

The legality of dealing in virtual currencies in the Algerian legislation**مشروعية التعامل بالعملات الافتراضية في التشريع الجزائري.****Bellag Mohamed[♦]**

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Date of submission: 10/10/2025**Date of acceptance: 03/12/2025****Date of publication: 25/12/2025****Abstract :**

Virtual currencies constitute a very important link in the chain of development of the digital age, and a hypothetical monetary system parallel to the classic international monetary system, as it imposed itself in the reality of global financial transactions, transcending regional borders, legal recognition and the restrictions of national and international monetary institutions. The present study aims to determine the legality of dealing with these currencies in the Algerian legislation, And this is in light of the intensified jurisprudential discussion about the nature of dealing with it and the legal adaptations given to this type of currency, between those who consider it as a foreign currency or as an electronic currency or as a financial instrument ... etc., and between those who see that its circulation is a legal act that falls within the circle of activities Business focused on dealing with intangible funds and providing financial services.

Keywords : virtual currencies, electronic money, financial stability, the global monetary system.

الملخص:

تشكل العملات الافتراضية حلقة مهمة في سلسلة تطور العصر الرقمي، و نظاما نقديا افتراضيا موازيا للنظام النقدي الدولي الكلاسيكي، حيث فرضت نفسها في واقع التعاملات المالية العالمية، متجاوزة الحدود الإقليمية و الاعتراف القانوني و قيود المؤسسات النقدية الوطنية و الدولية.

و الدراسة الماثلة تستهدف الوقوف على مدى مشروعية التعامل بهذه العملات في التشريع الجزائري، و هذا في ظل احتدام النقاش فقهيًا حول طبيعة التعامل بها و التكييفات القانونية المعطاة لهذا النوع من العملات ،

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بين من يعتد بها كعملة أجنبية أو كعملة إلكترونية أو كأداة مالية... إلخ، و بين من يرى أن تداولها يعتبر تصرفاً قانونياً يدخل في دائرة الأنشطة التجارية المنصبة على التعامل بالأموال المعنوية و تقديم الخدمات المالية .
الكلمات المفتاحية: العملات الافتراضية، النقود الإلكترونية، الاستقرار المالي، النظام النقدي العالمي.

Introduction:

Technical progress in the field of communications, the development of the banking industry, the spread of e- commerce in economic life and the increased need for new alternatives to payment, have led to the emergence of a new form of money called electronic money, whose forms diversified and its forms and mechanisms developed, bringing us to a new perception born out of a Modern scientific knowledge in the field of financial management represented in virtual currencies. Despite the wide spread of these currencies and the entry of many circles in dealing with them, there is great ambiguity surrounding this type of currencies, for many reasons related to the circumstances in which they appeared and the sources of their emergence, as well as their characteristics and nature that still raise ambiguity and doubts around them.

The many advantages that virtual currencies provide, such as low fees, confidentiality, and privacy that keep them away from the control of any party, have made them supported and accepted by users for their reliability, simplicity and ease of portability, but in return they carry many risks that may afflict what they have achieved, especially the Cryptography process and the complex processes to which the generation of these currencies is subjected, which made specialists split about it between doubtful and that it may be a conspiracy to control the global economic system, and between those who see that it will be the future of the global monetary system and that individuals will switch in the future to using this type of electronic money. Aware of the danger of these currencies, the Algerian legislator stipulated the ruling on dealing with them in the Finance Law of 2018, in a step through which the same legislator tried to establish a strict control system that would stand for tracking electronic transactions that can be used in illegal activities such as drug trafficking or money laundering. , especially since Algeria does not yet have a sophisticated technological structure that allows it to control the activity of these modern currencies.

In light of the rapid development of these currencies and the acceptance they have in a number of countries, we had to ask: **What is the legality of dealing with virtual currencies in Algerian legislation? And what are**

The legality of dealing in virtual currencies in the Algerian legislation the implications of the Algerian position on the financial transactions market in the future?

And for the purpose of clarifying the legislative position in Algeria regarding these currencies, it was necessary to determine their concept and their legal nature, in preparation for highlighting the legality of their circulation and its repercussions on the financial transactions market between Algeria and other countries that adopt such transactions.

2-The concept of virtual currencies and their legal nature.

The idea of virtual currencies began in late 2008 and was sold and bought at the beginning of 2009 AD, and during the period that followed, dealing with them spread in most countries of the world, and the purpose that the one who invented it and worked on its appearance sought was to change the prevailing traditional currencies and replace them with the virtual currency, in light of the desire to preserve the privacy of dealers in buying and selling, and to distance themselves from the control of central banks and governments that have wide powers in the issuance and circulation of traditional currencies¹. (Omar Al-Othman, 2019, p. 01)

in the light of the exceptional blooms achieved by virtual currency prices in recent years, which have reached record numbers, and given the importance of dealing with them as a stand-alone electronic financial system, it was imperative for us to define its concept in order to distinguish it from similar terms. Their legal nature is necessary to know the legal system to which these currencies are subjected

2-1- The concept of virtual currencies.

In order to define the concept of virtual currencies, we should first stand on its definition and then indicate its characteristics that distinguish it from other modern technical currencies.

2-1-1- Definition of Virtual Currencies

The virtual currency is a digital currency of an unknown origin because it does not have a serial number or any other means to track it, and it has been labeled virtual in relation to virtual reality, and it is a currency that depends on the characteristics of mathematics instead of physical characteristics². It is defined as “decentralized cryptographic virtual units

¹ - Jamal Abdul Aziz Omar Al-Othman, The legal nature of virtual currencies and the legislative position on them. Islamic Studies Conference on Virtual Currencies, Sharjah, 2019, p01

² - Essalam, Y. B. Virtual currencies their truth and jurisprudence provisions. Riyadh: Dar Al-Yaman for publishing and distribution, 2018 , p 38 and 39.

produced by programs on the network, which are traded among members of a virtual community as a currency¹. It is also known as “cryptocurrencies whose purpose is to allow users to send money to each other over the Internet via a peer-to-peer network without the need for a central authority to monitor payment and transfer operations, and this while maintaining its anonymity”² Moreover, It is also defined as "the unit of trade exchange that exists only in the electronic body, it is encrypted, decentralized, peer-to-peer system. It is completely managed by its users without any central authority or intermediaries, through electronic media only, such as computers and smart devices, to purchase in-kind goods or various benefits”³ .

So, virtual currencies are units of dealing that exist in encrypted electronic bodies and are characterized by the absence of a physical support. They consist of a set of letters and numbers in computer language that are collected in the form of certain algorithms⁴, but they remain of an unknown origin in the absence of their serial numbers or any means that allow tracking of what is spent to reach its dealers, which makes it a popular tool for all privacy advocates or sellers of illegal goods and merchandise online.

Bitcoin is considered the most popular currency among virtual currencies, along with other currencies - such as the Ethereum, Zcash, Ripple, Dash ... etc. - that takes its fame and importance from the number of its users, as well as in terms of its relationship with Bitcoin, the latter was its beginning as an idea in late 2008 It was embodied on the ground in 2009 by an unknown programmer named "Satoshi Nakamoto" who adopted the idea of virtual currency with the aim of changing the prevailing traditional currencies and replacing it with the new currency that preserves the privacy of the seller and buyer and is not controlled by banks and governments and is dealt with through Peer-to-peer protocol, with the adoption of modern encryption techniques in order to increase security in them and reduce electronic transaction fees, and therefore it is a currency that is only found in the Internet and through electronic wallets⁵ .

¹ - Ibrahim ben Ahmed Ben Muhammad Yahya, Virtual cash, bitcoin as a model. Al-Sharq Al-Awsat Newspaper, <http://units.imamu.edu.sa>, (2017) p04.

² - Nouredine, The impact of bitcoin mining and virtual currencies on the stability of the global monetary system. Scientific outlook, . (2018, June 25). p. 221.

³ - Al-Nuaimi, m. And the. (2017). The electronic payment system and its rule in Islamic law. www.alukah.net.

⁴ - Assaf, M. M.). Challenges facing Islamic banks in the virtual currency market. The Eighth International Forum on Islamic Banking in Palestine between Reality and Hope, Palestine. 2018, p. 04

⁵ - Al-Bahouth, A. a., Virtual money, its concept, types and economic effects. The Scientific Journal of Economics and Trade, 2017, p. 27.

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Nothing is known about the entities that issue this currency and its counterparts, as it is a currency that is not covered with tangible assets and its issuance is not restricted by the restrictions or controls of central banks, due to its adoption in its appearance and circulation on an absolute space via the World Wide Web (Internet), thus getting out of the authorities of the regulatory authorities And financial institutions, whether global or local.

2-1-2 characteristics of virtual currencies

Virtual currencies are characterized by a number of characteristics that differ from the conventional currencies, whether cash or electronic, the most important of which are:

- Virtual currencies lack a tangible physical entity or physical presence.
- Not subjected to the control of governments and central banks (a decentralized tool).
- Allows hiding the identity of users (dealers)

It is characterized by the high speed of money transfer and the low cost of it.

- It is difficult to track due to the lack of serial numbers or any other means to facilitate tracking.
- Expanding the scope of dealing with it between individuals and various parties across the world.

Based on the sum of these and other characteristics, the clear difference between virtual currencies and other monetary and electronic currencies is confirmed, Where its difference from cash currencies lies in the fact that the issuance of the latter is carried out by law according to certain formalities recognized by central banks, which makes them acceptable to all parties, unlike the virtual currency, which still differs about the nature of the financial value stored electronically for it, as it is not issued by central banks and It is neither under its domination nor under its control.

On the other hand, the virtual currency differs from electronic currencies¹ in that the latter represents a real currency as it is issued in the form of stored electronic data, and therefore it represents the electronic image of traditional money, , while virtual currencies are a digital representation of a value that can be transferred, stored or traded electronically, and is not

¹ - Al-Shafei, m. a, The economic and financial effects of electronic money. International Conference on Electronic Banking between Sharia and Law, The United Arab Emirates, 2018, p. 134.

necessarily linked to a specific traditional currency, but may be a place for fulfillment among those who accept it as a means of payment¹.

2-2. Legal nature of virtual currencies

Due to the recentness of the subject of virtual currency and its association with digital media technology on the one hand and technology, and its association with the financial and economic aspect, which is the backbone of life on the other hand, it has raised many legal problems associated with identifying the legal nature of the transactions that will be replaced by these modern currencies.

2-2-1- Denial of the description of the legal system for virtual currencies.

The modern transformations of the stock market have resulted in the emergence of virtual currencies as a private currency develops outside the state's power, and without passing the pathways adopted in the currency trading, and in a wide geographical area using wide Internet networks.

Considering that virtual currencies have not yet been legislated as a whole local or international legal organization that demonstrates its milestones and shows the available and the known in them and in their tools. It makes it lacking the security and official government security of official currencies issued by official banks in the interview The direction of the French jurisprudence² acknowledges that "virtual currencies are not indicated under any previous legal concept, but their status within a certain classification will allow for its effects, which will contribute to some extent Finding a special legal organization. by official banks. " It makes them lack the official government guarantee and security that official currencies issued by official banks have. On the other hand, a trend appeared in French jurisprudence³ in which it acknowledges that "virtual currencies are not indicated under any previous legal concept." However, placing it within a specific classification will allow clarification of its effects, which would contribute to some extent in creating a legal regulation for it.

The association of virtual currencies with informatics, the Internet and trading platforms may prompt some to link their legal nature to electronic currencies, due to the confirmation of European Directive No. 46/2000 regarding access to and practice of electronic currency institutions, as well

¹ - Jamal Abdul Aziz Omar Al-Othman, The legal nature of virtual currencies and the legislative position on them. Islamic Studies Conference on Virtual Currencies, Sharjah, 2019, p16.

² - Roussille, H. Bitcoin, an unidentified legal object. banking and law review, (2015), p. 27.

³ - Roussille, H , p27

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as the careful monitoring of these institutions, which considered electronic currencies as an alternative to money and bank notes¹. This proves that these currencies have a legal system that determines the persons authorized to issue them and shows the method of trading, which does not apply to virtual currencies of unknown origin that are not linked to any official currency, which makes it impossible to describe them as electronic currency.

2-2-2- Considering dealing in virtual currencies as a legal transaction of a commercial nature.

Reflection on aspects of dealing with virtual currencies allows putting them within the framework of legal actions with the consequences of this description. On this basis, the general theory of obligations and contracts appears as a legal cover for regulating transactions related to virtual currencies, provided that the general rules in them take into account the special nature of virtual currencies².

The fact that can be asserted with regard to dealing with virtual currencies, is that it falls within the scope of the practice of financial services, which is considered a commercial activity by nature. Also, the use of the concept “business by gauging or analogy” leads to the support of the commercial nature of professional speculation in virtual currencies, while its simple employment celebrates its civil nature³.

In addition, the expansion of the nature of the professional activity carried out by virtual currency trading platforms would allow their adaptation within the framework of mediation operations, as it is established in commercial law that mediation is in itself a commercial activity⁴, which must be emphasized, is that some comparative legislations require the owners of virtual currency trading platforms to obtain a prior license from the competent banking authorities, which will make what they are doing a restricted commercial activity⁵.

In addition, it is one of the established principles in the framework of commercial law, that the activity that is practiced must be legitimate, so the activity of virtual currency trading with money laundering and terrorist financing will lead to it being null and void.

¹ Aubry.H. Bank and credit institution, commercial law directory, Dalloz, paris, 2006, p 85. -

² - Maknouzy, m. a. The difficulty of determining the legal nature of virtual currencies. Fifteenth International Conference on Virtual Currency, Sharjah ,2019, p. 13.

³ - - Maknouzy, m. a. The difficulty of determining the legal nature of virtual currencies..., p 16

⁴ - HOUTCIEFF.D., Commercial act, commercial law directory. dalloz, paris, 2008

⁵ - - Maknouzy, m. a , p 17.

3-The position of the Algerian legislator on virtual currencies

The effects of dealing with virtual currencies, their instability, and the extreme fluctuation in the value of their unmonitored - prices in global exchanges made investing in them risky and warn of the possibility of a sudden loss of their entire value, and perhaps this is the main reason for refusal to deal with them by many countries and governments, on the other hand, there are those who see their existence and dealing with them as a benefit because they encourage financial inclusion and raise the efficiency of payment and settlement processes.

In light of the exceptional leap achieved by the numbers of dealing with these virtual currencies at the global level, official and governmental financial institutions have taken the policy of warning and calling for the need to take precaution and beware of them and stop using them, which is the direction that the national legislator took by approving the text of the article 117 of the Finance Law of 2018, which clarified the official position on the circulation of these currencies

3-1. The Algerian legislator's rejection of trading virtual currencies:

Due to the novelty of virtual currencies and their technical complexity, in addition to the aspects that include their risks related to information and national security on the one hand, and their high price fluctuations on the other hand, Due to the novelty of virtual currencies and their technical complexity, in addition to the aspects that include their risks related to information and national security on the one hand, and their high price fluctuations on the other hand, and being not supported by central banks or any government regulatory authority such as paper currency, the position of countries and organizations has been Governmental and non-governmental organizations differed in terms of allowing their use and circulation, and in order to confront such developments, a set of measures were taken by international bodies, which in turn varied between welcoming these currencies and pessimistic about them.

In our country, and in light of the decline in the value of the Algerian dinar in the global currency market in recent years, The Algerians found themselves in a constant search for an investment that preserves the value of their property, so that some turn to the so-called virtual or digital currencies, especially money owners and technology controllers, at a time when many are still wondering about the truth of these currencies and how to deal with them.

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The danger of dealing with virtual currencies and their attraction to some suspicious groups, in addition to their demand for a tight electronic system that Algeria lacks, made the Algerian legislator explicitly decide to ban the circulation of virtual currencies that do not have cash coverage and do not pass through banks.

This prohibition came in accordance with the Finance Law of 2018 (11/17, 2017) in its Article 117 which states: “It is prohibited to buy, sell, use and possess virtual currency.”

Virtual currency is the one used by Internet users over the Internet, and it is characterized by the absence of a physical support such as coins, banknotes and payments by check or bank card

Any violation of this provision shall be punished in accordance with the laws and regulations in force.

Through the aforementioned article, the Algerian legislator took his explicit position to prevent virtual currencies in Algeria, whether it comes to buying, selling, using or possessing them, and this is the position in which economic experts and specialists in information and communication technology saw a protection for Algeria’s reserves of foreign currencies, especially at the present time. and at the same time, a decision in line with the position of the majority of countries rejecting these currencies, which they see as materials for speculation and tax evasion, as is the case with most Arab countries that announced measures against these currencies, whether by preventing their circulation or issuing legal fatwas against them.

The Algerian government has defended its position, justifying this by its relentless pursuit to establish a stricter monitoring system in order to track electronic transactions that can be used in drug trade, tax evasion or money laundering because of the confidentiality guaranteed to users of cryptocurrency

Although the data issued by Algeria indicate the limited trading of virtual currencies, this sudden ban revealed the extent of the Algerian government’s fear of turning the cryptocurrency into a profitable financial haven in light of the collapse in its value of the local currency – the dinar – ¹.

The economic expert, Jamal Noureddine, considered that the Algerian government’s ban on the circulation of Bitcoin and other virtual currencies in general is also due to the fear of the repercussions of the high demand for dealing with them, which means - in his view - that the government is

¹ - Kahal, h. (). Algeria bans Bitcoin trading due to its high risk. 2019, Alarabi website.

anticipating events by fortifying reserves and The country's balance of foreign currencies is a result of developments that may not be controlled in the future, which the same expert considered a return to the closed socialist system.

These backgrounds from which the Algerian legislator set out greatly contradict the goal of dealers in virtual currencies, who always aim to move away from the centralization of major banks, and digital currencies are not monitored by banks and various bodies and are not subject to clear laws like other currencies. Hence, as soon as a person downloads the Bitcoin application, this program begins the process of producing the virtual currency slowly according to the power of the user's computer processor, whereby this currency can acquire various goods, products and services over the Internet and the user can also convert them into different currencies traded in global markets by specialized sites.

3-2- Justifications of the rejection and its repercussions on the national economy:

Algeria's refusal to deal with virtual currencies stems from its full awareness of its danger and effects on the national economy, this is in the absence of a strong technological structure that allows controlling the activity and popularity of such currencies, as the disadvantages and risks associated with their use makes our country cautious about any action related to it.

So if we take the advantages of these currencies from the point of view of their proponents, we encounter a conclusion that these advantages may constitute one of the disadvantages that support the idea of rejection. The confidentiality and privacy that characterize virtual currencies may also be reflected negatively on them, as they may give ease to suspicious and illegal operations that It is done through the Internet. The privacy provided by this currency made it a destination for money laundering operations and the sale of stolen and prohibited products such as drugs¹.

Also, the uncertainties associated with the process of mining these coins made it difficult to accurately determine the equations that the device is solving, which led to the generation of an idea or doubt about the existence of organizations working in secret to solve equations that may need hundreds of years in short times, At the same time, mining these currencies may lead to attacks on them, which are summarized by specialists in two types: the first type is that a user uses or consumes the same bitcoin twice

¹ - Al-Bahouth, A. a., Virtual money, p33.

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for the same address, and the second type is that a user inserts a fake log box into the system and as a result, he can get a number of new bitcoins without right.

And what angered the national legislator as well is the many fluctuations in the price of virtual currencies and the piracy that they can be exposed to as long as they are stored within digital wallets, making them vulnerable to theft and manipulation of user accounts.

It was evident in the preliminary draft of the 2018 Finance Law that the Algerian legislator decided not to allow the circulation of virtual currencies to block the door to facilitating terrorist financing and money laundering operations. Algeria is one of the countries that always call for eliminating the sources of funding terrorist groups, beside that, tax evasion that will result in their trading, due to the difficulty of collecting taxes by government agencies based on linking the tax to these deals, given that the latter is hidden through the Internet.

Therefore, and in the absence of a body supervising the control of these currencies, such as the financial or monetary authorities in the country, and in the absence of their issuance by any central bank or official international institution, these virtual currencies remain lacking legal protection and expose traders to losses that are difficult to compensate.

And as we have mentioned above, Algeria aims behind its ban on virtual currencies to establish strict and strict control over this type of transactions, but the way to achieve this requires intensification of efforts and work in the long term in order to avoid any developments that may afflict Algeria's financial system. As Bitcoin and other digital currencies have created great fear in many countries for what it may lead to of a disconnect between the real economy - goods and services - and the financial economy, and these are the same reasons that contributed to the economic crisis of 2008.

And in the context of highlighting the repercussions of the Algerian position toward virtual currency trading on the national economy in the future, the economic expert Elarbi Olahssan believes that Algeria's prohibition of dealing with virtual currencies in the Finance Law of 2018 is due to geopolitical security rather than economic reasons, given that the danger that characterizes these currencies allows it to finance suspicious or illegal activities easily without the knowledge of the financing party, or it may be a tool to smuggle funds abroad.

And in the absence of a developed e-commerce in Algeria, in addition to the weakness of the stock exchange, such transactions ,adds Elarby Olahssan ,

will not have any benefit on the national economy compared to its danger, besides that, that some developed countries such as Germany, America and Canada have put these transactions under The experiment in isolated cities to measure its effectiveness and analyze its repercussions, so that the virtual currency remains a subject of controversy between its supporters and opponents¹.

The great rise in the price of virtual currencies in the world was not achieved for gold, oil, or another currency previously, and what contributed to this are price fluctuations that depend on speculation and gambling, and therefore the possibility of losing in it will be very great. Even the President of the Federal Reserve in America (Central Bank) described it in one of her meetings as "a speculative asset" and that it is not a fixed source of value and is not considered legal currencies.

The inability of the Algerian government to regulate the virtual currency at the present time is justified, as long as it is not able to identify the two parties to the transaction. And as long as it is unable to do so, it cannot become a legal currency, but this does not negate the status it has reached in the international trade exchange. Especially that it provided additional means of exchange at the international level, which may contribute to increasing global inflation rates.

In addition to the aforementioned, the volume of currencies circulating outside the banking system may increase by circulating them, Because these virtual currencies will not be included in the Central Bank's measures of the volume of money, which may lead to an increase in the overall supply of money within the economy, especially since it is not taken into account when making monetary policies on this one hand, and on the other hand, the completion of many commercial operations through The Internet through these digital currencies may lead to a lack of demand for legal (traditional) money, which may directly reflect on the ability of the central bank to take appropriate monetary policies².

And it is expected that virtual currencies will have a major role in expanding the tax evasion cycle and thus affecting the financial policy of the state, and that is due to the difficulty of monitoring transactions and commercial exchanges concluded via the Internet and between direct dealers (peer-to-peer) and without a financial intermediary (the bank or credit companies),

¹ - Shbeita, S. (). Does dealing with Bitcoin threaten Algeria's economy? Algeria: al Hiwar website www.algeriediplomatique. 2019.

² - Shbeita, S

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which increases the chances of evasion and deepens the phenomenon of the hidden economy and affects economic policies in general.

Dealing with and trading virtual currencies, and the intense fluctuations that characterize it, poses another problem related to protecting consumers and investors, especially the young ones who do not do good analysis, and this is what makes the regulatory authorities take on an additional burden of insuring losses, Accordingly, it becomes incumbent on the authorities to provide a clear duty to guidance the clients about the risks related to dealing with cryptocurrencies¹ .

-Conclusion:

Virtual currencies were and are still a subject of widespread controversy between proponents and opponents of them, but the fact that no two disagree on is that they were able to occupy an important position in the global economic system, and the number of its users and the number of companies, commercial institutions and individuals who accept it, has increased significantly, and what is hidden by the accelerating technological revolution is enough to carry many surprises in the future, because what was impossible yesterday is possible today.

Although it may be natural to have virtual currencies that benefit economic transactions at the present time, especially with the increase in electronic transactions in a remarkable way, dealing with virtual currencies issued by unknown persons and in the absence of any financial authority monitoring them, may lead to their use in Suspicious and illegal activities such as drug trafficking or the transfer of funds for organized crime ... etc., which may undoubtedly contribute to an increase in financial fraud and scam, in addition to threatening monetary stability in the countries where these transactions are prevalent.

And the Algerian legislator, through his rejection of virtual currencies, followed the approach of countries that did not allow the circulation of these currencies in any way, and stipulated that anyone who violates this prohibition shall be punished in accordance with the laws and regulations in force, and thus he has blocked the way to the modest practices that It a group of young investors has done in recent years, and to avoid the negative effects that result from trading these currencies, which may have a negative impact on the national economy and weaken foreign exchange reserves.

¹ - Al-Bahouth, A. a., Virtual money, p230.

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This prohibition confirms that the phenomenon of virtual currencies still needs a deep study, given its precise technical dimensions and the strong need to adjust the terms of its transactions and the correct adaptation of them, as its market involves a risk whose repercussions are difficult to predict as it is governed by uncontrolled and unstable factors, which makes it fast Volatile and highly ambiguous.

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