



Legal Protection for Cryptocurrency Users as a Commodity in Indonesia

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Abstract

Technological advances require the whole world to participate in its development, especially cryptocurrencies that are happening all over the world. Bitcoin virtual currency is an exceptional virtual currency. Indonesia still lacks clear rules about the legal basis that bridges the existence of the Bitcoin cryptocurrency. So far, Cryptocurrency as a payment in Indonesia is prohibited and only allowed as a commodity. However, there are no binding regulations in this regard. The data collection and analysis method in this research uses the literature search analysis method that aligns with the latest phenomena related to Bitcoin cryptocurrency. The primary legal source is the Law, and the other is the Law. The problem in this research is finding out the legality and legal action for cryptocurrency users in Indonesia. Based on this research, Bitcoin cryptocurrency positioning in Indonesia is defined solely as a trading subject regulated by Law Number 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Crypto Asset Market. From this, we can conclude whether the Indonesian state has not allowed the circulation of the Bitcoin cryptocurrency as a virtual currency or a means of payment in Indonesia. However, the Commodity Futures Trading Regulatory Agency (BAPPEBTI) Regulation No. 5 of 2019 concerning Technical Regulations for the Management of the Physical Market for Crypto Assets on the Futures Exchange describes Bitcoin as a cryptocurrency as a commodity or investment in Indonesia.

Keywords: *Cryptocurrency; Commodity; Legal Protection*

Introduction

Cryptocurrencies cannot contain or isolate the innovations and advances in digital technology that are increasingly influencing the lives of modern humans. The speed of the technology is noticeable only when browsing the Internet using, for example, Google applications. Moreover, digital technology touches on the fundamental aspects of the individual needs of modern society in everyday life without being reduced to money as a medium of exchange. The leading technology for cryptocurrency development is also related to blockchain technology, as it is a decentralized digital entity that processes data containing transactions. Blockchain technology governs by a series of data sets called blocks. The Blockchain system also offers a high level of protection.

With the development of the Industrial Era 4.0, almost all industrial sectors have moved to the digital world. Transactions have entered the digital world, and currencies, limited initially to coins and banknotes, have also entered the digital world. One of the types of digital transactions is the use of cryptocurrencies, currencies in the form of digital cryptography. Cryptocurrencies use digital verification called blockchain technology. A blockchain is a digitally connected record that looks like a chain, connecting all digital money users without intermediaries. Cryptographic systems secure and protect these different data sets from each other.¹

Furthermore, the phenomenon in Indonesia is Bitcoin as a virtual currency that the government, especially Bank Indonesia, has not legalized. However, in 2014 there was a buying and selling transaction of island purchases in Bali using the virtual currency bitcoin.

According to a report by CNN Indonesia, the Bank of Indonesia (BI) has categorized 44 vendors or merchants in the Bali region who trade cryptocurrencies such as Bitcoin. Iman Karana, Head of BI Representative for Kausa Province in Bali, said 44 providers offer hotels, car rentals, cafes, and tour packages. The intensification in Bali is due to the influence of many foreigners who are also used to trading Bitcoin. As is clear from the previous, this Bitcoin system is a system that offers a high level of anonymity to its users since it works exclusively and bitcoin is based on public participation without regulatory authority.²

According to the Indonesian civil code Article 1320, the valid terms of the treaty are threefold: terms of the agreement, legal prowess, promised object, and a cause for the thing. Because bitcoin is not yet allowed to be a legitimate payment method. As stated in Article 1 paragraph (1) of The Law of the Republic of Indonesia No.7 of 2011 concerning currency which states that "Currency is money issued by the Republic of Indonesia which is referred to Rupiah."³ It can be interpreted that bitcoin does not have a validity value in a trade exchange rate or a legitimate payment method.

Discussion in this Law Writing, it will later be known that the legal position of bitcoin in the Civil Code is an intangible movable object because it meets the provisions. Article 499 of the Civil Code is the object of property rights under article 570 of the Civil Code using acquisition through recognition or submission. Bitcoin has the opportunity to be tradable in futures trading due to its high price volatility and market characteristics, but it must first be legally declared as a commodity and meet the conditions set by BAPPEBTI

At this point, Bitcoin does not perform like traditional currencies, whose price rises sharply and then falls suddenly, creating uncertainty. If Bitcoin is a commodity, the question to ask is, what is a commodity? Goods are something that has value. In addition, the cost of using an object creates an exchange rate that varies with market expectations. Market expectations entirely determine the cost of buying and selling Bitcoin. Secondly, the dollar's value is expressed relative to other commodities and currencies.

On the other hand, the value of Bitcoin is determined solely by the dollar's value. Through the Commodity Futures Trading Supervisory Agency (Bappebti), the Indonesian government has decided that cryptocurrencies such as Bitcoin and Ethereum are among the fungible commodities on futures exchanges. For ordinary people, the word commodity is still unfamiliar. Policies made by the government usually aim to protect investment users from counterfeit investment products that harm the general public.

¹ Ida Bagus Prayoga Bhiantara, *Teknologi Blockchain Cryptocurrency Di Era Revolusi Digital*, Prosiding Seminar Nasional Pendidikan Teknik Informatika, ISSN 2087-2658, (SENAPATI) Ke-9, Bali, 08 September 2018, hlm173.

² Muhammad SaidHonggowongso dan Munawir Kholil, *Transaksi E-Commerce Sebagai Pengganti Uang Rupiah Dalam Legalitas Bitcoin*, Jurnal Privat Law: Surakarta Volum09 Nomor01, Juni 2021, hlm147

³ Undang-Undang No.7 Tahun 2011 tentang Mata Uang

In addition, this rule helps crypto companies to grow and become more efficient. In addition to designating cryptocurrencies as commodities, the Indonesian government will also issue other regulations to regulate the technical implementation of this company. Of course, various institutions and industry players need support to provide different perspectives and contributions that are expected to be mutually beneficial when assessing research on the legal protection of cryptocurrency users as a commodity in Indonesia.

The cryptocurrency phenomenon has emerged as a form of discovery in global finance. Cryptocurrencies put an ease on transactions and profits and raise the value of currencies. The development of Cryptocurrency in its early emergence is not considered severe because previously, there were similar things that used blockchain technology. This variable includes trends in the use and use of the digital world, which contributes to public acceptance of new *Cryptocurrency* trends. Research conducted by Keisya Naomi Natalia Nababan in a journal entitled "Bitcoin Transactions in Indonesia Regarding Legality Review." The difference with the research that the author did is that the author discusses more how the legal protection for bitcoin users itself against the exchange rate of buying and selling in Indonesia. There was a sale of islands in Bali in 2014 where payments on these transactions use a virtual currency, bitcoin. Can it be valid if there has been an agreement between the two parties in a sale and purchase agreement because no law legally regulates the prohibition or allowing of bitcoin in Indonesia? Will bitcoin be signed into consumer protection which, in the event of a dispute, will be reported to the Indonesian Consumer Institution Foundation (YLKI), to the Commodity Futures Trading Supervisory Agency (Bappebti), or enter the financial services authority (OJK)?

Any dispute arising between Cryptocurrency investors and the Cryptocurrency market can be resolved without litigation or arbitration through BAKTI (Telecommunications and Information Accessibility Agency). In addition, dispute resolution can also be handled by people who transact Cryptocurrency through BPSK (Consumer Dispute Resolution Agency).⁴ As well as research conducted by Sigit Somadiyono in a journal entitled "The Relevance of U U No. 7 of 2011 About Currencies with the Phenomenon of the Emergence of Virtual Currencies Case Studies of the Bitcoin Phenomenon in Indonesia" has differences regarding the Case Study of the Bitcoin Phenomenon in Indonesia" is about the case study raised. The author raises a case regarding legal protection for bitcoin users themselves, in the journal does not discuss how to protect it. In this case, the institution authorized to regulate state finances in Indonesia, the Indonesian bank, only does not authorize payment methods using bitcoin. Still, it allows bitcoin circulation activities, from bitcoin mining to bitcoin investment, and even some have made buying and selling transactions using bitcoin. How is the legal protection for people who use bitcoin? In positive Law, there is no forgiveness for ignorance of the Law if there is already a law that regulates something. However, has the bitcoin virtual currency been officially banned in Indonesia, and are there still permanent regulations governing it? Then the community's ignorance will be hazardous to the sustainability of buying and selling in Indonesia and the value of the Rupiah itself.

Research Methods

This research method uses normative juridical research methods in normative juridical research only library materials or secondary data, which may include primary, secondary, and tertiary legal data.⁵ Based on the science used, this research is mono-disciplinary. Mono-disciplinary research is based on one type of science, applying the methodology commonly carried out by the science in question. In this study, the discipline used was the discipline of Law.

⁴Dewa Ayu Fera Nitha, I Ketut Westra, *Crypto Investment according to Bappebti Regulation No. 5 of 2019*, Journal of Master of Law Udayana Volume 0 9 Number 0 December 4, 2020, p720

⁵ Soerjono soekanto, *Introduction to Legal Research*, (Jakarta: UI press 1986) P. 52

This type of research is library research. Through this literature study, the effort is to find books and academic papers related to the problems discussed in this journal. In this study, a statutory approach (State Approach) was used, which is an approach that is carried out by examining all laws and regulations related to the legal issues being handled⁶. A comparative study with the Japanese state that has legalized the circulation of bitcoin in the country. Moreover, the last approach to the problem is a case study of the bitcoin cryptocurrency, which is used as a rupiah currency exchange rate. Even though Indonesia only makes bitcoin cryptocurrency as a commodity in Indonesia.

Research Results

1. The legality of Virtual Currency (Cryptocurrency) as a Commodity enforced in Indonesia

In terms of language, Cryptocurrency consists of two words in the world of computing: cryptos, which refers to crypto or coding languages, and currency, which refers to the value of a currency. From the statement, Cryptocurrency can be interpreted as a cryptocurrency that can be used as an alternative to transactions with mechanisms through the support of internet networks secured with a complex computer password system.⁷ The term cryptocurrency is the result of the evolution of the crypto-based technology world, where every transaction is complex code that cannot be easily duplicated or sent to unauthorized parties. So far, different types of Cryptocurrencies can be used for transactions in hundreds of ways. This digital encryption technology or Cryptocurrency aims to control all new currency units in circulation and allows verification of all transactions carried out independently without the intervention of third parties. The rupiah currency we use daily is issued by Bank Indonesia and approved by the government by the provisions of Law Number 7 of 2011 concerning Currency.⁸

So far, Indonesia has no rules regulating anything related to bitcoin as a transaction. So far, the government in Indonesia has only issued public announcements about the existence of Bitcoin. Based on the principle of legal certainty, Indonesia has no broad law related to Cryptocurrency. Indonesians do not yet have a foundation on what can be done & are not allowed Bitcoin to become a virtual currency. As a result, there is no certainty and legal protection that the government offers to the general public. and the legal status of the value of virtual currencies in Indonesia is still in the area of uncertain. in Indonesia, BI explains Bitcoin, in a press announcement BI states.⁹

Taking into account Law No. 7 of 2011 concerning Currency and Law No. 23 of 1999 which was later amended several times, most recently by Law No. 6 of 2009, Bank Indonesia declares that Bitcoin and other virtual currencies are not legal currencies or means of payment in Indonesia. People are urged to be careful of Bitcoin and other virtual currencies. Any risks associated with the possession/use of Bitcoin are borne by the owner/user of Bitcoin and other virtual currencies.

According to this definition, a commodity is an item that is bought and sold in economic activity, so to determine whether Bitcoin is a commodity, it must first be determined whether Bitcoin is a good or not. A virtual object is an invisible and exclusive object. Computer programs or data qualify as digital objects that are similar in properties to real-world objects, namely:

⁶ Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana, 2005), pp. 93

⁷ Try Fajar Win Suconingrum, *Faktor-faktor yang mempengaruhi perilaku investasi bitcoin*

⁸ Dhea Nada Safa Prayitno, 2018, "Legalitas Bitcoin Sebagai Alat Pembayaran Virtual Dalam Transaksi Bisnis Di Indonesia", *Jurnal Fakultas Hukum Universitas Udayana*, Denpasar.

⁹ Pengumuman PBI N0.16/6/ Dkom, "Pernyataan Bank Indonesia Terkait Bitcoin dan Virtual Currency Lainnya"

a. Exclusive

A virtual object can only be owned by one person, each bitcoin is unique and consists of cryptographically locked computer programming code so that each bitcoin unit is different from other bitcoin units. Bitcoin can then be stored in the owner's electronic device, so it can only be owned by one person.

b. Remain

A virtual object must be fixed and not deformed, bitcoin is a series of computer programming codes that are locked with cryptographic techniques so that the programming code is protected and cannot be changed.

c. Interconnected

A virtual object must be connected so that someone other than the owner can access the object so that the owner can defend the object from others and also give the object to others, Bitcoin is in a peer-to-peer system so Bitcoin users to connect.

Based on this, it can be seen that Bitcoin as an object meets the requirements as a Thing. Objects as referred to in Articles 504, 505, and 506 of the Civil Code consist of tangible and intangible goods as well as movable and immovable goods, the division of those goods is distinguished by nature, and purpose, and is determined by Law. then the object moves because it is an object that can or can be moved. Bitcoins can be stored on electronic devices and servers and can also be easily transferred, making Bitcoin a Moving Object.

Based on the interpretation of article 34 letter a PBI no. 18/40/2016, "virtual currency" means a digital currency issued by a person other than a monetary authority and obtained by extracting, buying, or transferring rewards including Bitcoin, BlackCoin, Dash, Dogecoin, Litecoin, Namecoin, Nxt, Peercoin, Primecoin, Ripple and Ven. Electronic money is not included in the definition of virtual currency.

Judging from this definition in Indonesia, Bitcoin is classified as a virtual currency. However, the Indonesian government has not yet published clear rules for this virtual currency. In Indonesia, PT Indodax (formerly PT Bitcoin Indonesia) is the official pioneer in the sale of virtual currencies. This virtual currency can be sold through www.indodax.com website (formerly www.bitcoin.id). PT Indodax is a company that provides online marketplace services for buying and selling Bitcoin in Indonesia using Rupiah. Indodax account holders can also trade their Bitcoin for free with various other digital assets such as Ethereum, Litecoin, Dogecoin, DASH, Ripple, Stellar, XEM, NXT, and Bitshares without any discounts.

A physical Cryptocurrency trader is a party that has obtained approval from the head of Bappebti to conduct Cryptocurrency-related transactions on its behalf and/or facilitate Cryptocurrency clients. Individual cryptocurrency traders are required to report to Bappebti:

1. Daily and monthly operational reports;
2. Daily, monthly, and yearly financial reports;
3. Quarterly and annual reports on the activities of the company.

The Indonesian government has approved the use of Cryptocurrency as a commodity in futures trading. However, there are still no official rules/regulations regarding prohibitions or sanctions for people who buy and sell online using bitcoin. The author concludes that Cryptocurrency assets that are technically and practically used as commodities in futures trading in Indonesia have indeed achieved things such as commodity objects, strict regulation, application of Know Your Customer (KYC) customer identification principles, illegal practices, and money laundering. and terrorism. control. and official

document reports with the approval of the central government, as well as customer protection by the Indonesian government, in which case BAPPEBTI can improve public security by doing business on commodity futures exchanges. Chapter X of Law No. 8 of 1995 concerning the capital market, it is explained reporting and information disclosure. Bappebti in this case must provide a regulation that requires Bitcoin Cryptocurrency service providers to provide cryptocurrency user identification to bitcoin buyers or investors. The existence of the principle of information disclosure makes trading cryptocurrency bitcoin on futures exchanges safer and minimizes the risk of money laundering and terrorism financing crimes. Minimum standard capital/managing capital requirements or Cryptocurrency Providers, in this case, bitcoin, are efforts by the Indonesian government to protect the manager's liquidity, whether always on the green line or managed/secure. In the event of a dispute or criminal act that violates the rules, it can be resolved with the authority or Law at the Commodity Futures Trading Arbitration Board (BAKTI) or the District Court (PN) in Indonesia.

2. Legal Protection for Bitcoin Cryptocurrency Users in Indonesia

So far, Bitcoin has been intended as a speculative business company/sector that seeks differences in value to trade digital currencies when prices fall and make a profit by releasing them at higher prices due to fluctuations in the value of the currency. Digital currencies are changing every minute. Based on the narrative of Oscar Darmawa, CEO of Bitcoin Indonesia, in an interview with media coverage 6, Bitcoin is still developing in Indonesia. The fact that Bitcoin is an electronic product as a virtual currency in Indonesia has been a concern since the founding of the country, but so far the government has not taken steps to establish written rules for circulation and control.¹⁰

The existence of Bitcoin cryptocurrency in Indonesia has not been specifically regulated by Law, the existence of Bitcoin was announced by the government, on 6 February 2014, and the Indonesian bank announced bitcoin is not an allowed method of broadcasting. Loss of ownership or risk of using Bitcoin belongs only to users of Bitcoin and other cryptocurrencies.

To protect citizens based on security intrusions & tranquility of the impact of misuse of electronic data and electronic transactions by the government, the government is currently developing new regulations by passing a law in 2008. The Electronic Information and Transaction Law has a government function in preventing the spread and use of electronic data and/or electronic deeds that are not allowed.¹¹

Then, how is the legal protection for users of this virtual currency / Bitcoin Cryptocurrency, because there are no binding rules in Indonesia, it can be said to be a legal vacuum regarding legal protection for Cryptocurrency users. Legal protection according to Sacipto Rahardjo can be interpreted as all authority derived from regulations by prioritizing the protection of all human rights that are considered biased by other parties.¹² To prevent investors from losing money, the government began to set rules so that investors who later carried out commercial operations could run their businesses safely. In the past, cryptocurrency investment and negotiations in Indonesia were carried out in a hidden or illegal manner, with this BAPPEBTI regulation, which should ensure a legal umbrella for investors in Cryptocurrency transactions in Indonesia. Having legal protections in place can minimize losses, litigation, and criminal activity in Cryptocurrency investments. With so many fake investments luring high yields to attract potential investors, the government is always trying to update existing regulations.

According to Bappebti Regulation No. 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Cryptocurrency Market on the Futures Exchange, all Cryptocurrency

¹⁰ Media publik liputan 6, "Melihat Potensi Bitcoin di Indonesia" situs internet www.liputan6.com

¹¹ Koeswanto. Sakti, Ekka. Taufik, Muhammad. "Perindungan Hukum Terhadap Investor Yang Melakukan Investasi Virtual Currency", *Living Law journal*, Vol.09 No.01 (2017) hlm 211

¹² Satjipto, R. Ilmu Hukum, Bandung, Citra Aditya Bakti 2012. hlm53

markets must meet all the requirements regulated by the Bappebti Regulation by submitting all required files. Adhere to the principles of good corporate governance, such as prioritizing the right of futures exchange members to obtain open values and ensuring they are protected to avoid consumers from money laundering and financing against acts of terrorism and the proliferation of weapons of mass destruction.¹³

Therefore, along with the development of bitcoin in Indonesia, Indonesia regulates *Cryptocurrency* as a commodity or investment in buying and selling *Cryptocurrencies*. The Indonesian government then developed and drafted a set of rules to guide the Indonesian people to clarify how the urgency of the cryptocurrency trading interests, as well as the government recognizing the existence of bitcoin and other virtual currencies. including the establishment of the Minister of Home Affairs Policy No. 99 Of 2019 concerning the General Policy on the Implementation of Crypto Asset Futures Trading, which essentially states that "Electronic Asset Money Asset (Crypto Asset) is defined as a commodity that can be used as the subject of futures contracts traded on futures exchanges", as stipulated in Other Provisions by the Futures Commodity Supervisory Authority regulated in Bappebti regulation No.3 of 2019 and Bappebti No.5 of 2019.¹⁴

Litigation legal remedies will be carried out if the resolution of the problem through mediation and BAKTI is not reached, the parties If a settlement through mediation and BAKTI is not reached, the parties can also choose to resolve the dispute through the Consumer Dispute Resolution Agency (hereinafter referred to as BPSK) by Article 2 of this Law. 52 Law number 8 of 1999 concerning protection. consumers to whom BPSK is entitled to handle and resolve consumer disputes, by way of conciliation or arbitration or conciliation. To provide legal protection against losses suffered by investors in crypto asset transactions containing fraudulent elements by commercial organizations selling crypto assets, investor Investors can demand to resolve disputes with BPSK when the BPSK decision is final and binding.

Then, if there is a criminal element that resides in cryptocurrency investment, companies or buyers and investors of Cryptocurrency can report the crime to the authorities by reporting charges under ITE Law No. 19 of 2016, amendments to the Law. ITE No. 11 of 2008. perpetrators who have committed crimes in criminal acts involving Cryptocurrencies. The new ITE Law is the government's role in preventing the spread and use of prohibited and illegal electronic information and/or electronic archives.

According to the author, the Indonesian government, especially those involved in financial administration, namely Bank Indonesia, has banned the existence of the Bitcoin cryptocurrency as an exchange rate, so the legal protection for Bitcoin cryptocurrency holders in Indonesia is very high. Therefore, if there is a buying and selling contract and the purchase price is bitcoin virtual currency, then the contract becomes invalid because it does not meet the legal conditions of the contract regulated in Article 1320 of the Civil Code. The clause that invalidates the agreement is the "legal basis" as it prohibits the use of Bitcoin as an exchange rate. Meanwhile, the Indonesian Bitcoin cryptocurrency used as a commodity object in Indonesia is supported by the BAPPEBTI Ordinance, which states that crypto assets can be used as investment objects in Indonesia, is a legal umbrella. Thus, cryptocurrency users do not have to worry about legal protection when investing in cryptocurrencies.

Therefore, according to the author, the legal protection for Indonesian cryptocurrency users as a commodity is very clear and purposeful. However, there are no restrictions or penalties imposed on the use of virtual currencies as a substitute for the Rupiah exchange rate. Bitcoin cryptocurrency in Indonesia has thus established that Bitcoin cryptocurrency is legalized in Indonesia as a commodity or investment item.

¹³ Faisal, Keabsahan bitcoin di Indonesia sesuai hukum investasi. (Doctoral Dissertation, Universitas Pasundan 2019).

¹⁴ Watung, Tinjauan UU No. 7 Tahun 2011 Tentang Mata Uang dalam Kajian Yuridis Mengenai Keberadaan Bitcoin Dalam Lingkup Transaksi Di Indonesia. *Lex Et Societatis*, 7(10) 2010.

Conclusion

With this research, we can first conclude that it is about the legitimacy of the Bitcoin cryptocurrency in Indonesia. This was put forward by Bank Indonesia about the cryptocurrency Bitcoin as a payment method that does not allow the use and operation of payment systems. Bitcoin. Indonesia still cannot resist the circulation of Bitcoin because the risk of Bitcoin is very high, especially its high volatility. Bank Indonesia also said it is not responsible for losses caused by bitcoin or other cryptocurrencies because bitcoin itself is not a legally issued currency in Indonesia. However, Commodity Futures Regulation Order No. 5 of 2019 provides technical provisions for the implementation of the physical market for crypto assets on futures exchanges. It stipulates that the Bitcoin cryptocurrency can be used as a crypto asset traded on futures exchanges. In this case, Bitcoin is used as a commodity or investment by investors who want to own Bitcoin in Indonesia. Bitcoin is said to be limited to commodities or investment properties.

The conclusion of the next research concerns legal protection for Bitcoin cryptocurrency users in Indonesia. Therefore, we conclude that the Indonesian government has formulated a set of regulations on cryptocurrency trading, as well as guidance and clarification to the public regarding government decisions regarding the existence of Bitcoin and cryptocurrencies.

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