

Bitcoin as a Means of Transaction and Investment In The Perspective of Islam

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ABSTRACT

The emergence of bitcoin as a means of transaction and investment in the virtual world is intriguing to be studied. Many countries in the world have different perspectives upon the law of bitcoin itself. In Indonesia, the regulation on electronic money is in Indonesian Bank Regulation Number 20/6/PBI/2018 and MUI Fatwa Number 116/DSN-MUI/IX/2017. However, both have not specifically regulated bitcoin. As something new, bitcoin is necessary to be studied in the perspective of Islamic law. The research is a literature study utilizing content analysis to approach the data. The findings of the results are that bitcoin as a means of transaction is permissible (*mubah*) since there is a similar handover (*taqabudh*)--that there is a bitcoin to handover, there is no gambling (*maisir*), speculation (*gharar*), haram, riba, and false, and that the transactions is on a willingness basis (*antharodin*) of the both parties. Second, bitcoin as a means of transaction is haram if there is an uncertainty which is close to *gharah* and *maisir*, bitcoin as an investment tool has more damages than benefits.

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Abstrak: Kemunculan bitcoin sebagai sarana transaksi dan investasi di dunia maya menarik untuk dikaji. Banyak negara di dunia memiliki pandangan yang berbeda terhadap hukum bitcoin itu sendiri. Di Indonesia, pengaturan tentang uang elektronik ada dalam Peraturan Bank Indonesia No. 20/6/PBI/2018 dan Fatwa MUI Nomor: 116/DSN-MUI/IX/2017. Namun, keduanya belum secara khusus mengatur bitcoin. Sebagai sesuatu yang baru, bitcoin perlu dikaji dalam perspektif hukum Islam. Penelitian ini merupakan studi kepustakaan dengan pendekatan analisis isi untuk mendekati data. Temuan dari hasil penelitian adalah bahwa bitcoin sebagai sarana transaksi diperbolehkan (*mubah*) karena ada serah terima (*taqabudh*) yang serupa, yaitu ada bitcoin untuk serah terima, tidak ada perjudian (*maisir*), spekulasi (*gharar*), haram, riba, dan batil, serta transaksinya atas dasar kerelaan (*antharodin*) kedua belah pihak. Kedua, bitcoin sebagai alat transaksi haram jika ada ketidakpastian yang mendekati *gharah* dan *maisir*, bitcoin sebagai alat investasi lebih banyak kerugiannya daripada manfaatnya.

Kata kunci: bitcoin, hukum Islam, alat tukar, investasi

INTRODUCTION

The world's economy develops rapidly. In the early age of civilization, humans carried out transactions by exchanging goods (barter system). The barter system has been practiced since 6000 BC.¹ The history shows that the Mesopotamians are those who first carried out the barter system.

The barter practice seems difficult so that it needs a measurable medium of exchange. The needs for the ease of transaction process starts the history of money. When the economy agents have found money as a means of transaction, the money itself has been agreed to be the medium of exchange in the economy world. According to Dumairy, money as a medium of exchange should meet three requirements: can be generally accepted, functions as a payment tool, and valid, in this case, it is recognized by the government.²

The Lydians created money in around 600 BC.³ The money is made of silver and gold (electrum). In 560-546 BC, coins were created by Croesus which later is used by the Grecians. On the other hand, banknotes were created by the Tang

Dynasty in China in the 1st century.⁴ The reason behind creating banknotes is that the supply for precious metal (silver and gold) is getting rare at the time.

Money or a medium of exchange always develops. In the modern era where advanced technology and virtual transactions often occur, there are numerous types of medium of exchange. One of the digital currencies that currently occurs and develops is bitcoin. In transactions, bitcoin offers a transactional system with digital currency without any third party agent during the payment process.

The idea of new currency creation is based on cryptography.⁵ It is used to support the society in buying and selling new digital currency under cryptocurrency. Cryptocurrency is a digital currency which has no governmental regulations and is not an official currency. It is the concept that inspires digital currency which now is known as bitcoin.

Bitcoin is one of digital currencies which emerged first in 2009, introduced by Satoshi Nakamoto.⁶ It is created by the bitcoin network based on supply and demands, and systematically based on mathematical calculations.

¹Richard Wilk and Jack Weatherford, *The History of Money: From Sandstone to Cyberspace.*, *The Journal of the Royal Anthropological Institute*, vol. 4, 1998, 37, <https://doi.org/10.2307/3034519>.

²Dumairy, *Perekonomian Indonesia* (Yogyakarta: BPFE, 1997), 20.

³T. Krisnadi, *Sejarah Uang* (Bandung: Remaja Rosdakarya, 2009), 13.

⁴ Ibid.,

⁵Oscar Darmawan, *BITCOIN: Mata Uang Digital Dunia* (Jakarta: Jasakom, 2014), 11.

⁶Nakamoto, "A Peer- to-Peer Electronic Cash System.," n.d., www.bitcoin.org. diakses Oktober 2016

It is also a payment with peer-to-peer and open source technology. Every transaction will be saved in the database of the bitcoin network.⁷

Bitcoin also encourages some pros and cons in several countries in the world. It is because bitcoin has been used as a transaction and investment tool in several countries. The bitcoin controversy is due to its inability to meet some elements and requirements as a currency which can be accepted globally. Also, bitcoin is not a currency issued by a state but by a system i.e. computer network of cryptography. In case of existence, bitcoin is not in the form of coins, banknotes, silver, nor golds.

The law that regulates bitcoin circulation may be different from one country to another. For example, in the United States, Russia, Japan, South Korea, and Finland has legalized bitcoin under various requirements. However, there are also countries that refuse bitcoin uses such as in China, Singapore, Malaysia, and Indonesia. The absence of an institution that will take the responsibility if there is a misuse of bitcoin such as theft, terrorism, money laundry, fraud, firearms purchase, and other crimes is one of the reasons why some countries refuse bitcoin. However, those allowing bitcoin argue that the emergence of bitcoin is due to the demands of the era and the mechanism of supply and demands.

⁷Nakamoto, "A Peer- to-Peer Electronic Cash System." bitcoin.org

In Indonesia, the law on bitcoin has not been specifically regulated. The only regulation which is the closest is the regulation on electronic money in Indonesian Bank Regulation No. 20/6/PBI/2018 and MUI Fatwa No. 116/DSN-MUI/IX/2017 on Sharia Electronic Money. As something new, bitcoin should be studied based on the perspective of Islamic law.

Bitcoin can have two functions: as a transaction and an investment tool. As a transaction tool, bitcoin has been used in many countries such as the United States, Japan, and Finland. As an investment tool, it has been used by many people throughout the world. A global car company, Tesla, has bought bitcoin for 1.5 billion USD bitcoin in 2020 as an investment.⁸ Additionally, payment fintech owned by Twitter owner has bought bitcoin for 170 million USD (2.38 trillion IDR) in October 2020. Bitcoin has been used as an investment tool to save company assets.⁹

⁸"Elon Musk 'Radikal', Beli Tesla Bisa Menggunakan Bitcoin Cs," n.d., <https://www.cnbcindonesia.com/market/20210209072142-17-222020/elon-musk-radikal-beli-tesla-bisa-menggunakan-bitcoin-cs>. accessed on 25th Jan ,2021 at 21.17 AM.

⁹"Usai Tesla, Fintech Milik Bos Twitter Borong Bitcoin Rp 2,4 T," accessed Januari 25, 2021, <https://www.cnbcindonesia.com/tech/20210224071604-37-225674/usai-tesla-fintech-milik-bos-twitter-borong-bitcoin-rp-24-t>.

1. Methodology

This research is a library study since the collected data are library data which are relevant to the research problems. This study is a qualitative study because the data are presented in the form of words not numbers.¹⁰ Research whose results are not statistics or elaboration of calculations.¹¹

This research utilizes Islamic law approach. The data are from both primary and secondary sources. The primary sources are sources that provide direct information. Meanwhile, the secondary data are from articles or publications which may not be directly related.

The technique used to collect data is more documentative, by collecting some information on the research problems. Additionally, the analysis is a descriptive analysis, to reconstruct problems systematically and objectively by collecting, evaluating, examining and synthesizing evidence to provide facts and accurate conclusions.

2. Bitcoin: Mechanism and Regulation

In early 2021, the price of bitcoin shocked the world. For the first time, bitcoin price reached 50,000 USD (700 million IDR) on February

17, 2021.¹² The rapid increase of the bitcoin price may be caused by many giant companies starting using the crypto asset. Bitcoin market valuation grew for more than three percent in trading on Tuesday, February 16, 2021 local time, after the largest price of crypto money reached 50,487 USD. The price of bitcoin has its support from giant companies such as Tesla and Mastercard on using the digital currency.¹³

Bitcoin now is getting its fame and support from numerous parties after many parties are skeptical and questions it. Early February 2021, the giant company Tesla announced that they will be using bitcoin as the payment for their vehicles. Besides, they also have bought bitcoin for 1.5 billion USD as an alternative investment in addition to cash. On the other hand, Uben company and Mastercard have also planned to accept bitcoin. Moreover, BNY Mellon, the older bank in the United States, announced that they will have a unit to manage digital assets.¹⁴

¹⁰Anselm STRAUSS and Julia Corbin, *Dasar-Dasar Penelitian Kualitatif: Tata Langkah Dan Teknik-Teknik Teoritisasi Data* (Yogyakarta: Pustaka Pelajar, 2007), 4.

¹¹STRAUSS and Corbin, *Dasar-Dasar Penelitian Kualitatif: Tata Langkah Dan Teknik-Teknik Teoritisasi Data*.

¹² "Harga Bitcoin Kembali Cetak Rekor Tertinggi, Kini Tembus Rp 700 Juta," accessed February 17, 2021, <https://money.kompas.com/read/2021/02/17/061925426/harga-bitcoin-kembali-cetak-rekor-tertinggi-kini-tembus-rp-700-juta>.

¹³*ibid.*,

¹⁴"Bitcoin Makin Populer, Kenali Penyimpanan Dan Risikonya - Saham Liputan6.Com," accessed February 17, 2021, <https://www.liputan6.com/saham/read/4>

A question may raise: what is bitcoin? How does it work? And has Indonesia regulated its use? Bitcoin is an electronic or virtual money. The electronic money uses open peer-to-peer network payment. It is in the form of virtual so that when one cannot know how the physical form of bitcoin is. It is not like physical money issued by banks nor currency of a country.¹⁵ Bitcoin is the most popular digital money or currency that uses cryptography to control creation, administration, and safety.¹⁶

Bitcoin was initiated in 2008 by a person, or a group named Satoshi Nakamoto, and introduced to the world in 2009.¹⁷ The true identity of Satoshi Nakamoto is a mystery; hence many people are doubting if it is one person or a community.¹⁸

The concept of bitcoin is to introduce an alternative currency system which is based on the power of supply and demand. Price increase may occur due to increasing demands, and on the

other hand, price decrease may occur because many goods are offered. In this case, bitcoin is an independent currency and is not interfered by any parties.¹⁹ But then who does control the bitcoin networking? The answer is none, there is no such bitcoin networking-similar to that of there is none owning technology to operate emails.²⁰

It is controlled by all users throughout the world, Developers can create software on bitcoin, but they cannot force changes in the bitcoin protocols since all users are free to choose software and the version they want to use. In order to be compatible with one another, all users should use a software which follows the same regulations. Bitcoin can work well only if there is such a consensus among its users.

Bitcoin has been the first digital currency in the world that uses the concept of cryptocurrency (digital currency as a result of cryptography), which is later followed by other virtual currency such as Ripple, Litecoin, Mastercoin, etc.²¹

Prior bitcoin, there was a virtual currency whose concept is similar to bitcoin, that is E-Gold²²

482503/bitcoin-makin-populer-kenali-penyimpanan-dan-risikonya.

¹⁵Willy Wong, *Bitcoin* (Semarang: INDRAPASTA Media, 2014), 1.

¹⁶"Cryptocurrency Investing - An Introduction," accessed February 24, 2021, <https://www.investopedia.com/cryptocurrency-4427699>.

¹⁷Wong, *Bitcoin*, 2.

¹⁸Namira Daufina, "Bitcoin Dan Misteri Satoshi Nakamoto," accessed February 26, 2021, <https://tekno.kompas.com/read/2014/01/19/1848426/bitcoin.dan.misteri.satoshinakamoto>.

¹⁹(7) CEO Bitcoin Indonesia Oscar Darmawan: Regulator Jangan Takut Bitcoin - YouTube," accessed January 25, 2021, <https://www.youtube.com/watch?v=TnWlZKMtWkA>.

²⁰Wong, *Bitcoin*, 6.

²¹Wong, *Bitcoin*, 6.

²²E-gold is a currency unit in the form of digital gold operated by Gold & Silver

and Liberty Reserve.²³ However, their scheme and basic concept are different. Electronic currency is initiated by E-Gold and then followed by Liberty Reserve. In fact, the currency is created by certain companies to control how much currency they will be distributing, and it is under control of those companies so that the system is controlled by the central bank.

E-money currency products issued to the market are digitals created by a system which can be easily produced and is suitable to the market's demands. When the company is proven to be cheating by producing the money in a huge amount, the company will easily make profit while the other owners will make a loss. It is different from bitcoin which is decentralized meaning that there is no control from any parties as well as in its distribution. Bitcoin production is also difficult so that it is limited only to a certain amount in certain time, and it will get more difficult and will be run out at the end.

Since the emergence of bitcoin, a number of authorities in several places have talked about it. It causes some excitement since the digital currency in the virtual world

Reserve Inc. It can also refer to a system that enables the users to transfer their gold to other users instantly. The headquarters of e-gold Ltd is in Nevis, Antilles islands. Ryan Filbert Wijaya, *Negative Investment: Kiat Menghindari Kejahatan Dalam Dunia Investasi* (Jakarta: PT Elex Media Komputindo, 2014), 41.

²³Wijaya, 44.

in fact can be used in the real world. Bitcoin is the opposite of the centralized system applied by the majority of central banks in the world. Those banks have taken actions on the bitcoin phenomena.

Several countries in the world reject bitcoin uses such as Iceland, Singapore, China, and Thailand.²⁴ The Central Bank of Iceland states that bitcoin transactions are considered abroad capital movement and illegal. In China, bitcoin circulated freely under some cautions; they prohibit companies from using bitcoin, but the people can use bitcoin for transactions as a commodity trade in internet.

Some countries in the world respond to bitcoin transactions openly such as the United States, Russia, Japan, South Korea, and Finland.²⁵ In the United States, bitcoin may be circulated as electronic transactions. Meanwhile in Japan, the government has acknowledged bitcoin as a legal currency for digital transactions. Many retailers have accepted payments using bitcoin. The number of stores accepting digital payment using bitcoin has reached

²⁴"Para Miliarder Yang Menolak Dan Dukung Bitcoin," accessed February 20, 2021, <https://www.cnbcindonesia.com/tech/20180111152251-37-1249/para-miliarder-yang-menolak-dan-dukung-bitcoin>.

²⁵"Ini 6 Negara Yang Legalkan Mata Uang Bitcoin," accessed February 21, 2021, <https://www.wartaekonomi.co.id/read161176/ini-6-negara-yang-legalkan-mata-uang-bitcoin>.

more than 4,500 outlets. For example, Nikkei experienced a rapid increase in transactions after they cooperated with bitcoin in the end of 2017.

Denmark allows bitcoin as a transaction tool although the state has not acknowledged digital money. The Russian government has officially legalized bitcoin uses and acknowledged it as a currency of the nation since November 2016. Finland allows bitcoin transactions, and even facilitates almost all ATM machines for bitcoin payment, exchange, and top up. In South Korea in 2017, they have enacted a regulation which allows bitcoin uses and the protection of bitcoin transactions.

In Indonesia, Indonesian Ulema Council (MUI) has issued a fatwa on sharia electronic money no. 116/DSN-MUI/IX/2017. Although the fatwa is not specifically regulated bitcoin uses, some people regard bitcoin as electronic money. The Indonesian Bank on May 7, 2018 issued The Indonesian Bank Regulation (PBI) no. 20/6/PBI/2018 on electronic money.

The PBI no. 20/6/PBI/2018 states that bitcoin is not a currency in Rupiah, and its exchange rate fluctuates so that it is vulnerable to bubble risk, there are no authorities who take responsibility for it neither official administrators, there are no underlying assets for bitcoin price, and the consumers' protection is

low.²⁶ In the PBI, it is not explained if bitcoin is permissible for transaction tools. However, the Indonesian Bank suggests the people to be careful of bitcoin and other virtual currencies. All risks due to bitcoin ownership is on the behalf of the owners or users.

From the above elaboration, it can be said that bitcoin has its own benefits and drawbacks. Some of the benefits are, first, in bitcoin transactions there is no credit card number which may be collected by those who are irresponsible. Second, bitcoin allows anonymous transactions with no exposure of the user's identity. In bitcoin's wallet, there is no owner's name or any other information that may be known by merchants or other people. It is very different from conventional online transactions such as bank transfers which need full name and other supporting information.²⁷ It is a payment method that is global and efficient. Bitcoin can be transferred from Canada to Indonesia within ten minutes. There is no bank that may hinder the transactions, no expensive fees, no fund freezing, and none will question where the

²⁶Muhammad Yusup, "Analisis Hukum Bitcoin Dalam Perspektif Fatwa Mui No: 116/Dsn-Mui/Ix/2017 Tentang Uang Elektronik Syariah," *KHOZANA: Journal of Islamic Economic and Banking* 3, no. 2 (2020), <http://journal.stebisdarussalamoki.ac.id/index.php/khozana>.

²⁷"Beberapa Hal Yang Perlu Anda Ketahui - Bitcoin," accessed February 26, 2021, <https://bitcoin.org/id/yang-perlu-anda-ketahui>.

money is from and what for.²⁸ Third, as long as there is an internet connection, all people can make transactions wherever and whenever, by only using tablets, handphones, or computers. Bitcoin knows no holidays--any time and any day transactions can be made. Fourth, the bitcoin price is determined by supply and demand. Fifth, bitcoin is now a suitable means to invest.

There are some drawbacks of bitcoin, they are, first, it is potentially lost from the digital wallet when the computer is attacked by a virus or hacked.²⁹ Second, bitcoin has not been a valid and official currency since it has no competent authority to issue bitcoin, control, manage circulations and distributions, guarantee its authenticity, and maintain its exchange rates. All functions are done by a system which has no specific person taking responsibility for it. Third, it cannot be insured. Fourth, bitcoin is prone to be a medium of money laundry. Fifth, bitcoin values may drop, and even reach zero.³⁰ Sixth, bitcoin may be used for dark transactions such as firearms, drugs, etc.

²⁸(7) Mau Investasi Ke Bitcoin Dkk? Yuk Pelajari Apa Itu Aset Kripto - YouTube," accessed February 26, 2021, <https://www.youtube.com/watch?v=3e-t6WW1b3Q>.

²⁹(7) Mau Investasi Ke Bitcoin Dkk? Yuk Pelajari Apa Itu Aset Kripto - YouTube."

³⁰Wong, *Bitcoin*, 31.

3. Bitcoin as a transaction tool in the perspective of Islamic law

Globalization has changed economic activities in a number of countries. The advancement of technology going hand in hand with the economy makes all transactions easier and cheaper.³¹ The emergence of bitcoin as a transaction tool and currency in the virtual world makes countries in the world study and discuss it. And, how does Islamic law view bitcoin phenomena?

Bitcoin and its applications can function as two: a transaction tool and an investment tool. As a tool of transaction, it has been used by big companies. World top company, Tesla, has planned to enable bitcoin transactions in their company.

Theoretically, talking about legal matters if a transaction is halal or haram, we should refer to Islamic law i.e. fiqh. Hence, we can find if the transaction is permissible by studying the Quran, hadith, ijma, and qiyas.³²

In *al-qawā'idul al-fiqhiyyah*, there is a principle that the legal basis of trading is *mubah*,

الأصل في المعاملة الإباحة حتى يدل الدليل على تحريمها

³¹Raden Muhammad Arvy Ilyasa, "Legalitas Bitcoin Dalam Transaksi Bisnis Di Indonesia," *Lex Scientia Law Review* 3, no. 2 (2019): 115-28, <https://doi.org/10.15294/lesrev.v3i2.35394>.

³²Saifudin Nur, *Ilmu Fiqih: Suatu Pengantar Komprehensif Kepada Hukum Islam* (Jakarta: Tafakur, 2016), 31.

“Originally, everything is *ibahah* (permissible).”³³ From the principle, it can be understood that everything in the world is permissible. This principle covers extensive matters so that it needs such limitations completed with “until there is a proposition that shows it is no longer permissible.” From the principle, it can also be understood that due to the limitations, not all things are permissible, there are things that may be not permissible at the end e.g., ³⁴things close to *maisir*, *gharar*, *haram*, *riba* and *bathil*.³⁵

The principle has been a base for some people to argue that bitcoin as a transaction tool is permissible (*mubah*).³⁶ The Central Fatwa of Islamic seminar in South Africa, Darul Uloom Zakariyya, has decided that based on the principle bitcoin meets the requirement of *mal* so that it is permissible to be used as a transaction tool. According to them, bitcoin is treated as precious as other things, as can be seen in the

³³Abddul Ghofur Anshori and Yulkarnain Harahab, *Hukum Islam Dinamika Dan Perkembangannya Di Indonesia* (Yogyakarta: Kreasi Total Media, 2008), 202.

³⁴Ghulam Zainil, “Aplikasi Ijma’ Dalam Praktik Ekonomi Syariah,” *Iqtishoduna* 7, no. 1 (2018): 87–116.

³⁵Nida Laili Fitriyah et al., “Foreign Direct Investment Flows in OIC Country,” *IQTISHODUNA: Jurnal Ekonomi Islam* 9, no. 2 (2020): 217, <https://ejournal.iaisyarifuddin.ac.id/index.php/iqtishoduna/article/view/495>.

³⁶Thomas Licon, *Pendidikan Karakter Paduan Lengkap Mendidik Siswa Menjadi Pintar Dan Baik* (Bandung: Nusamedia, 2013).

price market in global exchanges and can be accepted as payments for a wide variety of tradings for example in bakery, restaurants, retailers, and even big e-commerce such as Overstock.com.³⁷

Bitcoin as a transaction tool is permissible as long as there is a handover (*taqabudh*) and similar quantities if the type is also similar. If the type is different, it essential *taqabudh* or *hukmi* should be done (there is the money, and there is the bitcoin which will be handed over).³⁸ It is equalized to gold and silver, all things which are agreed to be currency and medium of exchange although the materials are not gold and silver. It is also in accordance with criteria in fatwa no. 116/DSN-MUI/IX/2017 on sharia electronic money and fatwa no. 117/DSN-MUI/II/2018 on payment service based on technology and information based on sharia principles.

In *Tarikh al-Baladziri*, it is stated that Umar ibn Khattab wanted to create money from the camel’s skin. This plan was cancelled since camels may become extinct. (*Futuh al-Buldan, al-Baladziri*). Although the plan was

³⁷Mufti Muhammad Abu-Bakar, “Shariah Analysis of Bitcoin, Cryptocurrency, and Blockchain,” *Blossom Labs* 1 (2017): 59, <https://blossomfinance.com/bitcoin-working-paper>.

³⁸Rachma Indrarini and Clarashinta Canggih, “EFFICIENCY OF ISLAMIC INSURANCE IN INDONESIA,” *IQTISHODUNA: Jurnal Ekonomi Islam* 8, no.2 (2019): 261-272

cancelled, we can understand that the companions of the prophet acknowledged the issue of money creation and allowed the creation of currency other than gold and silver. It is in this light that the ulema states that money should not always be made of money and silver. Imam Malik said "if people create money from skin and is used as an exchange tool, I prohibit them exchanging the money from skin with those of gold and silver, in a cashless way" (Al-Mudawwanah Al-Kubra, 3/90).

A hadith from 'Ubadah ibn Shamit said that the prophet PBUH said: "(sell) gold by gold, silver by silver, fine wheat by fine wheat, raw wheat by raw wheat, dates by dates, salt by salt (and that the should be in the same measure) and one type, and in a cash way from one hand to the other. If the type is different, sell it according to your will if it is done in a cash way from one hand to the other" (hadith narrated by Muslim, Abu Daud, Tirmidzi, Nasa'i, and Ibn Majah).

The above hadith shows that usury may be imposed on gold and silver if they are used as an exchange tool, to measure the value of other things. Thus, in that condition, it is not seen from the intrinsic values (original values of gold and silver) but from its uses and benefits.³⁹

³⁹AM Hafidz Mashum et al., "Nusantara Syariah Economy (Construction of Economic Cooperation between the Indonesian Muslim Community)," *IQTISHODUNA: Jurnal Ekonomi Islam* 9, no.

Some people regard bitcoin as money. One of the Islamic economy scholars Al-Ghazali states things can be regarded as money if it meets three requirements: first, it is created and distributed by the government. Second, it is an official payment tool in the area. Third, the government has gold and silver reserves as a benchmark of the distributed money.

"*Naqd* (money) is things that can be media of exchange and is accepted generally, whatever the form and condition of the media." (Abdullah bin Sulaiman al-Mani", *Buhuts fi al-Iqtishad al-Islami*, Mekah: al-Maktab al-Islami, 1996, p. 178).

"*Naqd* is a thing that is made as price (*tsaman*) by the society, be it coins or banknotes printed using other materials, and is distributed by the authoritative financial institution" (Muhammad Rawas Qal'ah Ji, *al-Mu'amalat al-Maliyah al-Mu'ashirah fi Dhau' al-Fiqh wa al-Syari'ah*, Beirut:Dar al-Nafais, 1999, p. 23).

Based on the above Al-Ghazali's view, bitcoin can be said to be not money since it cannot meet the first criterion: created (or printed) by the government. However, seeing the development of the digital era, the emergence of electronic money is inevitable. The emergence of electronic money is something that follows the current

development. The fatwa on sharia electronic money no. 116/DSN-MUI/IX/2017 may bring goodness due to easiness and time efficiency in transactions using electronic money i.e., bitcoin. *Maisir*,⁴⁰ *gharar*,⁴¹ *haram*, *riba*, and *bathil* are not found when bitcoin is used as a tool of transaction.

Data and facts show that the society in general starts to accept bitcoin. According to Oscar Darmawan, a CEO of Indodex which was initially named as Bicoindex Indonesia, around 3,000 bitcoin users join the community on a daily basis, and the total members of the community is 1.1 million people.⁴² If this number of 1.1 million people is in one company, you can imagine the total number of bitcoin users in all companies joined throughout the world. It then can be said that 1.1 million people in the world use bitcoin. It is accepted in the community who have reached million users.

The acceptance toward bitcoin by its users because it exists from the perspective of *'urf* is valid although the users are in different places around the world. However, these users are connected in the cyber world which can reach throughout the world.

⁴⁰M. Nur Rianto, *Pengantar Ekonomi Syariah; Teori Dan Praktik* (Bandung: Pustaka Setia, 2015), 12.

⁴¹M. Abdul Wahab, *Gharar Dalam Transaksi Modern* (Jakarta: Rumah Fiqih Publishing, 2019), 6.

⁴²Darmawan, *BITCOIN: Mata Uang Digital Dunia*, 69.

Bitcoin transactions by its users is based on the basis of mutual willingness (*antharodin*)⁴³ between two parties. It can be seen the practice of bitcoin uses which is only done by both parties that have agreed or accepted one another. For example, using bitcoin to buy a Tesla car, a camera store in Japan that only accepts payments using bitcoin, and 7-Eleven stores in South Korea that accept bitcoin payments.

4. Bitcoin as an investment tool in the perspective of Islamic law

Bitcoin has been a topic of discussion and the world's economic phenomena. Pros and cons go along with its popularity. One of bitcoin functions as a tool of investment. Investment is an activity to place funds in a certain period of time in the hope that in the use of funds it can bring profits for the investment value.⁴⁴ From the definition, it can be understood that the goal of an investment is to gain some profits in the future. Next, how does Islamic law view bitcoin as an investment tool?

In early February 2021, giant company Tesla announced that they will soon use bitcoin as their vehicle payment. Besides, Tesla has bought

⁴³It is in An-Nisa 29, explaining that buying and selling should be done only if both parties agree. "O believers! Do not devour one another's wealth illegally, but rather trade by mutual consent. And do not kill each other or yourselves. Surely Allah is ever Merciful to you." (English version is taken from <https://quran.com/4/29>)

⁴⁴Ana Rokhmatussa'dyah, *Hukum Investasi Dan Pasar Modal* (Jakarta: Sinar Grafika, 2011), 7.

bitcoin worth 1.5 billion USD as an investment alternative other than cash. On the other hand, Uben and Mastercard also plan to accept bitcoin. BNY Mellon, one of the oldest banks in the United States also announced that they formed a unit to arrange digital assets.⁴⁵ Based on the authors' experiences after joining the community of bitcoin users, Bitcoin trading utilizes the fluctuation of the bitcoin value which is constantly changing according to the speculant. The unstable bitcoin price opens chances for users to gain more benefits from the trading. See a graph on figure 1.⁴⁶

The graph shows the fluctuate rates of the average price of bitcoin in the Indonesian bitcoin market (bitcoin.co.id) from 6-15 October 2020. It can be seen that on October 6, 2020, the price for one bitcoin is 3.6 million IDR. As the time goes by, the bitcoin price continuously increases but generally it can be seen as an increase in bitcoin unit price. On October 15, 2020, the price of one bitcoin has increased, reaching more than 4.7 million IDR.⁴⁷

Please see a graph on figure 2.

⁴⁵"Bitcoin Makin Populer, Kenali Penyimpanan Dan Risikonya - Saham Liputan6.Com."

⁴⁶"grafik" n.d.,
<http://indonesia.bitcoin.co.id>.

⁴⁷<http://indonesia.bitcoin.co.id/cara-mudah-mendapatkan-keuntungan-dari-bitcoin-melalui-bitcoin-co-id/> accessed on 23/10/2014 at 14:38 WIB

Source of figure 2:
<http://indonesia.bitcoin.co.id/>

If one buys bitcoin on October 6 when it is for 3.6 million IDR (starting point of the red line), and sells the bitcoin on October 15 when the price reached 4.7 million IDR (end point of the red line), it means that they has gained profit for 1.1 million only in nine days.

This activity can be seen in the bitcoin market as in figure 3.

Source:
<https://vip.bitcoin.co.id/>

The activity in the above market illustrates that in every hour and even second there is one who buys and sells bitcoin without us knowing the purpose.

Based on the explanation in the interview of a bitcoin CEO (or a director of a bitcoin marketplace) in a private television channel, transactions or tradings mainly occur for investment by utilizing the fluctuate bitcoin values by buying when the price is low and selling when the price is high. Then, when the price is getting stable, bitcoin may be an exchange tool starting from online shops.⁴⁸

The uncertainty in bitcoin investment makes it close to *gharar*.⁴⁹ Islamic law does not allow *gharar* in a transaction or investment. Also, bitcoin is not clear for its existence (i.e. virtual) and forms. It is primarily because bitcoin

⁴⁸(7) Mau Investasi Ke Bitcoin Dkk? Yuk Pelajari Apa Itu Aset Kripto - YouTube."

⁴⁹Hendi Suhendi, *Fiqh Muamalah* (Jakarta: Rajawali Pers, 2014), 58.

is a set of digital codes digital numbers so that bitcoin cannot be illustrated in crystal clear. In Islam, it is prohibited to have a *gharar* transaction. The Prophet Muhammad said, "don't you buy fish in the water (pond/sea) since such buy-and-sell is considered *gharar*" (hadith narrated by Ahmad).

The above hadith explains that although we know the fish form but we do not know yet the exact form of the fish, which causes speculations. Likewise, the future of bitcoin is uncertain since it may be gone at any time due to the absence of the regulation or party controlling bitcoin itself.

The enactment of law regarding bitcoin can be compared to the case of selling fish in the water, they are (1) *al-ashl* is buy-and-sell fish in the water; (2) *furu'* is buy-and-sell virtual money i.e. bitcoin in the virtual world; (3) the law of the *ashl* is haram to trade fish in the water; (4) *'illat* or similar traits--it's similar to buying something uncertain, both its quantity and quality. Hence, bitcoin investment is similar to buy-and-sell fish in the water, that is close to *gharar*. Therefore, it is haram.

The fluctuating bitcoin rate depends on the public opinions which are shaped in the marketing system. Bitcoin does not have underlying assets so that the fluctuating bitcoin rate is very extreme. Bitcoin can rocket and plummet so that it is difficult to predict. Hence, bitcoin investment is like gambling. This is close to

maysir. Thus, bitcoin as an investment tool is haram and it belongs to haram *lighairihi* or haram due to some factors other than the entity itself.

Some risks or drawbacks of bitcoin investment is, first, it is prone to bubble risks so that it potentially harms the society. The fluctuating rate causes impropriety in its increases. Second, there is no authority who is responsible for bitcoin and no official administrator, no underlying assets as the basis of bitcoin price, and low consumer protection.

In those kinds of conditions, there is a valid principle *mashalih al-mursalah* that is *daf- ul mafasid muqaddamun 'ala jalbi al-mashalih* (al-Salma, t.t). In other words, the principle suggests that rejecting *mafsadat* (drawbacks) should be prioritized more than taking advantages. For that reason, the use of bitcoin for investment is haram.⁵⁰

The second principle is *maslahah* as elaborated by Syaikh Ahmad ibn Syaikh Muhammad Zarqa in *Syarh al-Qawaid al-Fiqhiyyah* page 309, tasharruf al-Imami 'ala al-Raiyyati manuthun bi al-mashalah, the change of law therefore bitcoin for investment is illegal-prohibited-haram.

Third, it is based on *ijtihad*. According to Muhammad ibn Husein ibn Hasan Al- Zaizani in *Ma'alim Ushul al-Fiqh 'inda Ahli al-Sunnah wa al- Jama'ah*, the method of

⁵⁰Al Zarqa, *Syarh Al-Qawaid Al-Fiqhiyyah* (Maktabah Syamilah, n.d.), 309.

masalah mursalah is used since there is no principles that may give *i'tibar* and elaboration on the law of issues so that the legal stipulation is done based on considerations on *maslahat* for many people.⁵¹

From the above explanation, it can be concluded that bitcoin as an investment tool is haram. It is because it is closest to *gharar* and *maysir* in bitcoin investment. In addition, there is more *madharat* than *maslahah* which bitcoin may bring, making it haram as an investment tool.

5. Concluding Remarks

Bitcoin is an electronic or virtual currency. This electronic currency uses the peer-to-peer payment network which is open. Bitcoin has two functions: as an exchange tool and as an investment tool.

Bitcoin as a transaction tool is permissible (*mubah*) for three reasons. First, there should be a handover (*taqabudh*) which uses similar things (there are the money and bitcoin to be handed over). Second, there are no elements of *maisir* (gambling), *ghara* (speculations), haram, *riba*, and *bathil* when it is used as a tool of transaction. Third, bitcoin transactions should be based on

mutual willingness (*antharodin*) between both parties.

Bitcoin as an investment tool is haram for two reasons. First, there is an uncertainty in bitcoin investment making it close to *gharar* and *maysir*. Second, bitcoin as an investment tool has more *mafsadat* (drawbacks) more than *maslahat* (benefits) so that bitcoin is not in accordance with the principles of *mashalih al-mursalah* that is *daf- ul mafasid muqaddamun 'ala jalbi al-mashalih*.

⁵¹Munadi Munadi and Budi Iswanto, "The Concept Maslahah of Najamuddin Al Tufi and It's Relevance of Sharia Business," *IQTISHODUNA: Jurnal Ekonomi Islam* 9, no.2 (2020):153,

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