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UNDERSTANDING NATIONAL GOVERNMENTS' DESIRE TO REGULATE CRYPTO CURRENCIES THROUGH PRE-WESTPHALIAN CONCEPTS OF SOVEREIGNTY

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Abstract: *Crypto currencies, electronic currencies and block chain financial technologies (Fintech), have been debated issues whereby national governments are trying to put certain regulation upon them, especially citing security concerns. Crypto currencies can be used for money laundering, untraceable transactions of criminal and terrorist organizations and thus constitute genuine security risks. To many evangelists of these new technologies, governmental desires to impose regulations is viewed negatively. However, although usage of these technologies will likely continue to expand in the global economy, there is a desire to put them under regulation by most of the major nation states. It is necessary to understand the essence of currency as a tool of national sovereignty long before the age of the Westphalian concept of the modern state system. The desire to regulate Fintech derives from a concept of sovereign power that goes back to biblical times and far*

* https://doi.org/10.54842/ustich.1167457

beyond the Westphalian notion of the sovereign and independent modern nation state. That notion of sovereignty rests on the power to mint money. Furthermore, the concept of such a sovereign power is observed in Ancient Rome, Medieval Europe as well as the early Islamic understanding of sovereign power. Thus it is essential to understand globally how the symbol of money has been a sovereignty symbol before starting any discussions on national or international levels of regulations.

Key Words: *Sovereignty, Crypto currency, Globalization, Regulation, International Relations*

ULUSAL HÜKÜMETLERİN KRİPTO PARALARI DÜZENLEME ARZULARINI WESTFALYA ÖNCESİ EGEMENLİK KAVRAMLARI ARACILIĞIYLA ANLAMAK

Öz: *Kripto para birimleri, elektronik para birimleri ve blok zinciri finansal teknolojiler (Fintech), ulusal hükümetlerin özellikle güvenlik endişelerini öne sürerek belirli düzenlemeler getirmeye çalıştığı tartışmalı konulardır. Kripto para birimleri, suç ve terör örgütlerinin kara para aklama gibi, takip edilemeyen işlemleri için kullanılabilmekte ve bu nedenle ciddi güvenlik riskleri oluşturmaktadır. Bu yeni teknolojilerin pek çok hararetli savunucuları için, hükümetlerin düzenlemeler dayatma istekleri olumsuz karşılanmaktadır. Bununla birlikte, bu teknolojilerin kullanımı küresel ekonomide genişlemeye devam edeceği için, büyük ulus devletlerin çoğu bunları düzenleme altına almayı arzu etmektedir. Ulusal egemenliğin bir aracı olan para birimini, esasen Vestfalya modern devlet sistemi çağından çok önceki kavramlarla yorumlamak gerekir. Fintech'i düzenleme arzusu, İncil zamanlarına, Vestfalya'nın egemen ve bağımsız modern ulus devlet kavramının çok öncesine kadar uzanan bir egemen güç kavramından kaynaklanmaktadır. Bu egemenlik kavramı, para basma yetkisine dayanır. Ayrıca böyle bir egemen güç kavramı, Antik Roma'da, Ortaçağ Avrupa'sında ve erken İslam egemen güç anlayışında görülmektedir. Bu nedenle, ulusal veya uluslararası düzeydeki düzenlemelerle ilgili herhangi bir tartışmaya başlamadan önce, küresel olarak paranın nasıl bir egemenlik sembolü olduğunu anlamak önemlidir.*

Anahtar Kelimeler: *Egemenlik, Kripto Para, Küreselleşme, Düzenleme, Uluslararası İlişkiler*

Introduction

Crypto currencies, electronic currencies and block chain financial technologies (Fintech) have been issues of constant debates whereby national governments are trying to put certain regulation upon them. To many evangelists of Fintech and these new technologies that have surged over the last decade, the government desire to limit them is senseless. However, even though the growth in these technologies will very likely continue in the global economy, there is a desire to put them under regulation by most of the major nation states. In order to understand the reason for this, one needs to go back to the essence of national sovereignty long before the age of the Westphalian concept of the modern state system.[1] The desire to regulate Fintech derives from a concept of sovereign power that goes back to biblical times and far beyond the Westphalian notion of the sovereign and independent modern nation state. That notion of sovereignty rests on the power to mint money. Furthermore, the concept of such a sovereign power is observed not only in Ancient Rome but also in Medieval Europe as well as non-western Islamic understanding of sovereign power during the Ottoman Empire. The power over coinage was the power to have the face or sign of the sovereign over the money as in the heads or tails in the coin flips.

Thus money has rather universally been a sovereignty symbol. Prior to initiating discussions on national or international levels of regulations over such financial instruments, this symbolic importance of money must be recognized. Unregulated use of crypto currencies constitute security risks to national governments, and for their citizens. Crypto currencies can be used for money laundering, untraceable transactions of criminal and terrorist organizations and thus pose a genuine security threat. While the proponents of unregulated crypto currencies are aware of the security concerns associated with transactions using crypto currencies they are less aware about the sovereignty issue. The sovereignty issue, however, is a more sensitive spot of major states. In the early 2000's, the concern was about how globalization and cultural elements could be a threat to government sovereignty, such as the use of social media to recruit terrorists; a strategy often used by the ISIS/DAESH.[2] In addition to these challenges, now the strategy of using

1 Although debated, the 1648 Peace of Westphalia, ending the 30 Years War in Europe, has often been considered in academia as a convenient date to mark the beginning of the Modern State System, where independent and sovereign nation states do not answer to any higher authority. There are many scholarly work on this topic, including Krasner (1999).

2 Gabriel Weimann, "The emerging role of social media in the recruitment of foreign fighters" in Foreign Fighters Under International Law and Beyond (TMC Asser Press, 2016): 77-95

crypto currencies as a medium for unregulated transactions, add further to the challenges of the regulatory sovereign authorities of states. These new challenges over currency are on top of the still unresolved challenges concerning erosion of sovereignty in the face of globalization and the cultural challenges of globalization. Thus, in addition to the security challenge, failure to recognize the sovereignty issue would prevent investors from understanding the governmental regulatory persistence as a preservation of national sovereignty.

Now the new technologies on electronic cash transfer, particularly the crypto currencies and coin markets, which grew significantly over the last decade or so, make the challenge to national sovereignty even more complex. The pillars of Globalization,[3] often described as national sovereignty, global trade & capital markets, and democratic rights of citizens (organized often through civil society and non-governmental organizations) are representing the more general challenges of political, economic and cultural aspects of Globalization. The specific challenges of crypto currencies are directly affecting national sovereignty on many dimensions, such as currency, but as well as taxation and financial regulations, on top of security challenges.

Crypto currencies, electronic currencies and block chain financial technologies, as well as the tools of Fintech, have been issues of constant debates whereby national governments are trying to put certain regulation upon them. To many evangelists of crypto currencies and Fintech, and to the avid investors of these new technologies that have surged over the last decade, regulations are governmental desires to control things. The governments' desires to limit them seems to make little sense to certain business personalities.[4] The governmental opposition is in part due to the fear of losing control of an independent monetary policy to the decentralization of currency.[5] However, even though the growth in these technologies will very likely continue in the global economy, there is a desire to put them under regulation by most

3 Dani Rodrik, *The globalization paradox: Democracy and the future of the world economy*. (WW Norton & Company, 2012).

4 MacKenzie Sigalos, " Tesla CEO Elon Musk says U.S. government should avoid regulating crypto" CNBC, September 28, 2021, https://www.cnbc.com/2021/09/28/tesla-ceo-elon-musk-says-us-government-should-avoid-regulating-crypto.html

5 John David Penner, "Why central banks dislike cryptocurrencies; The instability of cryptocurrency poses a challenge to central banks. Are regulation and stablecoins the right response?" IBM Business Operations Blog, April 19, 2022, https://www.ibm.com/blogs/internet-of-things/why-central-banks-dislike-cryptocurrencies/ (Accessed 21.08.2022).

of the major nation states. In order to understand the reason for this, one needs to go back to the essence of national sovereignty long before the age of the Westphalian concept of the modern state system. The desire to regulate crypto currencies and other Fintech technologies derives from a concept of sovereign power that goes back to biblical times and far beyond the Westphalian notion of the sovereign and independent modern nation state.

Thus it is essential to understand globally how the symbol of money has been a sovereignty symbol before starting any discussions on national or international levels of regulations over such Fintech instruments. Since unregulated currencies may cause considerable security threats not only to national governments, but also to the safety and security of their citizens through money laundering, untraceable transactions of criminal and terrorist organizations.

The term digital currency, crypto currencies and other virtual asset are used interchangeably. Often the launch of the block chain based Bitcoin in later part of 2008 is considered as a milestone.[6] Since then and the creation of countless other crypto currencies, the overall coin markets and cryptocurrency has grown fast especially over the last decade. Due to the bypassing of the sovereign laws and domestic and international financial regulations, this system has been a bane to most major nation states. The growing market has evaded national and international regulations and is rapidly transforming to become an alternative to the sovereign state's money.

This Research will especially explore the pre-Westphalian origins of the relationship between money and sovereignty. This relationship has been under-explored and remains a significant missing component of understanding governments' unease with such new technologies. The first part of this research will begin with the much emphasized security challenges that nation states face due to crypto currencies. These include anti-money laundering (AML) and counter terrorism as well as evasion of money. The Second Part will focus on the nature of money and sovereignty. All the historical analogy will be explored as to why nation states will not easily give up that monopoly on power. This original analysis will shed light to explore this issue from a new perspective. This will also use diplomatic history sources. The Third and discussion

6 Ryan L. Frebowitz, "Cryptocurrencies and state sovereignty" (Master's thesis) Naval Postgraduate School of Monterey, California, 2018)

Part will explore the Breton Woods as well as Eurozone as an example of how such sovereignty was subject to important negotiations in a multilateral context. This part will discuss global governance (or rather the absence of it), cases such as in the Eurozone where sovereign states seemingly compromise on monetary policy, and also compare it to the debate on the possibility of whether the regulation could and should be national or international or regional. The article will conclude by suggesting that the Euro is a collective monetary policy, similar to a collective defense and is a form of more centralization rather than decentralization, and thus is not the same as giving up sovereign control (since Brexit suggested that nation states could quit those systems). The Conclusion will draw attention to the challenges ahead on the difficulties to establish international system based on global governance and regulations for all the states. Hence, even if there is a global regulatory system in place rather than separate national ones (which is the current direction based on current practice, perhaps a strong European Union (EU) or Western system), it is uncertain to be universally accepted and there may remain considerable loopholes to evade. At the onset, however, it is necessary to assess the legitimate security concerns of nation states in the following section.

Security Challenge to the nation states and sovereignty

The concept of the sovereign and independent nation state has been a topic in many of the studies of Globalization as well as International Relations. Studies on institutions and global political economy debate the relationship the modern state has in the global economy and how the global economy affects the traditional social contract between citizens and the states. Governments, as well as the independent market and regulatory authorities within different states have difficulties in trying to reformulate the relationship of the taxation and corporations to the global economy.[7] The traditional social contractual relationship where citizens and corporations pay tax to the government in exchange of protection, infrastructure and other public services are becoming difficult to adjust to the eroding national borders through growing global trade as well as online trade.

7 Allison Christians, "Sovereignty, taxation and social contract" Minnesota Journal of International Law 18, (2009): 99

One of the better known conceptual explanations of the challenges governments face between balancing their own sovereignty, citizens' democratic rights, and the forces of Globalization (say international trade and investment), is Rodrik's Trilemma in Globalization Paradox.[8] This trilemma suggests the difficulty in achieving a balance between the international financial system and national sovereignty and the democratic rights of citizens. The three pillars of Globalization could be summarized as; democracy, globalization and national sovereignty. These three pillars are accordingly difficult to balance and governments face the paradox of strengthening their own sovereignty and their citizens' democratic rights while trying to adjust to the global economy.

Fear of erosion of national sovereignty is not a new debate in Globalization and International Relations literature. Westbrook[9] for instance, suggested that terms such as national identity and economy as well as the state have been losing their explanatory power. This erosion of state sovereignty and its vulnerability to global and regional pressure forces both in terms of political, economic and cultural contexts were attributed to more global interconnectedness. According to Keyman and Icduygu,[10] such Globalization driven sovereignty challenges to the modern state-centric international system have elevated the role and status of civil society as an essential force for democratization. The role of civil society is thus central to preserve the organized rights of citizens in the citizens and state relationship.

Now the new technologies on electronic cash transfer, particularly the crypto currencies and coin markets, having significantly grown over the last decade, constitute a complex challenge to national sovereignty. The pillars of national sovereignty, globalization, and democratic rights of citizens (organized often through civil society and non-governmental organizations) are more general challenges of political, economic and cultural aspects of Globalization. Whereas the specific challenges of crypto currencies are directly affecting national sovereignty on many dimensions. Some of these dimensions concern taxation, as well as financial regulations, tax evasion, on top of security challenges such as money laundering detecting Anti-Money Laundering (AML) systems in

8 Rodrik, "The Globalization Paradox"

9 David A. Westbrook, *City of gold: An apology for global capitalism in a time of discontent*. (Routledge, 2004)

10 E. Fuat Keyman, and Ahmet İçduygu, "Globalization, civil society and citizenship in Turkey: Actors, boundaries and discourses" Citizenship Studies, 7 no:2 (2003): 219-234.

place in the existing financial systems.[11] Yet governmental policies seem to be changing and somewhat less consistent over time. While some countries, such as China, opt to not only ban crypto currencies but going further by banning all crypto-mining activities as well as selling of associate crypto-mining equipment, others take a more positive approach embracing it, such as El Salvador. However, similar to previous tax havens being often smaller states, this contextual difference is observable in the El Salvador and China cases. China, the most populated nation-state with a strong centralized government is imposing stricter measures than El Salvador, which is a relatively small Central American State.

The seemingly inconsistent and changing attitudes of governments toward crypto currencies is a result of many unknowns accompanying the future of the crypto currency. On one hand, the popularity of these new forms of increasingly accepted financial instruments have seemed to be welcomed by certain early adopters. For instance, Türkiye, with the 11th Development Plan, explicitly cited that it was aimed to create digital central bank money and to plan the Fintech ecosystem and develop related funding systems. Istanbul was aimed to be developed as a global hub fur such crypto currency mining and investment instruments. On the other hand, in April 2021, Türkiye banned the use of crypto assets as a payment method.[12] This change of heart is not unique, and many governments are trying hard to regulate or ban crypto currencies. These future preparations give Istanbul and it's much hyped Istanbul Finance Center (Istanbul Finans Merkezi - IFM), an advantage and create an opportunity to compete with traditional financial centers such as Frankfurt and Singapore, as well as rising centers such as Dubai.

In the face of the popularity of crypto assets, Istanbul Financial Center (Istanbul Finans Merkezi - IFM)'s adoption of this trend, just like Dubai, Estonia and Malta, and bringing clear regulations for crypto assets with crypto-friendly approaches may attract companies working in the field of crypto assets and make Istanbul a "crypto wall street". Soon, however, Türkiye's policy of espousing crypto currencies would not fit the size of the nation state as the other adopting states and champions such as El

11 Anti-Money Laundering will be abbreviated as AML in this research not only to describe any software, but also in order to describe criminal challenges concerning financial funds transfer of criminal and terrorist groups.

12 Nedim Türkmen, "İstanbul 'Kripto Wall Street' ", Sözcü, August 08, 2022, Web Site: https://www.sozcu.com.tr/2022/yazarlar/nedim-turkmen/istanbul-kripto-wall-street-7294229/

Salvador[13] have been mostly small states. In fact, the case of a small state unilaterally renouncing its currency has precedents, including the recent case of Montenegro, adopting the Euro as the currency in circulation.[14] Even though Montenegro is not an EU member state and still a candidate state and thus is not yet in the EU, but by adopting the Euro as the currency in circulation in the nation, it is *de facto* and unofficially in the Eurozone. Hence, Türkiye seems to have been initially attracted to the idea of having policies comparable to Dubai, but is now seemingly opting to impose stricter regulations. Needless to mention that the scandals of certain crypto markets negatively affected citizens. Certain scams on the users, and the creators of these schemes fleeing the country with millions of dollars' worth of crypto assets has been an important factors in the governments' responsibility to protect social welfare of their citizens. In 2021, a Turkish Crypto Market Platform known as Thodex owner fled Türkiye on a one way ticket to Tiran, Albania with millions of dollars from over two thousand investors to the exchange platform.[15] These and similar stories are one of the reasons why the financial safety of citizens need to be safeguarded through financial regulations, including in crypto currency markets and assets.

However, Türkiye has not yet been able to define what crypto currencies are on a legal basis and has banned crypto assets as a means of payment with the April 2021 regulations. Therefore, there is a possibility that it will be too late to prepare for the future. On the contrary, Türkiye, like the EU and most major nation states wants to regulate crypto currencies. The official reason for the security of its citizens, both against criminal organizations and terrorist, but also against speculators and other manipulators and scoundrels. The less discussed reason, however, which will be dealt extensively in the second part of the research, is concerning how money has been tied symbolically to the concept of sovereignty, even long before the Peace of Westphalia. Thus, governments are not willing to give up such sovereign rights either.

Unregulated use of crypto currencies entirely bypass the anti-money laundering (AML) systems and software traditionally used in the

13 Fernando E. Alvarez, David Argente, and Diana Van Patten, « Are Cryptocurrencies Currencies? Bitcoin as Legal Tender in El Salvador" (No. w29968). National Bureau of Economic Research. (2022)

14 Montenegro Public Finance Synthesis Report: Restoring Sustainability and Strengthening Efficiency of Public Finance. World Bank Group. (2019)

15 "Thodex vurgununun üzerinden bir yıl geçti" *TRT Haber,* April 20, 2022; https://www.trthaber.com/haber/gundem/thodex-vurgununun-uzerinden-bir-yil-gecti-674052.html

international banking system. Such evasions are not only a form of evading taxable income (which is a way for modern nation states to function, with the exception of tax havens, microstates relying on other incomes, as well as rentier states). Circumvention of the official system may cause considerable risks and security threats not only to national governments, but also to the safety and security of their citizens. Crypto currencies can be used for money laundering, untraceable transactions of criminal and terrorist organizations and thus pose a genuine security threat.

According to Frebowitz;[16] the lack of regulation in crypto currencies has become a national security problem as well as a criminal one. Experts agree that crypto currencies are used by individuals to circumvent national laws. In addition, experts think that the use of cryptocurrencies may cause problems in financial regulations and tax applications on behalf of the state in the future. In 2015, the National Terrorist Financing Risk Assessment report of the US Treasury, stressed how crypto currencies can be used to finance terrorist organizations.[17] The US Drug Enforcement Administration (DEA) ‘s National Drug Threat Assessment Study mentions how international criminal organizations use crypto currencies intensively thanks to their anonymous use.[18] RAND's National Security Implications of Virtual Currency study emphasized how non-state actors increase their economic and political power by performing money laundering, anonymous transfer and funding activities[19] thanks to cryptocurrencies. Brown,[20] in his study of the misuse of crypto currencies, suggested that the lack of regulations weakens States' ability to enforce laws, and this loophole provides a new effective instrument for criminals. As a concrete example according to Sanders,[21] about 3 million US dollars of money that ISIS collected under the name of "sadaqa" (donations to the poor) was also transferred

16 Frebowitz, "Cryptocurrencies"

17 Adam J. Szubin, A. National Terrorist Financing Risk Assessment – 2015, 2015, Department of the Treasury, Web Site: https://www.hsdl.org/?abstract&did=789253

18 Drug Enforcement Administration, "National Drug Threat Assessment (DEA-DCT-DIR-040-17)" (2017): 130 Web Site: https://www.dea.gov/docs/DIR-040- 17_2017-NDTA

19 Joshua Baron, Angela O'Mahony, David Manheim, Cynthia Dion-Schwarz, "National Security Implications of Virtual Currency: Examining the Potential for Non-State Actors Development" RAND Corporation, (2015): ix–x, Web Site: https://www.rand.org/pubs/research_reports/RR1231.html.

20 Steven D. Brown, "Cryptocurrency and Criminality: The Bitcoin Opportunity," The Police Journal: Theory, Practice and Principles 89, no. 4 (2016): 336.

21 Lewis Sanders, "Bitcoin: Islamic State's Online Currency Venture," DW, September 20, 2015, http://www.dw.com/en/bitcoin-islamic-states-online-currency-venture/a-18724856.

through crypto currencies. Furthermore, certain states under Western sanctions (such as Russia) have allegedly used crypto currencies to circumvent the sanctions.[22,23]

But the first concern is the security concern. In the report of the Turkish Police Academy, it was determined that cryptocurrencies are used intensively in drug trafficking and financing of criminal acts on the "dark web", and it was stated that a global effort against the malicious use of cryptocurrencies is required, since the effort of a single country will not be effective.[24]

Under the current conditions, crypto currencies are traded under extremely speculative environments in different coin markets where certain coins or tokens suddenly gain or lose value with a social media message of famous billionaires.[25] Such an arrangement was needed both in terms of the protection of citizens and the sovereignty of states. The genuine security concerns over safety and both the financial and physical well-being of the citizens is reason enough why countries opt to regulate such instruments. The discussion in this analysis will later on re-consider the report of the police academy on the feasibility of international cooperation on the regulatory needs concerning crypto currencies. However, the next part will further discuss the challenges such instruments pose on the national sovereignty and the monopoly on the power over money.

Challenges to Sovereignty

Crypto currencies are new technologies that grew in use and popularity over the last decade and governments are struggling to find a way to

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22 Olivia Capozzalo, "Putin Adviser Says 'CryptoRuble' Will Circumvent Sanctions, Government Remains Divided," Cointelegraph, January 2, 2018 Web Site: https://cointelegraph.com/news/putin-adviser-sayscryptoruble-will-circumvent-sanctions-government-remains-divided

23 Shannon Liao, "Inside Russia's Love-Hate Relationship with Bitcoin," The Verge, October 31, 2017 https://www.theverge.com/2017/10/31/16387042/russia-putin-bitcoin-regulation-ethereumblockchain-technology.

24 Orhan Onur Gemici, "PKK'nın uyuşturucu ticaretine Barış Pınarı Harekatıyla darbe vuruluyor", Anadolu Ajansı, November 21, 2019 Web Site: https://www.aa.com.tr/tr/turkiye/pkknin-uyusturucu-ticaretine-baris-pinari-harekatiyla-darbe-vuruluyor/1651578

25 "Kripto paranın hukuki altyapısı için harekete geçildi" TRT Haber December 28, 2021. https://www.trthaber.com/haber/gundem/kripto-paranin-hukuki-altyapisi-icin-harekete-gecildi-639567.html

deal with them. All of the above are current usage concerns with new challenges .Some of the challenges especially the ones on taxing, minting money and providing safety and security to citizens have historical roots that were on the monopolistic role of states. Other types of regulations to address various challenges, such as environmental regulations, antitrust regulations, or counter-terror regulations (specifically against networks evading supervision) are all necessary aspects that need to be adapted to consider crypto currencies.

Consequently, there is a desire to put them under regulation by most of the major nation states. In order to understand the reason for this, one needs to go back to the essence of national sovereignty long before the age of the Westphalian concept of the modern state system. The desire to regulate the Fintech technologies derives from a concept of sovereign power that goes back much earlier than the Westphalian notion of the sovereign and independent modern nation state. That notion of sovereignty rests on the power to mint money, which is an overlooked but universal theme of sovereign authority. As a symbol of the Platinum Jubilee the signature of Queen Elisabeth II appeared on British currency (Even before BREXIT, the UK had not joined the Eurozone and retained its national currency as a symbol of sovereignty and independence).

The concept of such a sovereign power is observed in China, Middle East, and early periods of the Umayyad Caliphate. The Umayyad caliphate, for instance, was particularly influential to have a circulation of a single currency.[26] Such sovereign power used to provide a centralized system of trust over currency go back to Ancient Rome. Another case where the sovereignty is further implied through the importance of Mining Rights is Medieval Europe. Mining Rights have also been a granted licenses also a symbol of sovereign authority. Sovereign power to collect taxes and mint coinage also required using minerals prior to the use of paper money. Thus the ownership of mines and forging coins, and then later collecting back some of those as taxation, were fundamental principles the economy even in medieval Spain. The territories of the Castilian crown during the medieval period saw the ownership of all mines were to the crown, and thus only the sovereign ruler of these lands could grant mining rights.[27]

26 Mustafa Halil Yörükoğlu, "İslâm'ın İlk Asırlarında Altın Para" Derin Tarih, Mayıs, 2021, https://www.derintarih.com/ozel-dosya/islamin-ilk-asirlarinda-altin-para/

27 Jeannette Graulau, "Ownership of mines and taxation in Castilian laws, from the middle ages to the early modern period: the decisive influence of the sovereign in the history of mining" *Continuity and Change*, 26, no:1 (April 2011): 13-44.

The implications of money as sovereignty is particularly a strong influence in the Islamic history. Non-western Islamic understanding of sovereign power during the Ottoman Empire, or perhaps as old as the early days of Islam in the 7th century rested on Fatwa (Royal orders read out loud publicly) and Khutbah (sermon during the Friday prayer) mentioning the name of the sovereign, and forging coins. While Byzantine and Sassanid gold and silver coins were common, by the late 690s (697 ad) the Umayyad Caliphate banned the use of these and minted the Dinar, the first Arab-Islamic currency. Ever since this has been a symbol of sovereignty, and according to tradition, throughout later empires and emirates in the Islamic territories, coinage and having the Khutbah (sermon on Friday Prayer) as a tradition of sovereign power.[28] Since this tradition of having Hutbe (Sermon in mosque after Friday prayers) and coinage were considered symbols of sovereignty in the Islamic World. The Ottoman Sultans continued with this tradition, and attached great importance to it.[29-30] The power over coinage was the power to have the face or sign of the sovereign over the money. This power has been fairly universal across history, so much as we don't even think about the significance of the head or the signature (Tura, or the signature, mostly in the Islamic tradition as images of faces were often considered idolatry and thus not typically preferred in the early years) when we use a coin flip as in the heads or tails in the coin flips.

TABLE 1: Some Universal Sovereignty Symbols pre-dating the 1648 Peace of Westphalia

Maintaining a Standing Army, Permanent Navy
Maintaining Roads
Taxation
Mining Licenses
Currency
Issuing royal decrees

Source: Original

28 « Sikke » İslam Ansiklopedisi, 2022, Web Site : https://islamansiklopedisi.org.tr/sikke

29 Faruk Akar, "XVI. Yüzyılın İkinci Yarısında Osmanlı Devleti'nde Tedavül Eden Ayarı Bozuk (Kırkık) Akçelerin İktisadi Hayata Etkileri", Kadim , 2 (Ekim 2021), 129-144.

30 Şevket Pamuk, *Osmanlı İmparatorluğu'nda Paranın Tarihi (*İstanbul: Türkiye İş Bankası Kültür Yayınları, 2017), 5, 14.

It is essential to understand globally how money has been a sovereignty symbol before starting any discussions on national or international levels of regulations over such Fintech instruments. Minting money, putting customs duty on ports, having a standing army and permanent navy, taxation, mining rights were symbols of sovereignty and were at the monopoly of governments. Such practices since the Lydians inventing currency, were used in the Ancient empires such as Rome, China, India, and many other instances of pre-Westphalian practices of sovereignty. Thus the modern nation state accepted in Westphalia as convenient date for western scholars, but the memory of money and sovereignty goes back to ancient Lydia, Ancient Greek, and Roman period[31] Lydians, Greeks and Romans forged coins as medium of exchange and based on trust to his sovereign power. Since then, many ancient civilizations used money for barter and trade, and even though gold and silver were universal currencies of the Ancient World and still remain as important commodities and precious metals today, the issuing of coins and later paper money was based on trust to the sovereign power.

The Roman use of coinage and sovereignty has been even subjects in biblical stories, even those related to Jesus Christ. Hence one of the many concepts of separation of church and state, did not question the authority of the Roman ruler taxing them and having the face over the coin. According to many different Bibles, including the King James Bible, Jesus is attributed to have said to Israelites complaining about the Roman taxation to continue paying taxes to Caesar. The justification is the use of a coin and asking whose image and inscriptions are on the coin. Then famously saying: "Render to Caesar the things that are Caesar's, and to God the things that are God's.".[32] Hence separating also worldly issues such as paying tribute to the Roman Empire with the religious beliefs, was perhaps also indirectly portrayed as a general point of view from this incident.

This powerful symbol of sovereign authority associated with coinage has been an issue that even Jesus Christ did not object. Therefore, this power symbol needs to be better understood by the proponents of crypto currencies before assuming that governments are selfish and power hungry in trying to regulate them. Not understanding the nature of governments would prevent foresight on the more likely variations of policy that the governments would likely adopt.

31 William Ridgeway, *The origin of metallic currency and weight standards*. (Cambridge: Cambridge University Press 1892) , v.

32 King James Bible, Mark 12:17; https://biblehub.com/mark/12-17.htm

The more important question is perhaps whether there would be a global governance on the regulation of crypto currencies or not, whether a system of transfer similar to a SWIFT for block chain technologies, would be in place by those different regulators. How the supposedly traceable block chain technologies would adapt to governmental regulatory requirements and balance it with certain degrees of privacy. Also, the assumption that governments would never give up on monetary policy as it is a sovereignty symbol has the precedence of the Gold Standard under the Bretton Woods System after World War II,[33] where there has been a fixed exchange rate regime based on the Gold and the dollar. Therefore, sovereign countries, just as in the EU may perhaps willingly make certain arrangements. These will be discussed next.

Discussion of Sovereignty?

As illustrated in the earlier passages, some of the forms of imposing sovereign power, include having a monopoly over certain infrastructures, mining and extractive industries, policing and national security, as well as education and rule making authority (either by decree or legislation, the power to make and enforce, laws, rules and regulation). Even though there could be private mercenaries, licensed private miners, or educational providers other than the government, they are all subject to the rules and licenses granted by the sovereign authority. Thus, imposing regulations on many aspects of everyday social and economic life is one of the characteristics of ancient states and empires around the world and much older than the concept of the modern nation-state that is traced to the 1648 Peace of Westphalia.

However, just as the legal systems may vary from Common Law (Jury System), code based law, or religious based laws, there are numerous variations on regulatory applications. Furthermore, when it comes to new technologies, and in particular to crypto currencies, their regulation is not straightforward either as it concerns bank and financial regulation, antitrust and as well as consumer rights. Energy market regulation is also a necessary component for crypto currencies, as the mining process[34] is an activity which is consuming energy intensively. Thus,

33 John Gerard Ruggie, "International regimes, transactions, and change: embedded liberalism in the postwar economic order." International organization, 36 no:2 (1982): 379-415.

34 Mining crypto currency is a data mining in electronic platform. Not to be confused with traditional mineral and natural resource mining.

such energy intensive process is not only affecting the financial markets but also energy consumption rates and therefore energy markets. At a time where energy prices are in extreme fluctuations, and more grid electricity power may be required with growing need from electric vehicles, other alternatives such as crypto mining would also need regulation. In light of such effects on electricity consumption, the regulatory need may arise not only from a need for financial credibility against fraud scams, prevention of tax evasion, AML preventing criminals transferring funds, but also because activities are affecting electricity power generation, transition and supply. Hence, Crypto currencies are a subject for multiple layers of regulation. For example, in Türkiye, not only there may be a need to regulate by the Bank regulator (BDDK), the Financial Markets Authority (SPK), the Competition Board (Rekabet Kurumu), but also the Energy Markets Regulatory Authority (EPDK/ EMRA).

Other countries and regional organizations such as the EU, may have further issues regarding how to tax them, how to include them in carbon emission taxes, how to calculate for them in the EU Green Deal. Furthermore, since the crypto mining process is so energy intensive, not only energy but also environmental regulations may apply. These are some of the under explored areas, that governments would need to consider eventually in order to impose rules on regulations on aspects that affect different segments of society.

There are instances where governments willingly either adopt another currency (as in the case of Montenegro), or willingly accept a fixed exchange rate (as in the case of the early Bretton Woods system based on Gold until the floating exchange rate since early 1970’s). Therefore, nation states may adapt their sovereign rights contextually and as part of certain regional or international multilateral arrangements. Yet, these arrangements are not for perpetuity as observed with the end of the fixed exchange rate regime, and nation states maintain their sovereign rights to revert to different policies or arrangements. Still this is a period where many policy makers may be more open to suggestions on regulatory policies, provided that the concerns over security are addressed and the concept of sovereignty understood.

While many major countries are expecting to have regulations, the question is how strict these regulations would be. On one extreme there are small states such as El Salvador that champion crypto currencies, while there are also other extreme cases of banning crypto currencies all together. In September 2021, it was announced by the Chinese Central Bank, the People's Bank of China (PBOC) that it had banned all cryptocurrency transactions. China banned crypto currencies[35] and also the trading of the related machines, tools and equipment necessary for mining. China's major online retailer Ali Baba also announced compliance to the Chinese government ban, and that they would not sell the equipment necessary for mining crypto currency.[36] While major states such as China are concerned over terror groups using money to transfer funds globally, as well as how to trace them, the other concern were on tax evasion and decentralization of monetary policy. Hence the question the communities in favor of crypto currencies should not be to oppose governments regulating them, but rather on the form of these regulations. Since these are new technologies, many governments are not certain how to proceed. This is an opportunity to have perhaps more flexible regulations, but strictly addressing the more important security concerns of governments through the minimal regulations.

The above are all concerns for the current use, which are new challenges. Some of the challenges especially the ones on taxing, minting money and providing safety and security to citizens have historical roots. Other challenges addressed by regulatory measures, such as on the environment, antitrust regulations, or AML are all concerned about various groups making use of these new crypto transaction methods. Therefore the conclusion will draw on the question on what type of regulation, as well as whether such regulatory framework would be different depending on each nation, or if there would be some form of global governance.

Conclusion

This research illustrated how coinage rests as a symbol of trust to the state even in the antiquities since ancient Rome, Lydia, and Greece. There are also other applications with similar sovereign authority based on the Islamic practices but also on earlier Chinese and Indian examples

35 Francis Shin, "What's behind China's cryptocurrency ban?" World Economic Forum, China, January 31, 2022: https://www.weforum.org/agenda/2022/01/what-s-behind-china-s-cryptocurrency-ban/

36 "Alibaba To Stop Selling Bitcoin Mining Machines In China" Nasdaq, September 28, 2021: https://www.nasdaq.com/articles/alibaba-to-stop-selling-bitcoin-mining-machines-in-china-2021-09-28

of currency as sovereignty symbol. These were all instances of pre-Westphalia sovereignty associated with coinage. Thus the modern nation state accepted in Westphalia as convenient date for western scholars, but the memory of money and sovereignty goes back to ancient times. The Lydian king forged coins as medium of exchange and based on trust to his sovereign power. Since then, many ancient civilizations used money for barter and trade, and even though gold and silver were universal currencies of the ancient world and still remain important commodities and precious metals today, the issuing of coins and later paper money was based on trust to the sovereign power. There were instances when the trust may have eroded, such as the 1960's Gold Rush to the US per Gold, as well as the Occupy Wall Street movements. Finally gold standard abandoned, and a free floating exchange rate is still in place, where each sovereign nation keeps right to print money, and the currency is valued or depreciated based on essentially trust to the monetary and fiscal policies of these governments.

Trust to governments may erode, and issues may lead to certain alternative methods, such as the block chain system as well as crypto currencies. The current proponents of crypto currency need to understand why governments desire to put regulation. In order to better address and influence new regulations, it would be essential to understand how such motivation is based on the essence of the state system, much before the modern state system since Westphalia. By contrast, the proponents of crypto currency should focus on the types of regulation that is realistically applicable by addressing the concerns of the governments and of society, while still maintaining certain liberties and privacy. Similar debates were with big data as well as the internet and date privacy. All leading to changes in many websites as well as the regulations. Going back three decades ago, the Internet in 1990s was also unregulated, but now there are many methods of regulations, content filtering as well as filters and oversight agencies. It is worth noting that while there are more regulations in place, the essence of certain policies such as Net Neutrality,[37] are still debated.

For Türkiye, regardless of whether one day the EU membership would occur or not, over half of all trade and investments are with the EU, which is why there are efforts to comply with the EU Green Deal.[38]

37 Mark A. Jamison, "Net neutrality policies and regulation in the United States." Review of Network Economics, 17 no :3 (2018) : 151-173.

38 Ali Oğuz Diriöz, "AB Yeşil Mutabakat Kapsamında Yeşil Ekonomiye Dönüşüm Süreci, Türkiye-AB İlişkilerine Olası Etkilerinin Değerlendirilmesi" Uluslararası Suçlar ve Tarih, 22 (2021): 107-130.

Therefore Türkiye will likely try to adapt to EU level rules and regulations on crypto currencies as well.

But having low regulation is not the same as no regulation. Major states from the United States to China are concerned over terror groups using money to transfer funds globally, and how to trace them. They also have other concerns on tax evasion and decentralization of monetary policy, making it difficult to combat forgery, scams, as well as speculation and insider trading. Hence the question for those in favor of crypto currencies should not be to oppose governments regulating them, but rather on the form of these regulations. Since these are new technologies, many governments are not certain how to proceed. This situation should present itself as an opportunity to have perhaps more flexible regulations, but strictly addressing the more important security concerns of governments through the minimal regulations.

As internet has grown, crypto currencies and electronic currencies will probably continue to grow just as the Fintech and other digital currencies and global trade will continue. However, there will likely be also more accompanying regulation technologies (Reg. Tech).

This article doesn't oppose nor advocate the use of digital and crypto currencies. Based on the growth of similar internet and social media as well as other ICT technologies, the anticipation is that the trend will continue to grow, albeit with considerable waves of fluctuations up and down. Yet the intention of this research is to highlight how it is in the genetic code of any governments universally to want to regulate such new technologies. I anticipate such regulation eventually occurring and thus Reg-tech developing. The question is, would the regulations be each nation on its own, or would there be some form of global unity and collaboration in the regulation.

Again, past experiences suggest that for security and safety reasons such as AML and counter terrorism, there will be some form of regulation (like the SWIFT), but it may not be universal to all countries. Furthermore, like many forms of international cooperation, there might be limited levels of cooperation other than against criminal groups. International anarchy and sovereignty of the nation states in turn, with limited multilateralism makes prospect of international regulation limited.

Thus, just like it is necessary to understand sovereignty to see why nations desire to regulate, the same sovereignty will likely become an obstacle to enhanced regulations. Like there are tax havens and financial secret accounts around certain Caribbean islands, and for many years in Switzerland, there would likely be forms of evasion from the national regulations.

Furthermore, what also remains to be seen, but the level of cooperation will depend on level of international governance and cooperation under an evolving cold globalization. If cooperation attempts on global governance fails, then it would be likely that there would still be certain forms of regional or dominant forms of regulations, although with degrees of variation. While the smaller states, which typically used to be tax havens may embrace and adopt very liberal regimes and perhaps no regulations, major nation states may likely impose tougher regulations. It is possible that the larger the nation state is, the tougher their regulation might be, albeit short of the prohibition policy of China. This correlation may be an interesting future research topic.

In conclusion, it remains to be seen how the strictness of regulation will evolve from country to country or region to region, and most interestingly, whether a global regulatory approach would be achieved. This analysis would like to suggest as a conclusion that in a period of uncertainty, policy makers may be more open to certain suggestions, as long as preeminent concerns over security are addressed and the concept of sovereignty are well understood when influencing and suggesting new policies.

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