
LEGAL AMBIGUITY IN HANDLING CRYPTOCURRENCY EVIDENCE: CHALLENGES AND SOLUTIONS

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Abstract

This study explores the legal ambiguities and challenges in handling cryptocurrency evidence in criminal cases, particularly in Indonesia. Cryptocurrencies, with their decentralized and anonymous nature, are increasingly being used in illegal activities such as money laundering, fraud, and drug trafficking. The absence of clear regulations on the legal status and treatment of cryptocurrencies as evidence creates significant hurdles for law enforcement, including difficulties in seizure, identification of owners, and admissibility in court. By employing a qualitative approach with descriptive analysis, the study analyzed legal frameworks, conducted interviews with legal experts, and reviewed cases involving cryptocurrencies. Findings highlight the need for clear regulations defining the legal status of cryptocurrencies, structured training programs for law enforcement on blockchain technology, and international cooperation to address cross-border challenges. The study offers actionable recommendations, including legal reform, capacity building, and enhanced international collaboration, aiming to improve governance and ensure justice in cases involving cryptocurrency evidence.

Keywords: Ambiguity, Cryptocurrency, Handling of Evidence

INTRODUCTION

In recent years, the use of cryptocurrencies has increased rapidly, both in the context of investment and as a means of payment. According to a Chainalysis report, approximately 0.34% of all cryptocurrency transactions in 2021 were related to illegal activities, indicating the potential for abuse in this digital world (Chainalysis, 2022). Cryptocurrencies, with their characteristics of decentralization and anonymity, are often used in drug dealing, fraud, and money laundering. For example, the infamous Silk Road case, where Bitcoin was used as a tool for illegal transactions, reflects how cryptocurrencies can facilitate criminal activities (Nita, 2024).

Evidence is a crucial element in law enforcement, as without strong evidence, criminal cases are difficult to prove in court. In the context of cryptocurrencies, challenges arise due to the digital nature and inherent anonymity of these assets. Law enforcement must be able to identify, seize, and manage cryptocurrency evidence, which requires a deep understanding of blockchain technology and digital transaction mechanisms (Rani et al., 2021). A study shows that less than 10% of money laundering cases involving cryptocurrencies are successfully prosecuted, largely due to a lack of admissible evidence in court (Habiburrahman et al., 2022).

Legal ambiguity regarding the status and treatment of cryptocurrencies as evidence adds complexity to law enforcement. In Indonesia, there are no clear regulations regarding how cryptocurrencies should be treated in the context of criminal law, leading to confusion among law enforcement and lawyers (Thistanti et al., 2022). For example, can cryptocurrencies be considered assets, money or goods? This ambiguity often results in difficulties in seizing and managing evidence, as well as challenges in proving it in court (Arwono et al., 2023).

The main challenges in handling cryptocurrency evidence include unclear regulations, difficulties in owner identification, and complicated seizure processes. Law enforcement often lacks the tools or knowledge to track cryptocurrency transactions, which can occur

anonymously and across borders (Darojat et al., 2023). Furthermore, many countries do not have an adequate legal framework to regulate the use and confiscation of cryptocurrencies, further complicating the law enforcement process (Cadizza & Yusandy, 2021). To address these challenges, it is important to develop clearer and more comprehensive regulations on cryptocurrencies. This includes a precise definition of the legal status of cryptocurrencies and clear guidelines for law enforcement in handling digital evidence. In addition, capacity building and training for law enforcement officials on blockchain technology and how to track cryptocurrency transactions is necessary (Rikmadani, 2021). International cooperation should also be enhanced to handle cross-border cases involving cryptocurrencies, given the global nature of these digital assets (Ogunmola et al., 2024).

This research aims to identify and analyze legal ambiguities in the handling of cryptocurrency evidence. By understanding the various ambiguities that exist, it is hoped that appropriate solutions can be found to improve the existing legal framework. This research also looked at how these ambiguities affect the law enforcement process and the outcome of cases involving cryptocurrencies. Through analyzing several concrete cases, this research explored how legal ambiguity affects the outcomes of various cases involving cryptocurrencies. By examining these cases, it is expected to find patterns or trends that can provide deeper insights into the challenges faced by law enforcement. This analysis also includes the impact of court decisions on the legal treatment of cryptocurrency as evidence. By considering the existing challenges, it is hoped that this research can provide concrete and workable recommendations to improve the effectiveness of law enforcement in the context of cryptocurrencies. These solutions include drafting clearer regulations, increasing the capacity of law enforcement officers, and developing international cooperation.

RESEARCH METHOD

The methodology used in this research was a qualitative approach with descriptive analysis. Data were collected through a literature study, including a review of existing laws, scientific journals, and relevant research reports. In addition, interviews with legal experts and law enforcement were conducted to gain a deeper perspective on the challenges and solutions in handling cryptocurrency evidence. Data analysis was conducted by identifying patterns that emerged from the collected data and formulating conclusions based on the findings. This research was expected to provide useful recommendations for policymakers, law enforcement, and academics in understanding and addressing the legal ambiguities that exist in the handling of cryptocurrency evidence.

RESULT AND DISCUSSION

Cryptocurrency is a form of digital currency that uses cryptographic technology for security, making it difficult to counterfeit. It serves as a medium of exchange that allows direct transactions without intermediaries, such as banks. In a broader sense, cryptocurrencies can be defined as digital units created and managed through blockchain technology, which is a distributed ledger that stores transaction records in a secure and transparent manner (Rani et al., 2021). In a legal context, the definition of cryptocurrency is important as it relates to the regulation and legal treatment of these digital assets. In Indonesia, Bank Indonesia has issued a statement that cryptocurrency is not a legal tender, but rather a tradable commodity (Cadizza & Yusandy, 2021). This creates ambiguity in the legal handling of cryptocurrencies, especially in the context of confiscation and evidence management in criminal cases involving cryptocurrencies. Statistics show that the use of cryptocurrencies in Indonesia continues to increase. According to data from the Indonesian Blockchain Association, the number of cryptocurrency users in Indonesia reached more than 7 million people in 2022, a significant increase compared to the previous year (Sumanto, 2024). This increase not only shows the

popularity of cryptocurrencies, but also highlights the challenges faced in law enforcement related to transactions that may violate the law.

One of the main characteristics of cryptocurrencies is decentralization. Unlike traditional currencies that are managed by central banks, cryptocurrencies operate in a distributed network that has no central authority. This allows users to make transactions directly with each other without intermediaries (Arwono et al., 2023). This decentralization gives users freedom, but it also creates challenges for law enforcement in tracking suspicious transactions. Statistics show that more than 60% of cryptocurrency transactions are conducted outside the supervision of traditional financial institutions, which makes it difficult to regulate (Thistanti et al., 2022). A relevant case example is the use of Bitcoin in illegal transactions on the dark web, where law enforcement struggles to identify perpetrators and prevent crimes (Taleby Ahvanooy et al., 2022). This decentralization poses a challenge for the law to adapt the existing regulatory framework.

Another characteristic of cryptocurrencies is the high degree of anonymity. Although all transactions are recorded on the blockchain, the identity of the user is often not revealed. This provides protection for users but also facilitates illegal activities such as money laundering and terrorism financing (Nurcholis et al., 2021). According to a report from Transparency International, about 25% of all cryptocurrency transactions are related to illegal activities (Gabriella, 2023). A clear example of this problem is the case of Silk Road, an online black market that used Bitcoin as a means of payment. Although authorities eventually managed to shut down the site, many transactions remained undetected due to the anonymity offered by cryptocurrencies (Naibaho, 2022). This suggests the need for stricter regulation to address this issue.

The volatility of cryptocurrency value is another important characteristic that affects its use. The value of cryptocurrencies can fluctuate drastically in a short period of time, which can affect investment decisions and use as a means of payment (Ghorbel & Jeribi, 2021). For example, the price of Bitcoin can change by up to 20% in a single day, which makes it a high-risk investment instrument. Statistics show that in 2021, Bitcoin experienced a price spike from around \$30,000 to almost \$65,000 in less than six months. These fluctuations not only affect investors, but also pose challenges for law enforcement in determining the value of cryptocurrency assets seized in criminal cases. This points to the need for the development of a legal framework that can accommodate these unique characteristics.

In Indonesia, cryptocurrency regulation is still in the developmental stage. Although Bank Indonesia has issued a statement that cryptocurrencies are not legal tender, the Financial Services Authority (OJK) has regulated cryptocurrency trading as a commodity (Handicha, 2020). This regulation includes provisions on the registration and supervision of cryptocurrency exchanges, but there are still loopholes that can be exploited by criminals. According to data from the Indonesian Blockchain Association, by 2023, there will be more than 300 cryptocurrency exchanges registered in Indonesia, but only a fraction of them actually comply with existing regulations. This suggests that while regulations exist, their implementation is still weak and requires stricter oversight.

In the context of law enforcement, the legal framework applicable to cryptocurrency evidence is ambiguous. Law No. 8/2010 on the Prevention and Eradication of Money Laundering (TPPU) does not specifically regulate cryptocurrencies, creating difficulties in the confiscation and management of these digital assets. In addition, the absence of a clear definition of the legal status of cryptocurrencies makes it difficult to be treated as evidence in legal proceedings.

Legal Ambiguity in the Handling of Cryptocurrency Evidence

In a legal context, evidence is anything that can be used to prove a fact in the judicial process. According to Article 184 of the Criminal Procedure Code (KUHAP), evidence can be in the form of documents, witness statements, and other relevant objects. However, with the rise of cryptocurrencies, this definition has become blurred. Cryptocurrencies, which are digital assets using blockchain technology, have no clear physical form and are often considered “data” rather than “things”. This creates challenges for law enforcement officials in classifying cryptocurrencies as legitimate evidence.

The legal status of cryptocurrency in Indonesia is still a matter of debate. Although Bank Indonesia has issued a regulation prohibiting the use of cryptocurrency as a means of payment, there is no clear regulation regarding its status as an asset or evidence in the context of criminal law. This makes law enforcement of cases involving cryptocurrencies more complicated. For example, in money laundering cases involving Bitcoin, lawyers often argue that Bitcoin cannot be considered as evidence because there are no specific regulations governing it. This creates a legal loophole that criminals can exploit. According to research by Sam et al. (2022), the lack of clear regulations regarding cryptocurrencies could potentially hamper law enforcement efforts in cases of money laundering and other cybercrimes.

Challenges in Seizure and Management

Cryptocurrency seizure involves a much more complicated process compared to conventional evidence. Cryptocurrencies are stored in digital wallets that can be accessed through private keys. Without these keys, seizure becomes impossible. This creates a huge challenge for law enforcement officials who may not have sufficient knowledge of blockchain technology and how cryptocurrencies work. A study by Rani et al. (2021) shows that many law enforcement officers in Indonesia still struggle to understand the mechanism of digital asset confiscation. In addition, the legal process that must be gone through to obtain a confiscation license from the court can also be time-consuming, allowing criminals to divert their assets before confiscation takes place.

Identifying the owners of cryptocurrencies is also a challenge. Cryptocurrency transactions are anonymous, making it difficult to trace who actually owns the asset. Although some cryptocurrency exchange platforms implement Know Your Customer (KYC) procedures, many users are still able to make transactions anonymously by using private wallets. Statistics show that more than 40% of cryptocurrency transactions are made anonymously, which shows how difficult it is for authorities to identify the real owner Chainalysis (2022). This makes law enforcement increasingly complex, especially in cases involving money laundering and fraud.

Several legal cases in Indonesia show the impact of legal ambiguity in the handling of cryptocurrencies. For example, in the case of investment fraud involving Bitcoin, the perpetrators managed to trick thousands of people by promising high returns in the absence of clear regulations regarding cryptocurrency investment. As a result, many victims were unable to recover their money due to the difficulty in tracing the lost assets. In other cases, law enforcement officials have had difficulty seizing digital assets linked to money laundering offenses. The lack of clarity regarding the legal status of cryptocurrency as evidence has hampered the confiscation process.

Efforts to protect the public are carried out by the government, namely by forming the Commodity Futures Trading Supervisory Agency, hereinafter referred to as Bappebti. Bappebti is a supporting element of the Ministry of Trade of the Republic of Indonesia is a government agency whose main task is to provide guidance, regulation, development, and supervision of Futures Trading Institutions that provide protection to Crypto Asset Customers from possible losses from crypto asset trading. Facilitate innovation, growth, and development of crypto asset physical trading business activities in Indonesia. However, for crypto assets that are currently

regulated and traded under the supervision of BAPPEBTI, there are only 545 crypto assets (Bappebti Kementerian Perdagangan, 2024). However, what about the number of Commodity Futures Trading using cryptocurrencies that are abroad, does the law in Indonesia reach protection for the people who make these transactions.

While it is certain that there are many more companies or crypto assets being traded that are not registered with Bappebti. This can be seen from the efforts made by the Ministry of Trade through the Commodity Futures Trading Supervisory Agency to block a number of websites suspected of raising funds through illegal investment offers: 6,504 Illegal Commodity Futures trading websites and under the guise of Commodity Futures Trading 62 Ponzi schemes/money games under the guise of Crypto Asset Trading including 1,114 Crypto Asset Physical Traders who are not registered/licensed by Bappebti Kementerian Perdagangan (2024).

Legal ambiguity regarding cryptocurrencies not only affects the legal process, but also impacts public confidence in the justice system. Uncertainty regarding the legal status of cryptocurrencies causes many people to hesitate to report crimes involving digital assets. This creates an environment where criminals feel freer to commit illegal acts without fear of legal consequences. For example, a report by Utami & Astuti (2022) shows that many money laundering cases involving cryptocurrencies go unreported because victims feel there is no recourse to justice. This points to the need for legal reforms that can provide clarity and certainty for all parties involved in cryptocurrency transactions.

In today's digital era, blockchain technology is the foundation of cryptocurrency. However, limited understanding of this technology among law enforcement officials hinders the effectiveness of law enforcement. According to a report from Chainalysis (2022), about 80% of all cryptocurrency transactions cannot be traced by authorities due to a lack of knowledge about how blockchain works. This suggests that many law enforcement officials lack the capacity to understand and analyze data related to cryptocurrency transactions, making it difficult to gather evidence needed for criminal cases. This limitation also results in difficulties in strategizing effective investigations. For example, in money laundering cases involving Bitcoin, many investigators are unable to identify the transaction path, resulting in the loss of potential evidence (Rani et al., 2021). In this context, it is important to increase the understanding of blockchain technology among law enforcement officials so that they can more effectively handle cases involving cryptocurrencies.

In addition to the lack of understanding, there are also limitations in the training provided to law enforcement officials regarding the handling of cases involving cryptocurrencies. According to research conducted by Handicha (2020), many law enforcement agencies in Indonesia do not have specific training programs on cryptocurrency and blockchain technology. This results in their inability to keep up with the ever-changing and complex technology. Inadequate training can lead to errors in evidence handling, including how digital assets are seized and managed. In some cases, seized cryptocurrency evidence cannot be used in court due to improper procedures (Utami & Astuti, 2022). Therefore, it is important for the government and relevant agencies to develop a comprehensive training program so that law enforcement officers can effectively handle cases involving cryptocurrencies.

Cryptocurrencies are global in nature, and transactions can be made across countries without geographical restrictions. This creates major challenges in law enforcement, especially with regard to jurisdiction. For example, when investment fraud involving cryptocurrencies occurs, it is often the case that the perpetrators operate from a different country to the one where the victim is located (Nita, 2024). This complicates law enforcement efforts as each country has different laws and regulations regarding cryptocurrencies. For example, in fraud cases involving cryptocurrency trading platforms based overseas, Indonesian authorities often struggle to take legal action due to a lack of international cooperation and extradition treaties

(Darojat et al., 2023). This unclear jurisdiction is an obstacle for law enforcement officials to investigate and prosecute criminals using cryptocurrencies.

International cooperation is crucial in handling cases involving cryptocurrencies. However, at present, cooperation between countries is still very limited. According to a report from UNODC, only 30% of countries have effective cooperation in handling cybercrime and money laundering through cryptocurrency (UNODC, 2022). This creates gaps in global law enforcement, where criminals can easily escape legal responsibility. One obvious example is the “PlusToken” case, where the platform defrauded investors in various countries, including Indonesia. Despite efforts to enforce the law, the lack of cooperation between the countries involved makes the process complicated and time-consuming. Therefore, it is important to build stronger international cooperation, including the exchange of information and best practices, to improve the effectiveness of law enforcement against crimes involving cryptocurrencies.

Potential Solutions

In facing legal challenges related to cryptocurrency, it is important to develop clearer and more comprehensive regulations. Legal reform, bureaucratic reform, law enforcement reform are urgent in order to crack down on this crime. Existing regulations often do not cover all aspects related to cryptocurrencies, creating room for ambiguity. For example, in Indonesia, cryptocurrency regulations are still under development, and many parties feel that the existing regulations are not sufficient to effectively regulate cryptocurrency transactions and usage (Sam et al., 2022). Based on research conducted by Rani et al. (2021), there is an urgent need to clarify the definition of cryptocurrency in a legal context so that it can be used as valid evidence in legal proceedings. With clearer regulations, it is expected to reduce confusion among law enforcement officials and the public.

In addition to the preparation of new regulations, adjustments to existing laws are also very important. For example, criminal law governing money laundering needs to be adjusted to include practices involving cryptocurrency. This is important considering the decentralized nature of cryptocurrency which makes it difficult to track and regulate (Arwono et al., 2023). This legal adjustment can be done through revisions to existing laws, such as Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering, to be more relevant to current developments in technology and digital transactions (Utami & Astuti, 2022).

To overcome the challenges faced in handling cryptocurrency evidence, it is important to improve the capacity and knowledge of law enforcement officers through structured training programs. Many law enforcement officers still do not understand blockchain technology and how cryptocurrency works, which can hinder the investigation and law enforcement process (Handicha, 2020). This training program should involve information technology and legal experts so that law enforcement officers can understand and apply this knowledge in practice. For example, training on how to seize digital assets and how to track cryptocurrency transactions can be very helpful in increasing the effectiveness of law enforcement.

Collaboration with technology experts and academics is also needed to strengthen the handling of cases involving cryptocurrency. By involving experts, law enforcement officers can gain deeper insight and understanding of the latest developments in blockchain technology and cryptocurrency. This is in line with research by Aziz et al. (2021) which shows that multidisciplinary collaboration can increase the effectiveness of law enforcement against crimes involving advanced technology. For example, collaboration with universities or research institutions can produce in-depth studies on the legality and legal implications of the use of cryptocurrency. Building cooperation between countries in handling cryptocurrency cases is very much needed considering the global nature of cryptocurrency, international

cooperation is very important in handling cases involving cross-border transactions. Many cases of crime using cryptocurrency involve perpetrators from various countries, so effective law enforcement requires coordination between countries (Darojat et al., 2023). In this case, Indonesia needs to collaborate with other countries to share information and best practices in handling cryptocurrency cases. For example, collaboration with countries that are more advanced in cryptocurrency regulation, such as the United States and Europe, can provide valuable insights for Indonesia in developing more effective policies.

Exchange of information and best practices between countries can also help in combating crimes involving cryptocurrencies. Through international forums and bilateral agreements, countries can share data and experiences in handling cases involving cryptocurrencies. This is important to create a more coordinated and effective approach to law enforcement. According to research by Nurcholis et al. (2021), this exchange of information can help law enforcement officers track suspicious transactions and identify perpetrators more quickly. In addition, international cooperation networks can strengthen the capacity of countries to deal with challenges arising from rapid technological developments.

CONCLUSION

Proper handling of cryptocurrency evidence is essential to ensure fairness in the legal process. Without clear procedures and a thorough understanding of cryptocurrency, law enforcement can be hampered, and criminals can avoid accountability. The current legal ambiguity can have a negative impact on law enforcement. The lack of clarity regarding the legal status of cryptocurrency, as well as challenges in confiscation and management, can make it difficult to bring perpetrators to justice and obtain justice for victims. Legal reforms that support the handling of cryptocurrency need to be carried out to create a clear legal framework. More comprehensive regulations will help law enforcement officials handle cryptocurrency evidence more effectively. Further research is needed to dig deeper into the legal issues related to cryptocurrency. Public policies must also be updated to reflect technological developments and the need to protect the public from crimes that use cryptocurrency as a tool.

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