

## Jurisprudence of Electronic Money in the Economic System of the Country

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**Abstract:** Money and electronic moneys is one of the new and emerging issues that knowing it's what and how is a necessity in today's world because knowing what it is and it's consistent with the jurisprudence and legal issues is the important issue in Islamic economic world. Right and update understanding on this subject and knowledge to the legislator comment in order to achieve the objectives of Islamic economics is an important effective step. In this study, after a brief definition of money and electronic money and its history the jurisprudence issues are discussed that are applied on this new (electronic and written money). Sentences such as being property of electronic money and also having equivalent and precious, guarantee of electronic money, Zakat belong to this issue and its buy and sell. In conclusion expressed the view that as electronic money is accounted property and has characteristics of similarly property and is also guaranteed, Zakat is not entitled to it and in terms of contemporary scholars it is permissible to buy and sell.

**Key words:** e-Money, economic, jurisprudence, scholar, property, sell

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### INTRODUCTION

Protection of religion and the teachings of the inmate of prophet is depends on its serious presence in the individual and social life. Category of electronic money is one of the new topics that it's consistent with the jurisprudence and legal issue is the important issue in Islamic economic world. Imagine the today world without a variety of money is impossible and hard. This is the question that what the money from the view of word, Species and economy of youth.

Kinds of money engender with what criterion during the history and what is the electronic money in the present age? What is the effect of electronic money prevalence on the economy of the society and have what the juridical impacts (Amin, 1998; Abedi *et al.*, 2012a, b).

Is the electronic money has worth in jurisprudence opinion or not? If having equivalent and precious? Whether in the form of equivalent is it the gavel? Is entitled Zakat to this money? Finally is it permissible to buy and sell? It is considered the expression of specific criteria for it's consistent with the new requirements of today world and answering to these questions.

### MATERIALS AND METHODS

**The definition of money:** It should be noted that the definitions have been proposed for money, most of these prefer the duties description of money to its definition and even total duties have been considered as a kind of

definition of official money (legal). For example, Aristotle considers money as an intermediate of exchange, evaluation unit, values storage.

**Doctor Harlan M. Smith:** Money can be anything that use as exchange handle and usually accepted by the people and finally money is the commodity (metal or study) with special sign that relevant to aspects of human mental and it is an adjustment for transactions, determinant the value of goods and services, a store of value for future consumption, an agent for subscription settlement and finally it is a communicative unit to portray the government's monetary and fiscal policy which reveals in the symbol prices (Afari, 1997). With these explanations can be emphasis that it is the legal money of a country that can used as an exchange device and accept public handle and have the unlimited and exclusive economic power.

**Barter or cambium exchange:** In the olden times, treatments and exchanges were used as the barter, it means that the commodities in the society interchange together. With the rise of a division of labor and specialization, need to exchange more than ago and shape the barter exchanges. This business and transactions accomplish as the exchange, means simultaneously with the sale of goods, other items purchase; so before emerge the money, trade accomplish in the shape of direct barter

**Coin- metal money:** Selection one or more commodities as a measure of value, although, to some extent, facilitates

the exchange, It could not eliminate some of the basic problems of trade transactions; because some of the goods were chosen as a means of evaluation as time went decomposing and removing and was not possible storing them for a long time (Esfahani, 1901; Bojnoordi, 2009). Saving them need to a vast places, because of having the great volume and also transfusion them often be difficulty.

These problems caused the man to follow object as the unit of value for money that have not these difficulties. Gold and silver are acceptable in the world and are more prevalent. They have high lamination possibility and they could be used for thin small coins and because of their value is intrinsic with crushed and divided into smaller pieces, their value will not disappear. They have a great flexibility and can be poured them into various molds and make the different form for them. It is also possible to engraved each stamp and writing on them.

**Paper money of banknote (bankroll by gold, silver):** After commodity money, especially with the introduction of metallic money, money changers, due to maintenance problems and stealing money at home, they take the money from businessmen and families and instead of these were paid a paper as the money receipt to owners.

This is the first spark in emersion of paper money (Shahroodi and Mahmoud, 1995; Bojnoordi, 2009; Najafi, 1988). Receipt holder could transact with this receipt and confer to moneychangers could delivered his metal money. In this this situation, the study money has full support. Money changers understand that customers take their money in given form such as an specific ratio of the total moneys and their receipt twirl in hands such as a medium of exchange (money).

Receipts exporter were committed when these receipts returned to them instead of these immediately deliver their gold or silver. Thus, the receipts were used as “convertible banknote to the metal”. These banknotes which were backed by gold or silver, called representative money.

**Written money:** Written money or credit money imply to the sum of the remaining customer accounts of banks and other institutions which are transmissible from an account to other accounts with check or other equipment. In other word, written money is same current and credit account of individuals and Institutions that hold on the banks and owners can take it as the banknote shape or transmit to other account with his name or others.

The Origin of written money is individuals volition and bank funds, therefore a part of the publishing written money is through the opening of the current account by

individuals or institutions in banks and other part of this is the credits that banks provides to customers and also they hold it on their current account. Today the written money had been replaced the study money. Some examples of written money are as following.

**Credit cards:** Credit cards are the convenience Supersession for carrying money and cheque. These cards also provide the possibility of long run payment. These cards included the credit cards bank, travel cards and private cards for retail. Holders of such cards can purchase from all adopters that have contract with banks and receive cash from all banks.

**Debit cards: (electronic transmission of financial resources):** Debit cards provide the buying possibility for the bank customers through the simultaneity transmission of money from the customer accounts to seller accounts. In this way, for the processing, first purser pass the card from the card reader and then give the keyboard to the customer. The customer confirms the transaction and enter number of his personal PIN to be entered so deal immediately confirm and transfer deal amount from the customer account to the seller.

**Electronic money (e-Cash):** E the latest systems practiced. In this system, customers and traders are able to transfer their required money to cheaper and better than any bank system to each other. This process is not only changed the financial activities of customer but also will be changed the basis of entire financial systems and even governments.

Despite the e-Cash, there are no needs to carrying the banknotes and instead of this, it is possible that convey a plastic card as the credit card with the electronic memory and buy everything that we want to purchase (Helli and Yousef, 1988).

**What is the electronic money?** Since, the electronic money is still in the primary stages of progress, there is not unit definition of electronic money and different persons present the different definition of electronic money. The European society described the electronic money in the draft of his protocol as follow:

- On an electronic piece is stored such as a chip or computer memory
- It is accepted as a device to pay for people subscription except the exporter institution
- It is created to this purpose that counts as an electronic substitute for the coins and bills
- It is created to the electronic transfer of funds and payment with limited value

Adviser of consumer affairs of federal reserve America, describe the electronic money as. It is the money that electronically moved and turn and can present as the smart card or pouch of electronic money or card that value stored on these. It also can use in the sale terminals or without the interference of any other person and directly use to the person by person and also can be moved through the telephone lines toward banks or other exporter (electronic money).

**Propagation of electronic money:** Electronic money can present the variety spectrum of new services and has changed the way that people could pay the price of goods before. But it seems that the products of electronic money still have not been able to understand the public opinion and electronic money at least has moved ahead of the customer demand in the present time and it is due to some of the special issues and problems of electronic money such as: security of private sanctum and etc. Thus, the development and progress of the electronic money invention and also use it thereof create the some problems in the regulator rules of electronic money include. Finding the acceptable methods to identify, support of information, coordination and preparing the necessities with the legal rules and the necessary requirements for solving the difference.

**Results of spread of using the electronic money:** The publication of electronic money with regard to its special features, will widely affect the other markets and economic variables. Electronic money will help to more exchange efficiency through the several ways. Since, the cost of electronic money transfusion by the internet is cheaper than the traditional banking system, therefore the electronic money can make cheaper the exchanges (Zarabie *et al.*, 2008).

For the traditional transfer of money must be hold the custom banks, branches, employees, automatic purser devices and many electronic exchange systems that burden costs of all these have created a part of money transfusion wage and credit card payments. While cost of electronic money transfer is very low due to the use of the Internet network and personal computer of users and perhaps be close to zero. Internet knows no boundaries and electronic money is without border.

So cost of electronic money transfer inside a country is correspond with its transmission between different countries, therefore high present cost of transmission will significantly decreased inside a specific country. Funds of electronic money potentially can be used by any person that access to internet and internet bank.

## RESULTS AND DISCUSSION

**Jurisprudence issues electronic money:** Is the electronic money an emerging phenomenon or unmerging? One of things that help us to identification of current money is answer to this question that whether the current money is an economically emerging phenomenon and it is different whit money of Islam outset or has no difference with money of Islam outset and does like the gold and silver of and is not considered as the emerging phenomenon.

Of course there is a question that what is the criterion and scale of the subject and emerging phenomenon. Persons that have research around the emerging subjects not introduced the criterion and scale of emerging phenomenon.

Some scholars believe that: the phenomenon that is issue of jurisprudence and don't exist in the Islam outset is considered as emerging phenomenon. Some of researchers express the current money as a justification for the emerging. Apparently the best the criterion and scale by simplest expression is same that these scholars have said. So the electronic money is taken into account as emerging phenomena.

**Being property of electronic money:** Is the electronic money a property and jurisprudence of other property include it too, or it suppose as the bills of property substitute. Meaning of property in the dictionary had been including many definition.

**Ebn Manzoor says in the Lesan al Arab:** Property is a given thing and no need to the definition and including all things that you are its owner.

**Doctor Moein says about it:** The thing belong to person, the thing have exchange value, a wish and property. Therefore the property in viewpoint of custom and wises is something that must have value of trade. Property in the viewpoint of lawyers is: anything that can trade and have the economic value of exchange.

### **Property from viewpoint of juris consults**

**Saheb Javaher write:** Trading the thing without a significant profit is not true. So, he introduced the property as a thing with rational profit. Therefore, Juris consults know the property in viewpoint of sages and custom as a thing that take into account as a property. It means that everything that sages and custom set the being property impact on it, enumerate the property. After clearing the property concept in various viewpoints, we investigate that is conformed the property definition on the present credit moneys?

**Imam Khomeini has commanded:** Pecuniary sheets such as banknote, dinar and dollar and have credit property, these sheets like dinar and silver and gold coins are enumerated as the money. These settlement to the creditor, eliminate the debt of debtor. And wasting those will created assurance like other properties (Zarabie *et al.*, 2008).

**Ayat Allah Khooei has commanded:** All of study money have being property such as Iraqi dinars or English pounds or American dollars or Iran's rials and because each government determine the price and value for our study moneys that are acceptable in the country. Therefore, these moneys find being property and can abort their credit and property when the country wants. But some Juris consults enumerate the money as a thing with property due to the sages and custom know the money as a property and those write: certainly enumerate as a property by the people, however, it is in form of credit sheets. Because the property have no concept except the sages and custom are introduced it (Nezahd and Mehmoosh, 2006).

Therefore in viewpoint of Juris consults the credit money is a property too, because the ownership of money such as a commodity can transfer in lending and its property transfer to the payee. In the electronic money such as a commodity, objectivity aspect and property and valuable both is considered.

**The electronic money has equivalent or precious:** The words such as having equivalent and precious are one of important words in the jurisprudence and Islamic laws. But these two words are not juridical epithets. It means that concept of those are not entered in our juridical logic, rather from the Juris consults side are entered in the jurisprudence. And these two are custom phrases that if view of custom change about the having equivalent or precious of things in various location and time, thus viewpoint of Juris consults have changed. Because the custom is recognition basis of these phrases. Definitions that Juris consults express for the having equivalent and precious are divided to several sections.

**First section:** Several Juris consults know the unification of two things in the caste and type as a criterion for having equivalent and express.

**The describing things have two categories:** One part enter in the being property of thing and other categories have no intervention.

**Second category:** In this category have mention to confederacy of two objects in type and caste. The

qualifications that have alike things in viewpoint of type, thus described to these qualifications are equivalent.

**Khoeei scholar writes:** The qualifications of things are two categories: one category is entered in having property of thing and second category has no intervention in it.

**Third category:** Sheykh Ansari has quoted this definition from many Juris consults. He wrote the equivalent is the things that their components are equal by the price.

**Forth category:** This study has mention to the qualifications that their results are equivalence in propensity amount of persons due to the equivalence in being property and price of its components. The results of such situation are equivalence in being property and price. Some recent scholars and Juris consults are proponent of this theory such as.

Ayat Allah Tabatabaei Yazdi writes: having equivalent is that its persons have qualifications and traits that propensity amount of peoples toward its persons and price of its persons have not difference by those qualifications and traits. However the object that have these conditions can be different due to the locations and times or quantities (Yusefi, 1998).

Therefore, having equivalent or precious determine from the viewpoint of Juris consult with regard the custom and wises and be different in various locations and times and Juris consult must adjudicate base on custom of time (Moein, 1999).

But about the having equivalent or precious of electronic money must be discussed and also if it is equivalent in what qualifications and traits.

**Being equivalent the money based on equivalent property definition:** The equivalent definition that represent to the equivalent divided to 5 categories: one section that persons such as Ayat Allah Seyyed Mohamad Kazem Tabatabaei Yazdi and Ayat Allah Seyyed Mohsen Hakim and Imam Khomeini were defended it and with regard the statements it is the valid and realest definition.

The brief of it definition is: equivalent things are pertained to qualifications and traits that propensity amount, being property and exchange value of these emanate from these qualifications. In addition to, the value and propensity amount must not change in the persons and not enumerate as the equivalent if it change and have difference.

With regard to these statements it is clear that the present study money enumerate as an equivalent property due to the propensity amount, being property and exchange value because the thing that is important from

view of custom are equivalent the property, exchange value and purchase power. Based on above definition of equivalent it can be expressed that study money and banknote from viewpoint of custom and wises are equivalent due to the exchange value.

About the electronic money the issue is clear. Because the electronic money truth is the strict exchange value and in viewpoint of custom and wises exchange value of its unit is similar and like the other units. Thus, there is not uncertainty about being equivalent the electronic money due to the exchange value from viewpoint of custom and wises (Khoobi and Qasem, 1991).

In other side the electronic money has significantly difference with the past moneys and money of Islam prime and at least is the emerging. Also, the electronic money is a property but has difference with other commodities. Thus the electronic money has the special features. These difference are significantly clear that we vacillate about the accordance of electronic money with equivalent rules, despite it is an equivalent property. Also, the uncertainty can create for us that electronic money is discussable in equivalent and precious purview or it is possible the electronic money be the other object.

However, we use the custom method in jurisprudence for the identification the jurisprudence issues and conclude that the electronic money is equivalent. But above subjects warn to us about the adjustment of equivalent rules on the electronic money and so must consider all aspects of the moneys. In the book of money in Islamic economy it is mentioned: being property of credit money is the equivalent type and the rules of an equivalent property are accordance with it. But what is it the criterion of being equivalent? It is nominal value or purchasing power of money? Is the purchasing power of money the issue of its equivalency? In this case we must note that the features of money are two parts.

**Nature features:** These features are the nature traits of commodities, without regard to the source of human needs or comparing with other properties.

**Relative features:** These features introduce in comparing to the other properties or human needs such as: clothes that save us from the cold.

Thus, the juridical viewpoint about the electronic money that has the constant value and purchasing power in time is these moneys perhaps the equivalent as the gold and silver coins. But there are various viewpoints about decreasing their purchasing power in time.

**Electronic money guarantee:** One of the juridical rules relative to the electronic money is the guarantee and debt of money. It means that if the person who borrow the

money from another, must be pay same amount of money. There is the question: is the criterion of payment the nominal amount or equivalent of its purchasing power? Or is the debtor guarantor of purchasing power changes? Imam Khomeini express in the Tahrir Al Vasileh: ownership of property debt will transmit with the guarantee term that the debtor must be pay to the creditor same property or similar or price of it.

Each surcharging term in the debt is the gavel and unlawful. However, two person of deal express to the surcharging or it bring as the terms of transaction. There is another viewpoint that however the electronic money guarantee is juridical (accordance of goods equivalency on the money) but it is not only depend on the nominal price and its credit price of purchasing power is important too. Therefore with regard to the money is the exchange instrument and exchange value, the equivalent of money is: purchasing power equal to it and from its type of money. Therefore if the purchasing power of money has decreased due to the increasing inflation, its equivalent of same type must be paid.

So, it can be said that electronic money is the property from viewpoint of major of Juris consults and it is an equivalent property if its value and purchasing power be customarily fixed. Therefore, there is no difference in real money and electronic money debt. And the surcharging term in debt is the gavel and unlawful.

**Zakat of the electronic money:** One of the other juridical rules is the Zakat. It means that whether the electronic money awarded Zakat or not? Word of Zakat is. Zakat word literally is from the origin of Zaki, means purification and the treatment. As Allah said in the Quran: everybody who pay the Zakat have the salvation.

The viewpoint of jurisprudence such the researcher Helli. Zakat is the right in property of the riches by the given amount and must be given as reward and increase the property and clean it.

**Necessitate conditions of Zakat:** Major of Juris consults as Allameh have sentence that Zakat is necessary on the 9 things: gold, silver, date, raisin, camel, cow, sheep wheat and grain.

Ayat Allah Mohammad Hasan Moosavi Bojnordi said, The banknote that deal with them in the market are not enumerate as weightily with any name and topic such as: dinar, banknote or similar it. Thus, the gavel rules are not applicable about it. Today banknotes have credit and being property by themselves. Therefore, the cash money and Zakat rules don't apply about these.

Allameh Mohammad Taghi Jafari believe that: the main criterion in the pecuniary Zakat is the exchange value and monetary aspect of it and is not true about the derham and dinar.

In the past two metals of gold and silver were the exchange instruments and were used as the exchange value. Today the banknote and bond do the same work.

Therefore pecuniary Zakat belong to the other pecuniary sheets too. The reason of this claim is the criterion in necessitate of Zakat of the dinar and gold and silver that be used from the narratives. The criterion is the exchange value in the gold, silver, banknote and bonds.

**Buy and sell the electronic money:** One of other legal and juridical difference of the real money with the electronic money is in the expenditure rules and exchanging the money with money. There are two necessary terms in the real money exchange:

- Necessity of pecuniary exchanging in deal (buy and sell the real money is only cash)
- Un existence the additional in amount, for example, it is impossible that one dinar deal with >1 dinar because it means the gavel

The contemporary Juris consults have the different viewpoint in the rule of buy and sell permit of electronic money.

Imam Khomeini said: there is not the debt gavel about the cash sheets. Therefore, transform of these moneys are allowable. But it is true when the main purpose is buy and sell of such moneys and no borrowing. Based on viewpoints of Juris consults, buy and sell the money is allowable if it have the rational purpose. We can conclude from the viewpoints about the gavel in electronic money.

Based on the sentence of major Juris consults, the gavel about the electronic money is unlawful. Ayat Allah Makarem Shirazi has said: this affair has no objection with regard to that price is costly in the credit exchanges. Finally, we can conclude that such as exchanges enumerate the gavel deals.

### CONCLUSION

There is no unit definition of electronic money with regard to the electronic money is in the prime steps of the progress. Various persons represent to the electronic money the different definition. The electronic money is a prepayment or stored value. The extensive emission of electronic money with regard to its special features, will affect other markets and economic variables. But from

juridical viewpoint, the electronic money is an emerging phenomenon and all of Juris consults define to it the property value and know it as credit kind of money. Because the government has gave it the validity. It is known as an equivalent property if its value and purchasing power being stable and so there is no difference between debt of real money and credit money.

Therefore, the term of additional amount in debt payment is gavel and unlawful. Also, Zakat not accrue to it because it is not include at the 9 cases. In major of Juris consults viewpoint, buy and sell the electronic money is allowable without any restriction, because the exchange gavel roles is not related to it.

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