Legal and Criminological Analysis of Cryptocurrencies in the Iranian Legal System

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Abstract

The emergence of blockchain technology and cryptocurrencies constitutes one of the most significant economic and technological developments of recent decades, creating unprecedented challenges for national legal systems, particularly the Iranian legal system. The decentralized, cross-border, and pseudonymous nature of cryptocurrency transactions has generated substantial uncertainty regarding the determination of their legal nature, the rules governing the ownership, transfer, and exchange of these novel assets, and the appropriate criminal-law response to cryptocurrency-related offenses. Within the Iranian legal system, policymakers have adopted a dual and, at times, contradictory approach toward cryptocurrencies. On the one hand, cryptocurrency transactions have been recognized, under Central Bank regulations and a recent unifying judicial precedent, as constituting a form of "sale" and involving "property," while their use in certain foreign transactions and payments has also been accepted. On the other hand, prohibitions imposed by the Central Bank, along with periodic bans on cryptocurrency mining, have created considerable legal uncertainty. Employing a descriptive-analytical approach and a comparative method, this study examines the legal nature of cryptocurrencies under Imamī jurisprudence and Iranian law and compares it with international legal practices. It also provides a criminological analysis of criminogenic conditions and the challenges involved in combating cryptocurrency-related offenses, including money laundering, fraud, tax evasion, and terrorist financing. The findings indicate that the absence of specific legislation, the fragmentation and inconsistency of existing regulations, ambiguity concerning the competent supervisory authority, the lack of adequate guarantee and enforcement mechanisms, and the incompatibility of existing penal policies with the technical characteristics of this technology constitute the principal challenges confronting the Iranian legal system in this field. Finally, drawing on the principles governing electronic commerce law and contemporary international standards, the proposed framework emphasizes the necessity of enacting comprehensive and specific legislation, establishing a unified regulatory authority, and adopting preventive criminological approaches, including contractual and participatory models of regulation.

Keywords: Cryptocurrency, Blockchain, Legal Nature, Money Laundering, Criminology

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1. Introduction

As a general rule, the response of criminal legislators to emerging phenomena in any society tends to be highly reactive, and legislators usually become determined to formulate rules and regulatory frameworks only when the phenomenon concerned has already resulted in the infringement of citizens' rights. One such emerging phenomenon is digital cryptocurrency, which has attracted a considerable number of adherents worldwide. Many countries recognize cryptocurrencies partly as a means of countering the dominance of the US dollar in global markets; in Iran, however, conflicts with certain principles of Islamic jurisprudence and law, constitutional principles, and economic criminal regulations, together with jurisdictional disputes among numerous institutions and organizations, have created a fragmented and contentious regulatory environment.

The Central Bank, as the authority responsible for the country's monetary and foreign-exchange policies, initially issued warnings to citizens concerning cryptocurrencies. In an unexpected development, however, in January–February 2019, it formulated and publicly released requirements and regulations governing the cryptocurrency sector. Subsequently, in July 2019, the Government assigned the Ministry of Industry, Mine and Trade the task of preparing comprehensive legislation in this field.

Nevertheless, there is still no specific statute criminalizing cryptocurrency mining; accordingly, cryptocurrency mining cannot, in itself, be regarded as unlawful conduct deserving criminal punishment. Existing judicial practice, however, has focused on digital-currency mining devices, or miners, and courts have ordered their confiscation on the ground that such equipment has been smuggled into the country. Despite this situation, no responsible governmental authority has adopted an unequivocal position concerning cryptocurrencies and their mining equipment. Indeed, according to the most recent official documentation, cryptocurrency miners may be formally registered for importation with the Ministry of Industry, Mine and Trade; the Central Bank may allocate foreign currency to their importation at the NIMA exchange rate; and they may subsequently be lawfully cleared through customs and imported into the country. Thus, not only is there no absolute prohibition in this respect, but cryptocurrency-mining equipment may enter the country through lawful procedures. This circumstance illustrates the dual and contradictory approaches adopted by governmental institutions and other branches of government toward this emerging phenomenon.

From the perspective of economic criminal law, the production of digital currency may be regarded as inconsistent with monetary and banking regulations, lacking official backing, and, most importantly, as potentially providing a vehicle for money laundering. Under the three paragraphs of Article 2 of the Anti-Money Laundering Act, as amended in 2019, the definition of money laundering places particular emphasis on the proceeds of the predicate offense. In defining such proceeds and property, paragraphs (b) and (c) of Article 1 of the aforementioned Act provide that property includes every form of asset, whether tangible or intangible, movable or immovable, lawful or unlawful, as well as every form of financial benefit or privilege and all instruments evidencing a right, whether in paper or electronic form, such as commercial instruments, shares, or securities. Accordingly, recognizing globally circulating cryptocurrencies in Iran could, in practice, facilitate the concealment of predicate offenses and highly mobile proceeds in money laundering and other economic crimes.

Digital currencies are likely to assume an increasingly important role alongside, and potentially in place of, conventional paper currencies and banknotes. A specialized institution equipped with strong supervisory instruments should therefore be established under the supervision of the Central Bank, and a list of entities authorized to operate in the digital-currency sector should be formally announced. Although a final national policy concerning cryptocurrency mining has not yet been fully articulated, specialized working groups have considered both mining activities and the establishment of cryptocurrency exchange centers operating as exchanges. A particularly important issue in this field is the need for coordinated recognition by all relevant institutions—including the legislature, the Guardian Council, the Ministry of Information and Communications Technology, the Central Bank, the Ministry of Industry, Mine and Trade, the Ministry of Energy, and the Ministry of Economic Affairs and Finance—of cryptocurrency mining as an identifiable industrial activity. In this study, the author seeks to analyze the foundations of criminalization and penalization concerning conduct ancillary to and dependent upon digital cryptocurrencies, such as the smuggling of mining equipment, currency smuggling, and the unauthorized use of electricity supplied under particular tariff arrangements; to delineate the non-criminal sphere of activity in this domain; and, ultimately, to examine the tensions between permitting such activities and combating economic crimes, with particular emphasis on money laundering.

2. Conceptualization of Cryptocurrency and Related Concepts

2.1. Cryptocurrency

The first and most important task for a researcher in this field is to establish the conceptual foundation of the study before undertaking any analysis or proposing an appropriate criminal-law framework concerning cryptocurrencies. The fundamental premise of such research is that the nature of the phenomenon must first be identified; only thereafter, and on the basis of its legal nature and characteristics, can the legitimacy and scope of criminal-law intervention be addressed. In other words, criminal intervention, normative evaluation, and the proposal of an appropriate model for cryptocurrencies constitute superstructural questions. Logically, the evaluation and analysis of criminal intervention in this field must derive from prior scientific inquiry into the nature and structure of cryptocurrencies. Accordingly, unless the underlying issue—namely, what cryptocurrencies are and what legal nature they possess—is first clarified, subsequent analysis will remain largely speculative and may lead the researcher in an erroneous direction. Therefore, the present study considers it necessary to adopt a precise and explicit position at the outset. Criminal-law analysis cannot properly be based on conjecture and ambiguity when its consequences are directly connected with human liberty, criminal liability, and punishment. A scholar of punishment and criminal policy must therefore approach every new potentially criminal phenomenon cautiously and with due restraint.

Under this section, the discussion proceeds through three independent topics. First, the meaning and concept of cryptocurrencies and the possible classifications of their legal nature are examined, after which a position is adopted regarding their most appropriate characterization. Since the geographical and legal context of the present study is the Iranian legal system, it is also necessary to examine and evaluate the nature of cryptocurrencies specifically within Iranian law. This issue is therefore addressed in the second discussion. The final discussion concerns the meaning and concept of criminal-law intervention. Criminal intervention has become a relatively recent and significant term in criminal-law scholarship and encompasses a broad range of meanings; accordingly, defining the scope of this concept for purposes of the present research is also necessary. The final discussion therefore clarifies and refines the concept of criminal intervention for the reader.

2.2. Digital Cryptocurrency

Cryptocurrency, or crypto-currency, is a type of virtual currency designed through cryptographic technology and generally administered in a decentralized manner. Cryptocurrencies are typically controlled through decentralized blockchain technology and therefore stand in contrast to centralized banking systems.

Cryptocurrencies are digital assets that, through cryptographic technology and a decentralized ledger known as blockchain, make it possible to conduct secure and transparent transactions without reliance on an intermediary (Rajabi, 2018). By eliminating centralized institutions such as banks, this system establishes a peer-to-peer network in which transactions are recorded on a public ledger and verified by network nodes. The distinctive characteristics of cryptocurrencies—including decentralization, transparency, immutability of transaction records, and pseudonymity—differentiate them from traditional payment systems (Khalili-Paji & Shamlou, 2020).

The origins of cryptocurrencies can be traced to developments beginning in the 1980s. Bitcoin, the first decentralized cryptocurrency, was introduced in 2009 by an individual or group using the pseudonym Satoshi Nakamoto. Since then, numerous cryptocurrencies have been created, many of which are commonly referred to as “alternative coins” or “altcoins.” The cryptographic architecture of cryptocurrencies is designed in a manner that may substantially limit the ability of banks, governments, and other third parties to trace financial transactions. Digital currencies can function as exchangeable assets and may be used in financial transactions in a manner comparable, in certain respects, to other fiat currencies. Because cryptocurrencies are administered on a decentralized basis, they may weaken states’ ability to exercise control over the economy through mechanisms traditionally administered by central banks. While proponents of cryptocurrencies often regard this feature positively, some governments view it as a significant risk.

Furthermore, the cryptographic and pseudonymous nature of cryptocurrency-based transactions can make tracing certain transactions difficult, thereby creating, according to some critics, conditions that may facilitate the use of cryptocurrencies for money laundering (Christopher, 2014).

2.3. Economic Crimes

Economic crimes are among those categories of crime whose manifestations may in some respects be traditional but which have received increasing attention from legal scholars in recent decades. Nevertheless, no comprehensive and unequivocal definition of economic crime exists within the Iranian criminal legal system. The identification and classification of economic crimes has therefore remained an important concern of the legislature in criminal legislation.

This is because the principal rationale for criminalization in this domain is the large-scale impairment of economic security. Consequently, numerous forms of conduct occurring within economic activities may fall within the category of economic crime, thereby restricting the sphere of otherwise permissible economic activity. Contemporary criminal legal systems employ various approaches to characterizing economic crimes, including the formulation of general criteria or the express enumeration of specific offenses. The Iranian legislature, influenced by Recommendation No. 12 of the Council of Europe (1981), has generally adopted an enumerative approach to defining economic crimes in legislation. In such offenses, first, an abstract or collective victim—namely, economic security—constitutes the principal protected interest underlying criminalization; and second, in many instances, the offender may be a legal person.

The government's interest in maintaining economic order and security has resulted in a broad conception of economic crime as any act or omission that targets the foundations and economic security of the country. From the perspective of criminological theory, however, economic crimes are not wholly synonymous with financial crimes, white-collar crimes, or economic corruption, because the primary interest to be protected in economic crimes is specifically economic security. Thus, offenses such as the smuggling of goods and foreign currency; fraud involving foodstuffs, health products, cosmetics, and pharmaceuticals; embezzlement; money laundering; the receipt of commissions; and fraudulent conduct in government transactions are regarded as manifestations of economic crime, each possessing its own distinct legal foundations and constituent elements (Elham & Borhani, 2017).

It can therefore be observed that, rather than establishing a single general criterion for the characterization of economic crimes, the legislature has preferred to enumerate particular examples in order to identify criminal conduct in this sphere more concretely. Iranian criminal policy, in accordance with the principle of legality of crimes and punishments, has considered itself bound by this method and has developed the framework of economic crimes accordingly. Nevertheless, careful examination of criminal legislation demonstrates that no comprehensive definition of economic crime has yet been established.

2.4. Money Laundering

Money laundering, or the laundering of illicit proceeds, may in simple terms be defined as a process through which funds predominantly obtained by unlawful or criminal means are introduced into the formal economic system so that they acquire an apparently legitimate character (Christopher, 2014).

In the money-laundering process, proceeds derived from unlawful activities are transformed into money or wealth that appears to have been acquired through legitimate means; in this manner, "laundered money" enters the formal economy.

In many legal systems, anti-money-laundering rules are integrated with mechanisms designed to combat other forms of financial and commercial crime. The meaning of money laundering may vary across jurisdictions depending upon which underlying activities are criminalized and which proceeds are regarded as unlawful. In certain countries, proceeds derived from criminal conduct associated with drug trafficking constitute the primary focus of money-laundering offenses, whereas in others, conduct such as tax evasion may also fall within the scope of money laundering (Christopher, 2014).

Accordingly, some jurisdictions define money laundering in terms of obscuring the origin of financial resources, whereas others understand it to encompass proceeds derived from conduct that may be lawful in one jurisdiction but corrupt or unlawful in another. Certain commentators have criticized anti-money-laundering legislation on the ground that the very broad scope of anti-money-laundering activities, whether domestic or transnational, may at times resemble a financial policy doctrine rather than an operational and practically enforceable legal framework. Nevertheless, according to a 1993 United Nations report, the laundering of proceeds of crime reflects several characteristics commonly associated with organized and transnational criminality, including its international character, adaptability to changing circumstances, use of advanced technologies and specialized assistance, innovative operational methods, and access to substantial financial resources. Another characteristic should also be emphasized: the continuous pursuit of profits generated through criminal operations and the reinvestment or deployment of such resources in new fields of criminal activity.

Accordingly, money laundering may be understood as the process through which offenders and holders of unlawfully acquired assets create the appearance that the money they spend genuinely belongs to them and has been obtained through lawful means (Christopher, 2014).

Article 2 of the Anti-Money Laundering Act, as amended on January 5, 2019, provides a specific statutory definition. Under this provision, money laundering consists of:

- Acquiring, possessing, retaining, or using proceeds derived from criminal offenses with knowledge of their criminal origin.
- Converting, exchanging, or transferring proceeds for the purpose of concealing or disguising their criminal origin, with knowledge that they were obtained directly or indirectly through the commission of an offense, or assisting the perpetrator of the predicate offense in such a manner as to prevent that person from being subjected to the legal consequences of the offense.
- Concealing or disguising the origin, source, location, transfer, movement, or ownership of proceeds obtained directly or indirectly as a result of criminal conduct.

3. Analysis of the Nature of Digital Goods and Cryptocurrencies in the Iranian Legal System

As an emerging phenomenon in the financial sphere, cryptocurrencies require careful examination of their legal and economic nature. From a technical perspective, these digital assets employ advanced technologies that enable information to be securely recorded and transferred without reliance upon an intermediary (Abbasi, 2018). These characteristics have enabled cryptocurrency-based payment systems to function independently and in a decentralized manner.

From an economic perspective, extensive debate concerns the status of cryptocurrencies as money. According to established monetary theories, an asset must generally perform three principal functions in order to operate effectively as money. Although cryptocurrencies are increasingly accepted as a medium of exchange in certain contexts, substantial price volatility creates difficulties for the performance of their other monetary functions (Adrian & Mancini-Griffoli, 2021). Consequently, some commentators classify cryptocurrencies as highly volatile financial assets.

In the legal sphere, determining the legal nature of cryptocurrencies is of particular significance. In Iranian law, in the absence of explicit statutory provisions, courts and legal scholars have generally relied on the interpretation of provisions of the Civil Code. Given the legal conception of property as something possessing economic value and capable of ownership, cryptocurrencies appear to satisfy the principal requirements for characterization as property and may therefore constitute objects of ownership and transactions (Katouzian, 2011). Nevertheless, uncertainty concerning the applicability of specific legal rules to these assets remains unresolved.

Different views also exist from the perspective of Islamic jurisprudence. Some jurists have relied upon the prohibition of *gharar* to question cryptocurrency transactions on the basis of uncertainty concerning their nature and value (Roshan et al., 2019a). By contrast, others, emphasizing their recognized exchange value within society, have considered cryptocurrencies to fall within the scope of the principle of dominion or *taslit*.

Ultimately, the nature of cryptocurrencies may be understood as a complex combination of technology, economics, and law. These digital assets constitute not merely a technological innovation but also a socio-economic phenomenon capable of transforming traditional legal and economic concepts. Understanding this multidimensional nature is essential for developing appropriate policies in response to challenges such as money laundering and disruption of the economic system.

The Iranian Civil Code, enacted on May 8, 1928, specifies the conditions for the validity of transactions in Article 190 as follows:

1. Intention and consent of the parties;
2. Legal capacity of the parties;
3. The existence of a determinate subject matter of the transaction; and
4. Legitimacy of the purpose of the transaction.

Of these requirements, the first, second, and fourth do not, in principle, present inherent difficulties in relation to cryptocurrencies. The third condition referred to in Article 190, namely that the transaction must have a determinate subject matter, nevertheless requires specific analysis in relation to cryptocurrencies.

In legal terminology, the object that is bought, sold, or otherwise exchanged is referred to as the "subject matter of the transaction," as contemplated by the aforementioned provision. Furthermore, in addition to the requirement that the subject matter be determinate, Articles 214 to 216 of the Iranian Civil Code, as well as Article 348 concerning contracts of sale, establish further requirements applicable to the subject matter of a transaction.

Accordingly, something may constitute the subject matter of a transaction if: (1) it possesses economic value; (2) it entails a rationally recognized benefit; (3) its benefit is lawful; (4) it is determinate; and (5) its delivery is possible.

Therefore, if cryptocurrencies satisfy all of the foregoing requirements, they may constitute valid objects of sale, and transactions in which cryptocurrencies form the subject matter may, in principle, be regarded as valid. The foregoing requirements will therefore be examined below.

The advantages attributed to cryptocurrencies have led, in recent years, increasing numbers of individuals to enter cryptocurrency markets for the purpose of obtaining profits or investment returns, thereby transforming cryptocurrencies into widely used financial instruments. It is consequently necessary to assess this emerging phenomenon from a legal perspective. The first step in evaluating the legal dimensions of any emerging concept is to determine its legal nature and identify its position within the domestic legal system.

As previously stated, cryptocurrencies comprise numerous categories and perform different functions. Their legal characterization may therefore vary depending upon their particular characteristics and functions. For example, national cryptocurrencies, because they are issued and controlled by governments, may potentially be recognized as a form of legal currency within a country. Similarly, cryptocurrencies or tokens whose initial issuance is designed to raise capital for a business may possess a legal nature comparable to investment securities such as shares. Accordingly, the legal characterization of cryptocurrencies must be examined with regard to their predominant function within the Iranian context.

Within the Iranian legal system, one of the essential conditions for the validity and enforceability of transactions is that the subject matter constitute property or possess legally cognizable economic value. Accordingly, the first issue that must be examined is whether cryptocurrency can, in principle, be characterized as property.

Existing Iranian laws and regulations do not contain a comprehensive definition of property. Legal scholars, however, generally understand property as something that, first, is capable of ownership—that is, it can belong to a natural person, legal person, or nation—and, second, possesses economic value and is capable of satisfying a need, meaning that individuals are willing to pay money to acquire it and to exchange it among themselves. Such an object may be tangible and material or intangible in a manner that prevents its perception through the five physical senses. Since cryptocurrencies possess value for members of society and individuals are willing to pay money to acquire and own them, cryptocurrencies may legally be characterized as assets.

Considering that Article 10 of the Civil Code recognizes the principle of freedom of contract and permits individuals, subject to applicable laws and regulations, to conclude contracts of their choosing, no general legal prohibition currently prevents the purchase and sale of cryptocurrencies or the conclusion of cryptocurrency transactions in Iran, subject to compliance with other applicable laws and regulations.

As to whether cryptocurrencies may be characterized as money in Iran, it must be recognized that although cryptocurrencies may possess characteristics enabling them to function as money, they must also be recognized as such by the sovereign authority of the relevant country. Articles 2 and 3 of the Monetary and Banking Act reserve the issuance of money to the State and, specifically, place it within the competence of the Central Bank. Consequently, cryptocurrencies cannot at present be characterized as official money, particularly because the Council of Ministers' resolution of August 4, 2019 expressly provides that cryptocurrencies may not replace money in domestic transactions and that banks and authorized financial and credit institutions may not use cryptocurrencies for this purpose.

4. Conditions Governing Cryptocurrencies

4.1. Possession of Economic Value

In Islamic jurisprudence, property has been defined by the proposition *al-māl mā yubdhal bi-izā'ihi al-māl*, meaning that property is that for which property is given in exchange. Some jurists, however, have criticized this definition as circular. Accordingly, another jurisprudential formulation defines property as something that is desired by people and directly or indirectly satisfies their needs. Certain types of property, such as food and clothing, directly satisfy human needs, and their value is therefore inherent and objective. Other types do not directly satisfy a need but function as a means through which needs are satisfied; money is an example, since it does not itself directly satisfy a need but is exchanged for other goods through which needs are fulfilled and therefore possesses attributed or conventional value (Soleimanipour et al., 2017).

Legal scholars have likewise endorsed the latter approach and maintain that the criterion for determining whether something possesses exchange value is an objective and customary one. In other words, the relevant item should have an equivalent monetary value in the market. Legal scholarship emphasizes two important considerations concerning economic value. First, value results from the desire that individuals experience to acquire something, although the financial value of the subject matter of a transaction may, in some cases, exist principally between the parties themselves. Second, the subject matter should not be so trivial as to lack meaningful economic value; for example, a single grain of wheat would not ordinarily constitute an independent object of exchange (Katouzian, 2011). Contemporary jurists, in classifying *ayn* as one category of property, have also maintained that it may encompass an individually specified object, a common or undivided share, a generic object within a specified aggregate, and even a generic obligation or debt (Soleimanipour et al., 2017). It therefore follows that jurists do not necessarily confine the concept of *ayn* to physically existing tangible property. Consequently, even if cryptocurrencies are classified as incorporeal obligations or generic assets, they may nevertheless be characterized as property or as representing a proprietary asset.

In legal analysis, however, identifying the nature of cryptocurrencies requires either fitting these assets within one of the traditional categories of property recognized by the Civil Code or moving beyond conventional classifications and developing broader legal concepts. In order to determine the nature of cryptocurrencies within the legal system, two preliminary propositions and a subsequent conclusion should therefore be considered.

First, Iranian law recognizes a shareholder's interest in a company as property. Although such interests are not tangible external objects and have no independent physical manifestation, they are recognized as forms of intangible non-intellectual property or as personal rights. In this context, legal scholars maintain that the shareholder's right against the company is a personal right by virtue of which the shareholder may benefit from the company's profits in proportion to the capital contributed and, upon dissolution, may claim an appropriate share of the legal person's assets (Jafari Langroudi, 2007; Katouzian, 2011). It is also noteworthy that Article 67 of the Enforcement of Civil Judgments Act, enacted on October 23, 1977, which requires an inventory of property before seizure by the enforcement officer, expressly includes shares and securities among the assets to be inventoried. With regard to such assets, the law requires that their type, number, nominal value, and, generally, any characteristics necessary for complete identification be recorded.

Second, the concept of *ayn* should be interpreted broadly. Similar to the jurisprudential approach discussed above, *ayn* need not be confined to tangible objects. Under this broader approach, an *ayn* may be understood as any property possessing value in itself without being dependent upon another item of property—as in proprietary rights such as an easement—or upon another person's obligation—as in personal rights such as a claim—or upon an individual's idea or intellectual creation—as in intellectual property rights such as patents—regardless of whether its substance and nature are tangible or intangible (Nouri et al., 2021).

Accordingly, there is little doubt that cryptocurrencies constitute property because they satisfy two fundamental requirements: (1) they are useful and satisfy a need, whether material or non-material; and (2) they are capable of being allocated to and owned by a particular person, group, or nation (Katouzian, 2011). A further point concerning their proprietary nature is that, in light of the aforementioned provisions of the Civil Code and the Enforcement of Civil Judgments Act, together with the inherent characteristics of these assets, cryptocurrencies appear properly classifiable as movable property.

Consequently, first, being property is an intrinsic characterization, whereas possession of economic value is a contingent characteristic. Based on the foregoing analysis, there is no substantial doubt that cryptocurrencies may be characterized as property. Moreover, a comparative examination of the principles and foundations of the Civil Code demonstrates that, because cryptocurrencies are useful and satisfy at least one human need, they possess economic value. Second, they are comparable to other legally recognized intangible assets, such as shares understood as personal rights and future obligations. Third, from the perspective of transferability, cryptocurrencies may also be classified as movable property.

As the jurisprudential and legal interpretations discussed above suggest, Article 215 of the Civil Code is principally concerned with the intention of the contracting parties, and the validity of a contract is linked to their intention. Thus, even if the parties themselves attribute economic value to a particular subject matter, this may be sufficient for purposes of transactional validity (Katouzian, 2008). This, however, represents only the minimum threshold. Where an asset is regarded as economically valuable by a substantial group of persons, customary practice may independently recognize that asset as possessing economic value. Since cryptocurrencies are currently accepted and used by millions of users, it appears reasonable to conclude that they possess recognized economic value.

4.2. Possession of Rationally Recognized Utility

Possession of economic value, although necessary, is not in itself sufficient. Article 215 of the Civil Code establishes an additional requirement, namely that the subject matter of a transaction must possess a rationally recognized benefit.

Jurists and legal scholars have offered important interpretations of the requirement that the benefit associated with the subject matter be rationally recognized. One legal scholar understands this requirement broadly as encompassing financial, ethical, and non-material benefits and maintains that the usefulness arising from an obligation must be one recognized by reasonable persons (Katouzian, 2008). Another approach maintains that expressly requiring “rational benefit” has little practical significance because a transaction whose subject matter has no rationally recognized benefit is largely a theoretical possibility. In any event, two issues require examination in this context: (1) what criterion should be employed to determine whether a commodity possesses economic value? and (2) how should the concept of property be applied to virtual objects and commodities such as cryptocurrencies?

Certain prominent Islamic jurists have formulated requirements for determining whether the subject matter of a transaction possesses economic value. These requirements provide useful guidance in answering the foregoing questions (Roshan et al., 2019a; Soleimanipour et al., 2017). First, the subject matter must possess two characteristics:

1. It must be capable of providing a benefit and satisfying a need; in other words, it must be useful and capable of satisfying at least one human need, whether material or non-material.
2. It must be capable of appropriation or exclusive ownership by a particular person or persons. This means that the owner’s enjoyment and possession of the property must be exclusive in a manner that prevents others from exercising the same proprietary control, or that the property must otherwise fall within the owner’s exclusive sphere of control so that the owner’s possession excludes competing control by others.

Cryptocurrencies satisfy the first requirement because they perform multiple functions. At a minimum, cryptocurrencies currently serve as a means of storing value; other functions include use as a payment instrument, a mechanism for transferring assets, and related applications. Accordingly, cryptocurrencies possess utility and rationally recognized benefit. It should also be emphasized that although these assets exist within a virtual environment and ownership and control are manifested differently from tangible property, the mechanisms governing cryptocurrencies enable them to fall within the complete and exclusive control of one or more persons. Whether such control is tangible or intangible is immaterial. The architecture of cryptocurrencies provides a secure mechanism through which individuals may exercise exclusive control over their assets, whether held offline in personal wallets or online through passwords and individually allocated digital environments. Consequently, cryptocurrencies possess the characteristics of exclusive ownership and control, although their manifestation is intangible and occurs within a virtual environment. This is comparable, in certain respects, to electronic bank transfers, in which information representing the scope of one person’s ownership is transferred to another through an electronic banking network.

Second, reasonable persons must customarily be willing to acquire or accumulate the asset because of its benefits and characteristics. The economic utility and value of cryptocurrencies, their increasing market acceptance, and the participation of investors and major actors in the global economy support the conclusion that this requirement is satisfied.

Third, reasonable persons must be willing to provide property or money in exchange for the asset. If reasonable persons are unwilling to provide value in exchange, the item cannot meaningfully be regarded as possessing economic value. At present, however, substantial numbers of individuals are willing to exchange dollars and other assets for cryptocurrencies. Furthermore, investors and major economic enterprises have increasingly moved toward accepting such assets as payment instruments and have themselves invested in them.

The foregoing three requirements concern customary or socially recognized economic value. A fourth requirement—namely, the lawfulness of the property or the benefit derived from it—relates to its legal and jurisprudential legitimacy and will be examined in the following subsection.

It may therefore be concluded that customary economic value and legal or jurisprudential validity are distinct concepts. For an object of a transaction to qualify as property, the existence of customary economic value is sufficient. For example, one cannot logically assert that a weapon ceases to constitute property merely because certain transactions involving weapons are prohibited by law, but then becomes property when the seller obtains the necessary authorization for its possession and sale. Such a proposition would plainly be incorrect. The characterization of an object as property depends upon its recognized economic value rather than the legality of every transaction involving it. Accordingly, based on the foregoing analysis, cryptocurrencies must be regarded as possessing customary economic value.

4.3. Lawfulness

Another characteristic established by Article 215 in relation to the subject matter of transactions is that the subject matter must possess a lawful benefit. Thus, apart from the inherent characteristic of economic value, property must also be capable of rationally and legally permissible use. In this respect, some legal scholars, influenced by relatively restrictive interpretations associated with classical jurisprudence, have been reluctant to recognize these characteristics in relation to cryptocurrencies and have sought to deny the rational and lawful utility of such assets (Roshan et al., 2019b).

However, contemporary circumstances, together with jurisprudential principles such as the presumption of validity, the principle of market legitimacy, and the principle of dominion, suggest that the recognition of cryptocurrencies—following acknowledgment of their customary economic value—is more consistent with reasoned legal and jurisprudential analysis.

Numerous studies in economics, law, and commerce have examined the advantages, benefits, and constructive capacities of cryptocurrencies. Because a detailed examination of those advantages falls beyond the scope of this study and would unduly prolong the discussion, they will not be elaborated here. Nevertheless, it may generally be observed that many of the principal concerns raised regarding cryptocurrencies arise less from private-law and commercial considerations than from predictions of political and security risks. By contrast, certain economists and futurists have identified substantial benefits associated with cryptocurrencies and maintain that many of these risks can be controlled through effective supervision or are comparatively limited when weighed against the advantages of these digital assets.

Accordingly, the author maintains that, irrespective of the foregoing preliminary considerations, the requirement of lawfulness should be assessed in relation to cryptocurrencies in the same manner as for other forms of property and without predetermined negative assumptions. Under the accepted interpretation of the lawfulness requirement, not only must the subject matter itself not be inherently prohibited—as in the sale of alcohol where such a transaction is intrinsically prohibited under applicable religious law—but the benefit intended to arise from the transaction must also not itself be unlawful, as would be the case with a contract concluded for the purpose of facilitating an unlawful relationship.

Islamic law does not establish an inherent prohibition against cryptocurrencies themselves. Differences of opinion nevertheless exist among contemporary jurists regarding the benefits arising from cryptocurrency transactions. In this respect, the view that makes the permissibility of purchasing, selling, and producing digital currencies dependent upon compliance with the laws and regulations of the Islamic Republic of Iran provides a particularly pertinent approach. Such an approach is significant because cryptocurrencies are not intrinsically prohibited by Islamic law; rather, the relevant question concerns the legal status of the benefits and uses associated with particular cryptocurrency transactions. Moreover, because determining highly technical factual matters may fall outside the traditional function of the jurist, jurisprudential analysis may appropriately concentrate on identifying governing legal and religious principles while leaving specialized factual characterization to the competent regulatory institutions. A comparable approach may be observed in relation to virtual goods used in computer games, where payment for virtual items has not been regarded as inherently impermissible. This approach suggests that, where digital assets possess financial characteristics, their specific regulatory treatment should depend upon applicable law and public policy, particularly because such technologies may potentially produce advantages for the national economy.

Certain legal scholars likewise maintain that legal protection of an asset contributes to the legitimacy and legality of its ownership and transfer (Jafari Langroudi, 2007).

Accordingly, similar to the example concerning the legality of weapons transactions discussed above, the lawfulness of cryptocurrency transactions appears ultimately dependent upon the laws and regulations in force. Where the legislature or competent regulatory authorities prohibit a particular cryptocurrency-related activity, that conduct is unlawful; where no prohibition exists, the activity remains permissible and the transaction may possess the required characteristic of lawfulness. In any event, the lawfulness of a transaction is conceptually distinct from whether cryptocurrencies constitute property and possess economic value. The illegality of a particular transaction should therefore not be confused with the proprietary nature or economic value of cryptocurrency itself.

Consequently, because existing criminal and civil legislation and current regulations do not establish an inherent prohibition on cryptocurrency transactions as such, the transaction of such digital assets cannot, merely on that basis, be characterized as unlawful. In this regard, on April 21, 2021, the Central Bank of the Islamic Republic of Iran issued a notice setting out requirements governing the use of cryptocurrencies generated through domestic mining by industrial units holding operating licenses from the Ministry of Industry, Mine and Trade. Apart from the specific regulatory provisions contained in that notice, a further important conclusion may be drawn from it: regulation presupposes recognition of the underlying activity. In other words, the competent regulatory authority effectively assumes that cryptocurrencies constitute assets capable of being traded. The purpose of regulation is therefore to maintain public order and prevent potential violations and abuses within the market.

4.4. Capability of Delivery

The final condition enumerated in Article 348 of the Civil Code as a requirement for the validity of a sale is that delivery of the subject matter must be possible. Legal scholars therefore consistently identify deliverability among the conditions governing the object of sale. Delivery essentially refers to the purchaser acquiring possession or control of the object in such a manner that the purchaser is able to use and benefit from it, whether delivery is effected by the seller or possession is otherwise acquired by the purchaser (Soleimanipour et al., 2017). Importantly, where the object of sale is not a tangible external object but rather intangible property, delivery necessarily manifests itself differently. In such circumstances, it is sufficient for the asset to fall within the owner's sphere of exclusive control in such a manner that others cannot exercise dominion over it. Accordingly, no fundamental difficulty arises regarding the deliverability of cryptocurrencies, because through a series of digital processes the purchaser acquires ownership and control of the purchased cryptocurrency.

In summary:

First, being property is an intrinsic characteristic, whereas possessing economic value is a contingent characteristic. Based on the characteristics examined above, there is no substantial doubt that cryptocurrencies constitute property. A comparative analysis of the principles and foundations of the Civil Code further demonstrates that cryptocurrencies are useful, satisfy at least one human need, and are capable of appropriation and exclusive ownership; accordingly, they are both property and assets possessing economic value. Second, like other forms of intangible property accepted in the Civil Code, cryptocurrencies may be understood as intangible assets and, in certain respects, as personal rights. Moreover, cryptocurrencies satisfy the requirements applicable to the subject matter of a sale under Articles 214, 215, 216, and 348 and paragraph 3 of Article 190 of the Civil Code. Consequently, where a cryptocurrency transaction also satisfies the remaining requirements of Article 190—namely, the intention and consent of the parties, their legal capacity, and the lawfulness of the purpose—the transaction should in principle be regarded as valid. With regard to the lawfulness of cryptocurrencies, as discussed above, the relevant jurisprudential approach and comparable treatment of virtual goods support the proposition that the legality of ownership and transfer is determined primarily by applicable law and regulation. Cryptocurrencies may therefore be recognized as digital assets capable of lawful exchange between contracting parties.

5. Criminological Analysis of Cryptocurrencies

Two principal approaches to cryptocurrencies may be identified (Khalili-Paji & Shamlou, 2021). The first regards cryptocurrencies as a modern payment method that, in the not-too-distant future, may follow a trajectory comparable to that of other contemporary payment instruments because of their distinctive characteristics. Many forms of modern payment technology similarly encountered challenges at the time of their emergence but subsequently became widespread, compelling legal systems to establish regulatory frameworks for their operation.

The second approach adopts a restrictive and pessimistic view of cryptocurrencies, treating them primarily as instruments capable of facilitating crime, including the financing of terrorism, enabling sanctioned persons or states to circumvent sanctions, transferring and storing financial resources outside conventional channels, and facilitating tax evasion.

If the country's legal and legislative system were to adopt the second approach, criminal-law intervention would not only generate numerous socio-economic challenges and difficulties at the stages of criminalization, adjudication, and prosecution but could also create new criminogenic conditions. Such an approach would initially require broad criminalization of virtually all conduct associated with cryptocurrencies. In effect, the criminal justice system would need to criminalize transactions, use, storage, the establishment of mining farms, earning income through cryptocurrency activities, and other forms of conduct related to these assets. This would create an absolute or conduct-based offense under which virtually every activity connected with cryptocurrencies would become criminal. Such intervention would, first, result in the destruction or loss of substantial cryptocurrency holdings and private capital, including assets already transferred abroad. Second, it would substantially expand opportunities for the underground economy and facilitate further capital flight and the movement of national assets outside formal economic channels, ultimately imposing significant losses on the country. Third, such intervention would make the detection, prosecution, and investigation of assets belonging to professional and white-collar offenders considerably more difficult and could impede asset recovery. It could also encourage debtors, fraudsters, and other offenders to conceal their property, thereby preventing victims and even criminal justice authorities from identifying and seizing such assets. Consider, for example, an individual who has embezzled public funds and subsequently converts all of those funds into cryptocurrency. In such circumstances, first, it may be difficult for third parties to prove or disprove the existence of those assets; second, tracing, discovering, and confiscating them may become extremely difficult. From another perspective, absolute criminalization of cryptocurrencies may itself produce criminogenic effects as one of the costs and adverse consequences of excessive penal prohibition (Roustaei & Mahmoudi Janki, 2013).

On this basis, the author considers the second approach to cryptocurrencies insufficiently precise and theoretically weak. As explained in the first section, cryptocurrencies are fundamentally digital assets with multiple potential functions, and their use depends substantially upon the intentions of users. The fact that an object may perform different functions or serve as an instrument for committing crime does not, by itself, justify criminal intervention. Furthermore, it is inaccurate to characterize all cryptocurrencies as criminal tools for money laundering and similar offenses. Although certain cryptocurrencies, including Bitcoin, may present particular challenges concerning the identification of users, the proposition that all cryptocurrencies should therefore be condemned as instruments of criminal conduct constitutes an incomplete and excessively broad analysis (Rajabi, 2018).

Accordingly, acceptance of the first approach, although principally legal in character, does not eliminate the need for criminal-law analysis. Recognition of cryptocurrencies as a new category of asset may lead to new challenges and enable offenses to be committed through more sophisticated methods. The criminal justice system must therefore determine, as a preliminary matter, whether and to what extent criminal intervention is justified. Assessing whether intervention in offenses facilitated by cryptocurrencies is justified requires consideration through the framework of the "filtering theory." As explained previously, this theory requires the phenomenon under examination to pass through distinct analytical filters before a determination can be made regarding the justification or non-justification of criminal-law intervention.

5.1. Filter of Principles and Presuppositions

Based on various principles expressed in the Constitution and numerous principles and rules of Shiʿi jurisprudence, legitimate human dignity and liberty are inviolable and deserving of respect, and no person is entitled to infringe them under any pretext. Accordingly, where the criminal justice system seeks to restrict these principles in relation to an individual or group of individuals, it must provide compelling justifications and reasons for doing so.

Different philosophical and theoretical schools identify, in accordance with their respective normative orientations, principles and values capable of justifying restrictions on individual liberty. Within the Iranian criminal justice system, as explained previously, a number of principles derived from the Constitution and Shiʿi jurisprudential rules may likewise provide a basis for limiting liberty.

It should be emphasized that cryptocurrencies are not logically to be criminalized as a new form of conduct in themselves. Rather, they constitute assets that may be used as instruments in the commission of crime or may themselves become the object of violations affecting an individual's ownership and control.

Because cryptocurrencies may be connected with multiple categories of crime, the justification for criminal-law intervention cannot be based exclusively on a single common principle. If the analysis is limited to financial crimes involving cryptocurrencies, however, certain common principles may be identified. One of the most significant is the principle of prevention of harm reflected in Article 40 of the Constitution. This principle is connected with a number of jurisprudential doctrines, including the rule of *la darar* (no harm), the prohibition against the unlawful consumption of another's property, and the rule concerning deceptive inducement. The central element of many financial crimes—including money laundering, tax evasion, large-scale currency smuggling, computer fraud, and kidnapping for financial demands—is the infliction of harm upon others or upon public interests. Accordingly, where criminal conduct causes harm or damage to other persons or public interests, such harm may provide a legitimate basis for criminal intervention. Whether the specific jurisprudential basis is characterized in terms of deceptive inducement, the prohibition of harm, or the unlawful acquisition of property is of secondary importance. Offenses such as money laundering or tax evasion committed through cryptocurrencies may involve the unlawful acquisition or concealment of property and may harm public interests, thereby providing grounds for criminalization. The same applies to other offenses for which the criminal justice system has already established substantive justifications; in such cases, only the method or instrument through which the offense is committed has changed. Therefore, no entirely new theoretical justification is required for intervention merely because cryptocurrency is employed in the commission of an already criminalized offense. By contrast, genuinely new forms of cryptocurrency-related conduct—such as unregulated exchange activity, custody, production, or mining—would require renewed definition and analysis before criminal sanctions could properly be imposed.

The foregoing interpretation is also relevant to the filter of presuppositions. In relation to offenses such as money laundering and tax evasion, which may have no directly identifiable individual victim, as well as offenses involving direct victims, preventive responses alone have often been regarded as insufficient, leading legislators to resort to criminal intervention. In relation to new forms of potentially harmful cryptocurrency conduct, however, a range of preventive and anticipatory measures should first be considered, including legislative and regulatory action, the use of less severe sanctions, and the classification of certain forms of conduct as administrative violations rather than crimes. Nevertheless, the risks of currency smuggling, money laundering, fraud, and similar offenses may strengthen the justification for criminal intervention in appropriate cases.

Accordingly, as cryptocurrencies become more widespread and the methods employed in criminal activity become increasingly sophisticated, preventive measures alone are unlikely to be sufficient in relation to crimes committed through cryptocurrencies, and some degree of criminal-law intervention will remain necessary.

5.2. Filter of Functions

The most important question that the criminal justice system must answer when considering criminalization or other criminal-law intervention concerns the functions, consequences, and effects of such intervention in relation to the relevant criminal phenomenon. Ideally, the functional consequences of intervention should be examined separately for each category of crime. Given both the necessity of addressing the issue and the limited scope of the present study, however, only several important functions of criminal intervention in selected cryptocurrency-related offenses will be considered briefly.

Money laundering is among the most significant offenses that may be facilitated through cryptocurrencies. Money-laundering legislation may itself produce substantial procedural and judicial consequences, particularly where evidentiary rules effectively place a significant burden on the accused to demonstrate the lawful origin of property. Some commentators have argued that, just as certain presumptions of culpability may under specific jurisprudential doctrines prevail over the presumption of innocence—for example, in particular evidentiary circumstances involving homicide or bodily injury—the distinctive characteristics of money laundering may justify special evidentiary arrangements (Elham & Borhani, 2017). Irrespective of these concerns, the criminal justice system has criminalized money laundering, whether because of the seriousness of the phenomenon or in response to international obligations, and has deemed it deserving of penal intervention. In relation to money laundering conducted through cryptocurrencies, the relevant statutory framework likewise applies because the object of money laundering is property and because paragraph (b) of Article 1 of the Anti-Money Laundering Act, as amended in 2019, encompasses property irrespective of its particular form and, in relevant circumstances, irrespective of whether the underlying asset itself is lawful or unlawful. The principal penal function in relation to this offense is logically deterrence and intimidation, particularly because money laundering ordinarily lacks an individually identifiable direct victim.

Another offense of particular importance in the cryptocurrency context is fraud. Where cryptocurrencies expand without appropriate regulatory measures, opportunities inevitably arise for exploitative actors and offenders. Criminals may employ new and diverse fraudulent techniques to attract and appropriate both small and large investments. In such circumstances, a serious and effective response by the criminal justice system serves important functions, particularly general and specific deterrence. In relation to tax offenses, similarly, the principal function of criminal intervention appears to be increasing the cost of unlawful conduct and deterring future violations.

In offenses involving identifiable victims, such as kidnapping, extortion, and similar conduct, criminal intervention is directed not only toward deterrence but also toward vindicating victims and facilitating compensation for harm. Such crimes are frequently accompanied by substantial material and non-material injuries. Accordingly, redress for victims and the imposition of proportionate consequences upon offenders constitute important rationales and functions of criminal intervention.

6. Conclusion

Cryptocurrencies, as prominent manifestations of the digital economy and blockchain technology, possess a multilayered and complex nature. Any legal or criminal-law assessment that fails to account adequately for their technical, economic, and social characteristics is therefore likely to remain incomplete and unstable. The findings of this study demonstrate that the Iranian legal system has not adopted a coherent and consistent model in confronting this emerging phenomenon and has instead pursued a dual, fragmented, and predominantly reactive approach. On the one hand, the recognition of cryptocurrencies as assets and their treatment as permissible objects of sale in judicial practice and Central Bank regulations have created a basis for lawful transactions and uses. On the other hand, intermittent prohibitions and continuing uncertainty concerning the competent regulatory authority have created legal ambiguity and unpredictability in cryptocurrency transactions. The criminological analysis further demonstrates that decentralization, transnational operation, pseudonymity, and the practical difficulty of tracing certain cryptocurrency transactions may create criminogenic conditions in which offenses such as money laundering, fraud, tax evasion, and terrorist financing can develop. Nevertheless, the most important deficiencies of the Iranian legal system in this field do not consist solely in the absence of additional criminalization. They also include the absence of clear substantive and procedural rules, the lack of a unified regulatory body with specialized competence, weaknesses in blockchain-based tracing and identity-verification mechanisms, and inadequate coordination among executive, supervisory, and judicial institutions. These deficiencies not only diminish the effectiveness of criminal-law responses but may also undermine confidence among economic actors and contribute to capital moving outside formal markets.

From the perspective of paradigmatic development, moving beyond traditional, authority-centered regulation toward contractual and participatory approaches—an orientation also reflected in the experience of leading jurisdictions and in international instruments such as the recommendations of the Financial Action Task Force (FATF)—has become increasingly necessary. Rather than relying exclusively upon prohibition or attempting to eliminate the technology altogether, a dynamic and adaptive legal framework based on co-regulation among the State, the private sector, and self-regulatory institutions operating within the blockchain ecosystem should be developed. Such an approach would make it possible to utilize the economic and technological capacities of cryptocurrencies while simultaneously addressing potential risks and abuses through preventive, technical, and contractual mechanisms.

The ultimate conclusion of this study is that an effective response to cryptocurrencies within the Iranian legal system requires three fundamental measures. First, comprehensive and specialized legislation should be enacted that precisely defines the legal nature of cryptocurrencies and establishes coherent rules governing ownership, transactions, taxation, and civil and criminal liability. Second, a unified and specialized regulatory authority should be established with responsibility for policymaking, licensing, and continuous supervision of cryptocurrency exchanges and other market participants. Third, policy should move beyond reliance on penal sanctions alone toward preventive criminology, including the use of blockchain-based technological capacities for intelligent supervision and tracing, strengthened international cooperation, and enhanced specialized knowledge among judges and law-enforcement officers. Only through such a systematic and forward-looking reconsideration can the economic potential of this technology be utilized while simultaneously safeguarding public security and public order.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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