

DOI: <https://doi.org/10.31933/unesrev.v6i4>

Received: 25 June 2024, Revised: 13 July 2024, Publish: 17 July 2024

<https://creativecommons.org/licenses/by/4.0/>

## The Urgency of Legal Reform for the Legality of Digital Currency in Indonesia

Agus Joko Lelono<sup>1</sup>, Mohamad Tohari<sup>2</sup>, Hono Sejati<sup>3</sup>

<sup>1</sup> Universitas Darul Ulum Islamic Centre Sudirman GUPPI, Indonesia

Email: [joko\\_kkmb@yahoo.com](mailto:joko_kkmb@yahoo.com)

<sup>2</sup> Universitas Darul Ulum Islamic Centre Sudirman GUPPI, Indonesia

Email: [mohamadtohari.undaris@gmail.com](mailto:mohamadtohari.undaris@gmail.com)

<sup>3</sup> Universitas Darul Ulum Islamic Centre Sudirman GUPPI, Indonesia

Email: [sejatihono@gmail.com](mailto:sejatihono@gmail.com)

Corresponding Author: [joko\\_kkmb@yahoo.com](mailto:joko_kkmb@yahoo.com)

**Abstract:** The purpose of this study is to explore the understanding and analyze the legal updates regarding the validity of money as a transaction tool in Indonesia and to understand and analyze the validity of electronic money used as an intermediary for electronic transactions. The method used in this study is normative legal research with a focus on legislation, applying qualitative descriptive data analysis techniques. The research results indicate that money serves several functions, including as a medium of exchange, store of value, unit of account, and deferred payment measure. The use of Indonesian Rupiah is regulated by several laws, including Emergency Law No. 20 of 1951, Currency Law, and Bank Indonesia Law. The validity of electronic money is regulated by Bank Indonesia Regulation No. 11/12/PBI/2009 concerning Electronic Money or Non-Cash Money (E-money). The purpose of this regulation is to encourage society to transition from using cash to non-cash or E-money. Electronic money is one type of non-cash payment instrument, along with paper-based payment instruments such as checks and promissory notes, as well as paperless payment instruments such as electronic fund transfers and card payments such as ATMs, credit cards, debit cards, and prepaid cards. These non-cash payments do not use physical money as a payment instrument but rely on innovations in electronic payments.

**Keyword:** Transaction Tools; Money; Legality of Electronic Money

### INTRODUCTION

The globalization era has brought advancements in various fields, including technology, which significantly impact society's lives. The effects of these changes can be both negative and positive, dynamically affecting economic, social, political, and cultural aspects. In this context, the use of money as a means of payment has become a necessity for every individual. Money, which has undergone various processes to be recognized as a valid medium of exchange, is an innovation that replaces the barter system in buying and selling

transactions. Although the barter system has been largely abandoned, in some remote areas, it persists as an alternative transaction method, especially in places that have not been reached by the everyday use of money.

In Indonesia, the use of money as a means of payment has evolved since ancient times. Before the emergence of money, society used the barter system, exchanging goods directly with equivalent value, to conduct transactions. However, this system often resulted in unfair exchanges, which subsequently prompted its replacement with the use of money. In 1946, the Indonesian government issued the currency known as ORI, or Oeang Republik Indonesia, in response to the Netherland Indisch Civil Administration's (NICA) plan to issue its own currency to consolidate national sovereignty.

Until now, money has become a daily means of payment in society. Based on Law Number 7 of 2011 concerning Currency, money is defined as an intermediary of transactions with primary legal status. Money now serves not only as a medium for buying and selling transactions but also as a means of payment in debt agreements, indicating its integral role in daily economic activities.[1] Money not only serves as a medium of exchange and payment but also is used to measure individual wealth and is often used as a benchmark in lending and debt repayment. As a valid means of payment, money enables the valuation of goods or services in specific amounts, such as thousands, hundreds of thousands, or even millions. From a theoretical perspective, money is categorized into two main types: narrow money and broad money.[2] In a narrower definition, money is considered a medium of exchange with the highest value or price compared to other mediums of exchange. Meanwhile, in a broader sense, money is interpreted as a means of storing value, including in the form of savings and time deposits.

Rapid technological development has brought changes in many aspects of life, including altering what is considered valid in financial transactions. Indonesia, as a developing country, strives not to be left behind by developed countries in developing the information, technology, and industrial sectors to advance its society. Innovations, particularly in the financial sector, have created new methods of payment and transactions, one of which is the use of electronic money or e-money. Formerly, the majority of financial transactions used cash as the recognized means of payment, but now, with the presence of e-money, it is expected to facilitate and accelerate the transaction process. The digital era has introduced the concept of non-cash money, which in electronic form is recognized as a valid transaction tool. However, the emergence of various issues related to the validity of electronic money necessitates further research on its legal status as a transaction tool in Indonesia. Therefore, this research will focus on the assessment of the validity of conventional and electronic money in the context of financial transactions in Indonesia. In the framework of this research, the title to be addressed is "The Urgency of Legal Renewal on the Validity of Digital Currency in Indonesia."

## **METHOD**

This study is a type of normative legal research. In his book, Mukti Fajar ND states that placing the structure of normative systems in legal studies includes aspects of legislative regulations, ranging from legal foundations to legal norms existing within a regulation.[3] Pasek Diantha explains that normative legal regulations play an important role in addressing voids, confusion, or conflicts between norms within a regulation, which can then serve as the basis for legal argumentation.[4] The research approach applied is legislative analysis, which, according to Peter Mahmud Marzuki, involves investigating regulations related to the legal issues under study, especially regarding the legality of electronic money usage.[5] It also utilizes the approach of legal concept analysis, referring to the principles, concepts, and doctrines of legal experts that are relevant to the researched problem. The journal also

employs qualitative descriptive analysis in compiling the results of legal materials exploration, both primary and secondary legal materials that have been obtained, to then be systematically organized..

## **RESULT AND DISCUSSION**

### **The Validity of Money as a Transaction Tool in Indonesia**

In daily activities, there is a need for a medium that can be universally accepted as a means of exchange, known as money. The presence of money plays a crucial role in all aspects of life, including in the economic structure of a country. Money has become an integral part of people's daily lives, and this has a significant impact on a country's economic system. As a medium of exchange and payment, money becomes a primary indicator of its existence within the economic structure. Its presence is vital in people's lives, enabling access to goods, services, and other needs.[6] Money has two main forms, namely narrow money and broad money. In narrow terms, money is divided into currency and demand deposits. Currency, commonly referred to as physical currency, is money in the form of paper or metal issued by the government, usually through the country's central bank. Meanwhile, demand deposits are a type of money recorded in securities or bonds issued by commercial banks. In broad terms, money is divided into savings and time deposits, both of which are held in bank accounts. Savings are funds deposited by individuals in financial institutions such as banks, managed in the form of savings accounts. Meanwhile, time deposits are funds deposited by the public as customers in certain financial institutions, also in the form of deposit accounts.[7]

Overall, money plays a role in several functions, including as a standard of value, a medium of exchange, a tool for deferring payments, and a legitimate means of storage.[8] The advancement of this money transaction tool's evolution has created innovations that simplify and streamline the trading process of goods and services.[9] Looking at the practical aspect of money, it can easily demonstrate the value of a commodity.[10] Before the introduction of the monetary system, ancient times knew a traditional payment system known as barter, where people exchanged goods or services to obtain what they needed. However, with the increasing complexity of societal needs, the barter system began to fade away. The diverse needs made it difficult to reach agreements in exchanging goods, prompting the search for payment or transaction solutions that could be widely accepted by everyone, not just in specific areas. Therefore, the monetary system was found as an alternative quickly accepted by society to replace the ancient barter system. Although the barter system is part of our ancestral heritage, it has begun to fade in society for several reasons. One of them is its inconsistency with the dynamic and practical nature of modern life, the difficulty in finding suitable needs to exchange, the challenge in reaching agreements, the difference in value between goods and services to be exchanged, and the difficulty in establishing standard prices for products and services.[11]

Money plays a crucial role in the economic system, facilitating the trade of goods and services within and beyond borders. At every stage of this process, from production to marketing and promotion, money is essential. For instance, in the production stage, money is required to acquire raw materials, while marketing and distribution need funds for operational expenses and labor wages. Similarly, promotion requires funds to cover advertising costs or celebrity endorsements. Consequently, the role of money in trade significantly affects a country's economic conditions. Money is one of the most influential innovations in human life today, and its importance is undeniable.

Moreover, legal regulations governing the use of money are crucial to its existence in modern life. The Currency Law's Article 1, paragraph 1, states the Rupiah as Indonesia's official currency. According to Article 2, paragraph 2, of the Bank Indonesia Law, every

Rupiah used in transactions in Indonesia must have a distinct mark indicating its value and authenticity. The Rupiah can be in the form of paper or metal, and Bank Indonesia is responsible for regulating and maintaining the payment system's smoothness. Therefore, based on historical and theoretical studies of money and legal regulations, such as the Currency Law and Bank Indonesia Law, using the Rupiah in Indonesia for daily activities is legitimate.

### **The Urgency of Legal Reform for the Legality of Digital Currency in Indonesia**

Legal reform or law reform is not just about making changes, growth, corrections, reviews, replacements, or deletions of provisions and legal principles in the laws applicable in a legal system. More than that, legal reform is defined as the soul of law aimed at improving, making it fairer, beneficial, and providing legal certainty within the relevant legal system.[12] Humans, known as social beings (*zoon politicon*), have rights and obligations carried out collectively with other individuals in daily life. Laws and regulations made by the government aim to regulate and ensure the protection of rights and obligations for all citizens. The principle of "Indonesia is a state based on law" stated in Article 1 Paragraph (3) of the 1945 Constitution emphasizes the importance of the legal system in creating order and harmony in societal life.

However, sometimes the law lags behind the rapid changes in society. The application of the law often faces challenges from the development of society itself, which poses problems for the government in drafting laws as a tool for protecting against social changes or developments. In this context, the law plays a role as an instrument for shaping evolving societies, in line with the concept of "law as a tool of social engineering" advocated by Roscoe Pound in the United States.[13] Pound's thinking pays more attention to the reality of the law rather than its role and function in society. The emphasized reality of the law is the public's desire, thus not only viewing the law in the form of statutory writings.

Furthermore, in the context of Indonesia, there is a legal development theory proposed by Prof. Dr. Mochtar Kusumaatmadja, S.H., LL.M., which is influenced by the ideas of Herold D. Laswell and Myres S. Mc Dougal (policy approach) with additional legal thoughts from Roscoe Pound (by reducing its mechanical concept).[14] Mochtar Kusumaatmadja transforms the concept of law as a tool into law that functions as an instrument for building a society according to its needs and desires. Thus, the formal value and existence of the law do not only come from interests or power but also originate from the society itself. The essence of law lies in its role in providing certainty, utility, and justice amidst society.

Although Indonesia adheres to a positivist paradigm, ideally, the goals of law such as utility, justice, and certainty should be reflected in regulations governing society's life. Law is seen as the result of the state in the form of legislation, although in reality, law should also reflect the aspirations and needs of society.[15] Legal progressivism is based on several key assumptions, such as: (1) Law has the purpose of serving humanity, not for its existence, (2) Law is always in the process of creation and is not final, and (3) Law is an institution morally responsible for humanity, not just a technological tool devoid of morality. According to Satjipto Rahardjo's view, law is not a static scheme but always changing and adapting to the dynamics of human life. Therefore, the law should be continuously investigated and renewed through a progressive approach to achieve better truth and justice.[16] Regulations regarding valid means of payment in Indonesia are governed by Law Number 7 of 2011 concerning Currency (Currency Law). Article 1 Number 2 of the Currency Law states that "Money is a valid means of payment," while Article 1 Number 1 of the Currency Law establishes that the valid currency in Indonesia is the Rupiah. Article 21 Paragraph (1) of the Currency Law emphasizes the obligation to use Rupiah in every payment transaction, settlement

of obligations, or other financial transactions in the territory of the Unitary State of the Republic of Indonesia.

The rapid development of information and communication technology today is driving the advancement of electronic money systems to facilitate transactions in trade and other activities. There are two types of electronic money issued by financial institutions, both banks and non-banks, namely server-based and chip-based, which have been authorized by the relevant authorities by regulations. The Indonesian government has planned to initiate and promote the use of non-cash money transactions, following practices in other countries. In the economic world, there are two types of transactions, namely cash and non-cash, which are distinguished based on the payment instruments used. Cash transactions use paper and metal money, while non-cash transactions utilize electronic money. In Indonesia, there are various types of electronic money, such as server-based and chip-based. Server-based e-money has a maximum balance limit and requires the user's data, while Chip-Based E-money does not require identity data or PIN in transactions, and its maximum balance is limited.[17] Found in daily life, examples of Chip-Based electronic money include "BCA Flazz, Mandiri e-money, and BRIZZI."

On August 14, 2014, the Central Bank of Indonesia initiated a movement known as the National Non-Cash Movement (GNNT). This movement aims to encourage the use of non-cash money in transactions and payments made by the public. The program is in line with the provisions of Article 1 paragraph 3 of Bank Indonesia Regulation Number 11/12/PBI/2009 concerning Electronic Money (e-money): Electronic money (e-money) is a payment method that meets several criteria, namely:[18] a. its value is based on money that has been deposited in advance by the holder to the issuer; b. the value of the money is stored electronically in media such as servers or chips; c. used as a means of payment to merchants who are not the issuer of the e-money; and d. the value of the electronic money deposited by the holder and managed by the issuer is not considered as deposits as regulated by banking laws. This regulation aims to stimulate the transition of society from using cash to non-cash or e-money. It is also intended to optimize Bank Indonesia's expenditures in producing and managing the circulation of cash through this program. In addition, the program aims to reduce the administrative burden that has been the responsibility of the government, including Bank Indonesia, in sorting, counting, distributing, and storing cash. Generally, the security aspect of using e-money is far superior to cash. However, e-money also has its drawbacks, namely that not everyone accepts e-money as a valid means of payment, unlike cash which is accepted by all parties. This is due to certain groups that are still reluctant to accept e-money in transactions for various reasons.[19]

Bank Indonesia claims, by regulations that have been issued, that the amount of money deposited to the issuer, the electronic storage of the value of the money on a certain server, the use of the value of the money to carry out payment transactions, and the nature of the value of the money deposited by the holder, are not considered deposits. according to the Banking Law. Electronic money is a transaction tool that has the flexibility to be used in various types of transactions (multi-purposed), in contrast to prepaid cards which only have one transaction function (single-purposed prepaid card). Modern developments have caused people to become increasingly interested in and switch to more efficient and effective transaction methods, such as electronic money. Electronic money is present as a solution to the problem of micropayments, it is hoped that it can be processed quickly, cheaply, and efficiently because the accessibility of the value of money stored in electronic media can be accessed quickly through an offline system that has adequate and guaranteed security.

Electronic money emerged as a response to the problems that arise in the use of cash, especially in payments of large nominal amounts. The existence of electronic money will make it easier for people to carry out financial transactions without the need to use cash.[20]

Electronic money has different characteristics compared to other non-cash payment methods. Electronic money is a form of money value that is stored or deposited (stored value) commonly referred to as a prepaid product, where the amount of money owned by consumers is stored through the electronic storage device they own. With the availability of electronic money which allows people to carry out several transactions like cash, this provides a comparable level of protection. This protection, which is aimed at electronic money owners or holders, has been regulated in statutory regulations issued by Bank Indonesia. The aim is to make people more confident in using electronic money in their payments, which in turn supports monetary stability and makes Bank Indonesia's job easier. One of the steps taken is to issue regulations for financial institutions that run electronic money programs. Apart from that, Bank Indonesia also imposes limits on nominal deposits in one electronic money account and applies the principle of "knowing your customer principles" or the principle of getting to know your customer in providing credit. This aims to prevent attempts at money laundering and funding acts of terrorism through electronic money accounts.[21]

Cryptocurrency is a digital currency system that serves as a standard currency for digital payments in business activities. The term "Cryptocurrency" refers to a system that utilizes cryptography to secure the data exchange process and decentralized digital token transactions. Cryptocurrency is an alternative to traditional storage systems that rely on third parties, such as companies that print electronic money. Similar to gold mining, the journey of Cryptocurrency begins with discovery, where the results of mining can be exchanged for conventional currency according to the country where the Cryptocurrency is used. Cryptocurrency mining results are often used as investment instruments, such as shares and gold, as well as a means of electronic commercial transactions, such as in gaming applications and social media.[22]

In Indonesia, digital currencies have attracted attention from both users and regulators. Legal updates related to digital currencies, especially cryptocurrencies, have been a major focus in recent years. Bank Indonesia (BI), as the central bank, has emphasized that digital currencies such as Bitcoin are not legal means of payment in Indonesia. This is stipulated in Bank Indonesia regulations that all transactions and provision of payment services in Indonesia must use Rupiah. However, investment and trading in digital currencies is not prohibited but is strictly regulated.

In the realm of capital market regulation, the Financial Services Authority (OJK) is actively establishing clear boundaries and guidelines for the utilization and trading of digital currencies as investment assets. In early 2022, the OJK issued a formal caution to the public concerning the high risks associated with crypto investments and the lack of comprehensive regulations governing digital currency as an investment instrument. Nevertheless, they also announced ongoing efforts to develop detailed regulations aimed at safeguarding investors and ensuring financial system stability.

To address this issue, the government is formulating a comprehensive roadmap for financial technology regulation, including digital currency, aimed at fostering a supportive environment for fintech growth while effectively managing associated risks. This roadmap encompasses broader frameworks encompassing supervision, consumer protection, anti-money laundering (AML), and combating the financing of terrorism (CFT).

Additionally, the emergence of Digital Banks and similar digital platforms has prompted discussions about the future of digital currency in Indonesia. The Central Bank (BI) has unveiled plans to introduce a central bank digital currency (CBDC) known as the Digital Rupiah, aiming to bolster payment system efficiency, promote financial inclusion, and mitigate risks linked with unofficial digital currencies. The introduction of the Digital Rupiah is poised to significantly reshape Indonesia's digital payment landscape.

## CONCLUSION

In Indonesia, the use of the Rupiah as a daily transaction tool is supported by a series of laws, including Emergency Law No. 20 of 1951, the Currency Law, and the Bank Indonesia Law. The regulation regarding the legality of payment instruments in Indonesia is governed by Law Number 7 of 2011 concerning Currency (Currency Law). Article 1 number 2 of the Currency Law asserts that money is a legitimate payment instrument, with the Rupiah as the currency valid in Indonesia as stipulated in Article 1 number 1 of the Currency Law. Article 21 paragraph (1) of the Currency Law establishes the obligation to use the Rupiah in payment transactions, financial obligation settlements, and other financial transactions within the territory of Indonesia. Electronic money is a form of money value stored in electronic storage devices, based on the stored value or prepaid principle, where the amount of money owned by consumers is stored through such devices. Although electronic money is a new payment method, society is expected to quickly adopt it while still using the Rupiah. Electronic money is expected to simplify and enhance transaction efficiency while maintaining the validity of the Rupiah as a legitimate transaction tool. Furthermore, before enacting new regulations, the government should consider existing regulations to avoid ambiguity or doubt. Consistency in regulation-making is also important to observe.

## REFERENCES

- Nababan, Keisya Naomi Natalia. "Tinjauan Legalitas Transaksi Bitcoin Di Indonesia." *Jurist-Diction* 2, No.5 (2019): 1745-1764.
- Juhro Solikin M, Syarifuddin Ferry, S. A. (2020). *Ekonomi Moneter Islam Suatu Pengantar* (1st ed.). PT. Raja Grafindo Persada.
- ND, Mukti Fajar dan Yulianto Achmad. *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta, Pustaka Pelajar, 2013), 34.
- Pasek, Diantha I Made. *Metodologi Penelitian Hukum Normatif*, (Jakarta, Prenada Media Group, 2017), 12.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. (Jakarta, Kencana Prenada Media Group, 2010), 93.
- Aulia, Mulvi. (2021). Uang Elektronik, Uang Digital (Cryptocurrency) Dan Fatwa Dsn-Mui No.116 Tentang Uang Elektronik. *Al-Mizan: Jurnal Hukum Dan Ekonomi Islam*, 5(1), 15–32. <https://doi.org/10.33511/almizan.v5n1.15-32>.
- Pardede, Aprilda Rosita. "Legalitas Pembayaran Menggunakan Uang Elektronik Asingwechat Pay Di Indonesia." *Jisip (Jurnal Ilmu Sosial Dan Pendidikan)* 3, No.3 (2019): 1-17.
- Supramana. (2014). *Hukum Uang di Indonesia*. Gramata Publishing.
- Warsito, O. L. D., & Robiyanto, R. (2020). Analisis Volatilitas Cryptocurrency, Emas, Dollar, Dan Indeks Harga Saham (Ihsg). *International Journal of Social Science and Business*, 4(1), 40–46. <https://doi.org/10.23887/ijssb.v4i1.23887>.
- Rahman, S. F. H. S. A. (2019). Regulating Digital Currency: Taming the Unruly. *Islamic Finance Law and Practice in Malaysia*, 265–280. <https://doi.org/10.1108/978-1-78973-545-120191021>.
- Vanani, Alvin Baharudin, and Dedi Suselo. "Analisis Legal Tender Uang Digital Bank Sentral Indonesia." *JAE: Jurnal Akuntansi Dan Ekonomi* 6, no. 3 (2021): 74–83. <https://doi.org/10.29407/jae.v6i3.16225>.
- Prasetyo, Teguh. 2017. *Buku Pembaharuan Hukum Perspektif Teori Keadilan Bermartabat*. Malang: Setara Press.
- Fuadi, Munir. 2013. *Teori-Teori Besar (Grand Theory) Dalam Hukum*. Jakarta: Kencana.
- Sidharta. 2006. *Karakteristik Penalaran Hukum Dalam Konteks Ke-Indonesiaan*. Jakarta: CV. Utomo.

- Raharjo, Satjipto. 2009. *Penegakan Hukum: Suatu Tinjauan Sosiologis*. Yogyakarta: Genta Publishing.
- Rahardjo, Satjipto. 2010. *Penegakan Hukum Progresif*. Jakarta: Kompas.
- Shovkhalov, S., & Idrisov, H. (2021). Economic and Legal Analysis of Cryptocurrency: Scientific Views from Russia and the Muslim World. *Laws*, 10(2), 32. <https://doi.org/10.3390/laws10020032>.
- Peraturan Bank Indonesia Nomor 11/12/PBI/2009 tentang Uang Elektronik (Electronic Money), Pasal 1 ayat 3.
- Salsabila, Sekar Salma, And Adi Sulistiyono. "Urgensi Dikeluarkannya Peraturan Bank Indonesia Nomor 20/6/Pbi/2018 Tentang Uang Elektronik (*E-money*) Sebagai Alat Pembayaran." *Jurnal Privat Law* 7, No.2 (2019): 289-294.
- Romadhoni, Ridwan, and Dona Budi Kharisma. "Aspek Hukum Kontrak Elektronik (E-Contract) Dalam Transaksi E-Commerce Yang Menggunakan Bitcoin Sebagai Alat Pembayaran." *Jurnal Privat Law* 7, No.1 (2019): 49-54.
- Ilmi, Khuribatul. *Analisis Kedudukan Bitcoin Sebagai Mata Uang Elektronik (Studi Komparatif Hukum Positif Indonesia Dan Hukum Islam)*. Diss. University Of Muhammadiyah Malang, (2019): 1-78.
- Yuneline, M. H. (2019). Analysis of cryptocurrency's characteristics in four perspectives. *Journal of Asian Business and Economic Studies*, 26(2), 206–219. <https://doi.org/10.1108/jabes-12-2018-0107>.