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What Should the Legal Concept of Money Be: Facing the Digital Currency Era

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Abstract

Efforts to construct a comprehensive legal concept of money have been unsuccessful, as existing descriptive conceptual analyses, whether drawing on economic theory, treating fiat money as the paradigmatic instance, or defining money as an institutional fact created by constitutive rules, have failed to provide sufficiently general understanding of money or effectively address practical dilemmas. This study adopts a conceptual amelioration approach informed by semantic externalism to refine the legal concept of money by identifying flawed beliefs embedded within the concept and refining it in epistemic and semantic terms to improve social coordination and legal coherence. Shifting the focus from a descriptive inquiry into what money is to a normative project concerned with what money should be, this research advances three core propositions. First, it seeks to enhance the understanding of the normative dimensions of fiat money. Second, it reconstructs the legal concept of money through a constructive interpretation rooted in integrity. Third, it encourages openness to alternative perspectives in conceptual engineering, including reference shift and departures from established paradigms where necessary.

Keywords

Ontology of Money, Digital Currency, Conceptual Amelioration, Integrity

1. Introduction

The controversies surrounding cryptocurrencies stem primarily from the inadequacy of the current legal concept of money to categorize all entities in reality that exhibit "characteristics of money". If this conceptual uncertainty is ignored in legislation or judicial decision-making, it could lead to unjust outcomes.

This conceptual uncertainty becomes even more pressing when examining how different jurisdictions regulate cryptocurrencies, often resulting in inconsistent or even contradictory classifications. For instance, China has taken one of the strictest approaches, banning private cryptocurrency transactions while simultaneously promoting its central bank digital currency (CBDC), the digital yuan. In contrast to China's stringent stance, many other countries have adopted more accommodating regulatory frameworks. In Europe, the Markets in Crypto-Assets Regulation (MiCA) came into full effect across the EU on December 30, 2024, introducing a comprehensive legal framework for the cryptocurrency market. The United States, while displaying regulatory variations across states, generally permits cryptocurrency activities under the oversight of agencies like the Securities and Exchange Commission (SEC). However, Trump's anticipated policy shift toward a more favorable crypto environment may reshape the global regulatory landscape. Meanwhile, some countries, such as the Central African Republic, have gone even further by adopting Bitcoin as legal tender, and experimenting with more radical digital economy models.

These regulatory discrepancies reflect deeper conceptual uncertainties surrounding money itself, as discussions about digital currencies frequently rest on ambiguous and potentially flawed premises. For instance, how should China's regulatory policies on virtual currencies be assessed? How should courts determine their legal status? And what should CBDCs' legal status be? Even when researchers reach correct conclusions, their reasoning processes frequently lack rigor, making their correctness a matter of coincidence rather than the outcome of a coherent rationale.

While research on the legal concept of money is not novel, it remains constrained by flawed premises and methodological shortcomings. Addressing these deficiencies requires a shift from mere descriptive analysis to a conceptual framework that actively refines and reconstructs legal definitions. These issues will be critically examined in the second and third parts of this paper, demonstrating that descriptive conceptual analysis is methodologically constrained and insufficient for providing satisfactory answers.

This paper advocates adopting Sally Haslanger's conceptual amelioration approach to redefine the legal concept of money. Conceptual amelioration seeks epistemic and semantic improvements to existing concepts by identifying and resisting unjustified beliefs embedded within them. This approach starts with critique, rooted in a thorough understanding of the information shaped by existing terminology and classifications. As a result, revisiting and restating the conclusions of descriptive conceptual analyses serves as the initial step in the process of conceptual amelioration. Building on this foundation, the fourth part of this paper proposes a reconstruction of money's legal concept within this ameliorative framework.

Although the definition of money remains unsettled, in this paper, currency primarily refers to sovereign currency, which includes banknotes (paper money) and coins (minted money) issued by a country's central bank. Fiat money falls within this category. However, since terms like cryptocurrency and digital currency are now widely used, this paper will adopt these conventions for consistency.

2. Two Deficient Approaches to the Definition of Money

When examining the legal concept of money, the traditional approach begins by posing the fundamental question: "What is money?" This leads to two common strategies. The first relies heavily on economic theory, treating economists' conclusions as definitive and importing them into legal analysis. The second remains narrowly focused on legal doctrine, offering a constrained definition that equates "money in law" with what current law designates as money, or attempts to deduce the characteristics of money from those legal designations. This section contends that both approaches are ultimately flawed and fail to withstand scrutiny on their own terms.

2.1. The Misapplication of Economic Theories

Since this approach relies on economic theory, divisions emerge during the selection of theoretical premises for reasoning. Broadly, two perspectives can be identified: the "functionalist" and the "acceptance" views. The functionalist view exhibits clear flaws in its major premise, while the acceptance view, though closer to capturing the essence of money, suffers from a critical logical leap. This approach must address two levels of issues: first, determining which economic insights can be validly incorporated into legal discussions, which requires careful selection of theoretical assumptions—a step where the functionalist view fails. Second, assessing whether legal reasoning should defer to economics, an issue overlooked by both perspectives. Below, these points are discussed in detail.

Traditionally, money is understood to serve three primary functions: as a medium of exchange, a unit of account, and a store of value. Functionalist theories equate these functions with the essence of money, asserting that X is money if and only if it performs these three functions. This reasoning contains three critical flaws.

First, it crudely combines the roles of medium of exchange, unit of account, and store of value into necessary conditions for money. It evaluates whether a particular virtual currency fulfills these conditions and then concludes whether the legal system should recognize it as money. However, economic theory constructs a relatively "thin" concept of money. There is no universal definition of money in economics, nor consensus on what constitutes its functions or the threshold for fulfilling them. At a minimum, economists agree that money is anything that is widely accepted for the purchase of goods and services or the repayment of debts (Mishkin, 2024). Differences persist regarding traditional functions: some view the other two functions as derivatives of medium of exchange, while others see unit of account as the primary role (Kiyotaki & Moore, 1989).

Second, even if one adopts the traditional assumption that the medium of exchange is a core function, it cannot be unequivocally established as an inherent attribute of money. This reasoning implies that function is intrinsic and presupposes the validity of the proposition that money ceases to be money if it no longer performs its functions. However, just as a heart remains a heart even if it stops pumping blood, the same logic applies to money. While money can perform certain functions, these functions should not be inverted into its definition—conflating "what money does" with "what money is."

Third, and most critically, the functionalist approach assumes that anything qualifying as money in economics must also qualify as money in law. This hasty presumption undermines the reliability of the entire argument. Both the functionalist and acceptance views share an unexamined premise: they assume that the definitions of money in economics and law are identical. Yet, a concept can serve different purposes in different systems. Proving this assumption requires substantial effort and revisions. To refine this premise, two positions emerge: one argues that the law should follow economists' conclusions about money; the other contends that the law maintains independent reasoning and aligns with economics only in its outcomes. The latter, though imperfect, is more defensible and will be further developed in subsequent sections. For now, a preliminary critique of the former is provided.

Theoretically, if one acknowledges that law and economics prioritize different values as distinct systems, one must also accept that their perspectives on the same issue may diverge. Empirically, the first position struggles to explain all currencies recognized by law, especially fiat money. Fiat money may fail to meet economists' criteria for money yet remain legally recognized, as exemplified by the hyperinflated Papiermark during the Weimar Republic, when bundles of banknotes were used as wallpaper because they were cheaper than actual wallpaper. Conversely, currencies satisfying economic criteria are not necessarily legally recognized. For instance, in the Ming Dynasty, the official monetary system initially centered on paper money (Bao Chao). The "monetization of silver" emerged from grassroots-market interactions and negotiations with the ruling class. Public acceptance of silver and the decline of paper money ultimately compelled the government to adopt silver for tax payments (Wan, 2022).

Thus, this definition lacks validity. In conclusion, while economic theory offers valuable insights—such as the concept of "general acceptance," which will be revisited later—it does not justify relying on economic theory to resolve legal questions.

2.2. Fiat Money as a Misguided Paradigmatic Instance

Where economic theories fall short, legal doctrine is often invoked to define money. However, two flawed approaches dominate this legal perspective.

The first approach, rooted in positive law, defines money through fiat money, legal tender, and monetary sovereignty, treating them as self-evident truths. This leads to circular reasoning: fiat money is money because it is legal tender, and legal tender is money because it is fiat money. Similarly, monetary sovereignty must be preserved by recognizing only state-issued money, reinforcing a self-referential logic that obstructs deeper inquiry. Two key errors arise: first, it conflates fiat money with legal tender, even though legal tender status is neither universal nor exclusive to fiat money. Second, it assumes what it seeks to explain, defining fiat money as money simply because the law recognizes it as such.

Faced with these shortcomings, a second approach attempts to derive the legal concept of money by analyzing fiat money's defining features. This method seeks to define money by identifying what fiat money signifies and distilling its essential characteristics. However, this reductive approach is also flawed. It fails to resolve fundamental theoretical dilemmas, particularly the causal paradox: Is money created by the state, or merely recognized by it? Without addressing this question, the inquiry remains confined within an essentialist framework that obscures the dynamic and socially constructed nature of money.

2.2.1. Money as a Creation of Sovereignty

A dominant theoretical perspective depicts money as a creation of sovereign authority. This view, rooted in Knapp's state theory of money (Knapp, 1924), asserts that money exists because the state designates it as such, and its legitimacy derives from legal mandates rather than market adoption. Laws reinforce this perspective by requiring certain forms of money to be accepted for settling debts, effectively binding the definition of money to state power.

Historically, sovereigns have played a central role in shaping monetary systems—not only by issuing currency but also by integrating it into legal and fiscal structures. During the Western Roman Empire, coins circulated within a closed loop of taxation and government spending, ensuring that state-issued money remained in use. Similarly, by the seventh century in England, monarchs issued IOUs to mobilize resources, adopting a "spend-first, tax-later" approach. In both cases, money functioned not merely as a medium of exchange but as a legal and political instrument for enforcing economic obligations.

This connection between money and state power continues in modern systems. Scholars such as Christine Desan argue that sovereign currency does not merely facilitate transactions but actively constructs market relations, challenging the notion of economic autonomy (Desan, 2016). Similarly, Modern Monetary Theory (MMT) contends that money's value stems not from its intrinsic properties but from the state's ability to tax and regulate economic interactions (Wray, 2016).

However, while this view explains money's legal and institutional dimensions, it struggles to account for why people accept money beyond state coercion. If money were purely a legal creation, state-issued currencies would always succeed—yet history shows that state-backed monetary systems have collapsed, while alternative currencies have emerged and thrived. This suggests that money's legitimacy does not depend solely on sovereign designation but also on broader economic and social acceptance. This observation leads to a second perspective: money as a social emergence.

2.2.2. Money as a Social Emergence

An alternative perspective challenges the idea that money is purely a state creation, instead emphasizing its emergence from social and economic interactions that can occur independently of institutional frameworks. For example, the use of cigarettes as money in prisons demonstrates that money can function without formal legal recognition. This suggests that state authority is not necessarily the sole determinant of monetary legitimacy; rather, broader social acceptance plays a crucial role.

This perspective aligns with Carl Menger's theory, which argues that money naturally arises from market interactions as individuals seek to minimize transaction costs. In his view, the state does not create money but merely facilitates its evolution into more efficient forms (Menger, 1892). This idea contrasts with theories that emphasize the state's role in defining money through law.

The debate between Chartalists and Metalists further illustrates this divide (Goodhart, 1998). Chartalists assert that money derives its value primarily from state authority, whereas Metalists emphasize its intrinsic properties or market-driven adoption. While both perspectives capture important aspects of how money functions, neither has produced a comprehensive theory that accounts for the full diversity of monetary practices.

The issue of acceptance highlights this tension. Classical economics defines money as something that is "generally accepted", but this definition introduces deeper ambiguities: How widespread must acceptance be? What criteria determine whether a particular behavior qualifies as acceptance? These ambiguities become especially relevant in debates over Bitcoin's legal status. Some argue that Bitcoin functions as money because it is accepted in certain transactions, yet legal systems often reject this claim, classifying it as a financial asset rather than money. In China, for instance, judicial practice treats virtual currencies solely as property (Supreme People's Court Criminal Division, 2024).

2.2.3. The Causal Paradox of Essentialism

If fiat money is understood as a subset of money, one might attempt to define it by identifying its essential features based on existing cases. However, this approach quickly runs into a deeper problem: does fiat money derive its monetary status from the state's legal declaration, or does the state merely formalize what is already widely accepted as money? This causal paradox, much like the classic chicken-and-egg problem, raises fundamental questions: does money exist because the state declares it so, or does the state declare it money because it is already being used as such? Without resolving this issue, any attempt to define fiat money remains incomplete.

One perspective views money as a ledger system, where its primary function is to record and verify transactions. A well-known example is the Yap Island stone money, which retained its value even when lost at sea because its ownership was collectively remembered (Friedman, 2006). This model suggests that money's function can exist independently of physical possession and state authority, relying instead on shared acknowledgment—an idea that finds modern parallels in blockchain technology. Bitcoin, for instance, scales this concept beyond small communities by enabling a decentralized ledger that functions without a central authority. However, while Bitcoin demonstrates that money can exist outside the legal framework, it also raises the question: can money truly function well without state recognition?

In large-scale economies, fiat money must serve not only as a transactional record but also as the foundation for complex financial systems. Its unique status arises from two distinct but interrelated dimensions. The first is the vertical imposition of state authority, where the state declares certain objects as legal tender, mandating their use in settling public debts and legal obligations. The second is horizontal acceptance by the public, where money derives its functionality from widespread confidence and voluntary adoption in daily transactions.

Although these two dimensions interact in shaping monetary recognition, they remain fundamentally distinct. State authority influences public acceptance by designating legal tender and regulating its circulation. If money originally emerged to minimize transaction costs in barter economies, fiat money must gain broad acceptance to function effectively. Yet, non-state alternatives, such as privately issued currencies, often struggle to gain traction due to financial institutions' resistance, limited circulation, or failure to achieve parity with fiat money.

At the same time, public acceptance operates independently of state authority. A state's formal declaration that something is money does not guarantee its widespread use. Conversely, monetary recognition can emerge outside the state's control. From a libertarian perspective, general acceptance by the public is the only necessary condition for something to qualify as money, regardless of state endorsement. This divergence highlights the difficulty of reconciling sovereign authority with market-driven monetary recognition.

Addressing this challenge requires a more robust theoretical framework to clarify how these two dimensions interact, how one can override the other, and what this means for the evolving nature of money.

3. Building and Breaking: Searle's Approach

Indeed, there exists a approach capable of integrating the earlier two perspectives. This approach attempts to construct a theory that explains all instances of money in reality, aiming for an abstract ontological analysis that provides a universal explanation of social reality. As discussed earlier, to answer the question "What is the legal concept of money?" it is necessary to identify the essential conditions of "fiat money" and reconcile the tensions between the dimensions of coercive declaration and general acceptance. While analytic social ontology offers valuable insights into addressing these challenges, its limitations arise from its intrinsic methodological constraints, preventing it from fully succeeding.

3.1. Money as an Institutional Fact

To reconcile the relationship between coercive declaration and general acceptance, a comprehensive account linking mental states to institutional facts can be utilized. This perspective regards "declaration" and "acceptance" not merely as external behaviors but as processes intertwined with specific mental states. John Searle provides a sophisticated explanatory framework for this.

According to Searle, institutions are constituted by constitutive rules that create and sustain status-functions. Unlike regulative rules, which modify existing activities without creating new ones, constitutive rules generate new activities and make possible their specific descriptions or specifications (Searle, 1969: pp. 33-36). A constitutive rule can be expressed as "X counts as Y in context C." Here, X represents a concrete object, Y a status-function, and C the relevant context. Status-functions are observer-relative and rely on collective intentionality—shared mental states of agreement, recognition, or acceptance (Searle, 2021: p. 42).

Searle uses money as a classic example to illustrate institutional facts. Through the framework of constitutive rules, it becomes possible to explain how real-world currencies are created and to address earlier ontological challenges. This approach avoids the problem of infinite regress: if we assert "X is money because people believe X is money," this would lead to a recursive justification of "people believe that people believe X is money," and so on indefinitely (Searle, 2021: p. 32). Instead, money is treated as a placeholder for mental attitudes about its functions, thereby breaking the vicious circle of defining money with "money."

Both commodity money and credit money can be understood within this structural framework: they are sustained by a collectively accepted status-function. Thus, money can be defined as follows: X is money if and only if, within a particular institutional context, collective intentionality confers a status-function upon X, granting its holder specific rights and obligations under the institution's rules (Searle, 2021: pp. 40-42).

Moreover, Searle emphasizes that functions are observer-relative, not intrinsic to objects. Money's function depends on how observers ascribe value to it. For example, money represents the capacity to buy, sell, or repay debts—a capacity inherently tied to human practices and intentions (Searle, 2021: p. 14).

Crucially, constitutive rules are recursive and hierarchical. Institutional facts, like fiat money, presuppose other institutional structures. For example, if the government declares that notes issued by the People's Bank of China (X) count as legal tender for all debts (Y) in China (C), this presupposes the existence of other institutional facts, such as the state, legal systems, and central banking. Each layer of X and C was once Y in a prioritisation, enabling the direct conferral of new status-functions (Searle, 2021: pp. 51-53). Searle acknowledges that institutional facts rely not on coercive mechanisms but still on acceptance mechanisms. Acceptance occurs when people collectively recognize, for instance, "S can do A," which simultaneously entails "S need not refrain from doing A." This foundational recognition underpins the deontic powers that sustain legal tender status (Searle, 2021: p. 101).

In the creation of institutional facts, participants are not necessarily aware of how the underlying rules are formed. However, the collective intentionality embedded in these processes helps reinforce the rules through each instance of their application, thereby maintaining continuity (Searle, 2021: p. 55). Thus, the use of legal tender by members of society indirectly consolidates and even "legitimizes" acceptance of the constitutive rules behind it. If obedience to authority becomes habitual, it may logically be deemed permissible and deserving of adherence.

3.2. Internal Critique: The Difficulty of Explaining Digital Currency

Searle's institutional framework offers a foundational understanding of money, but it confronts two significant internal critiques. The first challenges whether collective intentionality is an unnecessary metaphysical assumption. The second questions whether the brute fact onto which a status-function is conferred must always be a concrete object. These two issues are intertwined because, in Searle's theory, collective intentionality functions as the bridge between concrete objects and institutional facts (Larue, 2024).

It is true that as long as the cognitive record-keeping of Yap Islanders remains intact, their stone money could maintain its monetary system and purchasing power, even if the stones were in another universe. Does this imply that money can exist without referring to any material fact? Searle concedes that digital currencies do not necessarily require a physical form but derive their purchasing power from the deontic powers conferred by collective intentionality (Searle, 2010: p. 101). However, he does not address how abstract objects, lacking physical presence, can have causal efficacy in social interactions, especially when collective intentionality resides solely in individual minds.

Attempts to revise or expand Searle's theory often introduce alternative explanations. One prominent view prioritizes causal relations, framing money as an "aggregate of causal powers" sustained by institutional structures such as contracts, property rights, courts, and banks (Mäki, 2020). While this approach bypasses the issue of physicality, it fails to account for money's essential characteristic of general acceptance.

Another alternative is equilibrium theory, which sees institutions as stable behavioral patterns formed through interdependent preferences and expectations. This perspective emphasizes the cooperative benefits of reducing transaction costs and solving the double-coincidence-of-wants problem (Hindriks & Guala, 2019). However, this view downplays the symbolic and normative dimensions of money, which are critical to understanding its institutional significance.

A hybrid theory posits that the state, as a central authority, also functions as a signaling device, conveying monetary strategies by announcing rules and formulating currency policies (Guala, 2016). However, while the state may legally endorse a particular currency, people must still be incentivized to use it. Cases of hyperinflation demonstrate that even if a currency retains its official status and is still referred to as "money," people will abandon it when it loses its practical utility and seek alternatives.

This prompts the question: why do people accept an object, such as a piece of paper, as money? Proponents of the incentivized action view argue that money represents incentivized behaviors—individuals use it as a medium for transferring rights and obligations. Under this framework, money can be seen as an abstract object, while its physical forms (metal, paper, or digital tools) merely facilitate recognition and usability (Smit et al., 2016). However, this perspective circles back to unresolved challenges: money emerges from historical contingencies, economic struggles, and political conflicts. To dismiss its materiality as "pure abstraction" overlooks its real-world causal roles across time and space.

As a final note, dualist theories such as Hindriks' approach recognize money either as a concrete object or as a property of agents, with further refinements by scholars like Passinsky. While these discussions are relevant, their implications do not substantively alter the critiques outlined here (Hindriks, 2024; Passinsky, 2024).

3.3. External Critique: Is "Bad" Money Still Money?

Searle's view on money, while broader in scope compared to traditional economic or legal definitions, faces significant challenges in explaining why individuals continue to use "bad" money, such as severely inflated currency. This limitation stems from Searle's focus on describing normativity rather than justifying it.

In Searle's speech act theory, normative obligations are created through promises. For example, the statement "I promise to mow your lawn" generates an obligation immediately and inherently, independent of external rewards or penalties (Searle, 1964). Similarly, the constitutive rules that shape institutions rely on collective intentionality to instill a sense of obligation. According to Searle, individuals "ought" to follow institutional rules regardless of personal interests or whether others comply. However, whether the content of such obligations is good or bad, or whether there are moral grounds to overturn them, falls outside the scope of these rules. For instance, the obligation to move chess pieces according to the game's rules is confined within the institutional framework of chess, and it does not address broader moral or normative questions. Critics argue that this limitation prevents Searle from adequately addressing whether human rights, for example, can exist independently of the recognition of collective intentionality (Hindriks, 2013).

Searle does not seek to morally justify or defend "bad" money but rather to emphasize that it remains money regardless of its moral evaluation. Nevertheless, his theory struggles to explain why individuals would cease to use such money. A more plausible account might be that any "game" can be renegotiated: individuals can opt not to play, can invite or exclude certain players, and can alter the rules. Put differently, there is a normative aspect to intentions themselves that is independent of the normative claims of constitutive rules (Zaibert & Smith, 2007).

Even if these debates are set aside and we accept that money is an institutional fact created by declaration, applying this understanding in legal practice remains problematic. Legal officials cannot adjudicate disputes by solely asking "What is money" because their decisions inherently contribute to defining what money is. If the attitudes and decisions of legal officials are integral to the collective intentionality sustaining institutional facts, then their rulings do not merely represent existing realities but actively shape them. For example, rejecting Bitcoin as "not generally accepted" in legal contexts ignores the role of official attitudes in influencing its acceptance. Within a robust framework of monetary sovereignty, the recognition of money depends not only on the behavior of individuals in market but also on the decisions and declarations of legal officials.

4. Beyond Descriptive Approaches

Efforts to define money—whether through economic analysis, legal frameworks anchored in sovereign currencies, or social ontology—have ultimately proven insufficient. Each approach relies on an analytical model that seeks to "represent reality", yet their methodologies differ. Economic and legal theories attempt to reduce the concept of money to its necessary conditions, while Searle's framework takes a holistic perspective, explaining money's meaning through its relationship with other institutional concepts and its role in everyday life.

Searle's approach offers a key advantage: by incorporating other institutional facts into its explanatory model, it avoids the trap of circular definitions. It effectively describes money as an institutional fact and illustrates how constitutive rules shape individual behavior. Even when individuals do not fully understand these rules, they develop sensitivities to the intentional structure of money through speech acts such as promises, which enables them to internalize rule-governed behaviors. This, in turn, facilitates social adaptation. However, as a descriptive project, Searle's framework remains limited to answering "whether" questions—whether something counts as money—without addressing the crucial "how" questions that could guide practical improvements.

A comprehensive concept of money must account for both descriptive accuracy and normative evaluation, yet descriptive approaches reveal three key limitations.

First, assuming that the currently available concept of money is the best descriptive or theoretical tool because it consolidates all the characteristics of what "money" refers to in reality risks being confined to a conceptual framework that might itself be flawed. Such a perspective resembles "viewing the world from the bottom of a well," constrained by preexisting assumptions. Second, while descriptive approaches can illuminate the social structures in which individuals are embedded—structures that often operate unnoticed—they fail to provide guidance on how to improve these structures. This is because they do not engage with questions about what is "good" or how something could be "better." Third, descriptive approaches tend to model new realities on existing, suboptimal ones, descriptive approaches replicate and reinforce existing power asymmetries rather than challenging inherited structures. By uncritically adopting flawed concepts, they perpetuate the very social behaviors governed by those concepts. Even if descriptive analyses produce universal and empirically verifiable results, they contribute little to overcoming epistemic limitations or fostering practical reform.

A clear example of these limitations can be seen in China's strict regulatory stance on Bitcoin, which reflects what Haslanger describes as hegemonic social practices—dominant frameworks that shape legal and economic structures while obscuring underlying power dynamics. By defining money exclusively as fiat money and prohibiting Bitcoin's exchange with legal tender, China's legal system entrenches state control over the monetary order while presenting fiat money as a neutral and inevitable construct. This conceptual rigidity extends to judicial practice, where courts have consistently refused to recognize Bitcoin as money, citing concerns over financial stability and risks to monetary sovereignty.

However, this rigid classification has led to significant practical challenges. Courts have been unable to dispose of confiscated Bitcoin in enforcement proceedings, classifying it as a non-convertible asset under existing regulations (Ren, 2023). In some cases, Bitcoin holdings have been frozen in legal disputes, yet without a legally sanctioned liquidation mechanism, courts have been unable to execute judgments effectively. These cases illustrate how legal definitions of money do not merely describe economic realities but actively shape and reinforce the existing financial system by excluding alternative monetary forms. By restricting engagement with digital currencies, such regulatory frameworks constrain the possibility of conceptual revision and reform, further cementing the status of state-issued money as the only legally recognized medium of exchange.

These limitations suggest that a purely descriptive approach cannot fully capture the evolving nature of money or guide meaningful conceptual reform. If definitions of money are to accommodate emerging financial realities, a normative, ameliorative approach becomes necessary. Rather than relying on conceptual analysis that tracks "objective types" based on intuition, paradigms, or empirical observations, conceptual amelioration views concepts as tools for human cognition and social practice that must be critically examined, evaluated, and revised (Haslanger, 2012: p. 386). Grounded in semantic externalism, this approach holds that the meaning of a term is, at least in part, determined by external facts in the environment. As a result, the content of a concept evolves alongside changes in background conditions or assumptions. Although this evolution is often unplanned, concepts, as tools for social coordination, should be deliberately directed toward better outcomes.

More concretely, when individuals share a concept X, they acquire the capacity to process information about X, enabling them to invoke socially recognized responses and coordinate behavior with others. This process integrates them into predictable patterns of social behavior. For instance, possessing the legal concept of money requires an understanding of its standardized legal definition and the subset of information it encompasses. Acquiring the ability to interpret monetary information is a prerequisite for engaging in legal practice. Haslanger argues that concepts form part of our "cultural technē," which sustains social systems and provides a framework for practical intentions. In this sense, concepts are tools through which people interpret and respond to the world, facilitating their participation in social life.

If the analysis stopped at this point, it would not differ significantly from Searle's framework. However, Haslanger emphasizes that the social coordination facilitated by cultural technē is not always beneficial. When conceptual frameworks are flawed, they function as ideological constructs that unjustly shape social organization. If a social system contains structural defects—such as oppression or systemic injustice—the concepts embedded within that system may be the root cause. Because these concepts are widely shared and acted upon, they reinforce ideological or erroneous beliefs, solidifying existing power structures (Haslanger, 2020: pp. 230-231). To address this, it is necessary to improve either the way individuals interpret a concept or the informational content of the concept itself—a process that constitutes conceptual amelioration.

5. Towards a Conceptual Amelioration Project

Following the methodology of conceptual amelioration, the focus shifts from analyzing what a concept "is" in people's minds or how it is used in everyday language to examining how the concept enables us to understand and reshape our social practices.

5.1. An Outline of the Approach

Conceptual evaluation, therefore, requires determining how effectively a concept facilitates cognitive or practical tasks. Unlike traditional philosophical analysis, which often seeks to define the priori essence of a concept, ameliorative analysis asks more pragmatic questions: Why do we need this concept? What purpose does it serve? In the legal domain, for instance, the concept of money must be assessed based on its effectiveness in structuring and coordinating financial practices within the legal order.

Two key insights emerge from this perspective. First, within the context of monetary sovereignty, money is typically assumed to be legal tender issued by public institutions, granting it near-absolute status in legal and social practices. This assumption plays a role in shaping political subjectivity, regulating market interactions, and maintaining the dominance of state-backed currencies while discouraging engagement with alternative monetary models. Second, the current conceptual structure of money struggles to accommodate digital currencies; in fact, the logical framework of existing definitions has already excluded the possibility of recognizing virtual currencies as money.

Once these conceptual deficiencies are identified, amelioration proceeds in two forms: epistemic improvement and semantic improvement. Epistemic improvement involves refining how a concept facilitates interpretation, classification, reasoning, and behavioral responses. Semantic improvement entails modifying how the concept partitions logical space—how it categorizes and distinguishes entities. Haslanger argues that a concept's informational content determines its logical partitions, which include not only existing and potential entities but also hypothetical and imagined ones. For instance, William III's concept of "war" likely divided logical space into three categories: land war, sea war, and no war—since nuclear or cyber warfare was beyond his knowledge or imagination. Over time, as military technology and strategic thinking evolved, the concept of war was redefined to accommodate these new realities (Haslanger, 2020: p. 241).

In the case of money, conceptual amelioration involves two primary tasks: first, improving epistemic responses to fiat money by refining how individuals interpret its informational content; second, revising the conceptual content of "money" by restructuring its logical partitions. Emphasizing normative aspects does not require delving into the essence of justice. Instead, the central concern is whether legal officials can answer the question, "Why is (or isn't) this money for me?" without reinforcing unjust social structures. While no rigid blueprint for how these partitions should be drawn can be prescribed, the process requires continuous refinement of conceptual resources to uncover and correct erroneous beliefs, thereby enabling a more accurate epistemic tracking of monetary phenomena.

5.2. Epistemic Refinement: Fiat Money and Its Promises

Historical accounts, such as the British Parliament's Currency Acts of 1751 and 1764—which imposed strict controls on currency issuance and redemption in the American colonies—highlight how fiat money's legitimacy hinges on more than sovereign authority. These acts exacerbated tensions over fiscal autonomy and contributed to the Revolutionary War, demonstrating that when colonists chose rebellion over compliance with imposed currencies, the illusion of state power alone was insufficient. This case underscores a key insight: for fiat money to achieve "general acceptance," it must embody a set of widely recognized virtues beyond coercion or fear.

Fiat money, even within the sovereign framework, carries inherent normative dimensions. Jean Bodin, in his Six Books of the Commonwealth, emphasized the sovereign's privilege to mint coins, yet early critics argued that rulers should not arbitrarily alter coin values. By the 18th century, stricter principles emerged, demanding that monetary sovereignty align with justice and the common good (Zimmermann, 2013). Grounded in social contract theory, the issuance of fiat money represents a delegated authority, obligating governments to pursue goals that reflect collective aspirations. These obligations, rooted in the promises of monetary sovereignty, form the normative core of fiat money systems.

In practice, however, governments often fall short of these ideals. Friedrich Hayek, in Denationalisation of Money, pointed out that governments rarely provide a compelling justification for why their issued currency must be accepted (Hayek, 2019). Institutional theories suggest that this justification is deliberately obscured, while citizens may refrain from questioning the system due to entrenched norms. Yet governments cannot avoid the need to validate their currency. Hayek's proposition that governments must "prove themselves" by ensuring their currencies are not suboptimal remains a reasonable demand.

The credibility of fiat money hinges on fulfilling a series of promises that generate corresponding obligations, revealing its intrinsic normative dimensions. These obligations can be examined on both domestic and international levels, illustrating how fiat money operates as a mechanism of governance and cooperation.

Domestically, fiat money, as a medium of credit issued by public authorities, must meet the expectations associated with its issuance. Historically, governments have utilized such credit instruments to address fiscal needs. Once introduced into circulation, fiat money empowers governments (often through banking systems) to allocate and regulate resources, creating an obligation to uphold monetary stability and market confidence. To maintain credibility, a trustworthy government must adhere to three core principles.

First, it must control the money supply, ensure currency stability, and prevent inflation. The risks of unchecked credit expansion have long been criticized by market liberals and remain a fundamental vulnerability of state-centric monetary systems. History abounds with examples of currencies losing credibility due to inflation. A striking modern case is Zimbabwe, where hyperinflation eroded trust in the sovereign currency, prompting citizens to turn to alternatives like Bitcoin and gold.

Second, fiat money must guarantee that all public-law debts, including taxes, can be discharged in sovereign currency. This principle aligns with the social contract logic underlying monetary systems: as long as public obligations exist, the currency issued by a public authority carries an implicit redemption guarantee. Thus, proposals to limit the legal-tender status of central bank digital currencies (CBDCs) are flawed, as administrative institutions lack valid justification for refusing their use in settling government obligations.

Third, temper the forced use of sovereign currency in private debts. Enhancing a currency's symbolic or circulatory impact through compulsion is problematic (Li, 2023). Legal-tender provisions, rooted in the nationalization of money, lack irrefutable normative justification. Yet most sovereign states prohibit settling debts in alternative media. Even in England, where explicit bans are absent, creditors lose the right to pursue legal action if debtors tender coinage to settle debts (Gleeson, 2018). If Hayek's view prevails, monetary choice should revert to a free, competitive system, rendering legal-tender provisions unnecessary beyond tax obligations.

Internationally, sovereign currency entails additional obligations. States must maintain domestic economic and financial stability while avoiding harm to other economies. For weaker states, joining monetary unions or "dollarizing" their economies may be the only way to stabilize their currencies, albeit at the cost of significant regulatory autonomy. Whether such dependencies result from unjust treatment by external powers or institutions remains a separate question.

A second responsibility is for monetary policy to respect the economic interests of other nations, refraining from undermining their livelihoods. Historically, European colonial powers' search for precious metals to mint coins spurred exploitation and monopolistic trade practices. In the modern era, financial globalization has similarly caused harm; for example, the 2008 financial crisis triggered widespread unemployment and sovereign debt crises in many countries.

A third obligation involves adhering to international norms designed to combat illicit activities, such as money laundering, insider trading, and unauthorized capital flows. These commitments, driven by both national priorities and global cooperation, are essential for maintaining trust in the international financial system and ensuring stability.

To understand fiat money fully, one must acknowledge its multifaceted role within contemporary social systems, as well as the promises and obligations it encompasses. Meeting these obligations requires integrating them into a coherent framework of principles—a higher virtue that ties together stability, trust, and justice. By highlighting the normative dimensions of fiat money, this framework underscores its dual function as both a practical tool and a moral enterprise.

5.3. Semantic Realignment: A Framework Grounded in Integrity

Legal definitions of money have historically been shaped by rigid paradigms that reinforce state authority and economic stability. However, as digital currencies and decentralized financial systems challenge these traditional classifications, the legal system faces increasing pressure to rethink its conceptual foundations. Despite the necessity for realignment, legal institutions often resist such changes due to concerns about disrupting legal continuity and destabilizing established regulatory frameworks.

Haslanger's conceptual amelioration framework highlights the need to critically examine and revise concepts to better serve social coordination and justice. A crucial part of this process involves dismantling the power structures embedded in language-based legal concepts, revealing the injustices perpetuated by ideological distortions (Haslanger, 2017). However, this raises a fundamental question: how can legal concepts be subjected to moral critique while preserving legal stability and avoiding institutional resistance?

Two critical challenges emerge. The first is the legitimacy challenge: since moral judgments lack a metaphysical foundation, how can the validity of conceptual critique be established? The second is the discontinuity challenge: if legal definitions are revised too abruptly, they risk undermining stability and coherence within the legal system. Courts, in particular, tend to favor precedent and incremental adaptation over radical conceptual shifts. Thus, any effort to redefine monetary concepts must carefully balance the need for reform with the imperative of maintaining legal coherence.

5.3.1. Integrity as a Guiding Principle

To address these challenges, this paper argues that Ronald Dworkin's principle of integrity provides a viable framework for revising legal concepts without causing legal discontinuity. Integrity functions as a political virtue that preserves conceptual continuity while allowing for normative evolution, making it a suitable principle for reconstructing monetary concepts.

Integrity involves two essential elements. First, legal officials must "speak with one voice," treating all citizens in accordance with coherent and sincerely held moral principles. These principles derive from communal obligations, rooted in the mutual recognition of shared destinies, and are expressed as equal concern for all members of society. Consequently, legal officials have a duty to identify the principles that best justify legal decisions and the exercise of coercive power (Dworkin, 2016: pp. 131-132).

Second, the purpose of legal practice is shaped by participants' shared understanding of legal values, which rational agents construct by asking how they should live (Dworkin, 2011: pp. 205-209). Integrity thus demands that legal institutions facilitate self-governance by fostering accurate self-understanding, without distorting individuals' values or leading them into error or ideological deception. In this view, moral judgments must align with authoritative norms—those norms whose widespread adherence most effectively sustains integrity within a society.

Legal institutions often resist conceptual change because stable monetary definitions are foundational to taxation, banking regulation, and contractual enforcement. Recognizing Bitcoin or other digital assets as money could disrupt these structures, raising concerns about financial stability and regulatory effectiveness. However, such resistance is not, in itself, a justification for maintaining outdated legal definitions. Integrity, as a guiding principle, offers a structured method for adapting legal concepts without undermining systemic coherence.

5.3.2. Bitcoin as a Test Case

Applying this framework to monetary concepts, one could argue that legal decisions on digital currencies should prioritize substantive normative factors over rigid definitional boundaries. To reconcile legal stability with conceptual evolution, monetary definitions should be assessed based on their legal function rather than historical precedent. In essence, this approach does not aim to establish whether a definition of money is "true" in an abstract or theoretical sense. Instead, the truth-value of legal propositions depends on whether they are rooted in or derived from principles that best interpret the community's legal practice (Dworkin, 2016: p. 178).

Courts should ask: Does classifying X as money serve essential legal objectives, such as contract enforcement, regulatory oversight, or crime prevention? This allows courts and regulators to respond to specific legal concerns without imposing a rigid, one-size-fits-all framework.

For instance, if classifying Bitcoin as money better supports crime prevention under anti-money-laundering laws, it should be treated as money for that purpose. Conversely, if preserving central bank tools outweighs tax compliance, Bitcoin should not be regarded as money under tax law. Similarly, recognizing Bitcoin as money in criminal cases may facilitate victim compensation, thereby warranting its classification as money in that context (Passinsky, 2020). In determining whether Bitcoin qualifies as money, one might reason:

1) Under existing rules, Bitcoin is not money;

2) However, if moral principle X, which best interprets legal practice, implies that Bitcoin qualifies as money;

3) Thus, judges are obligated to recognize it as such, even in novel circumstances.

This reasoning does not claim that Bitcoin inherently meets a strict definition of money or that it shares all characteristics of sovereign currency; instead, it emphasizes that treating Bitcoin as money reflects a faithful interpretation of what money means in a particular context, thus concretizing the concept.

This approach has received judicial support. In United States v. Faiella, 39 F. Supp. 3d 544, the defendant, Faiella, was prosecuted for operating an unlicensed money transmission business and engaging in alleged money laundering on the Silk Road platform. He argued that Bitcoin did not meet the definition of "money" under 18 U.S.C. § 1960. However, the court, relying on Merriam-Webster's Dictionary, ruled that Bitcoin qualifies as money and dismissed the defendant's motion to dismiss.

This exemplifies what Dworkin terms "inclusive integrity," yet the full notion of integrity also includes "pure integrity." A thriving legal system must consider the community as a whole, encouraging judges to step beyond established institutional frameworks to address what the community genuinely needs.

5.4. Beyond Paradigms: A Concept That Continues to "Go On"

Dworkinian integrity stems from an egalitarian commitment that requires equal consideration of every person's ideas and proposals. While a principle-based model does not guarantee the creation of a just community, it fosters conditions where participants are more likely to accept outcomes willingly, feeling respected in political debates rather than disregarded (Dworkin, 2016: p. 169). This argument underscores the moral significance of respecting precedents, specifically how politically defeated minorities might come to accept that the victorious side temporarily represents the community's voice. Such acceptance underpins the claim that everyone equally shares legal protections and obligations (Waldron, 2019).

Incorporating Dworkin's constructive-interpretation approach into conceptual amelioration provides a viable pathway for legal adaptation. This approach does not reject descriptive analysis outright but recognizes that identifying and defining areas for improvement are prerequisites for interpretation. To gain acceptance as the "best" conception, one must offer compelling arguments that respect paradigms upheld by uncontested social consensus. Moreover, the reasoning process integral to integrity avoids ideological manipulation and entrenched injustice, focusing instead on the practical pursuit of just outcomes.

5.4.1. Rethinking Paradigms

Although Haslanger broadly endorses Dworkinian interpretivism—which relies on semantic externalism, meaning that the understanding of present practices partly determines what X "is"—she diverges from Dworkin on a key point (Haslanger, 2020: p. 246). Dworkin sees legal interpretation as an exercise in continuity, where past decisions provide a foundation for legal reasoning. However, Haslanger argues that merely understanding past and present contexts does not inherently guide us on how to "go on." Concepts should not be preserved solely for the sake of consistency; they must be critically evaluated based on their impact on self-understanding and social coordination, and, crucially, on how they might be improved.

This raises a fundamental question: should legal concepts remain bound to their historical paradigms, or should they be revised to better serve contemporary needs? While Dworkin maintains that legal principles should evolve through constructive interpretation, Haslanger warns against an overly conservative attachment to established concepts, especially when background assumptions have changed (Haslanger, 2020: p. 250). Even if a concept was once a useful tool for legal coordination, there is no guarantee that it continues to serve its intended function in a transformed social landscape. As conceptual consensus evolves, so too must the legal categories that shape it. Without a broader normative standard, how can one determine what constitutes the "best" conception?

At its core, conceptual amelioration posits that concepts are not merely descriptive labels but active elements in shaping human cognition and behavior. Concept possession shapes capacities for emotion, memory, explanation, and reasoning, influencing how individuals interact with others and define their roles in society. Consequently, the persistence of outdated paradigms can perpetuate entrenched biases and exclusions, limiting the law's ability to respond to marginalized perspectives and emerging social realities.

Haslanger's "going on" ethos in conceptual amelioration calls for temporarily removing concepts from entrenched linguistic traditions, subjecting them to critique, and ensuring that marginalized perspectives are not excluded from the "best interpretation."(Haslanger, 2020: p. 252). By doing so, society expands its conceptual toolkit, improving both communication and institutional adaptability. This does not imply reckless abandonment of legal continuity but rather a careful process of revision, where outdated classifications are reconsidered to align with evolving social, economic, and technological contexts.

5.4.2. "Going On" with Money

Reframing discussions around money follows this trajectory. A genuine concern for money requires altering the questions posed. Instead of asking what economists claim money is or which historical decisions define it, one should ask whether deeming something "money" benefits the world. This perspective encourages a more inclusive and pragmatic approach to monetary classification, challenging conventional paradigms that have historically reinforced state authority and financial stability at the cost of adaptability. It also opens the door to considering unconventional perspectives that have been largely dismissed under traditional frameworks.

One such perspective argues that Bitcoin should be recognized as a form of "resistance money." Supporters contend that, despite its potential to facilitate illicit activities, Bitcoin provides a crucial financial tool for marginalized groups facing economic oppression or state overreach. It serves as an alternative to corporate-controlled financial infrastructures and centralized monetary policies, which can be exclusionary or coercive (Bailey, Rettler, & Warmke, 2024).

Regulatory challenges also illustrate the consequences of resisting monetary adaptation. Overly restrictive policies can drive alternative financial systems underground, making enforcement more difficult rather than curbing illicit activities. For example, China's blanket ban on domestic Bitcoin exchanges did not eliminate transactions but merely pushed them offshore, complicating regulation and oversight. A more adaptive regulatory approach might involve integrating blockchain technology into legal and financial monitoring systems, thereby enhancing transparency and reducing compliance costs rather than resorting to outright prohibition (Brich, 2022).

Assessing the validity of such arguments requires thorough technical and theoretical debate. Concerns about Bitcoin weakening state or banking power, exacerbating inequality, or impeding wealth distribution warrant empirical investigation to determine which monetary designs best suit different political and economic contexts. This paper does not resolve these issues but advocates for their inclusion in open discourse. Encouraging open deliberation allows all stakeholders to reason and contribute without necessarily endorsing any position.

Critics may argue that treating money as an evolving category introduces uncertainty into legal and financial systems, potentially undermining trust and stability. This concern, however, presumes that existing monetary definitions are inherently stable, when in fact, history demonstrates that monetary systems have always evolved in response to economic and technological shifts. From the transition away from commodity money to fiat money to the rise of digital payments, monetary definitions have never been static. The key is not to resist change but to manage it through principled legal adaptation.

Moreover, if the outcome is an expanded conceptual content, effectively redrawing logical partitions, this does not dissolve the concept of money or create a new one. As noted earlier, a concept's primary value lies in its ability to organize and coordinate communal life. Adjusting its referents to ensure equitable responses remains a valid approach.

Haslanger and Dworkin both seek to avoid conceptual stagnation, yet their methods differ. While Dworkin's constructivist interpretivism emphasizes paradigms and consensus to maintain legal continuity, Haslanger envisions a world where concepts evolve to address new social, normative, and ethical challenges. This dynamic approach allows the concept of money to "go on" without being arbitrarily constrained by past practices.

6. Conclusion

Discussions about money are often intricate and extensive, yet people use money confidently and seamlessly without fully understanding what "money" truly is. In daily life, conversations rarely stall or fail due to the conceptual ambiguity surrounding money. This paper argues that the concept of money is critical not only for legal practice but also for shaping social behavior and self-understanding. It further contends that conceptual amelioration provides a superior framework for reconstructing the legal concept of money.

As previously discussed, descriptive approaches alone fail to produce a definition of money that encompasses all phenomena and cases. Moreover, they do little to challenge the false beliefs entrenched in existing concepts. Descriptive efforts often avoid normative evaluations, wary of "mixing" facts with values. This reluctance confines analysis to the internal structures of the concept, leaving underlying power dynamics unexamined. Money is not a natural phenomenon; it organizes economic activity and governs social interactions. Over the past century, the dominant concept of money has been tied to hegemonic frameworks, defining it through criteria such as state issuance and regulation, the reinforcement of sovereignty, government and banking credit, transactional efficiency, and tight regulatory control. These criteria, often presented as neutral and inevitable, marginalize alternative monetary forms and discourage critical engagement.

As Haslanger notes, hegemonic social practices establish dominant frameworks that structure legal and economic systems while concealing power imbalances and exclusion. These practices actively shape individuals' lives by embedding ideologies into cultural, customary, and legal norms. The legal concept of money exemplifies this dynamic by reinforcing the state's monopoly over monetary systems and excluding non-sovereign currencies from serious consideration. This exclusion is particularly evident during periods of financial stability when alternative forms of money are dismissed unless extreme circumstances, such as hyperinflation, force their recognition. Theoretical work must go beyond merely describing these practices to critically scrutinize and challenge the conceptual frameworks that sustain them.

The evolution of social practices highlights the necessity of conceptual amelioration. Before the advent of information technology, "electronic payment" was not considered part of the concept of payment. Similarly, blockchain technology and central bank digital currencies were once inconceivable as forms of legal tender, yet they have now reshaped the monetary landscape. Since the introduction of Bitcoin, the conventional image of money has begun to shift. In this context, conceptual amelioration sharpens the focus on how the informational content of the money concept evolves alongside technological and social changes.

Ultimately, interpreting and designing concepts is not an "archaeological" task of uncovering past practices but a forward-looking effort to dismantle unjust structures, correct misconceptions, and transform harmful practices. Dworkin's integrity-based constructive interpretation aligns well with the framework of conceptual amelioration, offering a way to address continuity challenges. However, conceptual amelioration goes further by advocating the abandonment of paradigms when necessary to enhance social coordination and justice.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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