it becomes the main currency (Mohd Shahid Mohd Noh, 2020).

Unlike crypto which has government authority and underlying. Crypto assets that are supported by assets will minimise uncertainty (gharar). This is as Muhammad al-Ikhwan Bintarto quotes the opinion of Zulkhibri as explained in the table below (Muhammad al-Ikhwan dkk, 2022).

<table>
<thead>
<tr>
<th>Table 3</th>
<th>Comparison cryptocurrency Asset-backed and not asset-backed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fiat Currency</strong></td>
<td><strong>Cryptocurrency Asset-backed</strong></td>
</tr>
<tr>
<td><strong>Maisir</strong></td>
<td>Medium</td>
</tr>
<tr>
<td><strong>Gharar</strong></td>
<td>Medium</td>
</tr>
<tr>
<td><strong>Maqashid as-Syari’ah</strong></td>
<td>No</td>
</tr>
</tbody>
</table>

The third aspect of maqāshid as-Syarī′ah fi amwal is ḥifdz al-Mal. According to Ibn ’Ashur, the muamalah contract on wealth is prescribed to protect the property that is the object of wealth so that it does not change hands by false means and intimidate the owner. This is as the prohibition of eating property unlawfully as mentioned in Q.S an-Nisa verse 29. So urgent is the guarding of property in Islam that the Prophet Muhammad forbade the ownership of other people's property without the pleasure of the owner. From this according to Ibn ’Ashur every individual is obliged to respect the
property rights of others, so that the act of damaging other people's property is sanctioned by the obligation to replace. Therefore, according to ‘Ashur, the government is obliged to establish policies that can provide protection for the property of the people (Muhammad at-Tahir Bin ‘Asyur, 2001).

From the aspect of hifdz al-Mal crypto assets still have a high level of violation because there are still many violations of crypto crime due to the absence of clear regulations. Crypto crime in the world as in the case of one coin made by the company OneCoin Ltd and OneLife Network pioneered by Dr Ruja Ignatova of Bulgarian nationality. The one coin fraud scheme based on the Federal Bureau of Investigation (FBI) investigation has collected funds from fraud around the world in the amount of 4 billion USD or if converted into rupiah IDR 14.8 trillion. The One Coin fraud scheme is highly organised and professional and supported by official and legal financial institutions. The factor that makes it more difficult to take legal action is the jurisdiction that involves more than 20 countries in the world where these countries have different legal systems (Alexander Sugiharto & Muhammad Yusuf Musa, 2020).

In the context of the State of Indonesia, crypto as an asset has been legally used, this is stated in the Regulation of the Minister of Trade of the Republic of Indonesia Number 99 of 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading, which in turn is regulated by the Commodity Futures Trading Supervisory Agency (BAPETI). In its policy, BAPETI has made rules regarding registration mechanisms, licensing, system security and sanctions and fines. Although crypto assets are legal in Indonesia with the rules set by BAPETI, there are no regulations that regulate consumer protection from crypto crime as a whole and there is no authority responsible for losses resulting from these transactions.

The legal force on the transaction is intended to protect the exclusive right of the owner of the property to utilise and benefit from the property that is the object of wealth, ensure the freedom concerned to manage and empower the property legally to obtain the desired benefits and benefits, and ensure that the exclusive rights and freedom to manage as intended does not fall or change hands without his permission unless it harms other parties or the public interest (Muhammad at-Tahir Bin ‘Asyur, 2001). The privacy of the owner of the capital to obtain benefits and profits with the capital he owns in both forms of prohibited mumalah is restricted, for the sake of the public good (Muhammad at-Tahir Bin ‘Asyur, 2001).

Crypto, although accessible to everyone, in terms of mining (meaning) can only be done by limited people considering the mining process which requires expensive equipment and must be supported by high informatics skills. If so, crypto can only be owned by certain people, which will have the potential for hoarding (iktikar) which has implications for crypto prices that cannot be controlled by any authority. From this, al-'Adl fi al-Mal as the purpose of sharia can be neglected.

According to Ibn Ashur, the five specific objectives (maqashid as-syari‘ah khososh) in property standardise the legality of a contract and its processes. These five things are a unity that must be fulfilled, meaning that if one of these special objectives is not fulfilled, it will have implications for its validity. However, Ibu Ashur explains that not fulfilling one of these components can be tolerated if the benefit can be realised rather than considering the imperfection of maqashid as a legalisation tool (Muhammad at-Tahir Bin ‘Asyur, 2001).
Conclusion

The law of cryptocurrency as a currency in the perspective of Islamic legal philosophy is detailed (tafsil). It can be halal or haram. By looking at the achievement of the goal, namely. Cryptocurrency can be halal if the cryptocurrency has clear benefits, namely the existence of underlying assets and the role of the government in realising the general benefit (maslalah amah) the role of the government to realise the benefit is called siyasa syari‘iyah. Likewise, cryptocurrencies that are not supported by assets and the absence of clear regulations will become haram because of the potential for mafsadat. The law of cryptocurrency as an asset (crypto asset) is invalid even though crypto assets are seen as al-mal al-ma‘nawiyyah because it is not in accordance with the objectives of the Shari‘ah (maqasid as-syariah fi al-mal).

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