



Monetary and Banking Research Institute
Central Bank of the Islamic Republic of Iran

**Analysis of the nature, extraction,
and exchange of cryptocurrencies
and tokens from the perspective
of Islamic jurisprudence and
Country laws**

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Analysis of the nature, extraction, and exchange of cryptocurrencies and tokens from the perspective of Islamic jurisprudence and Country laws

Introduction

The development of cryptographic and network knowledge in the recent period has led to fundamental reforms in the structure of economic, financial, and monetary systems. One of the most important results of these developments is creating new phenomena such as cryptocurrencies and tokens. These Phenomena with maximum use of existing technological capacities, especially "Blockchain" and "Distributed Ledger Technology (DLT)," are trying to create new opportunities for simplifying exchanges, reducing costs, increasing the speed and security of exchanges to advance today's economies.

Like the increasing development of cryptocurrencies at the international level, the use of cryptocurrencies, especially Bitcoin, has grown exponentially in the national economy in recent years. On this basis, legislators, regulators, and observers (especially the Central Bank of the Islamic Republic of Iran) have begun regulatory efforts in this area. The purpose of these efforts is to manage the potential impacts of cryptocurrencies in the monetary and financial markets and maximize the use of this phenomenon's opportunities without creating possible costs and challenges. In particular, things like preventing socio-economic crises, protecting consumers' rights, reducing stakeholders' risk, reducing fraud, and preventing money laundering are policymakers' goals in regulating cryptocurrencies in the country.

In this regard, the following three specific actions have been taken in the regulation of cryptocurrencies in Iran, which are:

- A. Approval of the Supreme Council for Combating Money Laundering in May 2018 (ban on the purchase and sale of universal cryptocurrencies by monetary and financial institutions);
- B. Approval of the Cabinet of Ministers in the discussion of extraction of cryptocurrencies in August 2019 (prohibition of the use of universal cryptocurrencies in domestic exchanges and the permission to extract them for export uses);



C. "Draft of the Central Bank Policy" in February 2018 (without legal status).

As can be seen, so far, no specific law has been passed by the Parliament of Iran regarding cryptocurrencies and tokens. Also, the Central Bank has not made formal regulations (with the approval of the relevant institutions such as the Money and Credit Council or the Jurisprudence Council of the Central Bank) in this regard. It seems to be various reasons for this, one of the most important of which is the issue of **Shariah Compliance**. Based on the Basic Law and the monetary and banking reference laws, including the law on usury-free banking, any legislation and regulation relating to phenomena, instruments, and economic institutions need to consider Islamic jurisprudence.

To provide a suitable legal framework for developing cryptocurrencies, the country needs laws, regulations, executive instructions, and internal and specific regulations for cryptocurrencies and tokens. It should be noted that none of these regulatory steps have been taken so far. One of the reasons for this matter (In addition to issues such as the novelty of the subject or policymakers' concerns in converting cryptocurrencies into cash flow and disrupting monetary management) is the lack of jurisprudential grounds and the existence of some religious ambiguities and doubts. For example, some great ayatollahs (religious authorities) have expressed suspicion and ambiguity regarding the use of cryptocurrencies.

In analyzing the referendums of great ayatollahs, it is necessary to pay attention to an essential jurisprudential point. In terms of jurisprudence about the health of trading an object, there can be three modes, which are:

- Validation (Ascertainment of validity)
- Invalidation (Ascertainment of invalidity)
- Failure to achieve validation and invalidation

Validation means that the existence of conditions for the transaction (including proprietary wealth) is verified for the jurist. Therefore, the ruling to the transaction is valid (for example, buying and selling most authorized goods). Invalidation also means the lack of conditions for the transaction to be valid. Therefore, the jurist rules that the transaction is void (for example,



buying and selling wine or insane transactions). Finally, lack of validity or invalidity means that the jurist can neither establish the validity of the transaction nor invalidate it, and here too, a judgment is given for the invalidity of a transaction (for example, a jewelry transaction in which there is doubt as its jewel is real or fake).

What can be deduced from the Fatwas of the ayatollahs regarding Bitcoin is indicative of the third condition. In fact, for the existence of ambiguity and lack of transparency in the nature of this phenomenon, its accuracy cannot be achieved; because even if a part of a phenomenon or even if the subject is ambiguous, the conditions for the validity of the transaction is still not met and the invalidity is inevitably ruled (Until the mentioned ambiguities disappear).

According to what was stated, this research tries to study the subject of cryptocurrencies and tokens from the perspective of scientific and theoretical (using the latest available scientific sources) as well as experiences of different countries in cryptocurrency regulation and to analyze their jurisprudential dimensions. The three issues of nature, extraction, and exchange of different types of cryptocurrencies and tokens from Islamic jurisprudence are examined, and diverse perspectives are explained. Accordingly, the questions that are answered in this research (analytically-descriptive method and in jurisprudential sections, with ijihad approach) are:

A- What are the points of the theory and experience of different countries in regulating the types of cryptocurrencies and tokens?

B- What is the jurisprudential infrastructure that can be proposed about cryptocurrencies and tokens as an emerging phenomenon?

C- What are the challenges and religious doubts that can be raised in relation to the types of cryptocurrencies and tokens? What are the most important reasons for and against this?

Summary and Conclusion



This report tried to analyze the nature, extraction, and exchange of various types of cryptocurrencies and tokens from the perspective of Islamic jurisprudence to provide a platform for their regulation. The research findings show that in terms of thematic, cryptocurrencies and tokens are considered emerging phenomena that their use at the international and national level is growing rapidly. Accurate identification of their nature, which can be money (means of payment), assets, and goods, is important in subject analysis. Valid typology of cryptocurrencies and identification of differences between universal cryptocurrencies, central bank cryptocurrencies, securities tokens, and utility tokens also have an important impact on the correct understanding of the functions of cryptocurrencies.

From a theological point of view, the research findings show that the jurisprudential infrastructure for accepting cryptocurrencies as a tool, solution, or institution under Shariah is provided. Some of these jurisprudential infrastructures are: the principle of validity and necessity of contracts, the customary nature of the concept of money, the customary nature of the concept of property and proprietary wealth, and the acceptance of all rational motives within the framework of Shariah.

However, the two challenges of failure to achieve proprietary wealth and uncertainty can be seriously considered about the universal cryptocurrencies. In the field of proprietary wealth, issues such as lack of general usage, lack of credibility (the creditor) and legal responsibility, as well as the possibility of the illusion of ownership can be considered, and in the field of uncertainty, severe and unregulated fluctuations of this type of cryptocurrencies are worth considering. Given these cases, it can be argued that neither the sole proprietorship of the universal cryptocurrencies can be achieved nor their non-proprietorship. Therefore, their use in practice can be subject to religious suspicion. However, in the future, with the development of this category of cryptocurrencies, the mentioned doubts may be removed, which, of course, the rulings are subject to change. In this case, the Shariah rulings of the cryptocurrencies will also change.

Also, the mentioned jurisprudential doubts and challenges can be imagined only with the universal cryptocurrencies, and none of them can be brought up for the cryptocurrencies of



the central bank or valuable or practical tokens. Because the central bank cryptocurrencies are just like the Rial under the supervision and control of the central bank law, and tokens are also under the supervision and accountability of their providers. Therefore, this category of cryptocurrencies has legal and specific validity, and doubts about them are inherently inconceivable. Besides, these suspicions only pose a jurisprudential challenge to the exchange of universal cryptocurrencies within the country, and therefore extracting them as "export goods" is legally flawless.

Policy Recommendations

According to the findings of the present study, it seems that so far, the jurisprudential literature of cryptocurrencies has been mainly focused on one of the specific examples of universal cryptocurrencies, namely Bitcoin. In comparison, other types of tokens such as central bank cryptocurrencies, securities tokens (such as token-based stocks, token-based Sukuk, etc.), tokens used for authentication, priority use of products, etc. can all be used. Accordingly, in practice, it is recommended to follow the regulations for the use of central bank cryptocurrencies and types of tokens in the money and capital markets. Specifically, the following two short-term and medium-term proposals are recommended in the field of cryptocurrency regulation:

A- Preparation of a specific bill or plan concerning cryptocurrencies and tokens to be sent to the Parliament for passing the legislative process (medium-term);

B- Examining the religious dimensions of cryptocurrencies and tokens in the jurisprudential council of the Central Bank (short-term)



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