

ANALYSIS OF CRYPTOCURRENCY AS LEGAL TENDER IN NIGERIA*

Abstract

This article examines the prospect of cryptocurrency as legal tender in Nigeria. After the 2008 financial crisis, there was the need for a currency that was more secured, transparent and decentralised. This led to the emergence of cryptocurrencies. However, Bitcoin is the first established cryptocurrency. While the main argument surrounding cryptocurrency is whether it should be regulated or not and the extent to which it can be regulated, the crux of this article is how cryptocurrency can be made legal tender in Nigeria. The reason for this article's line of analysis is not farfetched. 11% of Nigerian internet users own one cryptocurrency or the other. Nigeria is leading in the number of persons between the ages of 18 and 24 using cryptocurrency in the world. The article argues that cryptocurrency is attractive to the younger generation and as such should be made a legal tender in Nigeria. The article also observed that controversial monetary policies in Nigeria which erode peoples' savings also make people to see investment in cryptocurrencies as an opportunity to circumvent controversial monetary policies. Thus, the article concludes that cryptocurrency has come to stay in Nigeria irrespective of the seemingly Government's opposition to it. However, the article suggests a hybrid of both fiat currency and cryptocurrency. It argues that this hybrid approach will give people the liberty to use the type of currency that best suits their purpose.

Keywords: Cryptocurrency, Bitcoin, Legal Tender, Nigeria and Monetary Policy.

INTRODUCTION.

Prior to the advent of money as a medium of exchange, the barter system was in existence wherein a person in need of a particular commodity will look for another person who needs what he has for the exchange to be complete.¹ This created a difficult situation as it means that at every point in time, one must look for somebody who has what he wants and wants what he has for there to be a complete transaction. Arising from this is the issue of determining whether the quantity and quality of goods you are giving to the other are commensurate with what you are getting from him. Also, there are situations where three or more persons need what Mister A has but what Mister A has will be insufficient to meet the needs of such number of persons. The insufficiency of the barter system due to the difficulty in getting somebody that wants what you have *etcetera* created the room for the search for another means of exchange.²

Money as a medium of exchange does not have any specific definition as it can be “a shell, a metal coin, or a piece of paper with a historic image on it, but the value that people place on it has nothing to do with the physical value of the money”.³ Money is valuable due to its acceptability as a form of payment and it has been in existence for about 3000 years.⁴ It is argued

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¹ Karl Menger, *The Origin of Money*, {1892}, (2)(6) *The Economic Journal*, 239-255.

² Ibid.

³ Investopedia, ‘The History of Money: from Barter to Bank Notes’, available at <https://www.investopedia.com/articles/07/roots_of_money.asp> accessed on 18th June 2020.

⁴ Ibid.

that money increased the speed at which business is done unlike what was obtainable under the barter system.⁵

During the pre-colonial era in Nigeria, different ethnic groups used cowries, manilas, beads, bottles, salt, *etcetera* as means of exchange.⁶ The British Government in 1880 introduced shillings and pence as means of exchange in British West Africa and issued bank notes through the West African Currency Board in Nigeria, Ghana, Sierra Leone and the Gambia from 1912 to 1959.⁷ From 1959, the Central Bank of Nigeria took over the responsibility of issuing bank notes in Nigeria.⁸

The 21st Century ushered in the internet world and the ability to transact from the comfort of one's home with just a computer or a phone and the internet. This presupposes that the use of money as a medium of exchange has to be updated to meet the needs of the internet generation. To this extent, credit/debit cards are being used for the payment of goods online wherein money is transferred from the buyer's bank account to the seller's bank account and also, mobile payments are being used with cell phones, smart phones and tablets.⁹ To further meet the needs of the internet world, it became necessary to develop a digital currency as a medium of exchange. This led to the development of cryptocurrency.

Thus, this article explores the extent to which cryptocurrency can be made a legal tender in Nigeria. It achieves this by tracing the origin of cryptocurrency, its advantages and disadvantages. It uses data from reputable database to justify its position that cryptocurrency should be a legal tender in Nigeria. The last section concludes the article and makes relevant recommendations.

THE ORIGIN OF CRYPTOCURRENCY

Cryptocurrency is “a digital or virtual currency that is secured by cryptography”.¹⁰ The constituents of cryptocurrency are exchanges, wallets, payments and mining.¹¹ Exchange sets the price at which one cryptocurrency can be used to purchase, sell or trade cryptocurrencies or a national currency and as such, offers liquidity to the system; wallet provides the means to securely store cryptocurrencies, “send and receive cryptocurrencies through the use of private and public cryptographic keys”;¹² payment refers to all the companies that provide services that enhance cryptocurrency payments and mining is the ‘blockchain’ that confirms transactions and secures the global record of all transactions.¹³ In addition, the characteristics of cryptocurrencies are that “they are electronics; are not the liability of anyone; and feature peer-to-peer

⁵ *Ibid.*

⁶ Central Bank of Nigeria, ‘History of Nigerian Currency’, available at <<https://www.cbn.gov.ng/Currency/historycur.asp>> accessed on 18th June 2020.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Investopedia, *Supra* 3.

¹⁰ Investopedia, ‘Cryptocurrency’, < <https://www.investopedia.com/terms/c/cryptocurrency.asp>> accessed on 17th June 2020. Cryptocurrency and cryptocurrencies are used interchangeably in this article to mean the same thing.

¹¹ Garrick Hileman and Michel Rauchs, ‘Global Cryptocurrency Benchmark Study’, (2017) Cambridge Centre of Alternative Finance, University of Cambridge, 1-115 <<https://www.crowdfundinsider.com/wp-content/uploads/2017/04/Global-Cryptocurrency-Benchmarking-Study.pdf>> accessed on 3rd July 2020.

¹² *Ibid.*

¹³ *Ibid.* It is worth knowing that some cryptocurrency companies combine two, three or all of the sectors.

exchange”.¹⁴ Just as fiat money which is “government-issued currency that is not backed by a physical commodity...but rather by the government that issued it” has Dollar, Euro, Naira, *et cetera* as examples,¹⁵ Bitcoin is “the digital currency that utilises cryptocurrency and is controlled by the decentralised authority which is not like the government-issued currencies...”¹⁶ Cryptocurrency is the technology “that acts as a medium for facilitating the conduct of the different financial transactions which are safe and secure”.¹⁷

The origin of cryptocurrency can be traced to the publication of an article in 2008 by Clay Shirky, ‘Here Comes Everybody: The Power of Organizing without Organizations’.¹⁸ Shirky’s idea was to have a digital technology that is ‘anti-institutional’; ‘anti-democratic’; ‘decentralized’ and ‘leaderless’.¹⁹ Satoshi Nacamoto²⁰ is said to be the inventor of Bitcoin, which is a peer-to-peer electronic cash system.²¹ The first step towards owning a Bitcoin is to install a Bitcoin Wallet on your computer or phone, which generates the first Bitcoin address for the user and the user can create more address according to his needs.²² This address is then made available to friends to enable them pay to the address and conduct other transactions.²³ Block chain being a shared public ledger is the rallying point of all Bitcoin network, contains all confirmed transactions and allows Bitcoin Wallet to calculate “spendable balance so that new transactions can be verified”.²⁴ Thus, the block chain contains transactions between Bitcoin Wallets and the Wallet contains a secret data called private key which is used to sign transactions.²⁵ The private key provides evidence that the transaction came from the owner of the Wallet and prevents the transaction from being altered by any person.²⁶ Mining confirms pending transactions by including them in the block chain.²⁷

Money performs four main functions to wit: “a measure of value; means of payment; a medium of circulation and a means of accumulation”.²⁸ It is argued that cryptocurrency performs two of these functions in that it acts as a means of payment and a medium of circulation.²⁹ The United

¹⁴ Morten Linnemann Bech and Rodney Garrat, ‘Central Bank Cryptocurrencies’, (2017) Bank for International Settlements, 35-70 <https://www.bis.org/publ/qtrpdf/r_qt1709f.pdf> accessed on 29th July 2020.

¹⁵ Investopedia, ‘Fiat Money’, Dotdash Publishing Family, <<https://www.investopedia.com/terms/f/fiatmoney.asp>> accessed on 30th January 2021.

¹⁶ WallStreetMojo, ‘Bitcoin and Cryptocurrency’, (2021) Chartered Financial Analyst Institute <<https://www.wallstreetmojo.com/bitcoin-vs-cryptocurrency/>> accessed on 30th January 2021.

¹⁷ Ibid.

¹⁸ David Golumbia, ‘Zealots of the Blockchain: The True Believers of the Bitcoin Cult’, (2018) No.38, The Baffler 102-111 <https://www.jstor.org/stable/26406449?read-now=1&refreqid=excelsior%3A07a23d358daca7_f1095c633db5c0e8ed&seq=3#page_scan_tab_contents> accessed on 26th June 2020.

¹⁹ Ibid.

²⁰ There is strong belief that this is a fictitious name to be in line with the mystery surrounding the operation of Bitcoin.

²¹ Supra 16.

²² Bitcoin, ‘How Bitcoin Works’, (2009-2021) Bitcoin Project <<https://bitcoin.org/en/how-it-works>> accessed on 30th January 2021.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Valeriia Dyntu, ‘Cryptocurrency as a means of Money Laundering’, (2018), 267-271 <<http://www.pgp-journal.kiev.ua/archive/2018/5/53.pdf>> accessed on 28th June 2020.

²⁹ Ibid.

States Securities and Exchange Commission (US SEC) on the other hand argues that cryptocurrency performs all the functions of fiat money like the US Dollar “but do not have the backing of a government or other body”.³⁰ According to the US SEC, the benefits of cryptocurrency are: “the ability to make transfers without an intermediary or geographical limitations; finality of settlement; lower transaction costs compared to other forms of payment and the ability to publicly verify transactions”.³¹ It also argues that transactions on cryptocurrency are fast and cheap as transactions can be concluded within seconds.³²

One of the shortcomings of cryptocurrency is that there could be a security breach that may lead to loss of funds.³³ Also, unlike normal online transactions with a credit or debit card where transactions can be reversed, payments by cryptocurrencies are not reversible unless the recipient decides to do so.³⁴ According to the Wall Street Journal, an analysis by a blockchain analysis firm, Chainalysis, shows that 20% of all Bitcoin worth \$20 billion is lost because of missing passwords that make it impossible to unlock the wallets.³⁵ For instance, the Chief Executive Officer of QuadrigaCX, a Canadian Crypto Exchange, Gerald Cotten died suddenly without revealing his password and thus, made \$190 million worth of Bitcoin inaccessible.³⁶ However, the Nova Scotia Supreme Court-appointed auditor, Ernst & Young, using public blockchain records found amongst other things that the digital wallets were emptied eight months before Cotten’s death.³⁷ On the 16th of July, 2020, hackers hacked into the verified Twitter accounts of some billionaires and multi-millionaires with a message containing a Bitcoin address promising to double any sum of money transferred to the address.³⁸ Blockchains bypass the intermediaries upon which governments regulate the financial sector.³⁹ It is also not clear how safeguards introduced by Basel provisions will make blockchains promote financial stability or how

³⁰ US SEC, ‘Statement on Cryptocurrency and Initial Coin Offering’, (2017) <<https://www.sec.gov/news/public-statement/statement-clayton-2017-12-11>> accessed on 28th June 2020.

³¹ Ibid.

³² Hackernoon, ‘Bitcoin: How Money has Evolved’, (2018) <<https://hackernoon.com/bitcoin-how-money-has-evolved-cf3923082975>> accessed on 13th July 2020.

³³ Supra 11.

³⁴ Ibid.

³⁵ Elliot Krause, ‘A Fifth of all Bitcoin is Missing: These Crypto Hunters can Help’, (2018) The Wall Street Journal <<https://www.wsj.com/articles/a-fifth-of-all-bitcoin-is-missing-these-crypto-hunters-can-help-1530798731>> accessed on 19th July 2020.

³⁶ Bill Murphy Junior, ‘A CEO Died. He never shared His Passwords. Now His Customers are out \$190 million that cant be accessed’, (2020) Inc.com <<https://www.inc.com/bill-murphy-jr/a-ceo-died-he-never-shared-his-passwords-now-his-customers-are-out-190-million-that-cant-be-accessed.html#:~:text=The%20CBC%20broke%20the%20story,old%20man%20passes%20away%20unexpectedly>> accessed on 19th July 2020.

³⁷ Theron Mohammed, ‘Experts Finally Tracked Down the digital Wallets of the Crypto CEO who Died with sole access to millions. They say the Money’s Gone’ , (2019) Markets Insider <<https://markets.businessinsider.com/currencies/news/crypto-ceo-died-with-passwords-to-137-million-but-the-money-is-gone-2019-3-1028009684#>> accessed on 19th July 2020.

³⁸ BBC, ‘Major US Twitter Accounts hacked in Bitcoin Scam’, BBC, (16th July, 2020) <<https://www.bbc.com/news/technology-53425822#:~:text=Billionaires%20Elon%20Musk%2C%20Jeff%20Bezos,in%20an%20apparent%20Bitcoin%20scam.&text=Twitter%20said%20it%20was%20a,to%20internal%20systems%20and%20tools%22>> accessed on 19th July 2020

³⁹ Julie Maupin, ‘Blockchains and the G20: Building an Inclusive, Transparent and Accountable Digital economy’ , (2017) Policy Brief No.101, Centre for International Governance Innovation, 1-10 <https://www.jstor.org/stable/pdf/resrep05191.pdf?ab_segments=0%252Fbasic_SYC-5187%252Ftest&refreqid=excelsior%3A9b3fc376698da9c8fe8d5c4ef0cb32ca> accessed on 20th July 2020.

Financial Action Task Force Rules will prevent blockchains from being avenue for tax invasion, financing of terrorism, money laundering and other Dark Web activities.⁴⁰ It should however be noted that the Financial Stability Board (FSB) Report of 2018 states that virtual currencies “do not pose a material financial risk to global financial stability”.⁴¹ These shortcomings notwithstanding, this article argues that in line with the position of the US SEC, cryptocurrencies perform all the functions of money and as such, the need to examine the extent to which it can be made legal tender in Nigeria.

CRYPTOCURRENCY AS LEGAL TENDER IN NIGERIA.

In an official statement released on the 18th February, 2018, the Central Bank of Nigeria (CBN) stated that cryptocurrencies are not legal tender in Nigeria and that exchanges such as NairaEx are not regulated or licensed by the CBN.⁴² The essence of this official statement is to discourage Nigerians from investing in cryptocurrencies as such investments are risky. Despite the CBN’s position on cryptocurrencies, interest in owning one cryptocurrency or the other in Nigeria continues to increase. According to a report by Arcade Research, 11% of internet connected Nigerians own cryptocurrencies, placing the Country at 5th in the ownership of cryptocurrencies in the world,⁴³ while a report by CoinMarketCap, a cryptocurrency data provider, states that Nigeria is leading in the number of persons between the ages of 18 and 24 using cryptocurrencies in the world.⁴⁴ As at 2017, over one hundred thousand merchants in Nigeria accept Bitcoin payments.⁴⁵ It is worth knowing that as at 27th July, 2020, the total market capitalisation of over 100 cryptocurrencies in the world is \$307,541,969,472 billion.⁴⁶ This goes to show that cryptocurrencies as digital currency in Nigeria is rapidly emerging. In fact, the attractiveness of cryptocurrencies to Nigerians has made Asian Exchanges such as Binance P2P to list Naira as the first African Currency supported on its platform.⁴⁷ Cryptocurrency can be used to transfer funds to any part of the world and transact in e-commerce at little or no fee compared to the

⁴⁰ Ibid. Dark Web activities are activities done anonymously over “hidden collective of internet sites only accessible by a specialized web browser”, Kaspersky, ‘What is the Deep and Dark Web’, AO Kaspersky Web, (September 24, 2020) <<https://www.kaspersky.com/resource-center/threats/deep-web>> accessed on 30th January 2021.

⁴¹ The Commonwealth, ‘Regulatory Guidance on Virtual Currencies’, (2019) The Commonwealth Working Group Report, 1-51 <https://thecommonwealth.org/sites/default/files/key_reform_pdfs/D16999_GPD_Virtual_Currncs.pdf> accessed on 12th August 2020.

⁴² Central Bank of Nigeria, ‘Virtual Currencies not Legal Tender in Nigeria’, Central Bank of Nigeria, (18th February, 2018) <<https://www.cbn.gov.ng/Out/2018/CCD/Press%20Release%20on%20Virtual%20Currencies.pdf>> accessed on 27th July 2020.

⁴³ Jeffery Gogo, ‘South Africa leads Crypto Revolution in Africa – Challenges Spur and Slow adoption’, Bitcoin.com (22nd May, 2020) <<https://news.bitcoin.com/south-africa-leads-crypto-revolution-in-africa-challenges-spur-and-slow-adoption/>> accessed on 27th July 2020.

⁴⁴ Kelvin Helms, ‘9 Countries Show Huge Growth in Cryptocurrency Interest: CoinMarketCap’, Bitcoin.com, (3rd May, 2020) <<https://news.bitcoin.com/countries-growth-cryptocurrency-coinmarketcap/>> accessed on 27/7/20.

⁴⁵ Buy Bitcoin Worldwide, ‘Popular Exchanges to Buy Bitcoin in Nigeria’ <<https://www.buybitcoinworldwide.com/nigeria/>> accessed on 27th July 2020.

⁴⁶ CoinMarketCap, ‘Top 100 Cryptocurrencies by Market Capitalisation’, (2020) CoinMarketCap <<https://coinmarketcap.com/>> accessed on 27th July 2020.

⁴⁷ Olumide Adesina, ‘Nigerian’s Love for Cryptocurrencies on the Rise, as it offers cheaper ways to transfer Funds’, Nairametrics, (24th May, 2020) <<https://nairametrics.com/2020/05/24/nigerians-love-for-cryptocurrencies-on-the-rise-as-it-offers-cheaper-ways-to-transfer-funds/>> accessed on 27th July 2020.

excessive fees charged by commercial banks.⁴⁸ It is also said that a lot of African based exchanges like Payfast, Gimini, Coinbase, Luno, Bitpay, *etcetera* have made it possible for businesses and startups to accept payments in Bitcoins.⁴⁹

However, the increase in the interests in cryptocurrencies in Nigeria is not farfetched. It has been argued that fiscal indiscipline and controversial monetary policies in Africa make savings erode overnight.⁵⁰ In Nigeria, high rate of inflation, controversial foreign exchange policy and inconsistent monetary policies are identified as some of the causes of economic problems in Nigeria.⁵¹ Thus, cryptocurrencies give Nigerian entrepreneurs the opportunity to circumvent the volatility of Naira and excessive government control.⁵²

According to Statista, in 2020, Nigeria has 99.05 million internet users and it is projected that the number will increase to 152.28 million by 2025, which will amount to about 65.2% of the population of Nigeria.⁵³ It is also said that three quarters of Nigeria's web traffic is being generated through smart phones.⁵⁴ All these data support the position of this article that cryptocurrency should be made legal tender in Nigeria. However, due to the fact that a percentage of the Nigerian population does not have access to the internet, this article argues for a hybrid of both fiat currency and cryptocurrency. This will give Nigerians the choice to use the currency that will best suit their purpose. This article is aware of the suggestion for Central Bank Cryptocurrencies (CBCCs) which will make it possible for central banks to issue cryptocurrencies.⁵⁵ Morten and Rodney suggest two types of CBCCs – one for retail transactions which will be available to the general public and the other for wholesale payment applications that will be available to financial institutions only.⁵⁶ This article argues against CBCCs to avoid going back to the problems with fiat currency issued by central banks which cryptocurrencies tried to solve.

CONCLUSION

This article examined the prospect of cryptocurrency being legal tender in Nigeria. The article established that cryptocurrency has all the attributes of fiat money in line with the position of the US SEC. The only difference is that it does not have the backing of any government. Owing to the numerous benefits of cryptocurrency like lower transaction costs, ability to verify

⁴⁸ Olumide Adesina, 'Cryptocurrencies and its usage in Africa', Nairametrics, (7th April, 2020) <<https://nairametrics.com/2020/04/07/cryptocurrencies-and-its-usage-in-africa/#:~:text=Nigeria's%20central%20bank%20has%20declared%20cryptocurrencies%20as%20being%20non%2Dlegal%20tender.&text=It%20was%20reported%20that%20Nigeria's,local%20crypto%20exchanges%20in%20Nigeria.>> accessed on 27th July 2020.

⁴⁹ Ibid.

⁵⁰ Supra, 43.

⁵¹ Anthony Osa-Brown and Tope Aleke, 'It's 2015 All Over again for Nigeria as Pressure Builds on Naira', Bloomberg, (20th August, 2019) <<https://www.bloomberg.com/news/articles/2019-08-20/it-s-2015-all-over-again-for-nigeria-as-pressure-builds-on-naira>> accessed on 27th July 2020.

⁵² Buy Bitcoin Worldwide, 'Popular Exchanges to Buy Bitcoin in Nigeria' <<https://www.buybitcoinworldwide.com/nigeria/>> accessed on 27th July 2020.

⁵³ J. Clement, 'Number of Internet Users in Nigeria from 2015 to 2025', Statista, (14th July, 2020) <<https://www.statista.com/statistics/183849/internet-users-nigeria/>> accessed on 27th July 2020.

⁵⁴ Ibid.

⁵⁵ Morten Linnemann Bech and Rodney Garrat, 'Central Bank Cryptocurrencies', Bank for International Settlements, (17th September, 2017) 55 <https://www.bis.org/publ/qtrpdf/r_qt1709f.pdf> accessed on 29th July 2020.

⁵⁶ Ibid. 56.

transactions publicly, *etcetera*, the article explored the factors that justify its position that cryptocurrency should be made legal tender in Nigeria. Some of these factors are that 11% of internet users in Nigeria own one cryptocurrency or the other despite the position of the CBN that it is not a legal tender; Nigeria is leading in the number of persons between the ages of 18 to 24 using cryptocurrencies in the world and that many merchants in Nigeria accept Bitcoin payments. Thus, this article argued that cryptocurrencies in Nigeria have come to stay. To this extent, this article suggests that cryptocurrencies should be made legal tender in Nigeria especially with the finding that almost a 100 million Nigerians use the internet. However, the article advocates for a hybrid of both fiat money and cryptocurrency since some Nigerians do not have access to the internet. This will give Nigerians the opportunity to use the currency that best suits their purpose.