

LEGAL ANALYSIS OF CRYPTO INVESTMENT IN ERA 4.0 VIEW FROM CREDO THEORY

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Abstract

Today in the era of disruption 4.0, an interesting thing in Indonesia is related to the presence of Crypto Investments such as Bitcoin (digital currency), where which is one of the economic indicators that can affect the global economy. Now business transactions are using online media (digitalization). Therefore, the Indonesian people need legal certainty in utilizing transactions for this crypto investment activity. This study aims to legally analyze crypto investments used for buying and selling transactions in Indonesia from the perspective of Islamic law and creed theory. This study uses the Library Research Method, where the data is obtained by means of a literature study through laws, government regulations, Fatwa DSN MUI, and the theory of creed / testimony / Shahadah. As a result, by referring to the creed theory that Crypto Investments such as Bitcoin have laws that are permitted when used as a medium of exchange. This law only applies to parties who acknowledge and are willing to use it. Meanwhile, Bitcoin as an investment is illegal. However, Crypto as a transaction tool in online trade is a renewable innovation in economic development in Indonesia today. So there is a need for special regulations to use Crypto.

Keywords: *Bitcoin; Credo; Crypto Investment; Era 4.0*

1. Introduction

An interesting thing in Indonesia today is related to the presence of Bitcoin (digital currency), which is one of the economic indicators that affect the global economy.¹ This is because all business transactions have used online media in the era of 4.0 (disruption). With the renewal of the model in transactions, which used to still use a manual system (not online) and is now replaced with all-digital because of the demands of the times, the payment instrument used as a means of transactions today continues to progress so rapidly, one of which is the presence of

¹ Niki Fitriyani, "Analisis Dampak Perkembangan Mata Uang Digital Bitcoin Dalam Perekonomian (Studi Terhadap Keberadaan Unsur Gharar)," *JEIPS: Jurnal Ekonomi Islam dan Perbankan Syariah* 1, no. 1 (2021), <https://ejournal.unmuha.ac.id/index.php/ekispersya/article/view/1034>.

money electronic², Therefore, Bank Indonesia urges the public to transact with rupiah because it is following Law No. 7 of 2011 concerning Currencies. This is because there is no regulation on electronic currency (Bitcoin). According to M. Najibur Rohman³, In his research, it is explained that the advancement of information technology has changed the pattern of people's economic life, which encourages the creation of a new economic culture. This change, of course, led to a change in the law. One of the new phenomena in global economic life is the emergence of cryptocurrencies. Bank Indonesia views it as digital money so it is not legal as a means of payment, while the Ministry of Trade views it as a digital asset that can be traded on a futures exchange.

In this case, if we analyze the existence of regulations regarding the existence and use of Crypto which has been circulating in the world since 2008, there is still a lack of knowledge about the various types and characteristics of each of these cryptocurrencies. As mentioned about Crypto, in Indonesia, based on the Commodity Futures Trading Regulatory Agency Regulation Number 7 of 2020, 229 cryptocurrencies are recognized for circulation. As a result, related to this Crypto is usually used as a tool/media for investment and transactions in the field of crypto currency, meaning that this cryptocurrency is devoted to online trading.⁴ Furthermore, as research by Axel Yohandi et al.⁵ in Indonesia, bitcoin can be used as a means of payment in commercial transactions, but there are no regulations governing the use of bitcoin as a means of payment in Indonesia. This will lead to various legal problems, including aspects of legal protection, government supervision of the use of bitcoin in Indonesia and state revenues. Therefore, the development of bitcoin in Indonesia has implications for the need for the government to take a stance in the form of acknowledging the use of bitcoin as a means of payment in Indonesia considering that Indonesia as a country has a responsibility to protect its citizens from all forms of threats that can arise from the absence of regulations regarding the use of bitcoin in Indonesia.

² Cut Niswatul Chaira, Hafas Furqani, and Dara Amanatillah, "Konsep Mata Uang Dalam Ekonomi Islam (Analisis Bitcoin Sebagai Mata Uang Virtual)," *Ekobis Syariah: Jurnal Ekonomi dan Bisnis Syariah* 3, no. 2 (2019): 34–44, <https://jurnal.ar-raniry.ac.id/index.php/ekobis/article/view/10043>.

³ M. Najibur Rohman, "Tinjauan Yuridis Normatif Terhadap Regulasi Mata Uang Kripto (Crypto Currency) Di Indonesia," *Jurnal Supremasi* 11, no. 2 (2021): 1–10, <https://ejournal.unisbablitar.ac.id/index.php/supremasi/article/view/1284>.

⁴ Priyo Nugroho Adi and Susana Ayu Handayani, "Analisis Dampak Informasi Massa Pada Nilai Mata Uang Kripto Di Indonesia," *Science Technology and Management Journal* 1, no. 2 (2021): 41–46, <https://unkartur.ac.id/journal/index.php/stmj/article/view/16>.

⁵ Axel Yohandi, Nanik Trihastuti, and Darminto Hartono, "Implikasi Yuridis Penggunaan Mata Uang Virtual Bitcoin Sebagai Alat Pembayaran Dalam Transaksi Komersial (Studi Komparasi Antara Indonesia-Singapura)," *Diponegoro Law Journal* 6, no. 2 (2017): 1–19, <https://ejournal3.undip.ac.id/index.php/dlr/article/view/17012>.

Based on the results of the deliberations of scholars, regarding the use of cryptocurrencies as a legal currency, it is unlawful because it contains gharar and dharar, and is contrary to Law (UU) Number 7 of 2011 concerning currencies and Bank Indonesia Regulation Number 17/3/Pbi/2015 concerning Obligation to Use Rupiah in the Territory of the Unitary State of the Republic of Indonesia.⁶ This cryptocurrency can be used on condition that it has a physical form, has value, is known for certain amounts, is proprietary, and can be handed over to the buyer. There are several requirements that must be met in order to be able to use and utilize an item as a Sale and Purchase Transaction Tool including, 1) the goods being traded must be sacred. 2) the goods can be used by the buyer in a *syara'* manner with a use that is proportional to his property status according to custom. 3) the goods can be handed over by *hissy* and *syar'i*; 4) the contracting party controls the execution of the contract; 5) knowing either physically by looking or by the characteristics of the goods; 6) safe from usury contracts; and 7) safe from damage until the goods arrive in the hands of the buyer. This means that *Sil'ah* must consist of goods that can be guaranteed to be fulfilled.

According to Hazairin⁷ in his 'receptie exit' theory, the receptie theory must exit from the Indonesian legal system (Book of the Seven Series of Laws) because it contradicts the 1945 Constitution, the Quran and the Sunnah of the Apostle. Receptie theory states that for indigenous people basically customary law applies. Islamic law applies to indigenous people if the community has accepted the norms of Islamic law as customary law. This is a form of real evidence between customary law and Islamic law there are differences, but that does not mean it is closed for reconciliation to occur.⁸

Jarir view⁹ mentions five theories of the application of Islamic law in Indonesia. First, the theory of witness or the *Shahada*, which is a theory that requires the implementation of Islamic law by those who have said the two sentences of the Creed as a logical consequence of the pronouncement of the Creed. This theory of creed or creed is actually a continuation of the principle of monotheism in Islamic legal philosophy. The principle of monotheism requires everyone who declares himself to believe in the oneness of Allah, then he must submit to what Allah has commanded. This creed theory is as quoted by Juhaya in the opinion of H.A.R. Gibb

⁶ Maya Citra Rosa, "Kenapa Mata Uang Kripto Dinyatakan Haram Sebagai Alat Transaksi Jual Beli?," *Kompas.Com*, last modified 2021, <https://www.kompas.com/wiken/read/2021/11/14/070000981/kenapa-mata-uang-kripto-dinyatakan-haram-sebagai-alat-transaksi-jual-beli->.

⁷ Hazairin Hazairin, *Tujuh Serangkai Tentang Hukum* (Jakarta: Tintamas, 1974).

⁸ Abdullah Jarir, "Teori-Teori Berlakunya Hukum Islam Di Indonesia," *Al Ahkam* 14, no. 2 (2018): 77–90, <http://www.jurnal.uinbanten.ac.id/index.php/ahkm/article/view/1489>.

⁹ Juhaya S. Praja, *Filsafat Hukum Islam* (Bandung: Pusat Penerbitan Universitas LPPM, 1995).

said that a Muslim who has accepted Islam as his religion means that he has accepted the authority of Islamic law over him. It is known that most Indonesian Muslims are adherents of the Shafi'i school, so this shahada theory cannot be doubted. This credo theory or credo has been in effect in Indonesia since its arrival until the receptio in Complexu theory was born in the Dutch era.¹⁰

More Juhaya S Praja's opinion¹¹ explained in his research that there are at least three types of law that we can find in the Indonesian legal section, including; Islamic law, customary law and colonial law. As a result, legal pluralism in Indonesia has occurred, which includes religious law (Islam), customary law, and state law. These three laws have been used as positive laws for Indonesian society lately.¹²

Furthermore, Sirojudin¹³ Islamic law in Indonesia is actually a law that lives, develops, is known and so is obeyed by Muslims in this country. Islamic law entered Indonesia which according to some circles had been going on since the VII or VIII M. Meanwhile, western law was only introduced by the VOC at the beginning of the XVII century M. In the process of applying Islamic law in Indonesia, there are several theories that accompany it, including: 1). The theory of credo or shahada (theory of Islamic teachings); 2). The theory of receptio in complexo or the full acceptance of Islamic law; 3). Receptio theory or acceptance of Islamic law by customary law; 4). Acceptance of Islamic law as a source of persuasion; 5). Acceptance of Islamic law as an authoritative source; 6). The theory of acceptance of legal authorities.

As a form of effort to absorb Islamic law into national law, it has gone through a long history, from the existence of the Receptio theory, which was later antithesis with the Receptio Exit theory and the Receptio a contrario theory, which at the climax was born the Existence theory as the embryology of Islamic legal legislation. These theories have a significant effect on the color of the absorption of Islamic law into national law in Indonesia. So there needs to be a theoretical reconstruction as a new offer for the absorption of Islamic law into national law;

¹⁰ Hamdan Batubara, "OLD Malay Legal Digest Kodifikasi Hukum Islam Pertama Di Tanah Melayu," *Al-Fikra : Jurnal Ilmiah Keislaman* 3, no. 2 (2004): 165–180, <https://ejournal.uin-suska.ac.id/index.php/al-fikra/article/view/3744>.

¹¹ Zaelani Zaelani, "Hukum Islam Di Indonesia Pada Masa Penjajahan Belanda: Kebijakan Pemerintahan Kolonial, Teori Receptio In Complexu, Teori Receptio Dan Teori Teceptio A Contrario Atau Teori Receptio Exit," *KOMUNIKE: Jurnal Komunikasi Penyiaran Islam* 11, no. 1 (2019): 128–163, <https://journal.uinmataram.ac.id/index.php/komunike/article/view/2279>.

¹² Muhammadun Muhammadun, "Menggagas Kemajemukan Hukum Di Indonesia (Kompetisi Legalitas Hukum Agama, Hukum Adat, Dan Hukum Negara)," *Syntax Idea* 2, no. 3 (2020): 51–60, <https://www.jurnal.syntax-idea.co.id/index.php/syntax-idea/article/view/158>.

¹³ Sirojudin Sirojudin, "Sejarah Pertumbuhan Dan Perkembangan Hukum Islam," *Jurnal Ilmiah Hukum Dan Keadilan* 4, no. 2 (2017): 1–17, <https://ejournal.stih-painan.ac.id/index.php/jihk/article/view/105>.

namely the product of the absorption of substantial Islamic law. Because substantial Islamic law products will be easily synergized with the pluralistic character of Indonesian society.¹⁴

In addition, Indonesia as the Unitary State of the Republic of Indonesia (NKRI) which is a country that adheres to the welfare state system where the administration of the state is aimed at the welfare of the community. The implementation of state life is based on the ideology of Pancasila and the 1945 constitution of the republic of Indonesia with a government system adhering to the principle of decentralization which grants management and development authority to the City/Regency Government except as stipulated in the provisions of the legislation. The granting of authority to Regional Governments is an embodiment of the spirit of state development based on Regional Autonomy. In fulfilling the welfare of the people, the government of the Unitary State of the Republic of Indonesia established an area specifically designated for development and investment strategies to increase state revenues. For this increase, a development authority is needed that focuses on developing an area in a special area to deal with infrastructure development in the context of developing investment. This makes the Central Government intervene again in the regions to participate directly in carrying out development. The implementation of the investment area is through Law Number 44 of 2007 in conjunction with Government Regulation Number 46 of 2007 concerning Free Trade and the Free Port of Batam Island. This principle is still in line with the constitutional mandate related to the implementation of the regional government, especially Article 18B paragraph (1), which stipulates that the state respects special regional units and special regional units. This is an embodiment of the concept of Asymmetric Decentralization.¹⁵

Muslims believe that the teachings contained in Islamic law contain rules that can lead its adherents to obtain peace and happiness in this world and the hereafter. On the other hand, there are concerns and fears if Muslims consistently practice their religious teachings. This has made kings, scholars and experts in Islamic law look for gaps between those who want to implement Islamic teachings and those who oppose it, so various theories were born that were used to enforce Islamic law in Indonesia, such as: Theory of Creed (Shahadah); Theory of Receptio in

¹⁴ Siti Rohmah, "Rekonstruksi Teoritis Penyerapan Hukum Islam Ke Dalam Hukum Nasional Di Indonesia," *Ijtihad: Jurnal Hukum dan Ekonomi Islam* 12, no. 1 (2018): 85–117, <https://ejournal.unida.gontor.ac.id/index.php/ijtihad/article/view/2548>.

¹⁵ Wishnu Kurniawan, "Free Trade Zone Sebagai Salah Satu Wujud Implementasi Konsep Desentralisasi," *Jurnal Selat* 4, no. 2 (2017): 160–189, <https://ojs.umrah.ac.id/index.php/selat/article/view/196>.

Complexu; Receptie Theory; Receptie Exit Theory; Receptio a Contrario Theory; Recoin Theory (Receptio Contextual Interpretatio); and Theory of Existence.¹⁶

Furthermore, Made Santrupti Brahmi and I Nyoman Darmadha¹⁷ that the development of technology and information has an influence on aspects of human life. The banking world, began to develop technology and information by creating prosperity for the community. In the development of an economy that is identical to Bitcoin technology appears to bring a new innovation which is a cryptographic currency that uses a user-to-user payment network. The use of Bitcoin is commonly applied in Indonesia, but the regulation regarding the currency used in Indonesia as a legal tender has been regulated in Law Number 7 of 2011 concerning Currency, namely that only rupiah currency can be used, thus raising questions about legality. bitcoin and legal consequences regarding Bitcoin transactions as a means of payment in Indonesia. Bitcoin as a cryptographic currency cannot meet the criteria as a currency seen in Law Number 7 of 2011 concerning Currency, but in this regulation there is an exception that the means of payment in some transactions does not have to use rupiah currency. The use of Bitcoin in society has legal consequences in administrative sanctions and fines.

Today, Bitcoin technology with Blockchain as well as Crypto/digital currency/cryptocurrency can indeed be recognized as an excellent revolutionary technology, but its use as an investment instrument contains elements of maysir (betting) and as an instrument of business transactions contains elements of gharar. The legal position is *haram lighairihi*.¹⁸ From the discussion above, the researchers tried to uncover and explore how the Legal Analysis of the Use of Crypto Investment as a Tool for Buying and Selling Transactions in Indonesia Perspective of Creed Theory in Era 4.0?,

2. Method

The method in this study uses the theory of creed to analyze the law related to legal certainty regarding Crypto Investment Perspective of the Creed Theory In Era 4.0, where today Crypto investments such as Bitcoin in Indonesia today in an all-digital era (4.0) as it is currently being widely used to buying and selling transactions online. Where Muslims, especially in

¹⁶ Andi Herawati, "Dinamika Perkembangan Hukum Islam," *Ash-Shahabah* 4, no. 1 (2018): 1–8.

¹⁷ Made Santrupti Brahmi and I Nyoman Darmadha, "Legalitas Bitcoin Sebagai Alat Pembayaran Di Indonesia," *Kertha Semaya: Journal Ilmu Hukum* 6, no. 12 (2018): 1–15, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/44085>.

¹⁸ Dewi Indrayani Hamin, "Crypto Currensi Dan Pandangan Legalitas Menurut Islam: Sebuah Literature Review," *JAMBURA: Jurnal Ilmiah Manajemen Dan Bisnis* 3, no. 2 (2020): 127–139, <https://ejournal.ung.ac.id/index.php/JIMB/article/view/9430>.

Indonesia, have believed that the teachings contained in Islamic law contain rules that can lead their adherents to obtain peace and happiness in this world and the hereafter.¹⁹ So that studies on the use of crypto investments for Muslims in Indonesia need to be considered for the happiness of the world and the hereafter, meaning that economic improvement by Muslims in Indonesia is carried out through the Islamic path, rahmatan lil 'alamin, not adopting things that are forbidden by Islamic law.²⁰ As a result, in this study of the legal status of crypto investments, researchers are trying to uncover and explore these problems through the application of applying Islamic law in Indonesia by using the Creed Theory (Shahada).

This study uses the Library Research Method, where the data is obtained by means of a literature study through laws, government regulations, Fatwa DSN MUI, and the theory of creed / testimony / Shahadah. The data sources in this study were obtained from primary and secondary data sources, where in this study the authors related primary data sources from various books, journals, and the internet as well as other sources relevant to the study of crypto investment in Indonesia. The secondary sources are obtained from the views of experts regarding the legal status or legality of the existence of crypto (digital currency) which is used as a medium of exchange in Indonesia. This type of research includes analytical descriptive research, where the author tries to describe and provide a comprehensive picture by analyzing the legal analysis of crypto investment in the 4.0 era, especially in Indonesia in terms of credo theory.

3. Results and Discussion

3.1. Crypto Investment in Indonesia

The use of Bitcoin is commonly applied in Indonesia, but the regulation regarding the currency used in Indonesia as a legal tender has been regulated in Law Number 7 of 2011 concerning Currency, namely that only rupiah currency can be used, thus raising questions about legality. Bitcoin and legal consequences regarding Bitcoin transactions as a means of payment in Indonesia. Electronic currency (e-money) and crypto currency (cryptocurrency) are two things that are increasingly being used in the era of 4.0 as it is today. Investment instruments or products are getting easier, more diverse and of course more sophisticated. Crypto investment is

¹⁹ Hisam Ahyani, Memet Slamet, and Tobroni Tobroni, "Building the Values of Rahmatan Lil'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16, no. 1 (2021): 111–136, <http://ejournal.iainmadura.ac.id/index.php/alihkam/article/view/4550>.

²⁰ Haris Maiza Putra and Hisam Ahyani, "Internalization in Islamic Law Progressive in Criminal Law Changes in Indonesia," *Jurnal Ilmiah Al-Syir'ah* 20, no. 1 (2022): 68–90, <https://journal.iain-manado.ac.id/index.php/JIS/article/view/1861>.

one of the investment instruments that was successfully born because of the sophistication of the technology that exists today.²¹

Crypto or cryptocurrency investment is a type of investment that offers high returns. Cryptocurrency itself is a digital currency that only exists and can be used in cyberspace. Crypto investment, especially bitcoin was first introduced by Satoshi Nakamoto in January 2009. It is used for various transactions, such as purchasing game services and accessories to shopping for other things such as goods to wear. From there, buying and selling bitcoins became more and more popular, until other cryptocurrencies emerged. In addition to the very popular bitcoin, examples of other cryptocurrencies are ethereum, ripple, litecoin, dogecoin, mrai, dashcoin, and so on.

In the era of 4.0 (disruption) as it is today which is full of digital, Cryptocurrency as an Investment Instrument is very popular among young people especially, and this does not rule out the possibility of being used as an investment for the elderly. Cryptocurrency is a digital or virtual currency that is guaranteed by cryptography. With cryptography, making crypto currency is almost impossible to counterfeit. Cryptocurrencies can also be used for payments or transfers from one person to another online. Cryptocurrency can be used as a means of payment for online purchase transactions and exchanged into other currencies such as Dollars, Yen, Rupiah and other currencies. Since the Covid-19 pandemic, investment has become increasingly idolized by investment lovers, especially the millennial and z generations who know what kind of big profits can be obtained from investing in crypto. Crypto assets such as Bitcoin, Ethereum, Dogecoin and many more are becoming one of the investment instruments investors demand. It can be said that nowadays, crypto currency investments are starting to become the most popular investment instrument in the country. This can be seen from the number of crypto money investors in Indonesia that has now overtaken the number of stock investors. The value of crypto assets also jumped very high. For this reason, as a solution in order to invest during the COVID-19 pandemic, one of them is by using Crypto.

The Types of Crypto Investments include: 1) Bitcoin; 2) Litecoins; 3) Dogecoins; 4) BitcoinCash; 5) Feathercoins; and so forth.²² Bitcoin itself is the first type of cryptocurrency that is still very popular. This type of cryptocurrency first appeared and was introduced in 2009 by a party named Satoshi Nakamoto. Nobody knows if it's the name of a person, group, or company

²¹ Siti Hadijah, "Investasi Crypto: Jenis, Manfaat Dan Risiko Yang Perlu Diketahui," *Cermati*, last modified 2022, <https://www.cermati.com/artikel/investasi-crypto-jenis-manfaat-dan-risiko-yang-perlu-diketahui>.

²² Ibid.

and nobody knows where they came from either. As of November 2019, there were more than 18 million bitcoins traded with a total market value of around US\$146 billion, Investopedia wrote. To date, about 68% of cryptocurrencies are bitcoins.

Furthermore, Litecoin, a type of cryptocurrency also present at the beginning of digital currencies, began to attract the attention of many people. This type of cryptocurrency was precisely present in 2011 as a peer-to-peer (P2P) digital currency that generates new blocks (which make up the blockchain) at a faster rate. So one of the advantages of Litecoin is that it allows users to make transactions faster without the need for a powerful computing system. Next is Dogecoin, which type appeared in December 2013. As the name implies, Dogecoin is a cryptocurrency that makes the Shiba Inu dog its mascot. Dogecoin has a much lower value than bitcoin. This type of cryptocurrency is usually used for small transactions, donations, and tipping.

Regarding BitcoinCash, this type was launched in August 2017 and has now managed to become the five best cryptocurrencies. This type was launched because of a group of Bitcoin users who did not agree with some of the applicable rules. They then broke away and created their own digital currency called BitcoinCash. The group also made some improvisations that it says are better than the first cryptocurrency, bitcoin. While Feathercoin is a type of cryptocurrency that is open source. This type of cryptocurrency was created by Peter Bushnell, an IT officer at Brasenose College, Oxford University in April 2013. Feathercoin also similar to Litecoin and is under the MIT/X11 license.

There are several benefits to investing in crypto. The following are the advantages that can be obtained from investing in cryptocurrencies: 1) High Return, in this case Cryptocurrency investment is one type of investment that is known to provide high returns or high profits other than stocks. The price of cryptocurrencies like bitcoin can increase quite dramatically. In just a matter of months, the value can penetrate the new all-time high. The price of bitcoin has increased by 354% in 2020 which makes it able to beat the returns of other financial assets. With the right strategy, you can buy currency cheaply but can sell it at a high price like stocks. 2). Universal, it is proven that worldwide can use cryptocurrency. Therefore, cryptocurrencies are considered universal because there are no conditions to become users, even users do not have to use their real names and include any personal data. 3). Fast and Easy, in terms of transactions with cryptocurrencies, it is faster than transactions at banks. For example, international bank transfers can usually take up to more than a day. Meanwhile, bitcoin trading only takes about a

few minutes to an hour. 4). Transparent, in every cryptocurrency user can see all transactions that have been done. However, of course, users will still not be able to find out who the transaction was made by because it is only in the form of numbers without an identity. 5). As an e-commerce payment tool, where now bitcoin crypto currency can be used as a means of payment in several digital transactions, although not many. PayPal, which is also the largest online transaction payment tool in the world, already accepts payments with Bitcoin. PayPal users can store and make transactions with Bitcoin on PayPal. Can be used as a means of payment for buying and selling online for several international/overseas e-commerce such as e-Bay and Amazon. 6). Safe and Legitimate, Crypto investment has received legal certainty regarding the legality of Bitcoin trading in Indonesia, making the investment in this crypto asset safer according to regulations. This is as regulated in Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money, which means Electronic Money is a payment instrument that meets the following elements: a). issued on the basis of the value of money that was deposited in advance to the issuer; b). the value of money is stored electronically in a media server or chip; and c). the value of electronic money managed by the issuer is not a deposit as referred to in the Law governing banking.

Meanwhile, in Bank Indonesia Regulation Number 20/6/PBI/2018 concerning Electronic Money in Chapter II concerning the Principles and Scope of Electronic Money Operation as stipulated in Article 2 regarding Electronic Money Operation, it is carried out by fulfilling the following principles: a). does not pose a systemic risk; b). operations are conducted based on sound financial condition; c). strengthening consumer protection; d). businesses that are beneficial to the Indonesian economy; and e). prevention of money laundering and the financing of terrorism.

As for the risk of Crypto Investment, where today in the digitalization era, there is no investment without risk, and this is one of several risks in investing using crypto currency: 1). Very volatile, where the phenomenon of increasing and decreasing the exchange rate of cryptocurrencies can occur so quickly and sometimes can be very extreme. The value can be very high, but after that it can drop sharply. Like stock investments, cryptocurrency investments have the characteristics of High-Risk High Return. 2). Prone to Cyber Crime, related to this Cryptocurrency is technology-based, therefore this investment is very vulnerable to cyber attacks. If this happens, users/consumers will find it difficult when crypto is lost or stolen. 3). The lack of regulation, in terms of regulations concerning cryptocurrencies, is still quite new in

Indonesia, where this regulation provides legality for this investment to be solid in Indonesia, but there are also a number of provisions that can pose risks to customers.²³

3.2. Legal Status of Crypto Investment as a Tool for Buying and Selling Transactions in Indonesia Perspective of Kredo Theory

Phenomena and pros and cons related to crypto investment (cryptocurrency) As a Buy and Sell Transaction Tool in Indonesia when viewed in early 2021, Bitcoin is one of many crypto assets whose value has increased many times. Such a rapid increase was also followed by a sharp decline that occurred last May. These volatile fluctuations make the debate about crypto assets even more heated. In Indonesia, cryptocurrency trading is legalized in CoFTRA Regulation 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Market for Crypto Assets on the Futures Exchange. Even so, this new regulation can still pose risks for cryptocurrency customers. Cryptocurrency as a means of payment is still a debate in Indonesia and other countries. One of them is the unfulfilled elements and criteria of Bitcoin and other digital currencies as the applicable currency. Even Bank Indonesia prohibits the use of crypto currency as a means of payment and only recognizes Rupiah.²⁴

As for Cryptocurrency, according to DSN-MUI, it has not/has not released a fatwa related to the fiqh law of transactions with Bitcoin. However, it can be reviewed by looking at the conditions for an object to be considered money according to Al-Ghazali that: 1) the money is printed and circulated by the government, 2) the government states that the money is an official means of payment in an area, and 3) the government has gold and silver reserves as a measure of the money supply. So that the issue of crypto currency is also starting to be often discussed by Islamic scholars because of course, an Islamic perspective is needed to see the phenomena that are happening now. Therefore, in response to E-Money and Cryptocurrency, DSN-MUI has released a fatwa regarding the use of electronic money. However, it is still necessary to be careful in using it by following sharia limits in muamalah and paying attention to the transaction contracts that occur. The lack of cryptocurrency regulation has the potential to cause abuse. To avoid harm, it is better to wait for official regulations, especially the fatwas of scholars related to muamalah activities. It should be noted that basically in all conditions, it is necessary to apply

²³ Ibid.

²⁴ Muhammad Ichnul Amal Yulianto, "E-Money Dan Cryptocurrency Dalam Pandangan Islam," *Jurusan Informatika-Fakultas Teknologi Industri-Universitas Islam Indonesia*, last modified 2021, <https://informatics.uui.ac.id/2021/06/16/e-money-dan-cryptocurrency-dalam-pandangan-islam/>.

the rule "Rejecting harm is more important than attracting benefit. Therefore, theoretically and legally, it cannot be said to be money or a medium of exchange related to the development of crypto money or bitcoin. Because basically, money must have three elements: a medium of exchange, a means of calculating and a store of value.²⁵

Talking about the Existence of Creed Theory in the Enforcement of Islamic Law in Indonesia Mas'ud et al²⁶ explained that the enactment of Islamic law in Indonesia is a reality that cannot be denied. This happens, because it is closely related to the existence of Islam. Islam is not a religion that only regulates human relations with God, but Islam also regulates human relations with humans and human relations with all creatures. That is why when Islam entered Indonesia and was embraced by most of the Indonesian people, Islamic law was automatically enforced. The existence of Islamic law in Indonesia is inseparable from the theory used to support the continuity of Islamic law itself, one of the theories that is still relevant and applied to this day is the creed theory. There are several theories, including the Creed or Creed theory, Receptio in Complexu theory, Receptie theory, Receptie Exit theory, Receptie a Contario theory, and Recoin theory (Receptio Contextual Interpretario). The theory which is a continuation of the principle of monotheism to Allah, then in fact every Muslim is obliged to carry out Islamic law itself which is a consequence of martyrdom. Indonesia, which mostly adheres to the Imam Shafe'i school of thought, cannot be doubted always to apply the theory of the creed, therefore people who have accepted Islam as their religion have accepted the authority of Islamic law over themselves.

As a result, by referring to the creed theory that Bitcoin has permissible laws when used as a medium of exchange. This law applies only to parties who acknowledge and are willing to use it. Meanwhile, Bitcoin as an investment is illegal.²⁷ This means that when Muslims who have performed the creed, in response to the existence of the prohibition of crypto investment law, it is necessary to put forward, the meaning that the reference for Muslims in Indonesia is the fatwas of the Indonesian Ulema Council (MUI). Where MUI plays a role as a determinant in making it a reference for Muslims in Indonesia, in terms of worship, muamalah and so on.

²⁵ Wahyu Prasetyawan, "Pahami Penggunaan Uang Kripto Dalam Perspektif Islam," *RDK FM UIN JAKARTA*, last modified 2021, <http://rdk.fidkom.uinjkt.ac.id/index.php/2021/11/04/pahami-penggunaan-uang-kripto-dalam-perspektif-islam/>.

²⁶ Muhamad Mas'ud, Rosbandi Rosbandi, and Sugih Suryagalih, "Eksistensi Teori Kredo Dalam Pemberlakuan Hukum Islam Di Indonesia," *Islamika : Jurnal Agama, Pendidikan dan Sosial Budaya* 14, no. 1 (2020): 54–68, <http://ejournal.unis.ac.id/index.php/ISLAMIKA/article/view/642>.

²⁷ "Penting Diketahui! Kehalalan Investasi Uang Kripto Seperti Bitcoin," *Mutu Institute*, last modified 2021, <https://mutuinstitute.com/post/kehalalan-investasi-uang-kripto/>.

Regarding the use of cryptocurrency as a legal currency, it is illegal, because it contains gharar, dharar and is contrary to Law number 7 of 2011 and Bank Indonesia Regulation number 17 of 2015. Furthermore, in the case of Cryptocurrency as a digital commodity/asset, it is not legal to trade because it contains gharar, dharar, qimar and do not meet the requirements of sil'ah in syar'i, namely: there is a physical form, has a value, the amount is known with certainty, property rights and can be handed over to the buyer. Cryptocurrency as a commodity/asset that meets the requirements as a lineage and has an underlying and has clear benefits that are legally valid for trading.²⁸

Furthermore, the Indonesian Ulema Council (MUI) forbids the use of cryptocurrencies or crypto money as currency. The decision was taken in the Ijtima Ulama Forum. For example, the prohibition of online loans (Pinjol),²⁹ where the Ijtima Ulama Forum of the Indonesian Ulema Council (MUI) also resulted in the conclusion that online loans (*pinjol*) containing usury are illegal. Both something in the form of loan services, both offline and online that contain usury is legally forbidden, even though it is done voluntarily. Therefore, Ijtima Ulama recommends that the government, in this case the Ministry of Communication and Information, Polri, and the Financial Services Authority (OJK) continue improving public protection. MUI also asked the government to supervise and take firm action against the misuse of pinjol that disturbs the public. In addition, MUI also calls for the loan organizers to use the MUI fatwa as a guide in all transactions. MUI calls on Muslims to choose financial services that comply with sharia principles. MUI also asked the government to supervise and take firm action against the misuse of pinjol that disturbs the public. In addition, MUI also calls for the loan organizers to use the MUI fatwa as a guide in all transactions carried out. MUI calls on Muslims to choose financial services that comply with sharia principles. Then, the Ijtima Ulama forum includes giving physical threats or revealing the secrets or disgrace of someone unable to pay their debts. Meanwhile, providing delays or waivers in paying debts for those experiencing difficulties is a recommended or mustahab act.³⁰ Apart from that in fatwa national sharia board (DSN) MUI Number: 28/DSN-MUI/III/2002 about Selling Currency (al-sharf), it is also explained that the

²⁸ Redaksi MUI, "Keputusan Fatwa Hukum Uang Kripto Atau Cryptocurrency," *MUI*, last modified 2021, <https://mui.or.id/berita/32209/keputusan-fatwa-hukum-uang-kripto-atau-cryptocurrency/>.

²⁹ CNBC Indonesia, "Penjelasan Lengkap MUI Soal Bitcoin Cs Haram & Pinjol Haram," *CNBC Indonesia*, last modified 2021, <https://www.cnbcindonesia.com/tech/20211112090541-37-290974/penjelasan-lengkap-mui-soal-bitcoin-cs-haram-pinjol-haram>.

³⁰ Muh. Iqbal, "Resmi Nih, Fatwa MUI: Kripto Seperti Bitcoin Cs Haram!," *CNBC Indonesia*, last modified 2021, <https://www.cnbcindonesia.com/tech/20211111145640-37-290794/resmi-nih-fatwa-mui-kripto-seperti-bitcoin-cs-haram>.

General Provisions related to currency sale and purchase transactions, in principle, it is permissible, with the following conditions: a) Not for speculation (chance) b) There is a need for a transaction or just in case (saving) c) If the transaction is made in currency of the same type, the value must be the same and in cash (attaqabudh). d) If different types, it must be done with the exchange rate (exchange rate) prevailing at the time of the transaction and in cash.

4. Conclusion

From the above discussion, which is Islamic law related to crypto investment used for buying and selling transactions in Indonesia, from the perspective of faith theory in the 4.0 era above, it can be concluded that concerning faith theory, crypto investments such as Bitcoin are legally permitted when used as a tool of exchange. This law only applies to parties who acknowledge and are willing to apply it. Meanwhile, Bitcoin as an investment is illegal. However, Crypto as a transaction tool in online commerce makes it an innovative innovation in economic development in Indonesia today. As a result, juridically, referring to Law number 7 of 2011 on currency, if linked to the theory of faith, then the core of this innovation is the need for special regulations to use Crypto as a means of buying and selling transactions in Indonesia, so that people can use Crypto as a legitimate transaction tool. Following the regulations in force in Indonesia. As for the crypto investment used for the sale and purchase transactions in Indonesia in the fatwa of the national sharia council (DSN) MUI Number: 28/DSN-MUI/III/2002 on buying and selling money (al-sharf), it is allowed provided: a) Not to speculation (coincidence) b) There is a need for a transaction or for precaution (savings) c) If the transaction is done in a similar currency, the value must be the same and in cash (attaqabudh). d) If different types, then it must be done with the exchange rate (exchange rate) applicable at the time of the transaction and in cash.

References

- Adi, Priyo Nugroho, and Susana Ayu Handayani. "Analisis Dampak Informasi Massa Pada Nilai Mata Uang Kripto Di Indonesia." *Science Technology and Management Journal* 1, no. 2 (2021): 41–46. <https://unkartur.ac.id/journal/index.php/stmj/article/view/16>.
- Ahyani, Hisam, Memet Slamet, and Tobroni Tobroni. "Building the Values of Rahmatan Lil'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16,

- no. 1 (2021): 111–136.
<http://ejournal.iainmadura.ac.id/index.php/alihkam/article/view/4550>.
- Batubara, Hamdan. “OLD Malay Legal Digest Kodifikasi Hukum Islam Pertama Di Tanah Melayu.” *Al-Fikra: Jurnal Ilmiah Keislaman* 3, no. 2 (2004): 165–180.
<https://ejournal.uin-suska.ac.id/index.php/al-fikra/article/view/3744>.
- Brahmi, Made Santrupti, and I Nyoman Darmadha. “Legalitas Bitcoin Sebagai Alat Pembayaran Di Indonesia.” *Kertha Semaya: Journal Ilmu Hukum* 6, no. 12 (2018): 1–15.
<https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/44085>.
- Chaira, Cut Niswatul, Hafas Furqani, and Dara Amanatillah. “Konsep Mata Uang Dalam Ekonomi Islam (Analisis Bitcoin Sebagai Mata Uang Virtual).” *Ekobis Syariah: Jurnal Ekonomi dan Bisnis Syariah* 3, no. 2 (2019): 34–44. <https://jurnal.ar-raniry.ac.id/index.php/ekobis/article/view/10043>.
- Fitriyani, Niki. “Analisis Dampak Perkembangan Mata Uang Digital Bitcoin Dalam Perekonomian (Studi Terhadap Keberadaan Unsur Gharar).” *JEIPS: Jurnal Ekonomi Islam dan Perbankan Syariah* 1, no. 1 (2021).
<https://ejournal.unmuha.ac.id/index.php/ekispersya/article/view/1034>.
- Hadijah, Siti. “Investasi Crypto: Jenis, Manfaat Dan Risiko Yang Perlu Diketahui.” *Cermati*. Last modified 2022. <https://www.cermati.com/artikel/investasi-crypto-jenis-manfaat-dan-risiko-yang-perlu-diketahui>.
- Hamin, Dewi Indrayani. “Crypto Currensi Dan Pandangan Legalitas Menurut Islam: Sebuah Literature Review.” *JAMBURA: Jurnal Ilmiah Manajemen Dan Bisnis* 3, no. 2 (2020): 127–139. <https://ejournal.ung.ac.id/index.php/JIMB/article/view/9430>.
- Hazairin, Hazairin. *Tujuh Serangkai Tentang Hukum*. Jakarta: Tintamas, 1974.
- Herawati, Andi. “Dinamika Perkembangan Hukum Islam.” *Ash-Shahabah* 4, no. 1 (2018): 1–8.
- Indonesia, CNBC. “Penjelasan Lengkap MUI Soal Bitcoin Cs Haram & Pinjol Haram.” *CNBC Indonesia*. Last modified 2021. <https://www.cnbcindonesia.com/tech/20211112090541-37-290974/penjelasan-lengkap-mui-soal-bitcoin-cs-haram-pinjol-haram>.
- Iqbal, Muh. “Resmi Nih, Fatwa MUI: Kripto Seperti Bitcoin Cs Haram!” *CNBC Indonesia*. Last modified 2021. <https://www.cnbcindonesia.com/tech/20211111145640-37-290794/resmi-nih-fatwa-mui-kripto-seperti-bitcoin-cs-haram>.
- Jarir, Abdullah. “Teori-Teori Berlakunya Hukum Islam Di Indonesia.” *Al Ahkam* 14, no. 2 (2018): 77–90. <http://www.jurnal.uinbanten.ac.id/index.php/ahkm/article/view/1489>.

- Kurniawan, Wishnu. "Free Trade Zone Sebagai Salah Satu Wujud Implementasi Konsep Desentralisasi." *Jurnal Selat* 4, no. 2 (2017): 160–189. <https://ojs.umrah.ac.id/index.php/selat/article/view/196>.
- Mas'ud, Muhamad, Rosbandi Rosbandi, and Sugih Suryagalih. "Eksistensi Teori Kredo Dalam Pemberlakuan Hukum Islam Di Indonesia." *Islamika : Jurnal Agama, Pendidikan dan Sosial Budaya* 14, no. 1 (2020): 54–68. <http://ejournal.unis.ac.id/index.php/ISLAMIKA/article/view/642>.
- Muhammadun, Muhammadun. "Menggagas Kemajemukan Hukum Di Indonesia (Kompetisi Legalitas Hukum Agama, Hukum Adat, Dan Hukum Negara)." *Syntax Idea* 2, no. 3 (2020): 51–60. <https://www.jurnal.syntax-idea.co.id/index.php/syntax-idea/article/view/158>.
- Praja, Juhaya S. *Filsafat Hukum Islam*. Bandung: Pusat Penerbitan Universitas LPPM, 1995.
- Prasetyawan, Wahyu. "Pahami Penggunaan Uang Kripto Dalam Perspektif Islam." *RDK FM UIN JAKARTA*. Last modified 2021. <http://rdk.fidkom.uinjkt.ac.id/index.php/2021/11/04/pahami-penggunaan-uang-kripto-dalam-perspektif-islam/>.
- Putra, Haris Maiza, and Hisam Ahyani. "Internalization in Islamic Law Progressive in Criminal Law Changes in Indonesia." *Jurnal Ilmiah Al-Syir'ah* 20, no. 1 (2022): 68–90. <https://journal.iain-manado.ac.id/index.php/JIS/article/view/1861>.
- Redaksi MUI. "Keputusan Fatwa Hukum Uang Kripto Atau Cryptocurrency." *MUI*. Last modified 2021. <https://mui.or.id/berita/32209/keputusan-fatwa-hukum-uang-kripto-atau-cryptocurrency/>.
- Rohmah, Siti. "Rekonstruksi Teoritis Penyerapan Hukum Islam Ke Dalam Hukum Nasional Di Indonesia." *Ijtihad: Jurnal Hukum dan Ekonomi Islam* 12, no. 1 (2018): 85–117. <https://ejournal.unida.gontor.ac.id/index.php/ijtihad/article/view/2548>.
- Rohman, M. Najibur. "Tinjauan Yuridis Normatif Terhadap Regulasi Mata Uang Kripto (Crypto Currency) Di Indonesia." *Jurnal Supremasi* 11, no. 2 (2021): 1–10. <https://ejournal.unisbablitar.ac.id/index.php/supremasi/article/view/1284>.
- Rosa, Maya Citra. "Kenapa Mata Uang Kripto Dinyatakan Haram Sebagai Alat Transaksi Jual Beli?" *Kompas.Com*. Last modified 2021. <https://www.kompas.com/wiken/read/2021/11/14/070000981/kenapa-mata-uang-kripto-dinyatakan-haram-sebagai-alat-transaksi-jual-beli->.

- Sirojudin, Sirojudin. “Sejarah Pertumbuhan Dan Perkembangan Hukum Islam.” *Jurnal Ilmiah Hukum Dan Keadilan* 4, no. 2 (2017): 1–17. <https://ejournal.stih-painan.ac.id/index.php/jihk/article/view/105>.
- Yohandi, Axel, Nanik Trihastuti, and Darminto Hartono. “Implikasi Yuridis Penggunaan Mata Uang Virtual Bitcoin Sebagai Alat Pembayaran Dalam Transaksi Komersial (Studi Komparasi Antara Indonesia-Singapura).” *Diponegoro Law Journal* 6, no. 2 (2017): 1–19. <https://ejournal3.undip.ac.id/index.php/dlr/article/view/17012>.
- Yulianto, Muhammad Ichlasul Amal. “E-Money Dan Cryptocurrency Dalam Pandangan Islam.” *Jurusan Informatika-Fakultas Teknologi Industri-Universitas Islam Indonesia*. Last modified 2021. <https://informatics.uii.ac.id/2021/06/16/e-money-dan-cryptocurrency-dalam-pandangan-islam/>.
- Zaelani, Zaelani. “Hukum Islam Di Indonesia Pada Masa Penjajahan Belanda: Kebijakan Pemerintahan Kolonial, Teori Receptie In Complexu, Teori Receptie Dan Teori Teceptio A Contrario Atau Teori Receptio Exit.” *KOMUNIKE: Jurnal Komunikasi Penyiaran Islam* 11, no. 1 (2019): 128–163. <https://journal.uinmataram.ac.id/index.php/komunike/article/view/2279>.
- “Penting Diketahui! Kehalalan Investasi Uang Kripto Seperti Bitcoin.” *Mutu Institute*. Last modified 2021. <https://mutuinstitute.com/post/kehalalan-investasi-uang-kripto/>.