

The effects of digital currency in supporting terrorist crimes

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Abstract

The rapid technological development nowadays, and digital currencies have emerged as one of the most important global financial innovations. These currencies, such as Bitcoin, Ethereum, and Litecoin, represent a decentralized financial system based on blockchain technology (encryption), which ensures confidentiality and security. These currencies offer many benefits, such as quick transfer, low costs, privacy, and other advantages. However, they have been misused by terrorist groups as a means of financing terrorism and money laundering. Whereas the international community has attempted to enact legislation to combat this dangerous problem and called on its members to cooperate effectively to stop it and address its causes. Although Kurdistan Region of Iraq and continues have been exposed to the risks of terrorist crimes of all kinds, resulting in severe and destroy the lives and property of the citizens of the region. The Kurdistan government has considered the crime of financial terrorism a crime punishable upon its commission, but has not regulated the crime of money laundering. Terrorist organizations exploit the relatively new banking system in Iraq, as well as political and security instability, which provides easier opportunities for money transferring and weak observation of financial flows. Therefore, it is important to issue specific legislation to fight this serious problem, taking into account the Iraqi constitution and international standards that guarantee the protection of rights and freedoms.

Keyword: Cryptocurrencies, Terrorist Crimes, Organized Crime, Electronic Money

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Introduction

The rapid development of information technology has helped erase economic and cultural boundaries between countries. Digital currencies are the currency of the present and the future, and they play a crucial role in many crimes due to their common use in all aspects of life, given that they include all the functions of money. This results in many crimes, both traditional ones, such as theft, forgery, money laundering, and fraud, and new ones recently banned by law, such as hacking electronic wallets and crimes related to virtual currency withdrawal, in addition to their use as a means of financing terrorism, money laundering, and other criminal activities. Recently, digital currencies have not been recognized by many countries as official currencies. The legal status of these currencies in most countries of the world is not undefined. Countries must clearly define the scope of the limits and responsibilities of individuals and institutions operating in the cryptocurrency market. The risks posed by these currencies cannot be addressed without establishing a comprehensive legal system within an internationally coordinated framework agreed by countries and international banking institutions.

Significance of the study:

Studying the impact of digital currencies on supporting terrorist crimes is gaining increasing importance in light of the increasing reliance of terrorist groups on this method as a tool for financing terrorism, money laundering, and other criminal offenses. This is due to the unique characteristics of digital currencies, such as their privacy, regionalization, and difficulty of tracing, which have made them an ideal choice for criminal groups. Leaving these currencies without legal regulation is a dangerous act. These serious reasons require countries to regulate digital currencies, establish laws and rules for them, control the related crimes, and limit the crimes.

Study Objectives:

This study aims to achieve the following objectives:

1. Define digital currencies, their characteristics, and determine their legal framework.
2. Explain the government's role in regulating digital currencies, particularly the companies that produce and deal with them.
3. Clarify the relationship between digital currencies and terrorist crimes.
4. Demonstrate the role of digital currencies in facilitating the commission of terrorist financing and money laundering.
5. Explain the position of national and international legislation regarding the financing of terrorist organizations, money laundering, and other terrorist crimes.
6. Attract the attention of Kurdistan and Iraqi legislators to consider this new type of behavior that is harmful to individuals, to ban it, and to impose hard penalties.

Research Problem:

The research problem lies in the fact that digital currencies play a significant role in facilitating and supporting terrorist crimes. This is also due to the increasing prevalence of cryptocurrencies and their primary characteristic, namely their ability to cover the identity of their users. This prevents the enforcement of controls over cryptocurrency transactions and their use by cybercriminals, whether in terrorist or other crimes. Criminal laws in the Kurdistan Region of Iraq, as they currently stand, will remain unable to deal with this innovation, keep pace with its developments, avoid the risks, or limit its illegal use. Hence, we present our main research problem: How can the

technical characteristics of digital currencies contribute to facilitating and supporting terrorist crimes?

This main problem leads to the following sub-questions:

- 1- What is the concept of digital currencies and terrorist crimes?
- 2- What are the risks associated with the use of digital currencies?
- 3- How legal is dealing with digital currencies?
- 4- What is the international role in fighting the use of cryptocurrencies in terrorist financing and money laundering crimes?
- 5- What is the role of national legislation in preventing the financing of terrorist and other organized crimes through digital currencies?
- 6- How do digital currencies contribute to the financing of terrorism and money laundering?

Study Methodology:

To conduct a study on the impact of digital currencies in supporting terrorist crimes, the researcher adopt an analytical approach by analyzing national and foreign legal texts, as well as the opinions of jurists and researchers on the research topic. The researcher also adopt a comparative approach to compare the positions of the Kurdistan Region and Iraqi legislation with those of comparable foreign legislation, and their role in fighting the exploitation of digital currencies to support terrorist crimes.

Research Structure

The current study is divided into two sections. The first section addresses the definition of digital currencies and terrorist crimes. The second section then discusses the comparative position of international and national regulation on fighting the use of digital currencies in the crimes of money laundering and terrorist financing.

2. Definition of digital currencies and terrorist crimes

Digital currencies are one of the latest developments in financial technologies that are likely to support terrorists in their work, which poses new challenges to the measures taken by organizations and countries to combat the financing of terrorism (Anwar Othman, 2021, p. 6) because the use of cryptocurrencies for financing by terrorist organizations is still in the initial stage and the measures issued are still in the exploration phase and terrorist organizations use cryptocurrencies to trade weapons, drugs and other sources of financing (Steven Stalinsky, 2022, p3). To clarify the topic of our research, we will

discuss the concept of digital currencies in the first section, and focus in the second section on the concept of terrorist crimes.

2.1 The concept of digital currencies and their characteristics

In this section, we will devote the first section to defining digital currencies, and the second section will be devoted to studying the characteristics of digital currencies.

2.1.1 The concept of digital currency:

The concept of virtual currency refers to digital data issued by private developers as a special unit of account that can be stored, obtained, and dealt with electronically and can be used for a variety of purposes with the agreement of the parties dealing with it (D.he and Karl Habermeier,, 2016.p5.).

It can also be defined as a digital representation of a value not issued by the central bank or credit institutions that can be used in some circumstances as an alternative to money (European Central Bank, 2015, p.).

The International Monetary Fund defined it as a digital representation of value issued by private developers and denominated in their unit of account. While some defined it as a completely electronic currency that is traded over the Internet only without a physical presence, and it differs from traditional currencies in that there is no central regulatory body behind it, but it can be used like any other currency to purchase over the Internet or even convert it into traditional currencies (Hassan Muhammad, 2017, p54).

The Basel Conference in 1996 defined it as "a monetary value in the form of credit units stored electronically or on an electronic device held by the consumer (Department of Finance,, 2018. p98).

It can be defined as the process by which individuals or institutions can communicate via the Internet using technology to issue new encrypted means or currency to buy or sell goods or request services and is subject to the rule of satisfaction and acceptance without referring to financial institutions.

2.1.2 Characteristics of Digital Currencies

First: Difficulty in revealing identity: Digital currencies have the advantage of concealing the identity of the parties to the transaction, as the process does not require verification of the identity of the parties or disclosure of any personal data or information about them, and here lies the danger, as this anonymity encourages its use by terrorist organizations (Dr. Abdullah bin Suleiman bin Abdulaziz, 2018, p. 47). Although the actual user identity is not visible on the

blockchain, Bitcoin users have an alphanumeric address linked to their Bitcoin wallet. Thus, some data such as the transaction date, its value, and the Bitcoin addresses of the counterparties are publicly recorded (Al-Siddiq Taheri, 2021, p. 43).

Second: Universality: One of the characteristics of digital currencies is that they are cross-border, so money can be transferred anywhere in the world and at any value. Cross-border transfer is an advantage of cryptocurrencies that attracts terrorists to deal with them because it enables them to transfer money internationally without the need for intermediaries subject to state regulation (A.G. Luchkin, 2020, p. 4).

Third: Transaction speed: Transactions made with encrypted digital currencies are characterized by speed because they depend entirely on technology. They are completed in a few minutes and with the push of a button (Abdullah bin Salman Al-Bahouth, 2017, pp. 1-16).

Fourth: Decentralization: Cryptocurrencies are not monitored by a central authority, as they are characterized by being decentralized, and the reason for this is that their issuance or creation is done independently of any bank or country, as they do not need central banks to issue them or an intermediary to complete the transaction due to their reliance on blockchain technology (Dr. Ahmed Youssef Juma, 2022, p. 135). This provides an advantage to terrorists after tightening the noose on them by transferring money through traditional channels such as banks and other financial institutions that have become committed to reporting suspicious transactions (P1 European Parliament, 2018). Terrorists find a haven in cryptocurrencies that cannot be controlled by law enforcement authorities and whose movement cannot be restricted. Where the cryptocurrency was created through encryption algorithms and the smooth functioning of the system is ensured through the efforts of all users of the system themselves (Wafa Muhammad Mustafa Saqr, 2024, p. 1461).

Fifth: Security: Since the transaction is detected through blockchain technology, double spending, i.e. spending the currency, is very difficult (Ayman Ezz El-Din Abu Salah, 2018, p. 3). If an attempt is made to double spend, the blockchain rejects the transaction as incorrect or forged, and therefore its security represents an attraction for terrorists. (Asim Adel Muhammad Al-Adhaileh, 2020, p. 34).

Sixth: Difficulty tracking transactions: One of the most important features that attract terrorist elements and organized crime elements to use cryptocurrencies is the law for these transactions, and their desire to make their transactions more difficult in Tracking Difficulty of tracking law enforcement authorities Terrorists resort to achieving these transactions and making them more secure by using specific networks such as the TOR network, which makes the tasks of law enforcement agencies in tracking the transaction more difficult and complex. (Glyn Davis, 2017, p8.)

Seventh: Ease of use and low costs: Cryptocurrencies are characterized by ease of use, as they do not require the user to have technical or financial expertise. It is sufficient for him to know how to deal with the computer and connect to the Internet to complete the transaction (Cynthia Dion-Schwarz, David Manheim, Patrick B. Johnston, 2019, p 24.). There are free videos on websites to explain how to deal with currencies Encrypted, in addition to the low cost of YouTube and others in transferring and transferring money in cryptocurrencies because it is done away from banks and financial institutions of countries. Hence, the transaction takes place between the two parties without the need for an intermediary (Abdullah Ahmed Muhammad Abd Ashallah Rabie, 2020, p. 247).

Eighth: The size of transactions. Encrypted transactions such as Bitcoin exist as digital numbers and there is no need to store them in physical space. In addition, transactions related to them can be carried out in large amounts (Russ Marshall, 2015, p93). As for the importance of this feature to terrorists, it receives medium attention if the purpose is to finance terrorist attacks. As for the field of operational financing, the size of the funds is very important because terrorist organizations need large amounts to buy weapons, train individuals, pay them salaries, and other expenses (Wafa Muhammad Mustafa Saqr, 2024, p. 1462).

.2.2 The concept of terrorist crimes

2.2The concept of terrorist crimes

We distribute this requirement into two branches, in the first branch we review the definition of the terrorist act, and in the second branch we search for the images of terrorist crimes as follows:

2.2.1 Definition of the terrorist act

The term terrorism comes in the language from the verb (rahab, yurhub, rahabba) meaning to fear, and rahbah means fear, and rahbah is fear and panic (Ibn Manzur Al-Masry, 1995, p. 174). As for the Holy Quran, the meaning of terrorism refers to what was mentioned in the Quranic verses that come with the meaning of panic and fear, fear, and dread of the punishment of God Almighty, as it was mentioned in the Almighty's saying: {And fulfill My covenant, I will fulfill your covenant, and fear only Me} (verse (40) of Surat Al-Baqarah). And it came: {He is only one God, so only Me {So terrorize Me} (Verse (51) of Surat An-Nahl.)

First: The legal definition of a terrorist act

The Kurdish legislator defined a terrorist act as: (It is the organized use of violence or the threat of it the incitement to it or the glorification of it that the perpetrator resorts to to implement an individual or collective criminal project that targets an individual or a group of individuals or groups or randomly to cause terror, fear, panic, and chaos among people to disrupt public order or to endanger the security and safety of society and the region or the lives of individuals or their freedoms or their sanctities or their security or to cause harm to the environment or one of the natural resources or facilities or public or private property to achieve political, intellectual, religious, sectarian or ethnic goals). (Article One of the Anti-Terrorism Law in the Kurdistan Region - Iraq No. (3) of 2006).

The Iraqi legislator defined a terrorist act as: (Every criminal act carried out by an individual or an organized group that targeted an individual or a group of individuals, groups, or official or unofficial institutions, causing damage to public or private property to disrupt the security situation, stability, or national unity, or spreading terror, fear, and panic among people, or stirring up chaos to achieve terrorist goals) (Iraqi Anti-Terrorism Law No. 13 of 2005).

The note on these texts is that they do not contain a direct definition of the act of terrorism, but rather a description of a set of acts that together constitute the act of terrorism. By reviewing these texts, it becomes clear to us that for a terrorist act to be constituted, it must include three basic elements, which are: There must be a criminal act, meaning that an individual, group, or organization commits any criminal activity that is criminalized by the law of terrorism and punished and that this act results in either material or human damage, and befalls individuals or governmental and non-governmental institutions or

creates chaos and instability, and that the causal relationship between the act and the result is continuous and uninterrupted, meaning that the effect achieved is a direct result of the act that occurred, and all terrorist acts must be committed with intent, with the presence of knowledge and will, and also this act must seek to achieve terrorist goals, meaning that when the act occurs for individual or collective activity and its goal is not to achieve terrorist goals, it falls outside the scope of the law of terrorism and falls within the provisions of the penal laws in force.

Second: The international definition of the terrorist act

There are some definitions provided by international agreements for the concept of terrorism, including the following:

1- Definition of the Geneva Convention of 1937:

The terrorist act is defined as: (All criminal acts against a state that, by their nature or purpose, are likely to incite terror in the hearts of certain individuals or groups of individuals or the hearts of the public) Article (1, paragraph 1) of the Geneva Convention on the Prevention and Punishment of Terrorism 1973.

2. Definition of the Arab Convention on Combating Terrorism:

The agreement defines the terrorist act as: (Any act of violence or threat thereof, regardless of its motives or purposes, that occurs in implementation of an individual or collective criminal project and aims to spread terror among people or terrorize them by harming them or endangering their lives, freedom or security or causing damage to the environment or to any public or private facilities or property or occupying or seizing them or endangering a national resource). (Article 1, paragraph 2) of the Arab Convention for the Suppression of Terrorism, Cairo, 1998. Terrorist acts have been defined in international agreements, but a clear and unified concept of the phenomenon of terrorism has not yet been reached. Therefore, this term remains subject to different interpretations, and each party gives this term a meaning that is consistent with its interests. What is terrorism in the eyes of some is not terrorism in the eyes of others. This is while confronting the phenomenon of terrorism requires, first and foremost, defining a clear concept of this phenomenon, which is applied at all times and places. Therefore, some have proposed the necessity of holding an international conference to reach an international definition of terrorism.

2.2.2 Images of terrorist crimes from the Anti-Terrorism Law in the Kurdistan Region - Iraq

The Kurdistan legislator distributes terrorist crimes according to the seriousness of the act, the criminal result, and the resulting damages into three types, which are terrorist crimes punishable by death, life imprisonment, and temporary imprisonment as follows:

First: The following acts are considered terrorist crimes and are punishable by death: -

- 1- Establishing, organizing, or managing an organization, association, body, gang, center, or group, or assuming its leadership or command to commit one of the terrorist crimes stipulated in this law.
- 2- Assassination for political, ideological, or takfiri motives.
- 3- Using explosive, incendiary, or highly flammable materials or devices designed for sabotage and destruction by direct detonation or remote control devices or booby-trapping vehicles or any other means, or planting explosive devices or using various types of military weapons or using explosive belts or booby-trapped letters or toxic, germicidal or radioactive materials or gases without political motives if the act leads to the death of one or more people.
- 4- Holding a person or group of people hostage with the intent to influence the authorities of the region or national and international governmental and non-governmental bodies and organizations operating in the region to obtain a benefit or advantage of any kind or to force them to do or refrain from doing a certain act or to create a state of terror and panic.
- 5- Killing persons covered by international protection or members of diplomatic and consular departments and bodies, foreign institutions and companies, international governmental and non-governmental organizations, or persons working with them with a terrorist motive. The penalty shall be life imprisonment for assaulting one of them if it does not lead to death.
- 6- Joining any organization, association, body, gang, center, or group that practices terrorism if the perpetrator is a member of the Internal Security Forces or the Regional Guard (Teshmarga) or if he has received military or security training from any of them.
- 7- Cooperating with a foreign country or any organization, association, body, gang, center, or group from outside the region or working for the benefit of any of them to commit any of the terrorist crimes stipulated in this law.
- 8- Facilitating the entry or exit of terrorists into the region and sheltering them, hiding them, covering them up, or assisting them by providing them with information used in planning or attempting to carry out a terrorist crime, knowing that. (Article 2 of the Anti-Terrorism Law in the Kurdistan Region, previous source).

Second: The following acts are considered terrorist crimes and are punishable by life imprisonment:

- 1- Sabotage, demolition, destruction, or causing total or partial damage to buildings, institutions, and public or private property allocated to government departments and interests or public facilities and headquarters of legally recognized parties or associations or one of the oil facilities or other facilities of the region or electric and water power stations or bridges or dams or public

waterways or means of transportation and their facilities or places prepared for public meetings and places of worship or places prepared for the public or any property of importance to the national economy with a terrorist motive to destabilize security and stability in the region.

2- Seizing or hijacking civil aircraft and the penalty shall be death if the act results in the death of one or more persons.

3- Kidnapping, arresting, detaining, or depriving a person of his freedom by any means for financial extortion or political purposes with a terrorist motive.

4- Disabling means of communication and computer systems penetrating or jamming their networks or entering information or data into them to facilitate the commission of terrorist crimes.

5- Providing, collecting, transferring, or transferring funds directly or indirectly inside or outside the region to use them or know that they will be used to finance any terrorist crime.

6- Training one or more persons to use weapons or means of communication or teaching martial arts or combat methods to prepare them to carry out a terrorist crime.

7- Belonging to one of the entities mentioned in the first paragraph of Article Two of this law and being a member thereof.

8- Manufacturing, importing, or possessing explosives, firecrackers, or devices designed for sabotage or demolition or any material used in their composition as well as the devices, machines, and tools used in their manufacture and detonation if this is to use them to commit a terrorist crime. (Article Three of the Anti-Terrorism Law in the Kurdistan Region, previous source).

Third: The following acts are considered terrorist crimes and are punishable by imprisonment for a period not exceeding fifteen years for anyone who:-

1- Had the authority to command members of the internal security forces or the region's guards and request or assign them to work to disrupt the orders of the regional government with a terrorist motive.

2- Possesses or acquires, with the intent to commit terrorism, documents, printed materials, recorded tapes, their equivalents, or images that include incitement, encouragement, or promotion of committing terrorist crimes with the intent to distribute or publish.

3- Knows that a terrorist crime stipulated in this law has been committed and does not inform the public authorities of it without exception.

4- Intentionally broadcasts news, statements, or broadcasts propaganda that incites terrorism, or exploits and uses visual, audio, print, or electronic media, or publishes statements on the Internet that amount to direct encouragement of

terrorist crimes that lead to undermining public security, spreading panic among people, and threatening the political entity of the region.

5- Exploits the lack of awareness or lack of knowledge of a person to use him in terrorist acts and carry out those acts through him.

6- Commits forgery in an official document or fabricates a document for perpetrators of terrorist crimes to conceal or intentionally change their identity, facilitating his movements, or assisting them in his actions, knowing the intended purpose behind the forgery. (Article 4 of the Anti-Terrorism Law in the Kurdistan Region, previous source). It is clear to us from the above that the Kurdish legislator has criminalized the act of transferring currency, money, or funds to terrorist groups, and considered the financing of any criminal project a crime punishable by life imprisonment, whether inside or outside the region, according to the fifth paragraph of Article 3 of the aforementioned law. Therefore, we support the position of the Kurdish legislator in organizing and criminalizing the financing of terrorist crimes, and certainly, this position has an impact in confronting terrorist crimes and reducing the financial capacity of terrorist groups, and as a result, leads to reducing the rate of terrorist crimes on the domestic and international levels.

3. The comparative position of international and domestic legislation in addressing the use of digital currencies in the crimes of money laundering and financing terrorism.

Terrorist organizations use digital currencies as an innovative means of transferring their funds to use them and support them for terrorist and criminal projects, and they collect these funds in legal and illegal ways such as managing businesses, obtaining donations from individuals and charitable associations, or extortion, theft, drug smuggling, and antiquities trafficking. They obtain illegal funds through human trafficking and obtain all their funding from their control. For example, the Islamic State organization was on Iraqi and Syrian lands, selling natural resources such as oil and seizing government funds, and they used all this money to finance terrorism and money laundering. (European Parliament, Previous Reference, P. 43). Money laundering is defined as any act intended to camouflage or conceal the source of funds or income resulting directly or indirectly from the commission of a crime (Abdullah, 2012, p. 38). As for financing terrorism, it is any act committed by any person who, by any means, directly or indirectly, voluntarily, provides or collects funds or attempts to do so, from a legitimate or illegitimate source, to use them, knowing that these funds will be used, in whole or in part, to carry out a terrorist act, or by a terrorist or terrorist organization, whether the crime occurred or not and regardless of the country in which this act occurs, or in which the terrorist or terrorist organization is present (Anti-Money Laundering and Terrorist

Financing Office, 2018, p. 2). In this way, in this section, we will study the position of international legislation in addressing the use of cryptocurrencies in the crimes of money laundering and terrorist financing in the first section, and the second section, we will devote to studying the position of domestic legislation in addressing the use of cryptocurrencies in the crimes of money laundering and terrorist financing.

3.1 The position of international legislation in addressing the use of cryptocurrencies in the crimes of money laundering and terrorist financing

3.1.1 Terrorist financing and money laundering in international agreements

First: Terrorist financing and money laundering in the International Convention for the Suppression of the Financing of Terrorism in 1999.

The international community has begun to pay attention to the financing of terrorism as a crime and an illegal behavior independent of the terrorist act itself in the International Convention for the Suppression of the Financing of Terrorism in 1999, which called for the necessity for countries to adhere to the recommendations set by the Financial Action Task Force (FATF) regarding combating the financing of terrorism. The number of these recommendations is nine, the most prominent of which is the second recommendation related to criminalizing the financing and accompanying money laundering through (Cynthia Dion-Schwarz, 2019, p. 24).

- 1- Criminalizing the financing of terrorism, terrorist acts, and terrorist organizations that carry out these acts.
- 2- Making terrorism financing crimes predicate crimes (such as money laundering crimes).
- 3- The countries concerned must fulfill the provisions of this recommendation by enacting new laws that make terrorism financing activities independent and specific crimes or explain how crimes based on terrorism financing activities can be combated.

The aforementioned agreement has defined in clause (1) of Article (1) what is meant by the expression “funds” (returns). Funds are any type of tangible and intangible movable and immovable (real estate) funds obtained by any means, and legal documents and instruments in any form, including electronic and digital forms, which enter into the ownership of those funds or an interest in them, including, but not limited to, bank credits, traveler’s checks, bank checks, transfers, shares and securities, bonds, bills of exchange and letters of credit (Acharya, Arabinda, 2009, p. 156). As for proceeds, they were defined in clause (3) of the same article as any funds that arise or are obtained directly or indirectly from committing a crime of the crimes that The agreement specified in Article (2) thereof, and the agreement did not stipulate the necessity of actually using funds to carry out a crime referred to, and it also considered an

attempt to commit these crimes and contribute to their commission as a crime. (European Parliament, May 2018, P 39.).

Second: Financing terrorism and money laundering in the Vienna Convention: (United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988). The agreement implicitly addressed the cash proceeds from these criminal activities and how to exploit them, indicating that money laundering is the preparation of criminal proceeds to conceal their illicit source. This process is of particular importance because it enables the criminal to enjoy these profits without exposing their source to danger. Money laundering was defined in Article 3:1 as (the transfer or transfer of funds, knowing that they are derived from any crime or crimes, with the aim of concealing or disguising the illicit source of the funds or with the intent to assist any person involved in committing such a crime or crimes to evade the legal consequences of his actions).

3.1.2 Guidance of international bodies and federations to combat money laundering and terrorist financing using digital currencies.

First: The Financial Action Task Force's directives:

It is an international governmental body consisting of 39 members, and was established by the G7 Summit in Paris in 1989. The tasks of the Financial Action Task Force are to set standards and promote the effective implementation of legal and regulatory measures to combat money laundering, financing terrorism, and financing the proliferation of weapons. It also works in cooperation with other international bodies to identify weaknesses at the national level with the aim of protecting the financial system of other major powers, including the International Monetary Fund. It works in close cooperation with other major international organizations, including the International Monetary Fund, the World Bank, the United Nations, and regional bodies, to help national governments develop effective systems to combat money laundering and financing terrorism (Wafa Muhammad Mustafa Saqr, previous source, p. 1464). The Financial Action Task Force has sought to address the risks of money laundering using cryptocurrencies since their inception, and this was evident in the reports it issued regarding the potential risks of cryptocurrencies. (The FATF, 2024, p1..)

Second: European Union directives to combat money laundering and terrorist financing using digital currencies

1-The fifth directive to combat money laundering and terrorist financing:

The fifth European directive to combat money laundering using cryptocurrencies AMLD entered into force on 5/30/2018, and where it set new

rules for European financial supervisory bodies to monitor cryptocurrencies, and the regulation was submitted as a law on 7/9/2017 in an attempt to increase transparency in financial transactions in order to curb money laundering and terrorist financing across Europe, and with the entry into force of the fifth European directive, providers of cryptocurrency services on the Internet will have to comply with it, and The European Union has set strict rules directed towards the use of anonymous payments through prepaid cards and virtual currency exchange platforms for the purposes of money laundering and terrorist financing (Lester Coleman, 2024, p1.).

2- The sixth directive to combat money laundering and terrorist

financing: The sixth directive entered into force on 10/23/2018 and is considered the latest weapon of the European Union to combat financial crime. This directive adds new regulatory requirements on obligated companies such as banks, money transfer companies, investment houses, gaming institutions, and financial services in order to combat money laundering. (Wafa Muhammad Mustafa Saqr, previous source, p. 1467.)

3.2 The position of domestic legislation in addressing the use of cryptocurrencies in the crimes of money laundering and terrorist financing

3.2.1 The position of Iraqi legislation in addressing the use of cryptocurrencies in the crimes of money laundering and terrorist financing

1- The position of the Iraqi Penal Code No. 111 of 1969.

The Iraqi Penal Code No. 111 of 1969 referred to this crime under the title of the crime of concealing things obtained from a crime, as it organized articles (460-461-462), (Israa, 2014, p. 1297) and Article (460) stipulated that: (Without prejudice to any more severe penalty stipulated by law, whoever possesses, conceals, or uses things obtained from a felony or disposes of them in any way with knowledge of that shall be punished with imprisonment for a period not exceeding seven years. He shall be punished with imprisonment if the crime from which those things were obtained is a misdemeanor, provided that the penalty does not exceed the maximum penalty prescribed for the misdemeanor from which those things were obtained, all of this without the possessor being Or the hidden or the user or the disposer has contributed to committing the crime from which the things were obtained). It is clear to us

from the above that the Iraqi legislator has organized the crime of money laundering without naming and indirectly.

Article (48) of the Iraqi Penal Code also stipulates that: A partner in the crime is considered:

- 1 - Whoever incites to commit it and it occurs based on this incitement.
- 2 - Whoever agrees with another to commit it and it occurs based on this agreement.
- 3 - Whoever gives the perpetrator a weapon, tools, or anything else that was used in committing the crime with his knowledge of it or intentionally assists him in any other way in the actions prepared, facilitated, or completed for its commission).

By reviewing these articles of the Iraqi Penal Code, it becomes clear to us that the legislator spoke about participation in the crime, and considered (incitement, agreement, and assistance) a partner in the crime that occurred with the original perpetrator, and these cases apply to all crimes, whether terrorist or non-terrorist. In conclusion, it can be said that the Iraqi Penal Code criminalizes terrorist crimes - financing terrorism and money laundering - in general without naming and without getting into the details, so we hope that our honorable legislator will amend the articles of the Penal Code or issue special legislation to combat the crimes of financing terrorism and money laundering.

2- The position of the Anti-Money Laundering and Terrorism Financing Law No. (39) of 2015 According to Article (2) of the Anti-Money Laundering and Terrorism Financing Law No. (39) of 2015, anyone who commits one of the following acts is considered to have committed the crime of money laundering:

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First - Transferring, moving, or exchanging funds from a person who knows or should have known that they are proceeds of a crime, for the purpose of concealing or disguising their illegal source or helping the perpetrator or the perpetrator of the original crime or those who contributed to its commission or the commission of the original crime to evade responsibility for it.

Second: Concealing or disguising the true nature, source, location, condition, method of disposing of, transferring, ownership, or rights related to funds, from a person who knows or should have known that they are proceeds of a crime.

Third: Acquiring, possessing, or using funds, from a person who knows or should have known at the time of receiving them that they are proceeds of a crime. (Article (2) of the Anti-Money Laundering and Terrorism Financing Law No. (39) of 2015).

The Iraqi legislator punished anyone who committed a money laundering crime with imprisonment for a period not exceeding fifteen years and a fine not less than the value of the money involved in the crime and not more than five times

that. (Article (36) of the Anti-Money Laundering and Terrorism Financing Law No. (39) of 2015).

As for financing terrorism in Iraqi law, according to what is stipulated in Article (1/tenth) of the Anti-Money Laundering and Terrorism Financing Law No. (39) of 2015, any person who, by any means, directly or indirectly, voluntarily, provides or collects funds or attempts to do so, from a legitimate or illegitimate source, with the intention of using them, knowing that these funds will be used, in whole or in part, to carry out a terrorist act, or by a terrorist or terrorist organization, whether the crime occurred or not and regardless of the country in which this act occurs, or in which the terrorist or terrorist organization is present, is considered to have committed the crime of financing terrorism. (Article (1/tenth) of the Anti-Money Laundering and Terrorism Financing Law No. (39) of 2015). The Iraqi legislator punished anyone who committed the crime of financing terrorism with life imprisonment, and the money involved in the crime stipulated in this law, its proceeds, or the things used in committing it or that were prepared to be used in it, or their equivalent in value, must be confiscated if it is not possible to seize or execute them, whether they are in the possession of the accused or another person, without prejudice to the rights of third parties in good faith. (Articles (37-38) of the Anti-Money Laundering and Terrorist Financing Law No. (39) of 2015). It is worth noting that the Anti-Money Laundering and Terrorist Financing Office was established in Iraq in 2007 within the structure of the Central Bank of Iraq under the name (Money Laundering Reporting Office), and it was reconstituted in 2015 after the issuance of the Anti-Money Laundering and Terrorist Financing Law No. (39) of 2015 and with its complete independence, as paragraph (first) of Article (8) of the above law stipulated that (an office called the Anti-Money Laundering and Terrorist Financing Office shall be established in the Central Bank of Iraq at the level of a general department that enjoys a legal personality and financial and administrative independence). (Official website of the Anti-Money Laundering and Terrorist Financing Office, an article published on the following website, https://aml.iq/?page_id=2134 Last visit 1/16/2025). It is worth noting that the Kurdistan Region does not have a special law to combat money laundering and terrorist financing, and the Iraqi law is not applied in the region until a law is issued to implement it in the Kurdistan Parliament. Therefore, we suggest to the Kurdistan Parliament of Iraq to expedite the issuance of a special law to combat money laundering and terrorist financing or to issue a law to implement the federal law.

3.2.2 The position of foreign legislation in addressing the use of digital currencies in the crimes of money laundering and terrorist financing

First: The position of the legislation of the United Arab Emirates in addressing the use of digital currencies in the crimes of money laundering and terrorist financing

Possession or concealment of criminal proceeds has been a crime according to the legislation of the United Arab Emirates since 1987, but in 2002 the UAE issued the first special penal legislation criminalizing money laundering in accordance with the provisions of international agreements and recommendations (Federal Law No. (4) of 2002), and this legislation was amended in 2014.

In the context of the state's preparation for the second round of the mutual evaluation process of the countries of the Middle East and North Africa Financial Action Task Force (MENAFATF) in 2018, Federal Decree-Law No. (20) of 2018 was issued regarding combating money laundering crimes and combating the financing of terrorism and the financing of illegal organizations, which repealed Federal Law No. (4) of 2002. Its executive regulations were also issued Pursuant to Cabinet Resolution No. (10) of 2019 (FIU, 2025, p. 1). For the purposes of continuously updating the legislative framework to combat money laundering and terrorist financing in line with international recommendations, operational challenges, and rapid developments in the field of combating financial crime, Federal Decree-Law No. (7) of 2024 was issued, amending some provisions of Federal Decree-Law No. (20) of 2018. The amendments in the new Decree-Law included the establishment of the National Committee for Combating Money Laundering, Combating the Financing of Terrorism, and Financing of Illegal Organizations, and a decision to form it will be issued by the Cabinet. The amendments included the establishment of a committee called the "Supreme Committee for Supervising the National Strategy to Combat Money Laundering and Terrorist Financing", and its formation and operating system shall be issued by a decision of the Council of Ministers. (Fiu, 2025, p. 1) The aforementioned law explicitly addressed the crimes of money laundering and terrorist financing. The law did not define the two aforementioned crimes but rather specified a group of acts that it considered the crimes of terrorist financing and money laundering. (Articles 2-3 of Federal Law No. (7) of 2024), and set proportionate penalties for these crimes under Article (22) of the aforementioned law, which stipulated that: (Whoever commits one of the acts stipulated in Clause (1) of Article (2) of this Decree-Law shall be punished by imprisonment for a period of not less than one year and not more than (10) ten years and a fine of not less than (100,000) one hundred thousand dirhams and not more than (5,000,000) five million

dirhams, or by one of these two penalties. (Paragraph 1 of Article 22 of Law No. 7 of 2004).

Also, whoever uses the proceeds to finance terrorism shall be punished for financing terrorism (with life imprisonment or temporary imprisonment for a period of not less than (10) ten years and a fine of not less than (300,000) three hundred thousand dirhams and not more than (10,000,000) ten million dirhams). (Paragraph 4 of Article 22 of Law No. 7 of 2004).

Second: The position of US legislation in addressing the use of digital currencies in the crimes of money laundering and terrorist financing

The first legislative attempt in the United States of America to combat money laundering and terrorist financing was the Bank Secrecy Act issued in 1970, which obligated financial institutions to keep a record of transactions. (Will Kenton, 2024, p1.) (The second attempt is the legislation of the American Patriot Act in 2001, which expanded the scope of the Bank Secrecy Act to include, in addition to financial institutions, individuals, companies, and banks (Wafa Muhammad Mustafa Saqr, previous source, p. 1470). In 2013, the Financial Crimes Enforcement Network issued guidelines for implementing the aforementioned law. The network also defined the legal currency in circulation for a country, which is usually used and accepted as a means of exchange in the country of issuance, and also accepts digital currency from one user and transfers it to another user, and thus is subject to liability (Fincen, 2024, p2). In 2020, the Senate passed the Anti-Money Laundering Act on digital currencies and recognized that it is the value that replaces money, and imposed on companies to register with the Financial Crimes Enforcement Network and subject them to reporting requirements and keeping records of digital currency transactions, as well as obtaining the identities of parties dealing with cryptocurrencies (Wafa Muhammad Mustafa Saqr, previous source, p. 1470). It is clear to us from the above that the use of encrypted digital currencies by terrorist organizations puts great pressure on countries to combat money laundering and terrorist financing. New technologies and the rapid development of the global financial market have created opportunities for financing terrorism and money laundering. Therefore, the issue of financing terrorism must remain at the heart of the international community's agenda. Countermeasures against financing terrorism must be updated, gaps in the global and domestic regulatory system must be filled to confront support for terrorist crimes and reduce the misuse of cryptocurrencies in illegal activities, and based on the latest scientific technologies and international cooperation, and at the domestic or national level, countries must expedite the issuance of advanced legislation to reduce terrorist crimes, especially to combat the crimes of money laundering and financing terrorism.

4 Conclusion

The conclusion consists of the most important conclusions and proposals as follows:

First: Conclusions

1- The phenomenon of financing terrorism and money laundering is considered one of the most dangerous phenomena facing the national and global economy as it poses a challenge to financial institutions, which are considered, in their entirety, a direct threat to the security and stability of the financial system. Digital currencies are the money of the present and the future, and play a major role in many crimes, due to the proliferation of their use in all aspects of life due to their inclusion of all the functions of money, which results in the occurrence of many criminal crimes, such as financing terrorism, money laundering, arms trade, drugs, theft, forgery, and fraud.

2- Due to the special nature of encrypted digital currencies and the many advantages associated with them, represented by the difficulty of tracking and the ease and speed of transferring money, they are used to facilitate illegal transactions, and as an intermediary in many illegal acts that constitute criminal offenses such as financing terrorist operations and money laundering.

3- Terrorist organizations exploit the recent establishment of the banking system in the Republic of Iraq and the widespread use of cash in daily transactions, as well as exploiting cases of political and security instability, which provides easier opportunities to transfer money, which weakens control over the movement of money.

4- There is a close relationship between the crime of financing terrorism and the crime of money laundering, but the crime of financing terrorism is completely independent of the crime of money laundering. The Iraqi legislator considered the crime of financing terrorism a crime punishable once it is committed.

5- The process of financing terrorism with digital currencies goes through three stages regardless of the source of the funds, whether legitimate or illegitimate:-

First: Raising funds:- The process of raising funds for terrorist organizations is carried out in one of the following ways:- Charitable associations and non-profit organizations, legitimate sources, self-funding sources, and proceeds from original crimes such as fraud, theft, drug trafficking, counterfeiting of currency and checks, human trafficking, kidnapping for ransom, illegal arms trafficking, sexual exploitation of children and other crimes, and other sources of raising funds:- Bank robbery, theft and smuggling of national antiquities and selling them in global markets, smuggling oil and its derivatives abroad, smuggling machines, machinery and equipment abroad, imposing taxes and fees.

Second: Transferring money: Terrorists transfer their money through old means such as cross-border money transfers, banks through cash deposits and bank transfers, using credit cards, ATM cards and prepaid cards, using electronic banking channels. And through foreign exchange buying and selling companies and money transfer companies. And modern means such as electronic payment systems or electronic platforms.

Third: Use of funds: The funds collected by terrorists are used to finance their various activities, which include purchasing weapons, equipment, and ammunition, purchasing chemicals used in the manufacture of explosives such as sodium nitrate, acetone, etc., training terrorist fighters to carry out terrorist acts, promoting and recruiting either directly or through the use of social media and media outlets, financing the living conditions of terrorists such as food, housing, transportation, etc., purchasing airline tickets, credit cards, prepaid cards, and searching for a safe haven for protection.

6- Money laundering involves concealing or disguising the source of proceeds obtained illegally so that they appear to come from legitimate sources. The emergence of cryptocurrencies, such as Bitcoin, has exacerbated this phenomenon. The stages of crime of money laundering using digital currencies has three stages: The first stage is depositing criminal proceeds in various financial accounts, the second stage is camouflage or cover, and in this stage, the dirty money is taken and used in legal financial transactions to hide its sources, and it also includes transferring currencies to foreign countries and exchanging them for foreign currencies, while the third and final stage is integration, and this is done by integrating the money into economic activity such as investments, and then the clean money is returned to the criminal.

7- As a result of tightening the noose on the sources of funding for terrorist organizations, these organizations turned to searching for alternatives to finance their activities, taking advantage of technological development, and found their desired goal in digital currencies, as they provide them with a cover of protection and privacy away from the eyes of law enforcement agencies.

8- The criminal legislation in the Kurdistan Region that regulates crimes against currencies and money is no longer suitable for these crimes, which emerged as a result of technological and technical development in the field of financial transactions.

Second: Recommendations

1- We recommend that the Kurdistan legislature enact a special law on combating the crimes of financing terrorism and money laundering and regulating the transfer of funds through encrypted digital currencies and other modern electronic means, in a manner consistent with the Iraqi constitution and international agreements.

- 2- We recommend regulating the status of digital currencies and establishing foundations and controls for them, and controlling the crimes associated with them, to limit and combat them at the domestic and international levels, by adopting specific means to combat these crimes, whether those means are legislative, security or regulatory.
- 3- The necessity for international and regional organizations to adopt a unified position on the definition of terrorist financing, obligating countries with flexible financial and banking systems, which represent fertile ground for terrorist funds, to adopt an accurate and transparent financial policy to avoid attracting the funds of terrorist groups.
- 4- Creating a sound financial and economic environment requires the continued combating of it through the cooperation and collaboration of various local and international stakeholders, especially since terrorism no longer distinguishes between societies or countries, but has become global.
- 5- Raising awareness and knowledge among financial institutions, businesses, non-profit organizations, and financial intermediaries and working to train their cadres working in the field of digital currency trading and familiarizing them with the risks of financing terrorism in order to confront the new methods of financing terrorism and money laundering crimes and keep pace with the qualitative development that has occurred in this regard.
- 6- Concluding regional and international agreements with the aim of coordination and cooperation between countries to determine the applicable law and the competent court to consider disputes related to digital currencies.
- 7- Enhancing international cooperation in the digital field between leading institutions in the field of the Internet, social media networks, financial intelligence units, and others to combat the financing of terrorism and other crimes and adopting strict guidelines to regulate payment services to avoid the risks resulting from collecting donations via social media.
- 8- Working to train cadres working in the field of electronic money trading and virtual currencies to deal with crimes that may result from dealing with these currencies.
- 9- The necessity of increasing awareness of the risks of money laundering and terrorist financing among the entire non-profit sector, the public, and financial intermediaries, and implementing effective measures to address the new methods of terrorist financing in order to keep pace with the qualitative development that has occurred in this regard.
- 10- Using modern technologies that are used to track the movement of virtual currencies to detect suspicious patterns thereof, and tightening control over the financial and banking sector in the country through the use of modern technology.

5. List of sources

First: The Holy Quran

Second: Books

- 1- Ibn Manzur Al-Masry, Lisan Al-Arab, Volume 1, Beirut for Printing and Publishing, 1995.
- 2- Anwar Othman, Economic Implications of Blockchain Technology and Financial Stability in Arab Financial Markets, Arab Monetary Fund, November 2021.
- 3- Economic Report, issued by the Central Bank of Iraq, 2008.
- 4- Hassan Muhammad, Bitcoin and its Role in Financing Terrorist Operations, King Faisal Center for Research and Islamic Studies, Saudi Arabia, 2017.
- 5- Hamza Adnan Mushwaqa, Digital Money from an Islamic Economic Perspective Bitcoin is a Model of the Council of Fatwa, Research and Islamic Studies, Jordan, 2021.
- 6- Dr. Ahmed Youssef Juma, Cyber Terrorism, Virtual Currencies and Electronic Espionage, Dar Al-Ahram for Publishing and Distribution, 2022.
- 7- Dr. Abdullah bin Suleiman bin Abdulaziz, Virtual Money, Its Concept, Types and Economic Impacts, a scientific paper submitted to the Center for Excellence in Research in Contemporary Jurisprudence, Imam Muhammad bin Saud Islamic University, August 2018.
- 8- Anti-Money Laundering and Terrorist Financing Office, the Guidance Manual for Combating Terrorist Financing, Iraq, 2018.

Third: Researches

- 1- Ayman Ezz El-Din Abu Salah, Digital Currencies and Their Relationship to E-Commerce (Case Study: The United Arab Emirates), Master's Thesis, Middle East University, Dubai, 2018.
- 2- Israa Muhammad Ali Salem, Mona Abdel-Ali Musa, The Crime of Hiding Lost Money, Journal of Babylon University, Volume 22, Issue 6, 2014.
- 3- Siddiq Taheri, The Spread of Digital Currencies in Light of the Corona Pandemic, Bitcoin as a Model, Buadaks Notebooks Journal, Algeria, Volume / 10, Issue (433) November 2021.
- 4- Abdullah bin Saeed bin Ali Abu Daser, The Crime of Financing Money Laundering Operations, Master's Thesis, Imam Muhammad bin Saud Islamic University, 2012.
- 5- Abdullah bin Salman Al-Bahouth, Virtual Money, Its Concept, Types, and Economic Effects, Scientific Journal of Economics and Trade, Issue (2), Ain Shams University, Egypt, 2017.
- 6- Abdullah Ahmed Muhammad Abdullah Rabie, The Reality of Bitcoin and the Ruling on Dealing with It (A Comparative Jurisprudential Study), Journal of the Faculty of Islamic Studies for Boys in Aswan, Al-Azhar University, Issue Three, Jumada Al-Awwal, 2020.

- 7- Asim Adel Muhammad Al-Adhaileh, Virtual Digital Currencies as a Way to Financing Terrorism, Journal of Al-Zaytoonah University of Jordan for Legal Studies, Volume (1), Issue (1). Al-Zaytoonah University, Jordan, 2020.
- 8- Qader Ali Shorsh, The Impact of Using Digital Currency on Monetary Policy, Journal of Human Development, Volume (5), Issue 1, Journal of Human Development University, 2019.
- 9- Wafa Muhammad Mustafa Saqr, The Role of Encrypted Virtual Currencies in the Crimes of Money Laundering and Financing Terrorism, Journal of Jurisprudential and Legal Research, Al-Azhar University, Egypt, 2024.

Fourth: International Laws and Agreements

- 1- Iraqi Penal Code No. 111 of 1969.
- 2- Iraqi Anti-Terrorism Law No. 13 of 2005
- 3- Anti-Terrorism Law in the Kurdistan Region - Iraq, Law No. (3) of 2006.
- 4- Iraqi Anti-Money Laundering and Terrorist Financing Law No. (39) of 2015.
- 5- Federal Law No. (7) of 2024.
- 6- Geneva Convention on the Prevention and Punishment of Terrorism 1973.
- 7- Arab Convention for the Suppression of Terrorism, Cairo, 1998.
- 8- International Convention for the Suppression of the Financing of Terrorism 1999
- 9- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988.

5: Sources in foreign languages:

- 1- Acharya, Arabinda, Targeting Terrorist Financing: International Cooperation and New Regimes, New York: Routledge, 2009.
- 2- A.G. Luchkin, Cryptocurrencies in the Global Financial System: Problems and Ways to Overcome them, Russian Conference on Digital Economy and Knowledge Management (RuDEcK 2020).
- 3- Cynthia Dion-Schwarz, David Manheim, Patrick B. Johnston, Terrorist Use of Cryptocurrencies: Technical and Organizational Barriers and Future Threats, Published by the RAND Corporation, Santa Monica, Calif, 2019.
- 4- D.he and Karl habermeier, "Virtual currencies and beyond (initial consideration)," International Monetary Fund, 2016.
- 5- Department of Finance, "Virtual Currencies and Blockchain Technology," discussion paper Dublin, 2018.
- 6- European Parliament, Directorate-General for Internal Policies of the Union, Keen, F., Carlisle, D., Keatinge, T., Virtual currencies and terrorist

financing – Assessing the risks and evaluating responses, European Parliament, 2018.

7- Glyn Davis, Bitcoin: Currency but not money, Cryptocurrencies (as illustrated by Bitcoin) in the Electronic Money Directive and the Payment Services Directive in light of the European the, 2017.

8- Russ Marshall, Bitcoin: Where Two Worlds Collide, Bond Law Review, Volume 27 | Issue 1 Article 5, 2015.

9- The FATF (FATF-gafi.org) Accessed on 12\1\2024 1 Lester Coleman, the European Union wants to identify Bitcoin Users, January 2019, available at The European Union Wants to Identify Bitcoin Users (ccn.com) Accessed on 6\2\2024.

10- Virtual currencies and terrorist financing: assessing the risks and evaluating responses, European Parliament, May 2018.

11- Will Kenton, Bank Secrecy Act (BSA): Denion, Purpose, and Eects, March 2024, available at Bank Secrecy Act (BSA): Definition, Purpose, and Effects (investopedia.com) Accessed on 15\2\2024.

12- Lester Coleman, the European Union wants to identify Bitcoin Users, January 2019, available at The European Union Wants to Identify Bitcoin Users (ccn.com) Accessed on 6\2\2024

6. : Electronic sources

1- Laws related to combating money laundering/combating the financing of terrorism, an article published on the following website:

<https://www.uaefiu.gov.ae/ar/more/knowledge-centre/aml-cft-laws-related-decisions/> Last visited 1/20/2025.

2-(The official website of the Anti-Money Laundering and Terrorist Financing Office, an article published on the following website,

https://aml.iq/?page_id=2134 Last visited 1/16/2025).