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Cryptocurrency: Legal Analysis on the Future of Financing International Commerce

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Abstract

This paper undertakes an in-depth legality analysis of cryptocurrency as part of a multi-layered discussion of how cryptocurrency is molding the ways that international commerce is financed. In response, the effect that digital currencies exert on long-established financial systems, and cross-border transactions is gradually evident throughout the world. In this study, the existing regulatory frameworks will be analyzed, including case studies and what are emerging trends when it comes to the legal aspects and challenges about the cryptocurrency use in international trade. Some of these aspects comprise rule regimes, anti-money laundering campaigns, taxation, and jurisdictional problems. Furthermore, the paper also assesses the advantages of cryptocurrencies on enhancing smooth, clear and available international transactions and also takes into consideration their risks and uncertainties as it concerns this innovative course of finance. A paper recommendation is that governments and regulatory bodies should create a specific and broad regulatory system to handle alternative currencies in international trading.

Keywords: *Crypto, Legal, International commerce, Future*

1. Introduction

One of the core societal activities that encompasses human living is the commercial initiates that prevail. The ability for individuals to trade; buy and sell, is one of the most important parts of the activities amongst humans. There have been controversies as to whether or not cryptocurrency can be termed as money and if yes, can it be used to finance international commercial transactions? It is apt to say that Section 2(1) of the Sale of Goods Act which is the principal legislation dealing with contracts of sale and especially international commercial transactions defines what a contract of sale is and how it can be performed. *"A contract of sale of goods is a contract by which the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration, called the price".*

The evolvement of the world has not only been significant in the area of technology and infrastructure but as also been in the area of money, currencies and whatever constitutes a legal tender. Since the inception of

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countries all over the world, there has been differences in the acceptable currencies to be spent globally as there is no uniform currency applicable to all nations of the world[1]. However, on an international scale of trading, the United States dollar ($) is the widely accepted currency. This has created various positions as to the dominance of this currency in international commerce amidst other existing currencies, particularly the advent of the revolution in disruptive financial technology. It is on this foundation that the need to find a globally acceptable means of financing international transactions that cryptocurrencies has emerged and gained so much relevance over the years.

The focus of this work however shall be the critical analysis of the current laws as it relates to financing international transactions vis a vis the limitations or otherwise the gaps in the law addressing the legal issues arising from using cryptocurrencies and other digital assets to finance commercial transactions. It is noteworthy that cryptocurrencies have been accepted. Going by the nature of cryptocurrencies, its acceptability, and how it is structured, what is the future of financing international commercial transactions with vis a vis the current laws and the legal issues that may arise using these means of financing trades.

2. Understanding Cryptocurrency

Cryptocurrency is a virtual and digital currency which is protected by cryptography, that is, a system of securing information using codes in a way that only those whom the information or communication is meant for would be able to decode the information. Cryptocurrency is not under the control of government, neither is it issued and regulated by financial institutions. It does not appear in physical form like the paper money. It is significantly a decentralized virtual currency as against the regulated currency within the banking system. These features makes cryptocurrencies immune from government interference and control.

So, can cryptocurrency be treated as money in the purview of Sales of Goods Act? I will say yes in the light of judicial pronouncements that has come to terms with its relevance. Although the status of cryptocurrency has not been legally determined to justify whether or not the Sale of Goods Act governs the transaction made with cryptocurrency.[2] Again, accepted its acceptability which has spanned across diverse countries such as the USA, the United Kingdom, Canada, South Africa, Mexico, and many other countries, and it is noteworthy that some countries went further by adopting cryptocurrency as a legitimate form of payment for goods and services. Since international commercial transactions are contract in nature and between contracting parties who have spelled out the terms and conditions of the contract with the instrumentality of agreement and except by law, they have mutually agreed as to the terms and conditions of the transaction as well as duties and liabilities thereto. This goes without saying that contracting parting can decide what and in what manner money consideration would be.

The UK Jurisdiction Taskforce (UKJT) is a group of legal experts who advise on the development of English law concerning disputes arising in connection with new technologies.[3] In November 2019, the UKJT issued a legal statement on the status of cryptocurrencies and smart contracts under English law.[4]

The statement concluded that, under English law, cryptocurrencies are to be treated as property. The UKJT recognized that cryptocurrencies have the characteristics of property, including being definable, capable of being owned and transferred and having value.[5] The statement also noted that the legal treatment of cryptocurrencies as property is consistent with the approach taken in other jurisdictions, such as the United States, Canada, and Singapore.

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1 Fowowe, A.I. (2021). The Governance or Otherwise of Cryptocurrency in the Sales of Goods Act, 1893. Available at SSRN: https://ssrn.com/abstract=3833672 or http://dx.doi.org/10.2139/ssrn.3833672 accessed 30th April, 2023

2 Kazeem Shamsudeen (2021). Crypto Currencies in the Light of Sale of Goods Act (1893). *Regulatory Issues*.

3 Indraneel Majumdar (2023). UKJT Legal Statement on Digital Securities. *Harper James,* 28 March 2023. <https://harperjames.co.uk/news/ukjt-legal-statement-on-digital-securities/> accessed 28 April 2023.

4 Law Commission (2023). Smart Contracts. <https://www.lawcom.gov.uk/project/smart-contracts/> accessed 28 April 2023.

5 Sarah Murray and Elizabeth Butler (2022). Cryptocurrency—Is it Recognized as “Property” Under English Law?. *Stevens & Bolton*, 10 June. <https://www.stevens-bolton.com/site/insights/articles/cryptocurrency-is-it-recognised-as-property-under-english-law> accessed 28 April 2023.

The UKTC noted thus:

As far as we are aware, the proprietary status of cryptoassets specifically has not yet been the subject of any authoritative decision in any common law jurisdiction. We find some support, however, for our conclusion in a recent case in Singapore, B2C2 v Quoine[6]. The judge accepted (there being no argument to the contrary) that Bitcoins could be the subject of a trust, and hence were property. He observed that "cryptocurrencies have the fundamental characteristic of intangible property as being an identifiable thing of value" and that they met all of the requirements in National Provincial Bank.[7]

Overall, the UKJT statement provided important guidance on the legal status of cryptocurrencies and smart contracts under English law. The recognition of cryptocurrencies as property is significant because it means that the ownership of cryptocurrencies can be legally recognized and protected, and disputes over ownership can be resolved through the courts.

3. The Sale of Goods Act and Cryptocurrencies

The Sale of Goods Act is the principal legislation dealing with contracts of sale and especially international commercial transactions and the provision of the Act is clear to the effect that property in a good is transferable for a money consideration called the price. Whether or not in the purview of the Sale of Goods Act[8], Cryptocurrencies and digital assets qualify as money is one thing, if it does qualify as money, whether or not the legal issues arising from using cryptocurrencies to finance international commercial transactions have been at all, or sufficiently taken care of by the Sales of Goods Act or any subsisting law in that regard.

It is now safe to conclude, going by the earlier analysis of the nature of cryptocurrency that cryptocurrency can be bought and can be used to buy goods, especially in countries that have totally accepted cryptocurrency one way or the other. Section 62(1) of the Act is important and relevant to this question as it gives the definition of goods under the Act as *"all chattels personal other than things in action and money... emblements, industrial corps, things that are attached to land that are agreed to be severed in a sales of Good contract."*[9] The decision in Colonial Bank v Whinmey[10] is to the effect that property can either be choses in possession or choses in action[11]. Going by this definition, it is convenient to class cryptocurrency as a good under the Act because it falls under personal chattel which can be owned by an individual. On the flip side, if cryptocurrency serves as money consideration for a good to be bought, one can safely assert that cryptocurrency is only serving as money for the price of other goods. In other words, where cryptocurrency serves as money in getting goods, such transactions can still be governed by the Sale of Goods Act.[12]

4. The Dominance of the United States Dollar Currency

The United States dollar has long held the hegemonic position in global trade, and the global financial system is significantly impacted by its use as the main medium of exchange. The International Monetary Fund (IMF) further corroborates this claim that the US Dollar is the most widely used currency. The IMF reports that, as of the fourth quarter of 2019, the Dollar currency accounted for over 60% of all known central bank foreign exchange reserves.[13] Equally, in the foreign currency market, the U.S. dollar dominates as it is used in almost 90% of all forex transactions.[14] This currency has equally spread its tentacles beyond the territory of the United States. Along with the United States, the U.S. dollar became the official currency of 11 other nations: Micronesia,

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6 [2020] SGCA(I) 02.

7 UK Jurisdiction Taskforce (2019). *Legal Statement on Cryptoassets and Smart Contracts*, November.

8 Section 2(1) Sale of Goods Act, 1979.

9 Section 61 Sale of Goods Act.

10 Court of Appeal (1985) 30 ChD 261.

11 Fry L.J. *Ibid.*

12 A.I. Fowowe, *op. cit.*

13 Kimberly Amadeo (2020). Why the U.S. Dollar Is the Global Currency. *The Balance Money*, 16 March. <https://www.thebalancemoney.com/world-currency-3305931> accessed 25 April 2023.

14 *Ibid.*

Palau, Marshall Islands, Ecuador, El Salvador, Zimbabwe, Turks and Caicos, Timor-Leste, Bonaire, The British Virgin Islands, and The British Virgin Islands.[15]

The dominance of the US Dollar began its adventure in the aftermath of World War I.[16] After World War I and entering the conflict in 1917, the United States overtook other financial powers and beat out its European rivals in strength.[17] After 44 nations signed the Bretton Woods Agreement, which established a global system of currency exchange tied to the U.S. dollar, which was in turn tied to the price of gold, the dollar soon came to play a bigger role in world affairs.[18] Since the United States became the world's dominant economic and military force at the end of World War II, the U.S. dollar has dominated the global currency market.

The U.S. dollar's worldwide acceptance and liquidity as the dominant currency for international trade are two of its main benefits. The majority of nations in the globe accept the U.S. dollar as payment, and it is actively traded on foreign currency markets.[19] The U.S. dollar is a desirable currency for international trade because of its liquidity and acceptance, which lowers transaction costs and boosts productivity.[20] The stability of the U.S. dollar, which is backed by the US government's monetary and fiscal policies, is another benefit of the currency. The U.S. government has a long-standing commitment to keeping the U.S. dollar stable, which has contributed to the currency's development as a safe haven for investors.[21] Additionally, because of this stability, currency rates are now less volatile, which is crucial for global trade.

With the adoption of a single currency for international trade, the costs and complications of converting different currencies have decreased and the global financial system has become more uniform. The efficiency of international trade has increased as a result of this standardization, making it simpler for enterprises to conduct global operations.[22] The United States has benefited greatly from the U.S. dollar's dominance in worldwide trade, including access to international financial markets, standardization, reserve currency status, pricing power, and improved economic development—although specific to the U.S.

However, other nations are worried about the U.S. dollar's dominance in global trade because they see it as a way to strengthen the U.S. and further U.S. foreign policy interests. Since nations that depend on debt denominated in U.S. dollars are susceptible to changes in the value of the currency, the usage of the U.S. dollar in international trade has also come under fire for contributing to the world's economic imbalances.[23] Additionally, recent developments in financial technology have intensified calls for the adoption of alternative currencies in global trade. Due to their decentralization and lack of governmental regulation, cryptocurrencies and stablecoins have become possible substitutes for conventional currencies. The emergence of alternative currencies has led to increased competition in the global financial system and has challenged the dominance of the U.S. dollar.[24]

Essentially, the dominance of the U.S. dollar in world trade has profound effects on the global financial system. Although the U.S. dollar has gained widespread recognition, is liquid, and is stable, these qualities have also made it a desirable currency for use in international trade, raising questions and drawing criticism.

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15 Troy Adkins (2022). Countries Using the U.S. Dollar. *Investopedia*, 10 June. <https://www.investopedia.com/articles/forex/040915/countries-use-us-dollar.asp#:~:text=In%20addition%20to%20five%20U.S.,%2C%20Marshall%20Islands%2C%20and%20Panama.> accessed 25 April 2023.

16 Eichengreen, Barry, and Marc Flandreau (2009). The Rise and Fall of the Dollar (or When did the Dollar Replace Sterling as the Leading Reserve Currency?). *European Review of Economic History,* 13(3), 377-411.

17 Bruno Venditti (2023). CHINA De-Dollarization: Countries Seeking Alternatives to the U.S. Dollar. *Visual Capitalist*, 31 March. <https://www.visualcapitalist.com/de-dollarization-countries-seeking-alternatives-to-the-u-s-dollar/> accessed 25 April 2023.

18 *Ibid*.

19 Zahid Hussain (2022). The Economics of Dollar Dominance. *The Business Standard*, 21 October. <https://www.tbsnews.net/analysis/economics-dollar-dominance-517666> accessed 25 April 2023.

20 *Ibid*.

21 Ben Bernanke (2016). The Dollar's International Role: An "Exorbitant Privilege"?. *Brooking*, 7 January. <https://www.brookings.edu/blog/ben-bernanke/2016/01/07/the-dollars-international-role-an-exorbitant-privilege-2/> accessed 25 April 2023.

22 Zahid Hussain, *op. cit.*

23 Ben Bernanke, *op. cit.*

24 Farhi, Emmanuel, Pierre-Olivier Gourinchas and Hélène Rey (2011). *Reforming the International Monetary System*, CEPR.

The dominance of the U.S. dollar is likely to be challenged in the future by the rise of alternative currencies and improvements in financial technology, resulting in a transition towards a more varied and decentralized global financial system.

5. Alternative Currencies as the Future of Global Finance: Legal Issues

The future of global finance has become a topic that has gained global attention, overtime, particularly as technology continues to evolve and new currencies emerge. One of the main center of attraction for the discussion of the possible outcome for the future of global finance is the adoption of alternative currencies. In other words, there have been debates as to the adoption of other currencies, asides the current prevailing dollar currency, as an acceptable currency in international trade.

It is imperative to note that the acceptance of the Dollar currency as a global currency is not a legislative requirement, but rather a matter of tradition and the U.S.'s weight in the world financial system that the U.S. dollar serves as the dominant currency for international trade.[25] In this light, alternative currency can be referred to as any kind of legal tender that is used in place of a recognized fiat currency.[26] Any type of money that is not issued by a government or central bank is referred to as an alternative currency. In another definition, they are means of payment that circulate alongside—as an alternative or complement to—official currencies.[27] They can be developed by any individual, business, or local government and are not in any way controlled by banks or the governments of other countries.

Usually, the creation of alternative currencies is done to support local economies or to create a buffer against prevailing global tendencies.[28] Among these are decentralized stablecoins like Dai, community currencies like the Bristol Pound in the UK, and cryptocurrencies like Bitcoin. Ripple, Ethereum, Litecoin, and so on. The dominance of the U.S. dollar in global trade has been threatened by the advent of alternative currencies like cryptocurrencies and stablecoins. Although there are a lot of potential advantages to using these alternative currencies in commerce, there are several legal concerns that must be resolved.

One of the key legal issues associated with the use of cryptocurrency in international commerce is whether cryptocurrency can be considered as a token, particularly under Section 2(1) of the Sale of Goods Act, 1893. The term "token" can have different meanings depending on the context and the specific industry. In the context of cryptocurrency, a token is typically a digital asset that is created and managed on a blockchain network, and that represents a certain value or utility.[29] Cryptocurrencies themselves can be regarded as a type of token, as they are digital assets that represent value and can be exchanged for goods, services, or other currencies.[30] However, not all tokens are necessarily cryptocurrencies. In the context of the Sales of Goods Act, whether or not cryptocurrency can be regarded as a token would depend on how the term "token" is defined and interpreted under the Act. Under the Act, a "token" typically refers to a physical object that represents a right to receive goods or services.

However, the term "token" may also be interpreted more broadly to include digital assets, such as cryptocurrency, that represent a certain value or utility. In such a case, cryptocurrency could be regarded as a token under the Sales of Goods Act and would be subject to the same legal principles as other types of goods. Thus, cryptocurrency can be immersed into the provision of Section 2(1) of the Sales of Goods Act, 1893; making it a payment option for goods. As a result, this can equally be operated on an international commerce scale.

Another legal issue revolving around cryptocurrency is whether it can be considered as a property, especially for it to be considered for international commerce. The UK Jurisdiction Taskforce (UKJT) is a group

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25 Eichengreen, Barry and Marc Flandreau, *op. cit.*

26 Lorenzo Fioramonti (2017). Alternative Currencies are the Future: Why it Matters for Development. *The Conversation*, 2 July. <https://theconversation.com/alternative-currencies-are-the-future-why-it-matters-for-development-80036> accessed 25 April 2023.

27 Larue, L. and Others (2022). The Ethics of Alternative Currencies. *Business Ethics Quarterly*, 32, 299.

28 *Ibid*.

29 Cryptopedia Staff (2022). Digital Assets: Cryptocurrencies vs. Tokens. *Gemini*, 28 June. <https://www.gemini.com/cryptopedia/cryptocurrencies-vs-tokens-difference> accessed 28 April 2023.

30 *Ibid*.

of legal experts who advise on the development of English law in relation to disputes arising in connection with new technologies.[31] In November 2019, the UKJT issued a legal statement on the status of cryptocurrencies and smart contracts under English law.[32]

The statement concluded that, under English law, cryptocurrencies are to be treated as property. The UKJT recognized that cryptocurrencies have the characteristics of property, including being definable, capable of being owned and transferred, and having value.[33] The statement also noted that the legal treatment of cryptocurrencies as property is consistent with the approach taken in other jurisdictions, such as the United States, Canada, and Singapore.

The UKTC noted thus:

As far as we are aware, the proprietary status of crypto assets specifically has not yet been the subject of any authoritative decision in any common law jurisdiction. We find some support, however, for our conclusion in a recent case in Singapore, B2C2 v Quoine[34]. The judge accepted (there being no argument to the contrary) that Bitcoins could be the subject of a trust, and hence were property. He observed that "cryptocurrencies have the fundamental characteristic of intangible property as being an identifiable thing of value" and that they met all of the requirements in National Provincial Bank.[35]

Overall, the UKJT statement provided important guidance on the legal status of cryptocurrencies and smart contracts under English law. The recognition of cryptocurrencies as property is significant because it means that the ownership of cryptocurrencies can be legally recognized and protected, and disputes over ownership can be resolved through the courts.

In addition to the UKJT statement, there have also been several court cases in the UK that have treated cryptocurrencies as property. For example, in the case of *Vorotyntseva v Money-4 Ltd*[36], the court recognized that cryptocurrencies are a type of property that can be subject to a freezing injunction. Similarly, in the case of *Liam David Robertson v Persons Unknown*[37], the court granted an interim proprietary injunction over Bitcoin that was obtained through hacking. Overall, while there is no definitive answer, it appears that under UK law, cryptocurrencies can be regarded as property under the Sale of Goods Act.

In the case of *Vorotyntseva v Money-4 Ltd.*[38], the High Court of England and Wales granted a freezing injunction over cryptocurrency held by a company in response to a claim for breach of contract. The court held that cryptocurrencies, including Bitcoin, should be treated as property for the purposes of a freezing injunction. This decision was based on the fact that cryptocurrencies have the characteristics of property, such as being capable of being transferred and having value.

In the case of *Liam David Robertson v Persons Unknown*[39], the High Court of England and Wales granted an interim proprietary injunction over Bitcoin that had been obtained through hacking. The court held that the Bitcoin was property and that the claimant had a proprietary claim to it. The court also held that the interim injunction was necessary to prevent the Bitcoin from being dissipated or transferred to other parties.

These cases are significant because they establish the legal status of cryptocurrencies as property under English law. This means that cryptocurrencies can be subject to proprietary claims, and their ownership can be legally recognized and protected. It also means that legal remedies such as injunctions and freezing orders

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[31] Indraneel Majumdar (2023). UKJT Legal Statement on Digital Securities. *Harper James,* 28 March. <https://harperjames.co.uk/news/ukjt-legal-statement-on-digital-securities/> accessed 28 April 2023.

[32] Law Commission, Smart Contracts. <https://www.lawcom.gov.uk/project/smart-contracts/> accessed 28 April 2023.

[33] Sarah Murray and Elizabeth Butler (2022). Cryptocurrency—Is it Recognized as "Property" Under English Law?. *Stevens & Bolton*, 10 June. <https://www.stevens-bolton.com/site/insights/articles/cryptocurrency-is-it-recognised-as-property-under-english-law> accessed 28 April 2023.

[34] [2020] SGCA(I) 02.

[35] UK Jurisdiction Taskforce (2019). Legal Statement on Cryptoassets and Smart Contracts. November.

[36] [2018] EWHC 2596 (Ch).

[37] [2019] EWHC 2599 (Comm).

[38] *Supra.*

[39] *Supra.*

can be used to protect the rights of cryptocurrency holders in cases of fraud or theft. It is also worthy of mention that, premised on these legal authorities, cryptocurrency cannot be regarded as being tangible under the Sales of Goods Act. While there is some legal authority to support the argument that cryptocurrencies should be regarded as property under English law, there are also some criticisms and counterarguments that have been raised.

One of the main criticisms is that the concept of property under English law is based on the physical ownership of goods and that cryptocurrencies do not have a physical existence. Some legal commentators have argued that the legal treatment of cryptocurrencies as property would require a fundamental shift in the legal definition of property and that this could have wide-ranging implications beyond the realm of cryptocurrencies.[40] Another criticism is that the existing legal framework in England may not be well-suited to dealing with the unique features of cryptocurrencies.

It is further argued that, according to the provisions of the Sale of Goods Act, there is no explicitly stated necessity that money must be tangible. In other words, it is not provided that money must be physical in nature. Thus, where cryptocurrency in itself is not tangible, it is not neglected as being treated as money under the Act.

The subject of jurisdiction is equally a legal issue surrounding cryptocurrency as an international commerce payment. The fundamental tenet of the blockchain technology that powers cryptocurrencies is that there is no way to identify the precise location of a ledger.[41] As a result, transactions made on blockchain offer more privacy than those made on conventional platforms. However, this benefit presents a difficult legal challenge. The nodes of a crypto transaction may be governed by contradictory legal frameworks due to the fact that they are dispersed throughout many jurisdictions. Equally, because the ledger has no physical location, it is challenging to identify the residence country for Bitcoin software.

In the address of these issues, the Court has ruled in *Vorotyntseva v Money-4 Ltd.*[42] that the Court wields the jurisdiction to deal with cryptocurrency matters. The premise of this decision was on the premise that it considered that cryptocurrency is a "good" under the Sale of Goods Act and could be considered as a property. The Court has further ruled in the case of *Ion Science Ltd v. Persons Unknown, Binance Holdings Limited and Payward Limited*[43] that it wields jurisdiction over a crypto asset in a place where the owner is domiciled. In cases where the identity of one or more parties involved in a cryptocurrency transaction is unknown, the position of the UK courts will depend on the specific facts and circumstances of each case, but will still wield jurisdiction.

In the case of *Robertson v Persons Unknown*[44], the claimant was the victim of a ransomware attack in which his computer files were encrypted and a demand for Bitcoin was made in exchange for the decryption key. The claimant sued Persons Unknown (i.e., the individuals or group responsible for the attack) for damages, but did not know their identities. The UK High Court granted an interim injunction freezing the Bitcoin in the attackers' wallets, and later granted a final injunction ordering the release of the Bitcoin to the claimant.

Summarily, while there is ongoing legal debate over how cryptocurrency should be classified and regulated, the UK courts have jurisdiction over cryptocurrency transactions and are able to consider disputes related to cryptocurrency under existing laws and legal principles.

In another strand, the topic of cryptocurrency may come up in a trusteeship arrangement. A legal arrangement known as a trusteeship is one in which one person (the trustee) maintains and administers property on behalf of another (the beneficiary) with a defined goal or purpose.[45] The trustee is required by law to manage the assets for the benefit of the beneficiary and in compliance with the provisions of the trust.

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[40] Dan Wyatt (2022). Cryptocurrencies: Basic Legal Principles and their Future in English Law. *Thomson Reuters*, 7 March. <http://disputeresolutionblog.practicallaw.com/cryptocurrencies-basic-legal-principles-and-their-future-in-english-law/> accessed 28 April 2023.

[41] Yaga Dylan, Peter Mell, Nik Roby and Karen Scarfone (2019). Blockchain Technology Overview. *arXiv preprint arXiv*, 1906.11078.

[42] *Supra.*

[43] (unreported), 21 December 2020 (Commercial Court).

[44] (unreported), 16 July 2019, (Commercial Court).

[45] Gopinath, C. (2005). Trusteeship as a Moral Foundation for Business. *Business and Society Review*, 110(3), 331-344.

Similar to other types of property, cryptocurrency can be held in trust. For instance, a trustee may keep cryptocurrencies for a beneficiary as part of an investing strategy or to help with a particular transaction. The trustee's and beneficiary's responsibilities with regard to the cryptocurrency, including matters of ownership, management, access, and disposition, will be governed by the conditions of the trust.[46]

However, holding cryptocurrency in trust may come with some real-world difficulties, especially when it comes to concerns with security, custody, and access. To ensure the cryptocurrency is kept safe and to stop unauthorized access or transfer, the trustee may need to take the necessary actions.[47] To handle these and other difficulties, the trust's provisions may need to be carefully designed.

The UKTC has equally held this same opinion. It equally aligned itself with the position of the New Zealand Court. In *Ruscoe v Cryptopia Ltd* (in Liquidation)[48] the New Zealand High Court held that cryptocurrencies, as digital assets, are a form of property that are capable of being held on trust.

6. Recommendations

Based on the legal issues discussed above, the following are some recommendations to address the challenges associated with the use of alternative currencies in international commerce:

1. Governments and regulatory bodies should develop clear and comprehensive regulatory frameworks to oversee the use of alternative currencies in international commerce. These frameworks should provide legal clarity and promote transparency, stability, and consumer protection.
2. Governments should consider the legal recognition of alternative currencies, including cryptocurrencies and stablecoins, in their jurisdictions. This can include measures such as recognizing these currencies as legal tender, providing tax incentives for their use, or creating legal structures that allow businesses and individuals to use alternative currencies in a legally compliant manner.
3. To address the risk of fraud and hacking, businesses and individuals should take steps to ensure the security of their digital assets. This can include using secure wallets and exchanges, implementing strong password protection, and keeping their digital assets in cold storage when not in use.
4. To address the risk of volatility, businesses and individuals should carefully consider the risks and benefits of using alternative currencies in international commerce. They should also consider using stablecoins or other currencies that are designed to be less volatile and should take steps to mitigate their exposure to risk.
5. Governments and regulatory bodies should encourage the development of interoperability standards for alternative currencies. This can include promoting the use of blockchain technology and developing standards for digital asset exchanges. They should also consider the development of central bank digital currencies that are designed to be interoperable with other digital currencies and traditional currencies.

7. Conclusion

In conclusion, using alternative currencies in global trade offers both potential and difficulties. While the U.S. dollar has historically been the dominant currency in international trade, alternative currencies like cryptocurrencies and stablecoins are now more prevalent, opening up new opportunities for individuals and organizations to conduct cross-border transactions. However, using cryptocurrency also comes with legal difficulties, such as the issue of jurisdiction, whether cryptocurrency can be regarded as a property or being tangible under the Sale of Goods Act and so on. These issues can lead to legal ambiguity and make it challenging for people and enterprises to use cryptocurrencies for international trade. Governments, regulatory agencies, and businesses are recommended to collaborate to create clear, comprehensive legal frameworks, advance interoperability and security, and foster innovation in the usage of alternative currencies in order to meet these difficulties.

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46 Natasha Stourton (2022). The Rise of Cryptocurrency: Trustees' Powers, Obligations, and Responsibilities. *Withersworldwide*, 23 August. <https://www.withersworldwide.com/en-gb/insight/read/the-rise-of-cryptocurrency-trustees-powers-obligations-and-responsibilities> accessed 28 April 2023.

47 *Ibid.*

48 [2020] NZHC 728.

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