

RESEARCH ARTICLE	The Digital Currency "Bitcoin (BTC)" and the Position of Criminal Legislation Towards It	
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Abstract		
This study aims to illuminate a recently emerged digital currency known as Bitcoin to dispel the ambiguity surrounding it and introduce it to the public. This will be achieved by defining its concept and characteristics and outlining the key differences between it and traditional currency. Furthermore, the study seeks to identify the methods of acquiring Bitcoin, the volume of its global transactions, the position of favourable legislation towards it, and the main practical challenges it faces.		
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1. Introduction:

Today's world is experiencing rapid and fundamental changes that have significantly transformed many concepts and practices familiar to our daily lives. As a result, it has become difficult for many countries to keep pace with these developments, especially given the considerable lag observed in numerous technological and cultural aspects. As one of the most prominent features of contemporary life, money has also been deeply affected by the impacts of information technology. Consequently, we now hear of contemporary or electronic money, which has given rise to virtual currencies that represent a new challenge in addition to other technological challenges. Accordingly, this topic raises questions regarding the nature of such money, the types of currencies it comprises, the regulations governing their issuance and circulation, and the positions of favourable legislation towards them. This research paper seeks to answer a set of questions concerning the emergence and circulation of digital currencies, with a particular focus on the virtual currency Bitcoin (BTC), through the following principal axes:

2. The Concept of the Digital Currency Bitcoin (BTC)

2.1 Definition of the Digital Currency Bitcoin:

As with other modern terms, the digital currency Bitcoin has not been afforded a unified definition; somewhat, its definition varies among researchers. Various designations, including electronic, virtual, digital, and cryptographic money, accompany this definition divergence. Among these, the term "electronic money" is perhaps the most prevalent, owing to its association with electronic commerce on the global Internet.

The Bank for International Settlements defines it as "a monetary value in the form of credit units stored electronically or on an electronic device held by the consumer." Similarly, the European Central Bank defines it as "monetary value stored electronically on a technical device, widely used in means of payment and widely accepted by entities other than the issuer without being linked to bank accounts."

The digital currency Bitcoin refers to the monetary value stored in an electronic form of a currency recognised as a medium of exchange and possessing legal value, such as the Swiss franc, the US dollar, or the euro. Thus, it is a virtual currency with no tangible or physical existence, created through computer programs and not subject to the control or oversight of any central bank or official authority. It is utilised via the Internet to buy, sell, or convert into other currencies and is accepted voluntarily by those who choose to transact with it.

Bitcoin is a virtual currency designed by an anonymous individual known as "Satoshi Nakamoto." It was issued in 2009 and resembles well-known currencies such as the dollar, euro, and others, as it can be used for buying and selling operations in numerous countries. Currently, more than 36,000 services can be obtained using Bitcoin across 55

countries worldwide, and there are 1,352 ATMs available for converting Bitcoin into traditional currencies, whether the dollar or local currencies.

2.2 The Most Significant Features and Characteristics of the Digital Currency Bitcoin:

Representatives of the Austrian School of Economics have expressed great satisfaction at the emergence of Bitcoin, particularly since they have long opposed central banks' monopoly over monetary matters throughout the twentieth century and advocated a transition towards private money.

2.2.2 Advantages of the Digital Currency Bitcoin:

Bitcoin possesses numerous advantages, which can be summarised as follows:

- **Development and Innovation:** Bitcoin represents innovations that have transformed the financial world according to the vision of those who designed and used it. It is a new form of money that parallels conventional monetary forms, both cash and non-cash.
- **Security and Confidentiality:** Security refers to the fact that Bitcoin transactions cannot be altered or cancelled by anyone. Confidentiality means electronic transactions are conducted anonymously, and no individual can access electronic payment systems.
- **Units Stored on an Electronic Medium:** Bitcoin consists of digital electronic units or pulses stored on an electronic medium. Some of these products are based on cards that contain a small, portable computer, while others are based on software installed on a personal computer. These units are composed of numbers or codes, each representing a specific monetary value.¹
- **Bitcoin Has Monetary Value:** The electronic units possess monetary value, even though they are not money in the conventional sense. The holder of these units can pay for goods and services purchased from any merchant who accepts them.
- **Low Cost:** The digital currency Bitcoin is characterised by the low cost of its issuance and use. Unlike some electronic systems, the cost of transferring electronic units is approximately \$0.01 and may reach zero while retaining the same benefits as traditional money. In addition, electronic products save a great deal of time and effort.²
- **Transferability:** Electronic balances can be transferred quickly from the consumer to any other individual without the intervention of a third party and any complications.
- **Divisibility:** The digital currency Bitcoin is characterised by the ability to divide its units into small fractions that may be used to pay for goods and services.

¹ Abdelhadi Massoudi, *Electronic Banking Activities* (Amman: Al-Yazouri Publishing House, 2016), 66.

² Basim Alwan Al-Iqabi, Alaa Aziz Al-Jubouri Jabir, and Naim Kazem, "Electronic Money and Its Role in Fulfilling Contractual Obligations," *Ahl Al-Bayt Journal*, no. 6 (2008): 95.

- **Acceptability:** This feature indicates that the digital currency Bitcoin enjoys broad acceptance among individuals and institutions, locally and globally. This was reflected in specific international conferences and committees established to develop a general framework for these products, such as the "Basel Committee" on electronic banking within the European Union. This committee believes in having an international supervisory body dedicated to regulating and overseeing electronic money, with responsibilities that include guidance and consultation regarding electronic banking operations.
- **Durability and No Need for Renewal:** As an electronic currency, Bitcoin has achieved what traditional payment systems have not. It has overcome one of the main drawbacks of paper currency, namely, its limited lifespan. Bitcoin units can be retained for extended periods without being affected by external factors, a feature that traditional paper money lacks, as it is subject to periodic renewal and replacement.³

2.2.2.2 Characteristics of the Digital Currency Bitcoin:

The most prominent characteristics include:

- It is a virtual digital currency with no tangible physical existence and no intrinsic value.
- It is an unofficial currency, meaning any official body or international organisation does not back it.
- It allows all participants the possibility of mining it according to their technical and technological capabilities.
- It is used within institutions, organisations, and online platforms that accept transactions in Bitcoin.
- It can be exchanged for official fiat currencies such as the dollar, euro, or pound through encrypted transactions over the internet, via specialised websites or dedicated ATMs.
- Commercial exchanges using Bitcoin are conducted directly from one individual to another without the need for bank intermediation.
- There is no set limit or ceiling on spending or purchases, as with various credit cards.
- Transactions conducted with Bitcoin cannot be tracked or monitored.
- Monetary authorities in any country cannot control its supply or price.
- Due to its decentralised nature, reliance on technology, and responsiveness to new developments and innovations, it is considered a convenient mechanism for buying and selling smoothly and rapidly.⁴

3. Advantages and Disadvantages of Using the Digital Currency Bitcoin (BTC)

3.1 Advantages of Using the Digital Currency Bitcoin (BTC):

³ Ihab Khalifa, "The Virtual Currency Bitcoin," *Future Centre for Advanced Research and Studies*, <http://futureuae.com>, accessed 23 September 2019, 20:42.

⁴ Ghaniya Batmi, "Characteristics and Forms of Electronic Money: An Analytical Theoretical Study," *Journal of Political Science and Law* 2, no. 1 (2016): 354.

- **Low Fees:** The costs of issuing, trading, and transferring Bitcoin from one person to another or between accounts are minimal.
- **Speed, Privacy, and Confidentiality:** Users can own multiple Bitcoin accounts and wallets without these being linked to a name, address, or identifying information. Thus, Bitcoin's concept is based on anonymity and protecting privacy and personal information more than traditional payment systems or the classical payment systems known on the network.
- **Universality:** Bitcoin is not tied to any specific geographical location.
- **Transparency:** All participants can observe, with complete transparency, the movement of currency between wallets. At the same time, no one can determine the identity of the wallet owner. This signifies that all users acknowledge the existence of this currency and the transfer of its ownership.
- **Security:** The Bitcoin protocol and its encryption constitute one of the world's most significant distributed computing projects, making counterfeiting or duplicating Bitcoin difficult. Users can also implement security practices to protect their funds or rely on service providers to offer high levels of protection against theft or insurance against loss, thereby giving Bitcoin a robust security record.⁵

3.2 Disadvantages of Using the Digital Currency Bitcoin (BTC):

- **Currency Confidentiality and Encryption:** While confidentiality and privacy are advantages, they also have negative implications for the currency. These features have made Bitcoin attractive for money laundering, terrorist financing, arms trading, and the sale of stolen or prohibited products such as narcotics, as it is difficult for security agencies to trace the source of the currency.
- **Mining:** One of the main obstacles to the widespread use of Bitcoin worldwide is the difficulty of mining (issuing) it by ordinary users due to the complexity of the required access programmes and the computational operations necessary for mining activities.
- **Currency Price:** The price of virtual currencies and their significant fluctuations constitute a major issue for users.
- **Hacking:** Bitcoin is more susceptible to hacking risks compared to other currencies.
- **Tax Evasion:** It is difficult for governmental authorities to impose taxes on virtual currency transactions.
- **Technical Risks:** Such risks include selecting a monetary issuance system that does not keep pace with rapid developments in information technology, is poorly designed or flawed during implementation, and has poor performance of communication networks or operating devices that hinder the completion of transactions using such currencies.⁶

⁵ Ibid., 356.

⁶ Khalifa, "The Virtual Currency Bitcoin," previously cited.

- **Supervisory Authority:** These currencies are not subject to oversight by financial or monetary authorities in any country or issued by any central bank or official international institution. As a result, they lack legal protection, exposing users to losses that cannot be compensated.
- **Random Issuance:** Bitcoin is characterised by a hazardous feature: its random issuance without restriction by any specific parties and without the ability to regulate it. This risk is particularly pronounced due to its widespread use across open internet networks, whether on the regular or dark web.⁷ Consequently, competition in this currency on the network represents a new and largely unstable form, owing to open networks' unregulated, global nature.

4. The Challenges of Trading and Dealing in the Digital Currency Bitcoin (BTC) and the Position of Positive Legislation Thereof

4.1 Methods of Acquiring the Digital Currency Bitcoin:

Although electronic money in general, and Bitcoin in particular, is not easily obtained, it appears in various forms. Electronic money transfer systems refer to a wide range of devices, from automated teller machines to virtual banks via the Internet. Nevertheless, it is essential to define this spectrum of electronic payment methods, which represent a simple innovation that continues previous payment systems and those that introduce new risks. Thus, clarification involves highlighting two generations of electronic money, which have not replaced one another but currently coexist, even if they represent a specific volume of payments. Nevertheless, first-generation payments still largely dominate the economic landscape.⁸

Bitcoin can be acquired either by participating in mining through specialised software or by purchasing it on trading platforms, where it can be exchanged for official currency.

Mining refers to a set of complex mathematical operations performed by users, known as miners, who wish to obtain Bitcoin using their personal computers. These miners verify the validity of financial transactions conducted by other Bitcoin users—a process referred to as the proof-of-work principle. Miners receive fractions of Bitcoin as rewards upon completing these mathematical operations and confirming the financial transactions. Thus, it is not mining in the traditional sense but rather a transaction verification process. The designers of Bitcoin chose the term "mining" to draw an analogy with extracting precious metals such as gold.⁹

⁷ The dark web is information network technology based on anonymity strategies. It represents 95 per cent of the global network, whereas the regular Internet constitutes, at best estimates, only 5 per cent. The dark web has search engines and browsers distinct from the regular Internet. Due to the possibility of anonymity, it is considered a haven for those engaged in illicit activities.

⁸ Abdullah bin Suleiman Bin Abdulaziz, "Virtual Money: Its Concept, Types, and Economic Effects," *The Scientific Journal of Economics and Commerce*, no. 1 (2017): 21–22.

⁹ Khalifa, "The Virtual Currency Bitcoin," previously cited.

All financial transactions conducted via Bitcoin are linked to a single chain, the blockchain. This serves as a bridge connecting all transactions, ensuring that they are centrally monitored and controlled. The blockchain aims to maintain the balance of Bitcoin and to regulate the total number of Bitcoins available to all individuals worldwide. The total supply has been set at 21 million units, as this is the expected number of Bitcoins to be awarded as mining rewards before the reward system ceases entirely. According to the Bitcoin protocol, the rewards received by miners are halved every four years, meaning the reward for solving a block's cryptographic puzzle is reduced by half every four years. This measure is intended to preserve the currency's stability and render it a valuable asset akin to gold, thereby maintaining its high value.¹⁰

2.4 The Volume of Bitcoin Transactions Worldwide:

The creator of this currency has confirmed that its issuance will cease in the year 2040 when the total quantity issued reaches 21 million units, which represents the maximum limit for its mining. Its creators intended to introduce a degree of scarcity for the quantities in circulation to preserve its value from depreciation. After that date, mining will no longer be possible, as the production of new Bitcoins through mining will become increasingly complex due to the growing complexity of the required algorithms. The number of miners will rise over time until issuance ceases entirely. As of 16 January 2017, the total number of Bitcoin units stood at 16,104,750.

To overcome Bitcoin's scarcity, its inventor made it divisible into small units called satoshis, with each Bitcoin consisting of 100 million satoshis. The inventor believes that Bitcoin's overall value can reach any figure that meets the world's monetary needs.

At the beginning of 2014, the second generation of cryptocurrencies emerged, incorporating advanced functions such as stealth addresses, smart contracts, and sidechains. Additionally, the number of markets and exchanges in which they are traded increased. The exchange value of Bitcoin remained low following its issuance in 2009, reaching only \$17 in 2011. Its price then began to rise, reaching its peak at the end of 2013, when large-scale speculation began, climbing to \$1,200 in early December 2013—its highest recorded value, with a market capitalisation of around \$16 billion. The year 2014 witnessed a significant decline in its value, with the price dropping to just \$326 per unit, after which its trading was marked by volatility in its price.

Since November 2016, the price of Bitcoin has been on a continuous upward trend, reaching \$1,150 on 5 January 2017, bearing in mind that the unit price at the beginning of 2016 was traded at \$435.¹¹

3.4 Challenges of Dealing with the Digital Currency Bitcoin:

¹⁰ Ibid.

¹¹ Mokram Moubaid, "Electronic Money and the Knowledge Economy," *GIEM Kantakji*, <http://giem.kantakji.com>, accessed 24 September 2019, 18:54.

Although Bitcoin is the most renowned and widely used virtual currency, it faces several practical challenges.

- The absence of international oversight of financial and commercial transactions using virtual currencies, particularly Bitcoin, may significantly limit its prospects. All forms and types of these currencies face substantial criticism from economic, legal, and technical perspectives, undermining their status and diminishing their significance and role as monetary units.
- These currencies cannot perform the main functions of money; they cannot measure the value of goods and services directly but must instead be valued in terms of another currency before exchanging them. Furthermore, they are not suitable as a store of value or as a means of wealth preservation due to the considerable volatility and continual fluctuations in their value, their inability to maintain their purchasing power, and their rapid susceptibility to any technical incident, hacking, or official action.
- Bitcoin has no official set price that can be maintained or stabilised. Following the abandonment of the gold standard, modern currencies have their nominal value determined by the monetary authorities of each country. In contrast, the market value is set by supply and demand in the financial markets. However, this is not possible in the case of Bitcoin, as no monetary authority is responsible for determining its nominal value.
- The absence of any financial authority or central leadership to regulate its issuance, control its supply, monitor its prices, support and protect it, and enable it to undertake the necessary changes to address technological developments and market challenges and to make swift and decisive decisions in times of crisis.
- It possesses no intrinsic value, merely numbers recorded on computers, and is not backed by any commodity or legal guarantee.
- No entity controls its price other than the forces of supply and demand, making it highly susceptible to speculation and volatility. Thus, it is deprived of one of the essential conditions of a currency.
- It is issued by anonymous individuals and exchanged under pseudonyms and fictitious names, encouraging fraud and financial scams.
- Like other currencies, Bitcoin can be used for legitimate and illegitimate purposes; however, it constitutes a haven for illicit activities.
- Its widespread use may result in certain economic risks, notably threatening the monetary stability of countries where it is prevalent since it does not fall under the control of those countries' monetary authorities.¹²

4.4 The Position of Criminal Legislation on the Digital Currency Bitcoin:

National legislations have varied in their stance on Bitcoin, with some in favour and others opposed.

4.4.4 Criminal Legislation Supporting Bitcoin:

¹² Michel Aglietta and Laurence Scialom, "Les défis de la monnaie électronique pour les banques centrales," *Université de Poitiers: Franc-Euro*, <http://scec.univ-poitiers.fr/franc-euro/articles/magliettalscialom>, accessed 25 September 2019, 19:41.

It may be said that the scope of acceptance and exchange of virtual currencies has expanded and developed, particularly in the case of Bitcoin, which has established a global presence and gained widespread recognition among online communities as a new, accepted form of payment. This acceptance has extended to East Asian countries, China, and Japan, and Bitcoin has also gained popularity in Europe, America, and the Middle East. Germany was the first country to officially recognise Bitcoin as a form of electronic money, enabling the German government to impose taxes on the profits earned by companies dealing in Bitcoin while individual transactions remained exempt. Furthermore, the European Court of Justice granted a measure of legitimacy to this currency in October 2015, ruling that Bitcoin should be regarded as a currency equivalent to goods and thus is exempt from value-added tax when individuals exchange euros for Bitcoin. According to an American website that handles Bitcoin payments for merchants, more than 100,000 companies worldwide currently accept this digital currency, and it is also widely used by numerous Chinese websites and companies.¹³

Bitcoin has also asserted itself in the finance and financial markets, with several exchanges established for trading, numbering more than 200 worldwide. Among the most notable are:

- The Chinese "BTC" Exchange is considered the largest virtual currency exchange in the world, with daily transactions amounting to approximately \$60 million.
- The Chinese Coinbase Exchange.
- The Chinese Baihang Exchange.
- A digital trading exchange in Hong Kong.
- The Japanese Mt. Gox platform.
- Search engines like Google and Yahoo have incorporated Bitcoin exchange rates into their financial tools.¹⁴

As Bitcoin, the world's first digital currency, celebrated its tenth anniversary, the UK government's Cryptoassets Taskforce issued its final opinion. A report published alongside the 2018 British budget documents announced that the digital currency market had matured.¹⁵ British Chancellor Philip Hammond established this task force in March of the same year to develop a clear policy direction for the United Kingdom regarding digital currencies and their underlying blockchain technology. The task force comprised the Financial Conduct Authority and the Bank of England.

Commenting on the task force's statement, Nigel Green, founder and CEO of the deVere Group consultancy, remarked that traditional entities and individuals who consider digital currencies to be merely a fad are acting against the tide and attempting to halt the course of progress and development. Green added that digital currencies are undoubtedly the

¹³ Mokram Moubaid, "Electronic Money and the Knowledge Economy," previously cited.

¹⁴ Khalifa, "The Virtual Currency Bitcoin," previously cited.

¹⁵ "British Government Report Announces the Maturity of Digital Currencies," *Investing.com*, <http://sa.investing.com/news/cryptocurrency-news/article-598162>, accessed 28 September 2019, 19:24.

future of the global financial system, as evidenced by the growing interest from numerous governments, regulatory bodies, financial institutions, and retail investors in the cryptocurrency market.¹⁶

In another study published by the marketing company Edelman, it was confirmed that one-quarter of affluent American millennials—those aged between 24 and 38 earning \$100,000 in individual or joint income or possessing \$50,000 in investable assets—own or use these unique assets. Among this group, the Edelman study concluded that 31% are interested in using the digital currency Bitcoin.¹⁷

4.4.4.4 Criminal Legislation Opposed to Bitcoin:

Despite the significant support that Bitcoin has received in many countries worldwide, its circulation remains prohibited in much of the Arab world, including Algeria. The Central Bank of Lebanon has warned against purchasing, possessing, or using Bitcoin, emphasising that the platforms or networks through which these currencies are issued and traded are not subject to legislation or regulation. In the event of losses, no legal framework guarantees the recovery of funds used to purchase such currency. Vietnam has also banned Bitcoin, citing its ease of use for criminal purposes and the significant risks it poses to investors. In its statement, the central bank noted that electronic currency transactions are largely anonymous, making such currencies potential tools for money laundering, drug trafficking, tax evasion, and illegal payments. The statement further prohibited credit institutions from dealing in the currency and warned citizens against investing. The Central Bank of Jordan also issued an official statement warning citizens against Bitcoin, noting its lack of backing by any financial institution globally.¹⁸

As for the Algerian legislator, reference to Article 117 of Law No. 17/11, dated 8 Rabie Al-Thani 1439, corresponding to 27 December 2017 and constituting the Finance Act for 2018, stipulates that "the purchase, sale, use, and possession of virtual currency is prohibited." It further states that "virtual currency is used by Internet users via the Internet, and is characterised by the absence of financial support, such as coins, banknotes, or payment by cheque or bank card." Accordingly, the position of the Algerian legislator is explicit: as inferred from the wording of Article 117, the purchase, sale, use, and possession of virtual currency is prohibited, given that it is not subject to any recognised authority or any form of oversight imposed by the state.¹⁹

5. Conclusion:

Based on the foregoing, we have reached several conclusions:

¹⁶ Bin Abdulaziz, "Virtual Money: Its Concept, Types, and Economic Effects," previously cited, 42.

¹⁷ Edelman, "More Than a Quarter of Wealthy Millennials Invest in Digital Currencies," *Investing.com*, <http://sa.investing.com/news/cryptocurrency-news/article-598162>, accessed 28 September 2019, 19:24.

¹⁸ Bin Abdulaziz, "Virtual Money: Its Concept, Types, and Economic Effects," previously cited, 47–48.

¹⁹ Law No. 17/11, dated 8 Rabie Al-Thani 1439 / 27 December 2017, constituting the Finance Act for 2018, Official Gazette, no. 76.

- Although Bitcoin is the most well-known and widely used virtual currency, it is not the only form of virtual money. There are numerous other virtual currencies; however, Bitcoin remains the principal representative of virtual money from its inception to the present day.
- The digital currency Bitcoin, as used today, is criticised for being far from an actual currency that all can trust to replace traditional money. This shortcoming is primarily due to its inability to fulfil the essential functions of money, owing to the lack of legal and regulatory frameworks governing its structure, design, and circulation mechanism. This renders it more akin to a tool for speculation rather than a genuine currency and poses significant risks to its users.
- The digital currency Bitcoin does not have legal tender status under the laws of most countries. Its acceptance is based on mutual consent between buyers and sellers, possibly rendering it susceptible to deception and manipulation.
- The successive and extreme fluctuations in the value of virtual currencies, especially Bitcoin, have demonstrated their ineffectiveness as currencies for fulfilling financial obligations, given the weak mechanisms governing them in the short and long term.
- The absence of a central authority to oversee its issuance and protect it from volatility has increased the risks and concerns associated with its use.
- Virtual currencies, particularly Bitcoin, are considered a haven for criminals to conduct financial transactions related to illicit activities, thus posing a clear threat.
- Their widespread use outside official frameworks may weaken the influence of governmental currencies on financial and monetary policies, as they transcend any country's geographical boundaries.
- The perpetual freedom in their circulation and issuance has rendered them instruments of speculation.

In light of this situation, and in order to ensure the secure and reliable use of the digital currency Bitcoin, the following recommendations should be adopted:

- Local, regional, and international coordination and cooperation to regulate the virtual currency market, particularly Bitcoin.
- Awareness-raising and training for individuals on its safe use, especially as it has become an unavoidable reality.
- The development and modernisation of legislation and financial regulations to align with virtual currency's requirements will thereby enable its smooth integration into contemporary financial transactions and allow for the benefits of its scale in financing development.

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