VIRTUAL CURRENCIES & ISLAMIC LAW: ORIGIN, FEATURES AND SHARIA RULINGS

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ABSTRACT

This study focuses on analyzing an essential issue in the Islamic Sharia. It is the Virtual/ Crypto Currencies. First, it should be noted that this term is a new one, and therefore, we cannot find any reference to virtual currencies in the old writings of Muslim scholars. Furthermore, and according to the different views of economic systems, the function of currencies is still a contradictory issue. Indeed, most economists consider the traditional functions of money as being the real ones, and Muslim scholars approve this view assuring that money is a means of exchange as well as a measure of values. Accordingly, most central banks focus on these two functions for the purpose of achieving a level of stability among prices. Similarly, interpretations of Islamic Law assure that money shall be protected from any type of waste. On the contrary, there shall be constant efforts for exploiting and increasing money. Hence, money, and as stated above, is a measure of values and not a commodity to be traded or speculated through the internet without being supervised by central banks or other authorities, which regulate the work of financial institutions. This study is constituted of three main parts. While the first part focuses on the functions and features of money as viewed by Muslim jurists, the second part deals with the types, features and functions of virtual currencies, and how they are viewed by Muslim scholars. The third and last part attempts to show the legal implications of dealing with virtual/crypto currencies, and their impact on the countries' economies.

Keywords: Virtual/Crypto Currencies, Electronic Currencies, Bitcoin, Money, Block Chain, Mining

INTRODUCTION

Praise be to God, Lord of the worlds, and may peace and blessings be upon the most honorable messenger, our master Muhammad (PBUH), who has been sent as a mercy to the worlds, and upon his family and his companions, be greeted a lot until the Day of Judgment.

During the last three or four decades, the world has been witnessing essential changes covering all fields of life. Digital technology is one of these fields. These technologies have led to not only establishing new means of communication among people, but also to creating new platforms and means of business and financial transactions that are capable of achieving radical changes in the world of economy.

It is remarkable to note, however, that the world has been moving towards a digital technology, and due to the great development in this territory, it has become obligatory to have some kind of electronic currencies.

Importance of the Study

One of the main reasons that encouraged us to write this paper is the wide spread of using the virtual/crypto currencies whether by individuals or even sometimes by certain organizations. For instance, The Football Union in Argentina used crypto currencies instead of the normal ones to sign contracts with football players. This phenomenon has raised concern among economists and jurists everywhere in the world. Due to the fact that the Islamic

Sharia is valid for every time and place; the researcher believes that Islam shall have a feasible interpretation for this phenomenon.

Research Questions/Problem

This study aims to find suitable answers to the following questions:

a. What is the concept of virtual currencies?
b. What are the functions of money as per Islamic Sharia?
c. What is the sharia verdict of dealing with virtual currencies?
d. Are virtual currencies a commodity, a benefit, or a financial right?
e. In what way does the function of money differ as per the views of Islamic Sharia and those of synthetic economics?

Objectives

This study aims to explore the following issues:

1. Deriving the concept and verdict of virtual currencies according to the Islamic Sharia
2. Identifying the functions of money as viewed by Islamic Sharia
3. Identifying the uses of virtual currencies
4. Consequences of dealing with currencies uncovered with gold and silver

Methodology

According to the research problem and its importance, the methodology we are planning to use to achieve the required objectives can be summarized as follows:

a. A descriptive method based on describing scientific material to determine the relationship between the elements of the research.
b. An inductive approach based on tracing the scientific material to its resources extrapolating the scholars' opinions with their evidence and discussing them.
c. An analytic approach based on displaying and analyzing the jurisprudential opinions with the identification of any diligent ideas and conclusions.

Research Results

We may summarize these results as follows:

1. There is no fixed form for money in Islam.
2. There are different types of virtual currencies, some of them are permissible, and others are prohibited including means and excuses.
3. Currencies are only issued by governments, and they shall be covered with gold and silver
4. Virtual currencies have an independent exchange value without the intermediation of formal currencies

Features, Functions & Types of Money

This part includes three sub-sections, in which we shall investigate the features, functions, and types of money.

Definition & Features of Money

To judge something, we shall have a total perception of its whole image. Indeed, we can achieve such process through careful examination and identification of the research language and terms. Our attempt in this section is to investigate the origin of the term 'money'.

Economists define money as anything that is generally accepted as a medium of exchange, a measure of value, or a means of payment, no matter what and how that thing is (The Permanent Committee of Scientific Research, 1395 AH).

Precious metals, such as gold and silver, have evolved through human history as typical form of money. These two metals have been chosen, simply, because of their unique characteristics. Unlike copper or iron, for instance, gold and silver are non-reactive, non-corrosive and non-radioactive. Furthermore, they are rare, *i.e.* neither common nor too rare. Another functional characteristic can be added to gold and silver, and that is the ease and speed in any commercial transaction with no slackening.

The Islamic Monetary System was constructed on the basis of using gold and silver in the form of coins minted of these two metals. However, it is remarkable to note that parts of the Islamic State used one metal to mint their money, such as gold in Egypt and silver in Iraq. It is argued, however, that "prices are gold and silver, and prices, in turn, are the values of money and commercial capital" (Ibn Qudama, 1405 AH).

Similarly, Ibn Khaldun (2004 AD), in his well-known "*Introduction",* confirms that gold and silver represent the value for any financier or investor. It is indeed the reserve and possession for most people, and if someone owns one of these metals, he then, by such possession, reflects what occurs in the market. Gold and silver, therefore, are the origin of any attainment, possession, or reserve (see Al Darwish, 2004 AD). It is interesting, however, to enrich this idea with what Al Nisapouri (2001) assumes about these two metals. He posits that people prefer to own gold and silver because they represent the value of anything else, and the person will own everything by owning them.

Al Maqrizi (2007 AD) is another scholar who gives his opinion about gold and silver. He simply declares that all human nations, and for thousands of years, have been using the two metals in question as money. He believes that money whether legally or rationally shall be of gold or silver (see Farahat, 2007 AD).

We may determine that the monetary units in the Islamic State have a fixed form, in gold or silver, and people use them for evaluation and exchange. Money in Islam, therefore, is a resolved issue. In other words, money is not categorized as one of the topics that are subject for judgment and consultation.

Besides, the Islamic Sharia prohibited the hoarding of gold and silver because law of financing and evaluating things confines the two metals. They also fall under the provisions of zakat and exchange. Prophet Muhammad (PBUH), on the other hand, approved dealing in gold and silver, linking blood money and cutting off the hand of the thief with them. Such evidence confirms that money shall be of gold and silver, or based on them. Muslim scholars described in details the types of money, their legal weights, and minting processes.

As per the Islamic doctrine, God has determined when creating gold and silver that they shall be prices for other things. Accordingly, man has no right to invalidate the value of these two metals; otherwise, such action could be taken as a violation to the rules and laws of the creator. But why gold and silver? For such bewildering question, it is assumed that wise legislators are more aware of people's interests and concerns, and, therefore, it is enough for people to have that faithful conviction without prolonging the debate about juristic causes that may fall short of reaching the degree of conviction and persuasion.

In conclusion, gold and silver, in the form of money, are supported legally, economically, and historically. As for the legal aspect, all the provisions of sharia focus on gold and silver. Economically, economists consider gold and silver as the most stable metals in value. As for the historical aspect, Islam approved dealing in gold and silver though allowed at the same time using other materials as a general means of exchange. For example, using bread or leather as a medium of exchange is not considered in Islam as money or having its provisions. Money and bartering are two different issues.

In summary, money is a "general medium of exchange" accepted by people without hesitation or inquiry, a measure of value used for evaluating other things, and it is a saving device.

This definition of money incorporates three aspects. They are

1. Money shall be accepted by all people. Tickets and cards, for instance cannot be taken as money. Furthermore, such general acceptance does not have a legal obligation, which forces people to accept it for accomplishing commitments.
2. It is a fixed measure of value.
3. It is a saving device.

Money then is different from currency. Currency is a monetary denomination, like the dollar, euro or pound, which is accepted in payment within a given area or among a specific group of people. It is usually supplied by a public body, such as a central bank. The value of a paper currency is determined by law. Indeed, it has no value in itself. As being issued by law, it can be nullified by law too. Paper currency, after nullification, loses its value. Money on the other hand has one fixed value everywhere, and it can be used for exchange in all countries. It never loses its value even if nullified as currency. Money, therefore, has two main features:

1. It has a subjective value, and that is why people prefer to acquire it.
2. It is a general medium for exchange without hesitation or inquiry.

These two characteristics can easily be found in gold and silver. Nevertheless, money is anything that people accept as a medium for exchanging articles or services, and a measure of values as well as a store for them.

Functions of Money

Functions of money can be classified into two types: major functions and minor functions

Major Functions

Major functions fall into two categories. They are

1. Money as a medium of exchange: before using money, there was a bartering system, in which one article is changed by another. After that, one specific article was assigned as unit of exchange, such as gold and silver. However, the disadvantages of using these means as a medium of commercial trading led people to utilize paper and cheap metals as a means of exchange, simply because they are easy to carry with low cost of its raw material.
2. Money as a measure of value: it is very difficult to apply a bartering system for all commercial processes. For example, when buying or selling a very expensive article, you may need to exchange it with several smaller ones to obtain equal price. The solution was in establishing a common unit of measurement, and that is money.

Minor Functions

We have specified two minor functions. These are

1. Money as a store of value: it means that money can be stored to be spent in later periods. Storing money, of course, is more practical than reserving articles, which might be subject for deterioration.
2. Money as a standard for deferred payment: checks and bonds are examples for such type of payment.

Types of Money

In ancient times, man relied on his endeavor and effort to obtain the modest necessities of life. Through the development of human life, and the appearance of rural and urban gatherings, man started to work to produce articles and services that he needed for his daily life. After covering their needs of what they produced, there would be surplus goods. At this stage, man started to think of exchanging his products with the products of other people, and this led to establishing a bartering system, an early stage towards inventing and using money. Money diversifies as per their sources and functions.

We can classify money into five main types:

1. Commodity Money: this type of money could be consumptive goods, some kinds of cattle, metals or stone, or leather and fur.
2. Coins: metals, such as gold and silver, were used as money due to their unique characteristics.
3. Paper Money: this type of money appeared when people started to deposit their coins with a goldsmith who in turn provided the owners with receipts in which the latter pledged to return the coins when requested. Repetition of transactions offered these receipts some kind of trust among individuals who started to use the receipts in their commercial businesses instead of the gold coins as long as they are confident of retrieving the value of the receipt in gold anytime they want. In addition to goldsmiths, it became the job of moneychangers, and then came banks into sight. Having gold deposited in money-change shops or in banks had reduced the dangers of robbery that traders were exposed to while moving from one place to another carrying their gold treasures with them.
4. Credit Money: it is divided into two types. They are
   a. Legal Money: it is the basic contemporary money. Its power is derived from law, and it is accepted by all people because central banks are the only institutions that have the right to issue them.
   b. Deposit Money: it represents the amounts of money deposited in current accounts. It is payable at request, and it can be transferred from one person to another by using checks.
5. Electronic Money: It takes the form of a magnetic plastic card, similar to ID, Visa and Master Cards. The one who carries this card can use it in buying what he needs and in paying for the various services without carrying cash money. He can also use it to get cash money from ATM Machines. These cards are of three types: payment cards, credit cards and bank exchange cards.

Features, Functions & Types of Virtual Currencies

In this part, we shall attempt to investigate the features, functions and types of virtual currencies. Our investigation shall extend to identifying the differences between virtual and paper currencies.

What are the Virtual Currencies?

The virtual currencies are familiar with a number of synonymous terms, and these terms refer to the same concept. They are indeed digital representation of a value, which does not have physical existence. They can be transferred, deposited, or exchanged electronically. Therefore, the virtual currencies do the same functions of paper money, but they do not fall under the control of financial institutions and governments. People use them to administer the buying and selling transactions *via* the internet. They can also be changed into other currencies, as they are acceptable among people. However, an individual cannot go to a bank or an exchange bureau to deposit or withdraw a virtual currency. He can only have access to these currencies through private wallets linked to encrypted numbers to be processed on a computer connected to the internet.

The Concept of Virtual Currencies

The European Central Bank defines *Virtual Currencies* as being "electronic supply for a monetary value available on a technical instrument, commonly used in payments to contractors other than those who issued them with no need to a bank account, and it is utilized as a portable prepaid tool" (http://www.ecb.int/publi/e-money.pdf). There is another definition to virtual currencies, almost similar to that of the European Central Bank. It says that "a virtual currency is a prepaid monetary value saved on one of two electronic instruments: a. plastic smart card; and b. virtual currency wallet. People generally accept using this currency other than those who issue it to settle financial and commercial transactions with no need for a bank account. There is also a commitment to refund the real value upon request" (Mandeel & Sarhan, 2008 AD).

Differences between Virtual and Paper Currencies

We may summarize the differences between virtual and paper currencies as follows:

1. Paper currencies represent real assets, while virtual currencies do not represent such assets, simply because they have no money equivalences or assets of a specific country.
2. Paper currencies are issued by a central bank, and accordingly, they are subject to its control, whereas virtual currencies are not produced or authorized by any financial institution, and therefore, they do not fall under the supervision or control of central banks or governments.
3. Paper currencies are applicable and acceptable in all countries, and they can be exchanged through different bank channels. Virtual currencies, on the other hand, are accepted in some countries and forbidden in others.

Bitcoin as a Virtual Currency

After the global financial crisis that attacked the whole world in 2008, people started to look for alternatives that might mitigate the effect of the crisis. One of these alternatives was the creation of Bitcoin. It is remarkable to note here that Craig Steven Wright, An Australian computer scientist and businessman, claimed to be a main part of the team that created Bitcoin. However, his claims were regarded as false by much of the media and the cryptocurrency community. The idea of Bitcoin is based on a program to be downloaded and installed on a computer. This program produces non-repeatable currencies by using what is known as mining and prospecting operations. A limited amount of this currency is issued annually, and this amount is reduced to the half every four years.

This program relies mainly on mining for currency, and to achieve this, the user has to solve many riddles and formulas to reveal long series of numbers and letters to issue Bitcoin and change it into electronic wallet. An increase in mining operations leads to complicating riddles, becoming more difficult, and solving them requires the issuance of highly specialized programs. All Bitcoin operations shall be registered in a general record called "Block Chain", which includes information about the accounts used in the operations of mining and the number of Bitcoins exchanged so as to analyze these transactions and ensure that dealers do not use the same Bitcoins repeatedly.

Then the Bitcoins will be stored in a special wallet with an electronic signature for each user, and there will a verification process in every transfer operation to ensure secrecy and privacy.

If a user is not willing to have the Bitcoin program on his computer, he can open an account on the official website of Bitcoin currency, which one can reach from any device anywhere in the world. If the user wants to get more Bitcoins, he shall purchase them and lead transactions through a digital coin base, which is located in San Francisco (see Bin Abdulaziz, 2017).

Features, Complications & Legal Implications of Virtual Currencies

It is remarkable to note that what applies on Bitcoin, undoubtedly, shall apply on other virtual currencies. Such assumption is attributed to the fact that Bitcoin is the most important virtual currency, and the first to be created in the Cryptocurrency World. Accordingly, we shall focus on investigating the features and characteristics of Bitcoin.

Features of Bitcoin

We may summarize Bitcoin features as follows (see Al-Matalga, 2007):

Low Fees, Ease of Use and Fast Transactions

By using Bitcoin in any business transaction, we simply avoid the need for intermediaries and the commission they charge. In a Bitcoin transaction, the currency does not transfer. Indeed, it is only the currency code and its encrypted number, which transfer from one wallet to another. This operation is known as '*Peer to Peer*' (P2P).

a. Transparency

All the buying and selling transactions are public, known for all users without revealing the dealers' identities.

b. Privacy

Nobody can watch or intervene in the Bitcoin transactions, and this is a positive point as it maintains privacy for users, and reduces the control of government over the currency.

c. Safety

The use of Bitcoin achieves a high degree of safety through the utilization of general protection tools, which mainly aim to secure transactions and verify them with no need for a bank account. Moreover, there is no need for deposit and withdrawal operations to keep the account active and not to be closed.

d. Globalism

Bitcoin transactions are not limited to a specific geographical area, and one can deal with Bitcoin like any local currency anywhere in the world. In other words, Bitcoin transactions can be finalized so fast without being hindered by geographical borders (Shafi, 2007 AD).

Disadvantages of Bitcoin

We may admit that Bitcoin has a number of disadvantages. They are as follows:

1. It does not meet the terms and conditions of a currency.
2. It is not issued by states or central banks. In this case there will be no supervisory role, which protects the rights of users.
3. Instability of its value
4. Unacceptable in many countries due to lack of recognition
5. It is not covered with gold or silver.
6. It can be easily used in money laundering crimes because it does not reveal the identity of the dealers.
7. It is impossible to lead Bitcoin transactions without the internet.
8. It has no official exchange rate to refer to when leading any buying or selling transactions

Nature of Virtual Currencies

Different jurisprudential opinions have been raised about the nature of virtual currencies. Some of these views approve that they are real currencies because they do all their functions, such as being an intermediary for exchange, and a measure of value. Its relative rarity has contributed in increasing its rate. However, other views go for denying this confirming that virtual currencies are not money at all, as they do not fall under the control or supervision of central banks. Moreover, they are not covered or supported by real assets, such as gold or silver. Virtual currencies, according to these views, are nothing but a bubble, no matter how big it becomes, since it will soon burst and disappear.

To What Extent do Money Functions Apply on Bitcoin?

After investigating Bitcoin features and its nature, we may conclude that it is inconsistent with the legal perception of the Islamic concept of money. It is an unstable currency due to the sudden increase or decrease in its value. Such actions shall have negative economic effects on individuals as well as the states. This case of instability is totally rejected by Islamic Sharia, which is familiar with the characteristics of stability, safeguarding the rights, and considering the outcome of actions. In addition, it is not issued by a state or a central bank, and so far, no country in the world has adopted the issuance or supervision of Bitcoin, especially in the Arab and Islamic countries.

The Legitimate View of Bitcoin

We believe that Islamic Sharia is valid for every time and place. Hence, whatever issues that may rise in life, Islamic Sharia always comes up with evidence or some kind of interpretation that shall illuminate our path towards these issues. We shall attempt to apply this on Bitcoin.

Two provisions of Islamic Sharia can be applied on Bitcoin. The first provision is to permit using Bitcoin, whereas the second is to prohibit it.

Provision of Permission

Those who go for permission claim that Bitcoin juristically is money because it has value among a group of people who use it for exchange or for obtaining certain benefits. Islamic Sharia, indeed, does not prohibit people from using currencies other than gold or silver in their transactions as long as they meet the currency terms. Besides, there is an agreement that Bitcoin is a currency, which is not similar to gold and silver, or paper money, and nowadays, it has its private machines with real exchanges in many international stores. Such phenomena can easily tell that Bitcoin transactions are expanding rather than shrinking.

The applicability of Bitcoin to the description of value, and being popular and accepted among people will emphasize the fact that it is reliable money. Indeed, what becomes familiar as per customs and traditions, could acquire recognition. Furthermore. It has financial and monetary features and as follows:

a. As a basic principle, things should be permissible. This rule applies on Bitcoin unless there is evidence that may forbid it.
b. Bitcoin has a legally recognizable value as people accept it and deal with it in most countries.
c. Bitcoin does all the functions of money already stated above.

Provision of Prohibition

Others go for prohibition for the following reasons:

a. Bitcoin has no clear and definite source. In fact, we have no idea who issued this currency. *
b. It has no clear and definite future.
c. It does not fall under the control and supervision of any governmental institution.
d. The currency’s value is unstable.
e. It is featured with a large number of speculations and illegal uses.
f. With the characteristics stated above, Bitcoin has no legal value.

Bases of Prohibition Fall into Four Categories:

1. Distrust, ambiguity and gambling
2. Seeking a pretext for something forbidden
3. Legitimately, Bitcoin is not considered as money.
4. Calling for prohibition as a precaution and avoidance of suspicions

The Most Acceptable Opinion on this Issue

Considering the argument given above, and supported by the words of the Almighty: ((They ask you about alcohol and gambling, you should say they include much sin and benefits for people, but sin is greater than benefits.)), we may come up with the following conclusions:

a. Dealing with virtual currencies may lead to superfluous affluence or great loss.
b. Nobody can anticipate the future of these currencies.
c. Being relatively rare, virtual currencies gain more value.
d. Many investors deal with virtual currencies, which lead to excessive increase in its value.
e. Such increase in value makes these currencies like a bubble that may explode at any moment.
f. Virtual currencies are not supported by real assets that one can resort to in case of great losses.
g. Many economic and financial goals lie behind establishing currencies. Making profits, however, is not one of them

Bitcoin is a cryptocurrency invented by an unknown person or group of people using the name "Satoshi Nakamoto", and it was released in 2009 as open-source software based on a process known as mining.

The issuance of money, however, is an interest-based issue, necessitated by the development of life. It is a manifestation of sovereignty, which a state imposes on its citizens. Since virtual currencies do not have this essential characteristic, with the suspicions and ambiguities raised about them, and the warnings already received by several formal institutions, such as the Central Bank of Jordan, for example, we cannot consider these currencies as being permissible. The issue of permissibility cannot be taken into consideration unless a specific legislation and law have to be enacted for virtual currencies by states and central banks.

Finally, and due to the fact that the risks resulting from dealing with virtual currencies are more than the expected benefits, and according to considering the uncertain consequences, we shall go for the prohibition of dealing and speculating with virtual currencies.

CONCLUSIONS & RECOMMENDATIONS

We may summarize the findings of this study as follows:

1. We shall not confuse the misuse of Bitcoin, such as in money laundering, for instance, with its influence on money and *Monetary Theory*, which might lead to significant changes in the world of economy.
2. Virtual currencies depend on a group of numbers stored in an electronic wallet, which can be accessed only by an account owner through the use of a certified code.
3. The relative instability in the value of Bitcoin might affect its efficiency, but not its core value.

As for the recommendations, we recommend the following:

1. There shall be further research and exploration to be led by economists to investigate the probabilities of trading with this currency, and adopting it as an alternative for paper money.
2. It is necessary to legalize Bitcoin as a procedure, in which we protect the rights of those who trade in this currency.
3. In an attempt to control the value of Bitcoin, it shall be under the authority and supervision of central banks.

This is what God the Almighty has facilitated for us. If we have accomplished something, then it is from God. However, if we have failed, it is an error committed by us and seduced by the Devil. Praise be to God, Lord of the Worlds.

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