THE LEGAL NATURE OF BITCOIN AND ITS COMPATIBILITY WITH DIFFERENT NATURES

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Abstract
The prevalence of Bitcoin, other digital currencies, and their related technology (Blockchain), is steadily increasing. This issue has caused many people to become familiar with these currencies, participate in speculative investments and do business transactions with them. This phenomenon has been noticed not only by individuals but also by government institutions. In some cases, governments have even made commercial investments in the field while trying to establish a regulatory framework. However, before creating a legal framework, the most important thing is to know their legal nature in the legal system; Because their nature will underlie any legal framework. Therefore, in this research, we will examine this important issue.

Examining the different legal systems and considering the possible natures, we find that there are eight possible natures for Bitcoin. To determine the nature of Bitcoin, we check the compatibility of the characteristics of these natures with the characteristics of Bitcoin. These investigations found that while Bitcoin has some characteristics of each of these eight natures, none are suitable for Bitcoin, And the properties of Bitcoin cannot be fully matched to any of these natures. Therefore, a new nature should be created for Bitcoin and its likes to have all the features of this emerging phenomenon and express all aspects of its nature. Therefore, in this research, following the model of the Russian legal system, a new nature has been given to this phenomenon, which we call digital financial assets.

"Financial asset" is a new legal term used for the first time in the Russian legal system for this emerging phenomenon. This concept is expressed with another term, such as virtual assets, in the 4 FATF guidelines related to this topic. The point is that the legal systems correctly recognizing this phenomenon have given it a new nature, And they refer to it with definitions such as financial assets, digital financial assets, or virtual assets. All these expressions imply a specific concept, But the remarkable thing is that all these legal systems have considered it an asset.

Finally, we suggest that the legislative assemblies of countries take an essential step towards understanding the legal nature of this phenomenon for people, judges, lawyers, economists, and other stakeholders by identifying a new nature for this phenomenon, such as a digital financial asset that includes all its dimensions. This issue can solve many problems in this field.

Keywords: *Bitcoin, Digital Currency, Digital financial asset, Cryptocurrency, Virtual asset, Blockchain technology*

INTRODUCTION

The advancement of technology has led to the modernization of tools utilized in tandem with the expansion and globalization of trade, organized crime, and international relations. The effects of tool updating have not been previously discussed in legal systems in this manner. Bitcoin is a technological tool that has emerged in response to the globalization of exchanges, organized crimes, and international relations, owing to the progress of technology. Bitcoin was developed to conduct financial transactions over the Internet without the involvement of any intermediary party.

However, this technology also has drawbacks in addition to benefits like the quick transfer of transactions. Making policies in the economic, legal, and regulatory domains, among others, in every legal and international system is required to take advantage of this tool's benefits and prevent its drawbacks. The first step in this direction is to ascertain this new phenomenon's legal standing. Considering its nature as money, goods, or something else, it might have various economic and legal implications under different legal systems. The legal ambiguity of this new phenomenon in the eyes of the public, the legal system, and the courts has made it difficult to file lawsuits in this respect and deal with it in courts, which is one of the phenomenon's most significant issues. In nine paragraphs, we will look at the various manifestations of this phenomenon worldwide to identify its nature. All subsequent legal and economic analyses can be built on determining the nature. It is important to note that numerous articles have been written regarding this new technology. However, because the topic of its nature has not yet received much attention, some researchers have considered it money and conducted studies on this subject. Naturally, their analysis is flawed, and the outcomes are erroneous due to their failure to comprehend the nature of this technology. The current research was done to present a plan to describe the legal features of this tool. Moreover, It is the first research examining the legal nature of digital currencies.

1. Compatibility Of Bitcoin With Different Natures

Upon analyzing various legal systems, it becomes apparent that Bitcoin ownership has been universally acknowledged, and its nature has been subject to varying interpretations based on the respective legal systems. According to the Iranian legal system, any item that holds customary value (Bayat, 2017: 144 and Katouzian, 217, vol. 5, p. 206) and is subject to monetary exchange and competition among individuals (Ayatollah Hakim, 1992: vol. 1: pp. 5 & 325) and also have a rational and legitimate interest (Article 215 of the Civil Law) is deemed a form of asset. Consequently, the Iranian legal system acknowledges the proprietary worth of Bitcoin. Given this line of reasoning, it is significant to examine the legal attributes of this tool within the Iranian legal system. This article's comprehensive analysis explores nine potential natures of cryptocurrencies within legal frameworks. These natures encompass:

- Money
- Commodities (goods)
- Currency
- Virtual currency
- Intangible assets
- Securities
- Payment intermediary
- Unit of account
- Digital financial asset

1.1. Feature Of Money

Cryptocurrencies are often cited as possessing monetary characteristics, and certain nations have recognized them as a form of money. For an object to possess the qualities of money, it must exhibit three fundamental attributes of money, namely:

1. medium of exchange
2. store of value
3. unit of account

One requirement is that it must be able to accurately portray these three features to perform the role of money. However, in addition to these three qualities, sound money also needs the following extra traits to fulfill its function as sound money (i.e., money that endures longer throughout history):

1. Transferability
2. Durability
3. Divisibility
4. Uniformity
5. Recognizability (Ghorbani, 2014: 89-90)

Throughout history, everything that has been able to play the role of other characteristics correctly and more completely, in addition to having these three main characteristics, has been used longer in trade and has become more durable in history. For example, banknotes today are older than the goods used for money throughout history. With these explanations, we will examine Bitcoin.

1.1.1. Bitcoin And Money

If Bitcoin is to be used as currency, it must satisfy at least three of the five criteria for sound money and at least three other qualities of money. In the context of Bitcoin, the following properties and traits are examined:

1.1.1.1. Bitcoin As A Medium Of Exchange

Money serves as a medium of exchange, playing a crucial intermediary role in facilitating economic growth, prosperity, and increased transactional activity. (Central Bank of the European Union, 2012:12). But the question is whether Bitcoin is a tool that facilitates transactions and mediation.

Considering the historical background of Bitcoin, such as the use of Bitcoin by businessmen for transactions, charities, and whistleblowing sites such as WikiLeaks, etc., in order to receive monetary assets, it is clear that Bitcoin is a tool that acts as an intermediary in Performs transactions correctly. So that even sometimes, due to the speed of asset transfer and the absence of intermediaries, people convert their financial assets to Bitcoin to transfer from one country to another and carry out this movement and transfer of money. This technology facilitates transactions so much that financial service providers like Swift decided to update their services based on the technology used in Bitcoin to take advantage of it. According to these contents, it should be acknowledged that Bitcoin correctly plays the role of a medium of exchange, and as a result, it has the first feature among the three main features of money.

1.1.1.2. Bitcoin As A Store Of Value

Store of value is the second function that money has (out of three main features). People provide their goods and services to others in exchange for money. So that when they wanted or needed, they could receive the service or goods they needed from others instead. Of course, people expect from money that if they sell a product and receive it, in another time they can give it to others and receive the same product again(Manki, 2012: 437). This issue is related to the intrinsic value of that product, too. However, at least people expect that by converting their goods into money and the intrinsic value of the goods being fixed, the value of their money will also be preserved. (Yousfi, 1998, 85)

In the contemporary world, some money or goods are considered a more suitable means of storing value than others. The thing whose value remains constant over an extended period is considered a better means of storing value. For instance, in light of the ongoing economic conflict, gold is regarded as a more reliable means of preserving value for the future than the Rial, although this is a relative assessment. Conversely, some things cannot be considered as a store of value due to the high price fluctuation, or they are considered one of the worst tools for storing value. From 2008 to 2022, Bitcoin has undergone significant fluctuations in value within short periods. Its value began at less than $1 in 2008 and, with various fluctuations, peaked at nearly $65,000 in 2021 and then fell to $23,000. The cryptocurrency has experienced instances where its value has halved in less than 24 hours and instances where its value has increased by several thousand dollars in the same timeframe. Sometimes market analysts consider the cause of these events to be capitalists' manipulation of the free market, and they believe that pump & dump happens in the system due to the absence of a supervisory body.

The volatility observed in the valuation of Bitcoin highlights the challenges associated with preserving value in decentralized currencies in the absence of regulatory oversight. The absence of an intermediary body to monitor the market and the potential for market manipulation through pump-and-dump schemes by capitalists contribute to the extreme price fluctuations observed in these currencies. As such, it is difficult to treat these currencies as a reliable store of value, similar to traditional forms of currency. Furthermore, in the present scenario where national currency experiences fluctuations and depreciation, utilizing cryptocurrency to preserve value may not be optimal. Consequently, it can be asserted that Bitcoin lacks the second property of money, or at the very least, if acknowledged, it is an unsuitable medium for it and incapable of fulfilling the function of preserving value accurately and flawlessly.

1.1.1.3. Bitcoin As A Unit Of Account

Money serves as a unit of account for the value of goods and services, enabling their comparison and exchange. In essence, the value of goods and services is denominated in monetary terms. (Farji, 1998: 91) It is noteworthy that money can be exchanged for other forms of currency at a given conversion rate. For instance, the value of a particular fabric may be denoted as 10 dollars or 100,000 Rials per meter. Currently, a limited number of establishments prioritize valuing their merchandise and amenities solely in Bitcoins, with the majority opting to determine their pricing under the US dollar. Some company also facilitates utilizing Bitcoin as a form of payment, which is pegged to the value of the US dollar, for its clientele.

However, a group of merchants exclusively buy and sell goods and services using Bitcoin as their sole medium of exchange. In this instance, Bitcoin is regarded as the unit of value. However, due to the limited number of merchants utilizing it as a measure of value account, Bitcoin cannot be deemed a universally accepted measure of value. Nevertheless, it is plausible that with the proliferation of merchants employing Bitcoin as a measure of value, it may eventually attain the status of a measure of value.

Consequently, upon assessing the primary characteristic of currency, it can be inferred that Bitcoin solely exhibits the initial attribute of money and is presently deficient in the subsequent two attributes. While Bitcoin currently lacks the aforementioned features, it is not inherently incompatible with them and may potentially acquire them. However, this process will require a significant amount of time. Presently, Bitcoin does not meet the criteria to be classified as a form of money. However, if Bitcoin were to acquire the three fundamental attributes of money, the prospect of being recognized as such would be imminent. The inquiry pertains to the capacity of Bitcoin to effectively fulfill the function of sound money under the five fundamental attributes of sound money.

1.1.1.4. Bitcoin As Sound Money

As previously stated, money must possess five distinct characteristics to be deemed valuable and enduring and documented throughout the annals of history. If these five attributes are present, money can serve as a viable medium of exchange for an extended duration within human society. This section scrutinizes the mentioned characteristics and their compatibility with the attributes of Bitcoin.

1.1.1.4.1. The Transferability Of Bitcoin

If we evaluate Bitcoin based on its three fundamental monetary attributes, it possesses an unparalleled capacity for facilitating transfers compared to any other currency utilized thus far. Bitcoin's ability to execute transfers with exceptional speed and efficiency surpasses all other currencies, enabling it to perform its monetary functions more comprehensively and economically.

1.1.1.4.2. The Durability Of Bitcoin

The term "durable" refers to the physical resilience of an object designed to serve as a medium of exchange. The term denotes that the object resists wear and tear over time, thereby retaining its value without depreciation. According to Ghorbani (1393: 89), roasted corn cannot be deemed a reliable currency due to its susceptibility to physical deterioration. Conversely, Bitcoin's lack of physical form and complete digitization render it highly durable, making it the most resilient form of currency in its class. As such, physical durability is inconsequential in the context of Bitcoin.

1.1.1.4.3. The Divisibility Of Bitcoin

The digital nature of Bitcoin renders it more divisible than tangible objects, as it lacks a physical form and is readily accessible to individuals. Bitcoin can be subdivided into smaller units by a factor of 10 to the power of negative 8. The smallest unit of Bitcoin is commonly referred to as a satoshi[1].

[1] https://en.bitcoin.it/wiki/Satoshi_(unit)

This observation demonstrates that Bitcoin can facilitate small-scale transactions due to its high divisibility. One of the desirable attributes of sound currency is divisibility. It has been argued that no other form of currency in history has fulfilled this characteristic as effectively as the current form of money.

1.1.1.4.4. The Uniformity And Consistency Of Bitcoin

For an object to function as a medium of exchange, it must possess uniformity in quality and quantity, rendering it indistinguishable from its counterparts physically. If some money can be distinguished from its counterparts, it can no longer play the role of sound money, and people cannot feel confident about that money during transactions. According to Qurbani (2014: 90), There is a prevailing notion among individuals that all constituent elements of Bitcoin possess equal value. Currently, the same is true in the real world. However, in light of Bitcoin's structure and because all transaction records are stored in Bitcoin, it should be noted that this issue can make Bitcoins discriminate from each other. For instance, if a country says it will no longer accept bitcoins with traces of Iranians in a transaction, the consequences could surpass the existing sanctions imposed on Iran, thereby directly depriving Iranian citizens of their financial resources or rendering their currency valueless (Sadovnikova N. A, et al., 2021).

The bitcoins generated and acquired by miners are commonly referred to as "white bitcoins" due to their lack of transactional history, while the remaining bitcoins that possess a transactional history are commonly referred to as "black bitcoins." Bitcoin's technical characteristics prevent it from maintaining consistent and uniform properties, rendering it unsuitable for use as a reliable form of currency. However, it should be noted that Bitcoin is currently perceived as uniform and indistinguishable and is commonly accepted as a form of currency or a currency-like entity in contractual agreements. Nevertheless, based on its technical features, it is plausible that bitcoins may be categorized based on their transaction history, thereby compromising their monetary attributes.

1.1.1.4.5. The Recognizability Of Bitcoin

Because Bitcoin is an emerging phenomenon, people still do not know it as it is common money, do not use it in their transactions, and sometimes do not consider it a unit of account. Furthermore, if something wants to be considered money, it must be recognizable; in other words, it must have general acceptance among people. According to Qurbani (2014: 90), a crucial aspect of a currency's success is its widespread acceptance among the general population. However, Bitcoin's lack of general acceptance among people poses a challenge as individuals struggle to differentiate between it being a form of currency or a low-value asset.

Consequently, Bitcoin lacks widespread acceptance and, consequently, lacks recognition. However, It should be noted that if Bitcoin were accepted in a given country, it would be recognized. At present, Bitcoin lacks recognizability in Iran.

Regarding the findings presented in the research comparing Bitcoin to traditional currency, it has been observed that Bitcoin lacks two of the three fundamental attributes of money: store of value and unit of account. Additionally, it lacks two of the five key features of sound money, namely uniformity and recognizability of its constituents. Bitcoin possesses the potential to exhibit two primary characteristics, albeit contingent upon the passage of time and other factors. However, owing to its technical attributes, Bitcoin is precluded from attaining a uniform and identical feature.

Consequently, it can be posited that if Bitcoin were to attain the two fundamental attributes of currency and be recognized as such, its status as a durable form of currency would be short-lived. It would swiftly deteriorate and revert to its non-currency state. The non-uniformity of Bitcoin and its consequent volatility renders it unsuitable for functioning as a currency, negating its monetary nature. If Bitcoin's nature were to shift towards that of a currency, it would likely not possess the necessary characteristics to function effectively as a medium of exchange. It would likely revert to its current state without revising its underlying structure (Tam L. T, et al., 2022).

Ultimately, the analysis of Bitcoin's compatibility with the fundamental attributes of money reveals that it currently possesses 33% of these attributes and has the potential to attain the complete 100%. However, its status as sound money is limited to 50%, with the possibility of reaching a maximum of 75%. The remaining 25% is unattainable due to the uniformity of Bitcoin, rendering it incapable of achieving the status of sound money.

1.2. Bitcoin And Goods (Bitcoin Exhibits A Similarity Of 33% To 66% With Goods)

Goods refer to tangible items that satisfy human wants and needs and possess utility for individuals. Within the field of economics, it is common practice to categorize goods into various distinct types as follows (Dorlauf and Bloom, 2008: 92):

1. Consumable goods, such as meat and chicken, typically require a certain level of effort.
2. Available goods without any cost or effort on the part of individuals, including air
3. Personal goods, which encompasses items such as televisions, furniture, and wallets, which are not directly associated with food
4. Commercial goods like tractors and airplanes are tangible products manufactured and traded in the industry. (Deardorff, 2006).

In economic discourse, the term "goods" typically pertains to raw materials and primary products that can be sold. It is commonly posited that goods are tangible, except for certain intangible goods like news, typically conveyed through radio and television. It must be classified as an intangible good if we regard it as a tradable item. Given the characteristics inherent to Bitcoin and its predominant use as a medium of exchange, it is arguable that it should not be classified as a commodity or good in a broad sense. However, there are instances where the commodity aspect of Bitcoin may assume greater significance than its monetary function.

Regarding the economic definition of "goods", they are considered materials that fulfill human needs and possess utility. To be classified as goods, they must possess three essential characteristics as follow: (Some exceptions may arise in this case, for example, information)

1. They are made of material
2. They fulfill human needs
3. They possess utility for the human

Consequently, an item can be classified as a commodity (goods) if it possesses the mentioned three attributes. However, when evaluating Bitcoin against these criteria, it must be noted that Bitcoin is not material, thereby lacking the first attribute of the commodity. Concerning the second attribute, it is noteworthy to mention that there exist two distinct categories of needs, namely genuine needs and spurious needs. In fact, humans do not need anything in this case that Bitcoin wants to answer it. Someones argue that Bitcoin restores the need for trust in transactions that banks and governments traditionally did. People today need trust in transactions due to economic corruption. This view is not generally accepted. Moreover, the need that Bitcoin claims to solve is not considered a real need. Therefore, it cannot be considered a possible solution for people's needs.

About the third feature, it is necessary to acknowledge that due to the inherent advantages of Bitcoin, it is helpful for people, and this issue makes this aspect unavoidable. As a result, Bitcoin exhibits a commodity-like quality and may further demonstrate this by ignoring the necessity of fulfilling a real need. Bitcoin is sometimes considered a commodity during cryptocurrency sales, as shown by its classification in certain jurisdictions, such as Austria[2]. However, it is important to note that Bitcoin does not have the feature of a perfect commodity and cannot be classified as a commodity with absolute certainty. Instead, Bitcoin may exhibit commodity-like characteristics from 33 to 66 percent. This perspective is not universally accepted. Moreover, the need that Bitcoin purports to resolve is not considered a genuine necessity but a spurious one. Therefore, it is not advisable to regard it as a possible resolution to the people's needs.

1.3. Bitcoin And Currency (It Acts 50% Like Currency)

The term "currency" pertains to the value, price, rate, and commercial documents whose value is

[2] https://www.bmf.gv.at/steuern/kryptowaehrung_Besteuerung.html

established in foreign currencies. It refers explicitly to common foreign currencies. One of the primary characteristics of currency pertains to its valuation, which necessitates the determination of its worth in foreign currencies. Hence, converting foreign currencies into other foreign currencies at a specific exchange rate is referred to as foreign exchange transactions. (Ghorbani, 2014)

According to the definition of currency, which encompasses commercial documents, its value must be determined concerning foreign currencies. The initial step in this process involves acknowledging the legal framework governing the currency in question. Consequently, a currency must be acknowledged by a central authority or a foreign government, and its valuation to be established by the said authority. A currency must be established within a legal framework before its recognition in other legal systems. Similar to the legislation known as the Monetary and Banking Law of Iran, ratified in 1972, the recognition of foreign currencies and banknotes is limited to those the Central Bank specified. It is imperative to possess the ability to assess the worth of a currency in foreign currencies. For instance, engaging in contracts and transactions is feasible in currencies by utilizing the exchange rate of one US dollar, equivalent to eleven thousand Rials. The worth of the American dollar bill is equivalent to one dollar owing to the valuation established by the American government. The US dollar possesses an inherent value bestowed upon it by the US government, alongside an exchange value determined by various indicators compared to other foreign currencies.

Concerning Bitcoin, it is noteworthy that any governmental entity did not establish the cryptocurrency. Consequently, the absence of any inherent value attributed to it by governmental bodies and the lack of support or regulation by central banks or institutions has been observed. This factor has been identified as the primary cause of significant fluctuations in the valuation of Bitcoin. Thus, while central banks place intrinsic value on currencies and support them, there is no such support or intrinsic value for Bitcoin. Bitcoin can be exchanged for various real-world currencies at a predetermined exchange rate. Hence, due to the absence of government backing and legal recognition, Bitcoin does not meet the criteria to be classified as a currency. Like other forms of currency, it possesses an exchange rate that permits its conversion into alternative currencies and is subject to trading activities, thereby qualifying it as a currency.

1.4. Bitcoin And Pseudo-Currency

Bitcoin is commonly regarded as a pseudo-currency, as its transactional characteristics resemble those of foreign exchange transactions, despite not being classified as a currency. Certain nations classify it as a quasi-currency within their legal frameworks and accord it the same treatment as traditional currencies. The term "pseudo-currency" is attributed to this particular currency owing to its resemblance to a conventional currency, as evidenced by its exchange rate and currency-like functionality.

The Financial Crimes Enforcement Network (FinCEN) of the United States defined real money and currency in 2013. According to Fincen, these terms refer to coins or bills officially recognized as legal tender by the United States or any other country where they are in circulation. Furthermore, it is widely utilized and acknowledged as a means of transaction within the jurisdiction of its origin.

In contrast, "virtual currency" is defined as a medium of exchange that operates similarly to money in specific contexts yet lacks all of the attributes of genuine currency.

Virtual currency is not recognized as a formal currency in any legal jurisdiction. Thus, the Financial Crimes Enforcement Network of the United States regards Bitcoin's characteristics as a pseudo-currency[3]. The fact that a pseudo-currency is not considered a natural currency is noteworthy. As previously stated, Bitcoin resembles currency and commodities; however, its nature as either is not deemed appropriate.

Consequently, it is imperative to acknowledge that Bitcoin's essence ought not to be deemed as a pseudo-currency, and it is noteworthy that the terminology of virtual currency or cryptocurrency is employed to refer to Bitcoins due to leniency.

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[3] https://www.fincen.gov/resources/statutes-regulations/administrative-rulings/request-administrative-ruling-application-0

1.5. Bitcoin And Intangible Assets (50% Similarity)

Certain nations, such as France within the European Union, classify tokens as intangible assets[4] and levy direct taxes on Bitcoin based on its nature as an intangible asset[[5]. However, the matter of how tangible and intangible assets are defined and whether Bitcoin can be categorized as an intangible asset within our legal framework remains a subject considered in the following section.

1.5.1. Tangible And Intangible Assets

The accounting literature classifies assets into two distinct categories: tangible and intangible. According to this perspective, tangible assets possess objectivity, whereas assets that are intangible lack physical and tangible manifestation. To be more precise, an intangible asset is an asset that lacks physical substance, is identifiable, lacks monetary value, and is subjective. (Committee for Compilation of Accounting Standards 2006) (Master's thesis in the field of accounting, examining the relationship between the value of intangible assets and the company's value, Vali Arab Firouzjaei, Khordad 2012, p. 14)

Regarding the previously stated definition of intangible asset, any entity being regarded as an intangible asset must possess a set of distinct characteristics, namely:

1. Non-physical
2. Recognizable
3. Non-monetary

Regarding Bitcoin, it appears that only the initial characteristic is present, as Bitcoins lack recognizability, meaning they cannot be differentiated. This assertion holds validity solely for white Bitcoins, as opposed to black Bitcoins that possess recognizable characteristics. Secondly, based on the comparative analysis conducted between Bitcoin and traditional money, it can be inferred that Bitcoin shares up to 75% similarity with money in terms of its inherent characteristics. Therefore, it would be inaccurate to classify Bitcoin as non-monetary, as it often exhibits traits that closely resemble those of money. The categorization of assets into tangible and intangible financial assets is a distinct feature of non-monetary assets. Therefore, assets such as Bitcoin, which occasionally function as money and are commonly utilized in monetary transactions, should not be classified as intangible assets.

Consequently, it is not entirely accurate to classify Bitcoin as an intangible asset, as only 50% of its features align with those typically associated with intangible assets.

1.6. Bitcoin And Payment Intermediary (Like Remittance)

Occasionally, a perspective exists that regards Bitcoin as a form of payment akin to electronic, web, or perfect money. Following Iranian legislation, there exists a form of payment that is solely intended for remittance. This payment method entails an individual incurring liability to a second party, with a third party assuming responsibility for settling the debt owed by the first party to the second party. Notably, when an individual transfers $100 of Perfect Money to another individual in the same currency, no actual monetary transaction occurs between the two parties. Instead, solely an electronic document denoting the creditor from Perfect Money is exchanged between the transacting parties. Individuals can settle their accounts with Perfect Money and receive funds anytime.

The identical function is observed in the check. A check is not recognized as a nation's legal tender and is solely regarded as a directive to a financial institution to make a payment. However, the aforementioned check can be transferred to other individuals by endorsing it, thereby absolving oneself from further obligations upon transfer. Given that a check is a payment order, discounts may be applicable. However, discounts would not apply if we regard the check as a currency. As per Article 724 of the Civil Code, remittance is a contractual agreement whereby a personal claim is transferred from the debtor's responsibility to that of a third party. The contractual remittance

[4] French monetary and financial code article L. 552-2

[5] https://beaubourg-avocats.fr/en/cryptocurrency-laws-regulations-france/

agreement mandates the explicit consent of three parties, without which the agreement cannot be deemed legally binding. The remittance agreement comprises only a prerequisite and two acknowledgments, and the inclusion of a third party in the remittance process, as stipulated in Article 724 of the Civil Code, is an essential component of the remittance agreement. In essence, if an item possesses the characteristics of a transfer, such as a check, there must exist a primary party, a secondary party, and a tertiary party, who must mutually consent to the terms of the remittance agreement (Vetrova E. A, et al., 2021). Similar to a check, the act of a bank issuing a check signifies its agreement to acknowledge and fulfill the payment directive of the account holder. Consequently, for an entity to possess the characteristic of remittance, it must satisfy a minimum of two of the aforementioned conditions, namely:

1. The item can be modified.
2. A third party exists.

Bitcoin lacks both features due to its classification as a currency in transactions. Similar to the payment of traditional currency, whereby the parties mutually agree on the payment of currency from the first party to the second party, the first party is absolved of any outstanding obligation. This same principle applies to the payment of Bitcoin. Similar to how discounts hold no significance in the context of currencies, they also hold no significance in the context of Bitcoin.

A third party must be involved for a transaction to be classified as a remittance. Due to its structural design, the absence of intermediary entities in Bitcoin transactions renders it unsuitable for classification as a remittance. While it is true that Bitcoin is categorized as electronic money, it differs from other forms of electronic money, such as E-money and P-money, which share the same functional and natural characteristics as remittances. Consequently, Bitcoin cannot be classified as a form of remittance.

1.7. Bitcoin As A Security (80% Similarity)

The outstanding technical features of digital currencies, such as Bitcoin, have given rise to a novel means of fundraising in various nations. These currencies are increasingly garnering capital and advancing their development through this mechanism. The novel financial instrument, commonly referred to as an initial coin offering, is subject to distinct regulations in various nations, with some countries, including China[6], classifying it as a security due to its striking resemblance to securities. Occasionally, one may contemplate whether Bitcoin's essence embodies a digitized form of security. Consequently, it is imperative to comprehend the essence and delineation of securities within this segment, followed by an assessment of its congruence with Bitcoin.

As per Clause 24, Article 1 of the Securities Market Law ratified in 2005; securities are delineated as any form of documentation or paper that assures the transferable financial entitlements for the proprietor or their interests. The negotiable securities shall be determined and subsequently announced by the council[7].

Regarding the provided definition, securities are a category of financial instruments traded in the stock market and are subject to determination by the council. Based on the cases reviewed by this council, securities can be categorized into three broad groups:

1. Equity bonds, which may include ordinary and preferred shares, among other types, are financial instruments that represent ownership in a company.
2. Debt bonds, such as bank debt documents, bonds, and debt stocks, represent a creditor relationship between a government institution or company and its creditors. These bonds must be repaid on a predetermined date, at a specific maturity, and at a designated interest rate.
3. Derivative instruments, including futures contracts and other similar financial instruments (Represents the right of ownership that can be bought and sold voluntarily)

As per Article 1, Clause 9 of the Stock Exchange and Securities Law, the primary market is characterized as the market where the initial offering and subscription of freshly issued securities

[6] http://www.miit.gov.cn/n1146290/n4388791/c5781140/content.html
[7] Supreme Council of Stock Exchange and Securities

take place, and the proceeds obtained from the issuance of securities are furnished to the issuer.

The structure of this market and the mechanism through which the issuer receives funding from the initial offering resembles that of digital currencies. As previously mentioned, the initial coin offering (ICO) is the primary way digital currencies are introduced and distributed to the market. These offerings are typically provided to the publisher. The present configuration of the initial coin offering lacks regulatory authority, and the issuer assumes sole responsibility for its execution. Due to this rationale, corporations occasionally carry out primary coin offerings and engage in fraudulent activities.

As per the definition of securities, it is widely acknowledged across various nations that Bitcoin qualifies as a financial instrument and can be subsumed within the overarching category of securities. However, in Iran, Given that the council has not classified any forms of digital currencies as securities, it is not feasible to categorize Bitcoin within any of the three established groups and enable its inclusion in the securities market. Of the three groups under consideration, it is evident that Bitcoin cannot be classified as debt security because debt securities involve two parties in debt, whereas a single individual owns Bitcoin. Similarly, Bitcoin cannot be classified as a derivative instrument. In fact, in this case, the company's shares are divided into equal amounts, and in the initial offering, each share is given to individuals in the form of tokens or coins. However, the initial supply of coins does not fully match the shares and cannot be considered shares. Because the people who own coins do not have any share in the company, and only when the coin's value increases due to the company's activities they can sell their coins and benefit from its profit. Taking profit depends on the sale of coins. And it is necessary to say about the securities that The other side of the buyers is generally a legal entity. The securities are sent to the council on behalf of these individuals, and the council examines them and allows them to be published in the securities market; It means that individuals and their owners in society support the securities approved by the council; But Bitcoin does not have an owner in different communities and is not supported by any institution in our country; Therefore, there will be no one to offer it to the stock exchange and accept its responsibility. As a result, in the current stock market, with this approach, which any institution does not support, only capital is attracted, and the capital is not necessarily spent inside the country; Therefore, this issue renders initial coin offering devoid of positive value.

However, due to the structural similarities between Bitcoin (digital currency) and securities, the securities laws are easily compatible with Bitcoin; But due to its technical characteristics, Bitcoin requires special attention and care and cannot be classified as securities; Because no one takes responsibility for it inside the country. Furthermore, the capital resulting from this initial supply of coins is not placed with anyone inside the country. In this sense, Bitcoin is not a security; But the regulations governing it are close to those governing securities. Finally, it should be said that Bitcoin is 80% similar to securities in terms of performance; But it can never be securities.

1.8. Bitcoin As A Unit Of Account

Bitcoin digital currency is accepted as a "unit of account" in some countries. As the German Ministry of Economy has stated: Because Bitcoin is a unit of account, it can be used for commercial purposes in Germany. As a result, it can be taxed. Also, the German Ministry of Economy stated that Bitcoin could not be classified as electronic money (remittance function) or foreign currencies, but according to German banking laws, it should preferably be classified as a financial instrument and considered a type of financial instrument. Also, according to this ministry, Bitcoin is more like "private money" used in multilateral clearing areas; But it should be noted regarding what we said about money and its compatibility with Bitcoin. In this situation, the legal nature of money can never be considered for Bitcoin. Even if it meets all the conditions, due to its technical characteristics, it can never be "good money" that is not quickly removed from the economic cycle.

Therefore, it seems that the word private money is carelessness, while there is no such thing as private money defined in legal systems. Furthermore, the things that are referred to as private money mainly have the function of a means of payment (remittance), such as E-money; Therefore, they should not be considered money, in which case we return to the first term and call them financial instruments in German law; But, following what the German Ministry of Economy stated about the unit of account, and called Bitcoin a unit of account, it is for this purpose that in this way he can earn taxes from it and use it for commercial purposes; But it should be stated that first of all, the unit of account is not an essence for different things. Moreover, it should be examined under one of the functional conditions of money, which of course, we examined and believed that Bitcoin is still not used as a unit of measurement.

Secondly, having one adjective cannot correctly define Bitcoin, just as Bitcoin has some conditions and features of goods, currency, securities, and means of exchange.

Thirdly, the unit of account is an attribute used for money and something that has this attribute and other attributes is referred to as money, and the legal nature of that money is considered. However, this attribute cannot determine the nature of the object by itself, so it is necessary to ignore it.

Finally, it should be said that the nature of Bitcoin cannot be considered as a unit of account, even though it supposedly has this attribute.

1.9. Bitcoin And Digital Financial Asset

The term "digital financial asset" was not previously recognized in any legal framework before Bitcoin emerged. The Russian legal system was the first to introduce this term to the global legal community through its digital currency legislation. The term "digital financial asset" is particularly well-suited to Bitcoin and other digital currencies, as it was specifically created to capture their unique features and characteristics. As previously noted and observed, Bitcoin and other digital currencies have been acknowledged as a financial asset by all legal systems, as evidenced by the guidelines established by the FATF. The Financial Action Task Force (FATF) has acknowledged in its guidelines that virtual assets constitute a distinct form of asset and has defined their inherent characteristics. According to the legal theories of all countries and their arguments, Bitcoin is a valuable thing and is considered an asset. Of course, it is necessary to mention that the terms virtual asset or digital financial asset both refer to the same nature and express the same concept, which is a type of asset.

CONCLUSION

As we discussed, the nature of this emerging phenomenon, nature of this phenomenon cannot be considered as money, commodity, currency, virtual currency, intangible asset, means of payment (remittance), unit of account, or securities; Because although this emerging phenomenon in some cases and features is very similar to these types of natures and their functions; But due to some laws or definitions or properties of these natures, it can never find a perfect match with these natures; For example, as we explained about matching Bitcoin with money, Bitcoin can never be called money; Because if Bitcoin acquires some characteristics of money that can also be acquired (such as a unit of value), due to its technical characteristics, it can never acquire its other characteristic, that is, being the same and uniform. As a result, Bitcoin can only obtain 75% of the features of money and not more. This issue also presents different percentages in matching Bitcoin with other natures.

As a result, the best nature that can be mentioned for this emerging phenomenon is a new definition that exclusively defines this type of asset with all their characteristics and sometimes makes them similar to money, goods, currency, etc. This new idea and definition has been proposed in the Russian government's proposed legal bill on cryptocurrencies and has added a new legal nature and terminology to legal systems called "digital financial asset," which is defined as follows:

"Digital financial asset is a type of financial asset that has been digitized and created by cryptographic knowledge and tools, and the right to own this type of asset is transferred and acknowledged through a special mechanism."

This definition and its acceptance as an asset with its mechanism remove one of the important disadvantages of cryptocurrencies: the ambiguity of their legal nature. Furthermore, by the nature of solving this issue, it paves the way for solving other issues, such as economic transparency, weakening the central bank, and not creating an underground economy. Moreover, it solves the problems of judges and people in disputes raised in this field, such as tax evasion, fraud, financial and stock market issues, etc. In this regard, we suggest that the legislative assemblies take the first and most effective step to organize this emerging phenomenon by specifying the nature of these assets.

REFERENCE

[1] Bayat, F. & Bayat, Sh. (2017). A comprehensive description of civil law
[2] Katouzian, N. (2015). General Rules of Contracts, Volumes 2 and 5
[3] Ayat Allah Hakim, (1992), Nahj al-Fiqahah, 22 Bahman publications, vol. 1, pp. 5 and 325.
[4] The Civil Law of the Islamic Republic of Iran approved in 1982
[5] Yousefi, A.A. (1998), The nature of money and its jurisprudential and economic strategies" Publications of the Research Institute of Islamic Culture and Thought
[6] Ghorbani, A. (2014), money, currency, and banking
[7] Faraji, Y. (1998), Money and Currency and Banking", Publications of the Business Studies and Research Institute.
[8] The monetary and banking law of Iran approved in 1972
[9] Firouzjaei, V.A. (2012), An investigation of the relationship between the value of intangible assets and the company's value, Master's thesis in accounting, p. 14
[10]Audit Organization, Accounting Standards Development Committee, 2014
[11]Faraji, Y. (1998) Money and Currency and Banking, Publications of the Business Studies and Research Institute.
[12]Stock Exchange and Securities Law, 1966
[13]ECB. 2012. Virtual currency schemes. Frankfurt am Main: European Central Bank.
[14]https://en.bitcoin.it/wiki/Satoshi_(unit)
[15]https://www.bmf.gv.at/steuern/kryptowaehrung_Besteuerung.html
[16]http://www.jordantimes.com/news/local/central-bank-warns-against-using-bitcoin
[17]Hébert, R. F., Steven N. Durlauf, and Lawrence E. Blume. "Leroy-Beaulieu, Pierre-Paul (1843-1916)." The New Palgrave Dictionary of Economics 5 (2008): 92.
[18]Alan V. Deardorff, 2006. Terms Of Trade: Glossary of International Economics, World Scientific. Online version: Deardorffs' Glossary of International Economics
[19]Kelly, B. (2014). The Bitcoin Big Bang: How alternative currencies are about to change the world. John Wiley & Sons.
[20]https://www.fincen.gov/resources/statutes-regulations/administrative-rulings/request-administrative-ruling-application-0
[21]French Monetary and financial code article L. 552-2
[22]https://beaubourg-avocats.fr/en/cryptocurrency-laws-regulations-france
[23]https://www.bafin.de/SharedDocs/Downloads/DE/Merkblatt/WA/dl_hinweisschreiben_einordnung_ICOs.pdf?__blob=publicationFile&v=2
[24]http://www.miit.gov.cn/n1146290/n4388791/c5781140/content.html
[25]Federal Financial Supervisory Authority (BaFin) https://Cnbc.com/id/100971898
[26]https://roem.ru/wp-content/uploads/2018/01/373645.7.25012018.373645.7.pdf
[27]https://www.fatf-gafi.org/en/publications/Virtualassets/Virtual-assets.html
[28]Mankiw, N. Gregory (2012). Essentials of Economics. Cengage Learning. p. 437. ISBN 1133418945. Retrieved 2 January 2017.
[29]Vetrova, E. A., Kabanova, E. E., Maslikov, V. A., Bogacheva, T. V., & Kubasova, E. I. (2021). Impact of the financial and economic activities of university on its development. *Journal of Advanced Pharmacy Education and Research, 11*(4), 59-67.
[30]Sadovnikova, N. A., Lebedinskaya, O. G., Bezrukov, A. V., & Davletshina, L. A. (2021). The indicator system of regional socio-economic situation based on harmonized information resources. *Journal of Advanced Pharmacy Education and Research, 11*(1), 147-155.
[31]Tam, L. T., An, H. T. T., Linh, T. K., Nhung, L. T. H., Ha, T. N. V., Huy, P. Q., & Luc, P. T. (2022). Value Co-Creation Activities of Students on The Covid-19 Pandemic: Empirical Evidence from Economics Students in Vietnam. *Journal of Organizational Behavior Research, 7*(2), 214-228.