Jurisdictional Challenges in Cryptocurrency Disputes: Navigating the Legal Maze of a Borderless Technology

Nanjwan Yale Damap[1] and **Kangdim Dingji Maza**[2]

Abstract

The rise of cryptocurrencies and blockchain technology has introduced complex legal challenges, particularly concerning jurisdiction in dispute resolution. Traditional legal frameworks rely on geographic boundaries and centralised authority, yet cryptocurrencies operate on decentralised, borderless networks. This article examines the jurisdictional issues that arise in cryptocurrency disputes, including the challenges of determining the applicable law, identifying the responsible parties, and enforcing legal decisions across multiple jurisdictions. By analysing key legal precedents and international regulatory approaches, the study highlights the limitations of existing legal principles in addressing crypto-related conflicts. Further analysis of emerging solutions, such as smart contract jurisdiction clauses, decentralised

1. Doctoral Researcher, International Investment Law, University of Derby, England, United Kingdom; n.damap1@unimail.derby.ac.uk; https://orcid.org/0009-0006-0481-3203

2. Department of Political Science, Karl Kümm University, Vom, Plateau State, Nigeria; mdingji@gmail.com; https://orcid.org/0000-0003-1059-8707

arbitration, and proposals for harmonised international regulatory frameworks, were also studied in the article. Findings of the article suggest the need for innovative legal mechanisms that balance regulatory oversight with the decentralised nature of blockchain technology.

Keywords: Cryptocurrency, Blockchain, Jurisdiction, Legal Disputes, Decentralised Arbitration, International Regulation, Conflict of Laws, Enforcement, Legal Frameworks

Introduction

Cryptocurrency is a digital or virtual currency that relies on cryptography and operates on decentralised networks using blockchain technology. It encompasses various elements: digital nature, decentralisation, blockchain, cryptography, limited supply, mining/validation, anonymity/transparency, use cases, volatility and regulation/adoption.[1] Unlike physical coins, cryptocurrencies exist digitally in wallets[2]; they are decentralised, avoid single control, and participants confirm transactions. Blockchain tech ensures secure, transparent transaction records.[3] Cryptography safeguards transactions and controls coin creation through keys. Some cryptocurrencies have a capped supply for value. Mining or validation methods verify transactions using Proof of Work or Proof of Stake mechanisms.[4] Transactions offer relative anonymity but are on a transparent public ledger. Cryptocurrencies are by their nature decentralised and operate under the Blockchain technology in a cryptographic manner. The blockchain is a decentralised and distributed ledger that records transactions across a network of computers, ensuring transparency, immutability, and security.[5]

Using the qualitative method of analysis where emphasis is drawn to academic and non-academic related literature, this article examines the jurisdictional and cross-border issues that arise due to the extraterritorial nature of cryptocurrency and investigates how the law responds to these issues. It also addresses the question of which laws apply to cryptocurrency, given its diverse nature in different jurisdictions, as well as the issue of consensus on which laws apply to cryptocurrency globally or at least regionally and how the courts have interpreted it. It is also aimed at analysing

jurisdictional challenges, exploring existing legal frameworks, and suggesting possible solutions. Ultimately, the article will help answer the research question: What are the jurisdictional issues in cryptocurrency? How can these jurisdictional challenges be surmounted? Following the introduction, the section of the article focuses on a contextual understanding of jurisdiction in the traditional legal framework. The third section of the article looks at jurisdiction based on 'Node-locations or Network control'. Sections four and five examine some notable cases involving crypto jurisdiction and the legal theoretical paradigms seeking to address the jurisdictional challenges. Regulations and international responses on the jurisdictional challenges of cryptocurrency form the sixth section of the article. The concluding part of the essay proposes practical recommendations that relevant stakeholders and actors in the crypto ecosystem can employ to effectively address these jurisdictional issues.

Understanding Jurisdiction in Traditional Legal Frameworks
Understanding jurisdiction requires navigating the traditional conceptualisation of what constitutes jurisdiction. Jurisdiction in Latin refers to "*ius*" which stands for "the right"; *iuris* meaning "law" and "*dicere*" which stands for "to speak".[6] It would therefore presuppose the right to be heard before a court or tribunal. Jurisdiction is categorised as personal, subject matter and territorial jurisdictions respectively. Personal Jurisdiction underscores the authority over individuals or entities exclusively on the first hand. Secondly, jurisdiction can be construed in relation to Subject-Matter Jurisdiction. This emphasises authority over types of legal issues, and the third is Territorial Jurisdiction, which is authority within geographic boundaries.

In relation to personal jurisdiction, the case of ***Pennoyer v. Neff*** provides insights into the boundaries of personal jurisdiction.[7] It was held that "every State possesses exclusive jurisdiction and sovereignty over persons and property within its territory . . . [and] no State can exercise direct jurisdiction and authority over persons or property without its territory. This captures personal jurisdiction over individuals and property within a territory.[8] Personal jurisdiction is likened to jurisdiction to adjudicate, which entails the power of a court to enter a binding judgment governing the rights and obligations of the parties in a case. Personal jurisdiction therefore helps determine

Damap & *Maza*

which sovereign's courts can hear a case, and that determination is influenced by the nature of the parties and their connections to the forum.[9]

Subject matter jurisdiction, on the other hand, looks at the jurisdiction of the Court to adjudicate on certain matters that have been limited by statute. In other words, the Court cannot adjudicate on matters outside its scope of jurisdiction as conferred on it by statute. Subject-matter jurisdiction refers to whether a court can hear a case on a particular subject. Litigants can waive personal jurisdiction, but they cannot waive subject-matter jurisdiction. Subject-matter jurisdiction means that a given court can only exercise power over a claim that the laws of the jurisdiction authorise such a court to hear.[10] A typical example is where a statute provides for the exclusive jurisdiction of a court to determine certain subject matters such as Aviation, Waterways, Trademarks, etc, the courts are obliged not to go outside the subject matter of such apportioned jurisdiction.[11]

Territorial Jurisdiction is the authority to operate within geographic boundaries. This confines everything within a particular jurisdiction. Territorial Jurisdiction is an aspect of a state's sovereignty, as the right to prescribe and enforce laws is an essential component of statehood. This right has been limited to a state's territory, a limitation that at the same time ensures that no state intervenes in another state's affairs.[12] Jurisdiction is considered fundamental for claims arising from any dispute. Traditionally, it relates to the notion of sovereignty, whether in civil or criminal matters, concerning the ability of a state to adjudicate over a matter. Hauck, Sue González and Max Milas opine that this is linked to its territorial sovereignty, assigning authority to speak on behalf of the law.[13]

As earlier mentioned, jurisdiction is given by the Latin expression *Juris dicere* (speaking law).[14] Jurisdiction is the lifeline of any case, without which a case cannot stand. It can also lead to denying or conferring access to justice. This propels the fundamental issue of rethinking jurisdiction under international law.[15] What confers jurisdiction to a court or tribunal are the parties, subject matter and physical location. Zilioli asserts that, under cryptocurrency, the subject of litigation is crypto assets; parties are unknown, since they operate virtually.[16] Identifying the location and host state[17] where the cryptocurrency investment is domiciled is also challenging, as cryptocurrency is everywhere and nowhere. Therefore, identifying the

135

location of cryptocurrency is essential in determining the jurisdiction of a particular court or tribunal in resolving disputes brought before it, which is challenging. A major challenge is how to situate the physical location of the cryptocurrency ledger in different jurisdictions worldwide.

Feder, Gandal, Hamrick and Moore's research on the Mt. Gox, BitGrail and Cubits cases revealed that these cases were based in different jurisdictions and subjected to different regulations, which posed legal issues that could be framed differently under the law applicable in each jurisdiction.[18] The location of cryptocurrency poses a challenging task for regulatory authorities in claims arising from using cryptocurrencies.[19] Law enforcement for blockchain users, transactions, or projects is challenging due to the technology's cross-border scope. It can be demanding to establish the country of cryptocurrency software, due to the ledger's absence of a physical location.[20] Under cryptocurrency, there is difficulty in identifying whom to sue, uncertainty over the legal status of cryptocurrency in different jurisdictions, applicable law and the volatility of crypto investment exchanges.[21] As a result, cryptocurrency users across the globe enjoy more privacy in their transactions than on traditional platforms controlled by none other than the central authorities.[22]

The volatility of cryptocurrency points to a fundamental issue regarding the security and protection of cryptocurrency investment. There will be a conflict of laws when determining the applicable law on cryptocurrency regulation in different jurisdictions, owing to a lack of consensus on categorising crypto assets. This is because litigation in cryptocurrency will always have some foreign element, as participants in cryptocurrency can be found across international boundaries.[23] The technology behind cryptocurrency needs more clarity to trace the exact location of a ledger record, a fundamental feature of blockchain technology that empowers cryptocurrency on many facades and makes it unique from its competition. The private and anonymous transaction draws a complex jurisdictional obstacle. First, since the nodes of cryptocurrency transactions are in different jurisdictions, they are subject to various legal frameworks that may be at odds with one another, leading to no redress in case of any wrong committed. Second, the ledger has no physical location; finding the country of residence of a particular user concerning their cryptocurrency

Damap & *Maza*

transactions is hugely taxing for the authorities concerned. Third, because of blockchain's technological efficiency in transactions beyond countries within a network, defining pertinent laws and finalising the proper jurisdiction for disputes arising are challenging.[24]

Jurisdiction Based on Node Locations or Network Control
The decentralised nature of the cryptocurrency technology makes it impossible to connect a coin to a specific location, as the ledger is hosted on nodes around the world. This makes territorial jurisdiction difficult to establish in many crypto-related transnational crimes, including hacking and fraud. The difficulty in establishing the location of a criminal carrying out a cybercrime is often cited as a hindrance to determining applicable law and jurisdiction. The use of virtual privacy networks and other technologies may make a criminal's location difficult to determine.[25]

Furthermore, there are innovative legal theories suggesting that jurisdiction could be based on where blockchain nodes are located or where developers exert control. Following the "*lex rei sitae*" rule, the law applicable to assets and rights held that a blockchain network would be that of the location of the nodes. As this would lead to the application of different laws within the network, this approach could be excluded. The alternative approach of "*lex societatis*" (in the case of shares) or "*lex contractus*" (in the case of bonds) may likewise result in the application of different laws within a network.[26] It is suggested that the only suitable solution is to define that law for the network as a whole and to do so from the outset, either as a function of the jurisdiction that regulates the platform provider and hence the network, or on the basis of the initial choice of law made by the platform provider. That law would then flow into the design of the internal rules of the network, determining how assets are transferred, and rights are executed.[27]

As noted by several cryptocurrency and legal experts, an intra-blockchain distributed jurisdictional means, such as via distributed jurisdiction, are needed because the existing jurisdictional infrastructure produces suboptimal results for smart contract disputes. Distributed jurisdictional means effectively addressing the problems inherent in blockchain-based smart contracts.[28] They propose that a distributed jurisdiction over

blockchains ensures the maintenance of anonymity of blockchain-based smart contracting as the technology evolves. Relying on an open-source platform ecosystem for smart contract disputes. This will ensure anonymity in blockchain transactions by promoting arbiters' reputations according to their discretion. The platform also ensures that users can identify the highest possible expertise of their judges and arbiters.

Some International Cases Involving Crypto Jurisdiction
As a result of these jurisdictional concerns about cryptocurrencies, some courts have interpreted the jurisdiction of cryptocurrencies in diverse ways. An example is the case in the High Court of England, involving ***Tulip Trading Ltd (TTL) V. Bitcoin Association For BSV***.[29] In that case, TTL alleged that it had suffered a hack that caused the loss of a substantial amount of digital currency assets. It claimed $4.5 billion from 16 developers, alleging that they owed the company fiduciary and common law duty under English law. In determining the jurisdiction of cryptocurrency, the court held that the *lex situs* (location) of a cryptocurrency is where the corporate entity is domiciled. The court further stressed that there was no arguable case to show that TTL was a resident in the jurisdiction and that the property was located there. A company is a resident where its central management and control are located.[30] This presupposes that, despite the virtual nature of cryptocurrency, what courts assess for jurisdiction is the corporate office of the respondents in the case. The above case has set a litmus test for subsequent decisions on cryptocurrency jurisdiction. While this judicial decision is laudable against crypto exchange houses that can be located with physical addresses, the same cannot be determined regarding decentralised, unknown participants outside jurisdiction with unknown ledger locations; the anonymity still shields their identity and jurisdiction.

In ***J.D Anderson Et Al. V. Binance Et Al.***,[31] the case involved a claimant who was a resident of the United States, and had initiated legal action against Binance, a prominent global cryptocurrency exchange. The lawsuit was filed in the United States District Court for the Southern District of New York. The plaintiff's allegations were specific digital tokens acquired from Binance's Digital Exchange. According to US security regulations, entities issuing security tokens must register with the US Securities and

Damap & *Maza*

Exchange Commission (SEC). The central contention in the case revolved around the trading of digital tokens on the Binance digital platform, through which the plaintiff had made their token purchases. The court ruled that these transactions conducted on the Binance platform were extraterritorial and thus fell outside the jurisdiction of US federal and state laws. In arriving at its decision, the Court considered the crucial fact that Binance is headquartered in Malta, not in the United States. The court emphasised that the geographical location of Binance's operations was beyond the boundaries of the United States, leading to the conclusion that the US legal jurisdiction did not apply. As a result, the court dismissed the case because it was purely extraterritorial and, therefore, not subject to US federal or state securities laws.

The Court's stance was underpinned by the requirement that, for an exchange to fall within the purview of the US Securities and Exchange Commission, it must be registered under the US Securities Act. The Court established that the US jurisdiction over such matters is contingent on an exchange's registration as a domestic entity within the United States. Despite Binance's significant infrastructure, including computer servers hosted by Amazon Web Services in the US to facilitate transactions, the court maintained that registration with the US SEC was a prerequisite for conducting business under the US security law.[32] The jurisdiction of the US SEC does not however apply to Cryptocurrency firms operating outside the US. It then presents a jurisdictional challenge considering the nature of cryptocurrencies and their borderless online applications regarding the location of digital nodes.

Falokun, while examining Chloe Bell and Joshua Cainer, opines that the challenge of applicable law on cryptocurrency can be surmounted by developing case law on the exact classification of these assets and how they are controlled in the real world.[33] Since cryptocurrency is an intangible asset stored in digital form and on a decentralised platform, participants can be located anywhere on the globe. This underscores the fact that cryptocurrency can be everywhere and nowhere. If the location of participants in crypto is unknown, the applicable law will remain unknown.[34] This is a great challenge as far as issues relating to cryptocurrency jurisdiction is concerned as this leaves a gap in finding the appropriate

139

jurisdiction for the purpose of dispute settlement, like the traditional concept of jurisdiction in law.

Other cases evidencing jurisdictional issues in cryptocurrency include the ***Bitfinex and Tether.***[35] This is a dispute concerning multi-jurisdictional regulatory scrutiny by authorities in different jurisdictions. The ***Bitfinex and Tether*** disputes revolve around allegations of financial misconduct and market manipulation involving two closely linked crypto entities.[36] The case involves fraudulent issuances of unbacked Tether (USDT), which led to price manipulation claims.[37] In 2018, Bitfinex lost $850 million held by Crypto Capital Corp, a Panamanian payment processor, and allegedly covered this loss by secretly accessing Tether's reserves, which were supposed to be a fully backed **USDT** stablecoin as required by regulators.[38] This raised concerns about Tether's solvency and transparency.

The Attorney General of New York in 2019 commenced an investigation, by which it accused both companies of misleading investors and covering up the loss.[39] In 2021, Bitfinex and Tether settled with the Attorney General for $18.5 million. They also agreed to improve transparency and cease operations in New York, though they did not admit wrongdoing. The investigation revealed that Tether's reserves were not always fully backed by cash, contradicting earlier claims.[40] This evidence shows that the crypto firms were not complying with the regulation which requires that these Stablecoins must be fully backed to provide security for investors to safeguard against risks in the market.

These disputes underscore the intricate multi-jurisdictional challenges inherent in cryptocurrency. Based on the nature of cryptocurrency-borderlessness, both companies operated globally while being registered in offshore jurisdictions, making it challenging for regulators to pursue legal actions and enforce compliance in those jurisdictions. This brings to the fore the issue of jurisdictional ambiguity. Cryptocurrencies, are characterised by decentralisation and therefore, do not conform neatly to any single nation's regulatory framework on jurisdiction.[41] For example, Bitfinex was registered in the British Virgin Islands (BVI)[42], and Tether was incorporated in Hong Kong but had operational ties to the BVI as well, meaning they are operating in two distinct jurisdictions.[43] Notwithstanding these offshore registrations, both companies serve customers worldwide, including the United States.

This creates legal exposure in multiple countries, complicating the process of determining which regulatory body has oversight over them. Moreover, this issue becomes complicated as there is divergence in cryptocurrency classification in different countries, with varying definitions, legal status and treatments of cryptocurrencies. For instance, while some jurisdictions classify cryptocurrencies as commodities, others classify them as securities, currencies, which leads to inconsistencies in the application of laws on each of these classifications.

Secondly, the issue of Regulatory arbitrage is another challenge as Companies like Bitfinex and Tether have been able to exploit differences in national laws to avoid stricter oversight.[44] By incorporating in jurisdictions with lighter regulations, such as the BVI, and limiting their physical presence in more tightly controlled environments like the U.S., they could operate with relative impunity. Because there is no global standard for cryptocurrency regulation, some crypto firms select jurisdictions that are more favourable to them. For instance, while New York enforces some of the most stringent crypto regulations through the BitLicense issued virtual currency regulation 23 NYCRR Part 200,[45] other jurisdictions like Malta and Singapore have adopted more crypto-friendly approaches, allowing companies to shift operations to avoid stringent regulation.[46]

Furthermore, enforcement poses another significant challenge in the cryptocurrency regulatory framework.[47] Even where regulators get judgments against a crypto firm like Bitfinex and Tether, enforcing legal rulings may often prove difficult.[48] It becomes more complex when companies have operations, assets, and executives spread across multiple countries, making it hard for any one regulator to exert comprehensive control. This is a major jurisdictional challenge in cryptocurrency and where important financial data and reserves are stored in foreign jurisdictions, requiring international legal cooperation, such as Mutual Legal Assistance Treaties (MLATs), to access them, until that is done, access to the data becomes difficult.[49]

In the Bitfinex and Tether case earlier examined, even when the Attorney General of New York secured a settlement against Bitfinex and Tether, barring them from operating in New York, this enforcement cannot automatically extend to other jurisdictions where they have their presence.

This means they could continue operating elsewhere unless other regulators intervene in those jurisdictions as done in the US. Thus, a regulatory arbitrage exists as there is no uniform regulatory stance on cryptocurrency jurisdiction. Customer protection is another area where multi-jurisdictional challenges are evident. Because crypto transactions are pseudonymous and involve users from various countries, identifying victims and linking them to specific legal jurisdictions is difficult. This complicates efforts to provide restitution, as consumers may not know which legal system to turn to for recourse, especially when dealing with companies registered in foreign jurisdictions. Furthermore, many countries lack robust consumer protection laws that cover digital assets, leaving users vulnerable.

The Bitfinex-Tether disputes underscore the broader implications for the future of crypto regulation. They reveal the urgent need for harmonised global regulations to prevent companies from exploiting jurisdictional gaps. They also highlight the necessity for regulators to collaborate more effectively across borders, sharing information and coordinating enforcement actions. As cryptocurrencies continue to grow in popularity and influence, the lessons learnt from these disputes will likely shape how future legal frameworks address the multi-jurisdictional nature of digital assets. The Bitfinex-Tether case conveys the challenges regulators face when dealing with crypto companies that operate across multiple jurisdictions. The decentralised and global nature of cryptocurrencies makes legal enforcement and regulatory oversight particularly difficult, emphasising the need for greater international cooperation and standardised regulatory frameworks.

Additionally, the case of ***Craig Wright vs. Kleiman***[50] buttresses the jurisdictional challenges in Bitcoin ownership disputes. The Craig Wright vs. Kleiman case involved a dispute over the ownership of 1.1 million Bitcoin and intellectual property related to Bitcoin's creation. Ira Kleiman, representing his deceased brother David Kleiman, sued Craig Wright, claiming that Wright and David were partners in the development of Bitcoin and that Wright fraudulently took control of Bitcoin and intellectual property after David's death in 2013. Wright denied any formal partnership and maintained that he alone created Bitcoin. The case went to trial in 2021, and the jury ruled that there was no formal partnership between Wright and Kleiman, meaning the Kleiman estate was not entitled to the Bitcoin.

However, Wright was found liable for conversion of intellectual property, resulting in a $100 million damages award to W&K Info Defence Research LLC, a company co-founded by David Kleiman.

This case highlights several jurisdictional challenges that arise in disputes involving cryptocurrencies, where the parties, assets, and activities span multiple countries and legal systems. Craig Wright, an Australian computer scientist, and David Kleiman, a U.S. citizen from Florida, allegedly collaborated on Bitcoin's development and mining. After Kleiman's death in 2013, his brother, Ira Kleiman, filed a lawsuit in 2018 in the U.S. District Court for the Southern District of Florida, claiming Wright had fraudulently taken control of Bitcoin and intellectual property that rightfully belonged to David's estate. This introduced immediate jurisdictional complexities, as the case involved a foreign defendant and digital assets that are decentralised and not confined to any specific geographic location.

One of the primary jurisdictional issues stemmed from the international nature of the parties involved. While the lawsuit was filed in Florida, Wright is based in Australia, raising questions about whether a U.S. court had the authority to adjudicate the matter. Despite these challenges, Wright participated in the trial, effectively consenting to the court's jurisdiction. However, had he refused to engage, the court may have struggled to assert authority over him, particularly regarding the enforcement of any judgment. Another layer of complexity was introduced by the nature of Bitcoin itself. Bitcoin exists on a decentralised blockchain, meaning it does not reside in any one country or jurisdiction. The 1.1 million BTC at the centre of the dispute were allegedly held in a trust known as the Tulip Trust, which had uncleared legal standing and international ties. This made it difficult to determine which legal framework should apply to the assets in question and complicated the process of proving ownership and control.

The case also faced challenges related to evidence, as much of the documentation and digital communication presented in court originated from multiple countries. Wright was accused of forging documents and manipulating emails to support his claims, which introduced complications regarding the authentication and admissibility of evidence under U.S. law. The court had to assess the credibility of digital evidence created in different jurisdictions, each with its own standards for document verification.

Furthermore, the absence of clear regulatory frameworks for cryptocurrencies complicated the legal proceedings. The court had to apply traditional legal principles, such as partnership law and conversion (wrongful control over property), to digital assets and virtual relationships that do not neatly fit within existing legal categories. Different countries treat cryptocurrencies in various ways, some as commodities, others as securities or property, further complicating the legal landscape. Even after the court awarded $100 million in damages to W&K Info Defence Research LLC, enforcing this judgment posed jurisdictional challenges. If Wright's assets were in Australia or stored in digital wallets without a clear connection to the U.S., collecting the awarded damages could prove difficult. Traditional enforcement mechanisms, such as asset seizure, may not be effective for borderless digital assets, highlighting the limitations of existing legal systems in dealing with cryptocurrency disputes.

The case underscores the need for international legal cooperation and updated frameworks to address the unique jurisdictional issues presented by cryptocurrencies and blockchain technology. The decentralised, cross-border nature of digital assets complicates traditional legal processes, from establishing jurisdiction to enforcing judgments, demonstrating the urgent need for legal systems to adapt to the evolving realities of the digital economy.

Another important case is that involving the ***Securities and Exchange Commission (SEC) V Ripple Labs*** which is a debate over the U.S. SEC jurisdiction over crypto assets. The Bitfinex and Tether cases illustrate how national laws can extend beyond borders when digital assets impact domestic markets or consumers. Despite being based in the British Virgin Islands and Hong Kong, Bitfinex and Tether were subject to regulatory action from the New York Attorney General (NYAG)

because they serviced U.S. customers and interacted with U.S.-based financial institutions.

The implication of these crypto cases is that Crypto Companies should plan for global compliance in view of the nature of cryptocurrency being extraterritorial. It should be stressed that Companies should not assume they are safe from legal action just because they are incorporated in crypto-friendly jurisdictions. They must consider the legal implications in all countries

where they operate. This underscores that extraterritorial enforcement will increase from Regulators worldwide, particularly in the U.S. and Europe, because they are becoming more aggressive in pursuing foreign-based crypto firms that affect their markets. One of the major jurisdictional challenges with cryptocurrency is that even when regulators win legal battles, enforcing these judgments across borders is difficult. Different countries have varying levels of cooperation, and crypto companies often operate in jurisdictions with limited legal reciprocity.

As a result of these jurisdictional challenges in crypto disputes, arbitration is being adopted to ensure amicable dispute settlement due to the extra-territorial nature of cryptocurrency. Arbitration has been considered as an antidote to the multifarious jurisdictional problems of cryptocurrency such as applicable law giving rise to conflicts of law, venue or forum for adjudication and the cross-border implication of doing so. The borderless nature of cryptocurrency falls in tandem with the arbitral method of dispute settlement where the parties themselves determine what is just and fair: "*ex aequo et bono*".

Legal Theories and Approaches for Addressing Jurisdictional Challenges

Jurisdictional challenges arise where legal disputes involve two or more countries' legal system. Most often the challenges involve cross-border transactions and international law with parties spread across different jurisdictions. When this happens, there are various legal theories that help to address these challenges. These are theories and approaches to deal with disputes that involve diverse legal systems. They include territoriality principles, Nationality principle, Effect doctrine, Universal jurisdiction, Choice of law and conflict of laws, international treaties and agreements, Arbitration and alternative dispute resolution, and Diplomatic and judicial principle.

a. *Applying the Territoriality Principle*

This principle arises where a state asserts its sovereignty over persons, property, and events within its border. This is the affirmation of the sovereignty of a state within the confines of its geographical boundaries to settle disputes therein.[51] This involves the application of the laws applicable

145

within a nation's territory to settle disputes within that nation without external interference.[52] Territoriality functions within the jurisdictional context as the conceptual foundation of regulatory authority over transactions or conduct occurring within a border. Therefore, a territorial jurisdiction will be irrefutable and unproblematic in that it rests on conduct occurring within the regulating state and, by definition, could not overlap with a competing claim by another Country.[53]

b. Choice of Law and Conflict of Laws

The theory regarding choice of law and conflict of law arises in cross-border disputes where the court applies choice of law and conflict of law principle in the adjudication of the case brought before it.[54] Choice-of-law rules determine which national law (not necessarily that of the forum) applies in private law matters crossing over multiple jurisdictions. Choice of law determines whether individuals can recover retirement benefits from worldwide investments through pension funds; whether they can receive compensation following an accident abroad, or whether their foreign marriages end.[55] It ensures justice simply by identifying the proper geographical link between the individuals or the action and the state whose law is applied.[56] This is done putting into consideration the place of the harm, parties to the dispute, contractual agreements and the jurisdictions involved. This will ensure fairness and consistency in international legal proceedings.[57] Furthermore, in determining jurisdiction, reference should be made to "*the lex loci solutionis*" meaning the law of the place of performance of a contract, which could be the law of the place of delivery or the law of the place of payment. This principle of law was decided in the case of **Amin Rasheed Shipping Corporation v Kuwait Insurance Co**.[58] where the court held that contracts are useless and devoid of legal effect unless they are made by reference to some legal system of private international law. Therefore, parties to a commercial transaction must stipulate the law governing such transactions. This will help in determining the jurisdiction of a court or arbitral tribunal.

c. International Treaties and Agreements

International treaties and agreements play a major role in a multi-jurisdictional dispute settlement.[59] Since dispute resolution appears to be complex when

Damap & *Maza*

it involves different jurisdictions, international treaties and agreements may make dispute settlement less complex.[60] For instance, where parties and subject matter of dispute are in different jurisdictions, identifying the location, parties and applicable law may be challenging, however, international treaties and agreements will spell out in clear terms how this dispute will be settled in terms of applicable law and dispute settlement mechanism to be applied in a multi-jurisdictional dispute settlement.[61] This can be done particularly in commercial contracts where parties agree on the forum and applicable law for disputes settlement as commercial contracts often have clauses well prepared in advance in which contracting parties agree to refer to in the event of any dispute[62]

d. Arbitration and Alternative Dispute Resolution
Arbitration involves settlement of disputes by parties appointing arbiters other than resorting to traditional dispute resolution mechanisms. Arbitration has emerged as a cornerstone in modern legal systems, offering a pragmatic alternative to traditional litigation processes.[63] Arbitration involves the appointment of a third party, called an arbitrator, who decides based on the evidence presented by the parties.[64] Certain arbitration clauses will usually provide for the applicable law, location for the settlement of a multijurisdictional nature. Therefore, an arbitration agreement is central to the tribunal's jurisdiction and there are various features of an arbitration agreement which could come under scrutiny in a jurisdictional challenge.[65] In international arbitration, jurisdiction is a critical and fundamental aspect of a lawsuit. For the merits of a case to even be considered, the international tribunal must first ensure that it has jurisdiction, often requiring it to tread upon delicate areas of national sovereignty to determine whether it or the respondent state's national courts are entitled to resolve the dispute.[66] Using arbitration in dispute resolution, the jurisdictional issues will be resolved as parties will have the liberty of agreeing through arbitration clauses thereby surmounting the jurisdictional challenges in dispute resolution.

Furthermore, there have been several initiatives developed in recent times to deal with the uniqueness of cryptocurrencies, making it possible for a fair crypto disputes' settlement mechanism in a multi-jurisdictional way. One of these initiatives is the "Cryptonomica Ltd.[67] Cryptonomica is

147

the first online international arbitration institution based in London, U.K. The Cryptonomica Arbitration Rules are based on the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.[68] The rules provide that parties determine what is appropriate for the determination of disputes between them. This will include the selection of experts in the field of cryptocurrency who are knowledgeable for the just determination of the dispute. It may also include arbitrators who are knowledgeable in cryptocurrency to ensure just determination of the dispute before the tribunal. The rules will help to mitigate the inherent jurisdictional issues in cryptocurrency as it provides for the electronic submission of documents, including the parties' statements of claim and defence, as well as for hearings and tribunal communications' to be conducted by Video-conferencing.[69] Another online crypto arbitration initiative has been devised by Code Legit, and includes the "Blockchain Arbitration Rules" and "Blockchain Arbitration Library" for smart contracts.[70]

e. Diplomatic and Judicial Solution

To overcome jurisdictional challenges in the settlement of disputes, diplomatic solutions may be adopted in the settlement of disputes. This method of dispute settlement adopts diplomacy and legal channels. Under the WTO Dispute Settlement Body, unless all members object, the report will be automatically adopted. This also reflects that the reports of the panels and the Appellate Body do not themselves have adjudicative effect but must be adopted by the Dispute Settlement Body. This may come through negotiations and mutual assistance treaties agreed upon by countries and cooperations.[71] This may also involve cooperation between judicial authorities in different jurisdictions. This method will facilitate legal cooperation between countries without compromising their sovereignty.

These jurisdictional challenges are quite enormous and may stifle dispute settlement, particularly in cross-border disputes. However, these theories help to resolve these conflicts that may seem difficult and complex owing to jurisdictional differences. Adopting these principles and theories enables justice to be served fairly and efficiently. Therefore, legal system must embrace these principles in resolving cross-border disputes such as Cryptocurrency, Cyber Crime, and international crime.

Damap & *Maza*

One of the main gaps concerns jurisdictional ambiguity in relation to cryptocurrency. Traditional jurisdiction is based on territorial sovereignty, which does not align well with the decentralised, virtual nature of cryptocurrency. Since cryptocurrencies have no physical location and operate across borders, it is difficult to determine which state or legal authority has jurisdiction. This gap in understanding and applying the concept of jurisdiction to virtual assets like cryptocurrency requires further exploration. Another significant gap lies in identifying the parties involved in cryptocurrency transactions. Many transactions are anonymous, and the parties cannot be easily identified, making it difficult for courts to assign legal responsibility or enforce laws. This issue of anonymity is compounded by the fact that the location of cryptocurrency participants and investments is often unknown, which complicates the identification of the appropriate jurisdiction for dispute resolution. Cross-border enforcement is another unresolved issue. Cryptocurrencies operate across various jurisdictions, each with different and sometimes conflicting legal frameworks. This fragmented regulatory environment creates challenges in enforcement, as seen in cases like Mt. Gox and Binance.[72] Further research is needed to address how legal systems can handle cross-border enforcement in a decentralised, global cryptocurrency ecosystem.

Another significant gap in cryptocurrency regulation is the lack of a uniform classification system for cryptocurrencies across jurisdictions. Different regions treat cryptocurrencies as assets, property, commodities, securities, or currency, leading to inconsistency in legal approaches. This lack of consensus results in difficulties in applying appropriate legal frameworks to disputes and protecting cryptocurrency investors. Addressing this research gap is crucial for effective and uniform regulation of cryptocurrencies.

In addition, there is debate on whether existing legal frameworks can adequately address the complexities of cryptocurrency or whether new, *sui generis* regulatory structures are required to resolve jurisdictional issues of cryptocurrency. Some scholars, like Dickinson, argue that private international law can address conflicts of law involving cryptocurrencies, while others believe that cryptocurrency's unique characteristics necessitate new legal structures. This uncertainty presents an important area for further

149

research to determine whether and how existing legal systems can be adapted to cryptocurrency's unique nature.

Lastly, blockchain's decentralised nature poses challenges in identifying the location of cryptocurrency ledgers and nodes, which are crucial for determining jurisdiction. Since blockchain technology allows for transactions across borders without a central authority, there is a need for more research into how legal systems can adapt to this decentralised model and provide clarity on the legal status of such transactions.

In conclusion, the key research gaps in the literature on cryptocurrency regulation include jurisdictional ambiguity, difficulties in identifying transaction parties, cross-border enforcement challenges, and the decentralised nature of blockchain technology. Addressing these gaps is critical for creating a coherent regulatory environment that protects investors and resolves disputes effectively.

Regulatory and International Responses on the Jurisdictional Challenges of Cryptocurrency

There have been international responses by some international organisations such as the Financial Action Task Force (FATF) and the G20 to surmount the jurisdictional challenges of cryptocurrency. According to an FATF Survey, 35 out of 135 responding jurisdictions reported having passed Travel Rule legislation as of April 2023, while 27 jurisdictions have begun implementing enforcement and supervisory measures. Undoubtedly, the borderless nature of cryptocurrency heralds enormous risk and creates a jurisdictional challenge in identifying whom to sue, and getting the identity of perpetrators of illicit criminal activities such as money laundering and terrorism financing. The initiative by the FATF is bringing about synergy and cross-border cooperation, implantation of regulatory measures such as international cooperation, information sharing and coordination is an antidote to finding solutions to cross-border jurisdictional challenges of cryptocurrency.[73]

The FATF has developed strategies to combat the illicit use of cryptocurrency for the commission of criminal activities leveraging on the anonymity of cryptocurrency and regulatory arbitrage. To surmount the jurisdictional challenge of regulatory arbitrage the FATF has introduced the Travel Rule principle. Recommendation 16, commonly referred to as the

Damap & *Maza*

"Travel Rule" in relation to Virtual Assets transfers is initiated by the FATF requiring Virtual Assets Service Providers VASPs and financial institutions engaged in the virtual asset (VA) transfers to collect and share the personal data senders and recipients in transactions information. In other words, persons whether legal and natural person who engage in the exchange between virtual assets and fiat currencies; exchange between one or more forms of virtual assets; transfer of virtual assets; safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset must comply with the Travel Rule. The Travel Rule Requires Virtual Assets Service Providers to obtain "required and accurate originator information and required beneficiary information" and share it with counterparty VASPs or financial institutions during or before the transaction. This would help in mitigating the jurisdictional challenges as this process will involve due diligence on the part of crypto assets service providers to ensure Know Your Customer Principle- KYC. This will include information such as the name of the originator (sender) and the beneficiary (recipient), and the VA wallet address for each or a unique transaction reference number.[74]

For transfers exceeding the threshold of USD EURO 1,000 VASPs must collect: Originator's name, Originator's account number for the account used to process the transaction.[75] (e.g., wallet address, Originator's physical (geographical) address; national identity number; customer identification number (i.e., not a transaction number) that uniquely identifies the originator to the ordering institution; or date and place of birth, Beneficiary's name, and Beneficiary's account number for the account used to process the transaction (e.g., wallet address).[76]

The G20 initiative in surmounting the jurisdictional challenges to cryptocurrency is also a step in the right direction. The G20 member states are resolute in finding lasting solutions to the cross-border issues of cryptocurrency. In September 2023, the G20 Leaders endorsed the crypto-asset policy implementation roadmap ("Roadmap"), which is included in the IMF-FSB Synthesis Paper: Policies for Crypto-Asset.[77] The roadmap seeks to build institutional capacity beyond G20 jurisdictions; enhance global coordination, cooperation, and information sharing; and address data gaps.

The G20 endorsed the Financial Stability Board recommendations for the regulation and overseeing of cryptocurrencies.[78] The G20 has also supported the FATF effort to establish a global anti-money laundering and counter-terrorism financing standards for crypto assets.[79] In terms of international collaboration, both the G20, the International Monetary Fund (IMF) and the Financial Stability Board (FSB) collaborate to address the jurisdictional challenges of crypto assets and develop policy recommendations on them.[80]

Conclusion

This article explored key jurisdictional issues in cryptocurrency disputes, including the difficulties posed by pseudonymity, smart contracts, and cross-border transactions. Analysing case law and regulatory approaches show that existing legal principles often fall short when applied to digital assets. However, several potential solutions can help bridge this gap. Smart contract jurisdiction clauses and decentralised arbitration offer innovative, technology-driven alternatives to conventional dispute resolution, while international regulatory harmonisation and blockchain-based jurisdiction models provide pathways toward greater legal certainty. Moreover, ensuring the legal recognition of cryptocurrency entities can help establish clearer guidelines for dispute resolution, taxation, and liability.

Ultimately, the legal system must evolve alongside technological advancements to effectively address the complexities of cryptocurrency disputes. Regulators, courts, and blockchain developers must work collaboratively to create a balanced approach that upholds legal certainty without stifling innovation. By developing adaptable legal frameworks and fostering international cooperation, it is possible to establish a more predictable and efficient system for resolving cryptocurrency disputes in the digital age.

To resolve the complex jurisdictional challenges in cryptocurrency disputes, several legal and regulatory approaches can be adopted. These recommendations focus on improving legal certainty while preserving the decentralised nature of blockchain technology. It will involve balancing decentralisation with the Blockchain technology without destroying them.

i. One key approach to this is the integration of jurisdiction and governing law clauses within smart contracts. By specifying the

applicable legal system within the contract code of smart contracts, parties can pre-emptively determine how disputes will be resolved. This mirrors traditional legal agreements but adapts them for blockchain-based transactions. Developers should incorporate standardised jurisdiction clauses when drafting smart contracts, and regulators can establish model clauses to guide enforceability. However, challenges remain, as not all jurisdictions recognise code-based agreements, and disputes over enforceability may still arise.

ii.   Another potential solution is decentralised arbitration and dispute resolution **(DADR)**, which leverages blockchain technology to settle disputes outside of traditional courts. Platforms such as *Kleros* and *Aragon Court* use smart contracts and decentralised decision-making to enforce rulings in a transparent and cost-effective manner. This method is particularly beneficial for cryptocurrency transactions, as it aligns with the borderless nature of blockchain while offering a faster alternative to litigation. To implement this approach, cryptocurrency exchanges and DeFi platforms could integrate arbitration protocols into their terms of service, and a global blockchain dispute resolution body could oversee cross-border cases. However, challenges include the recognition of decentralised rulings in national courts and the need to ensure unbiased decision-making within decentralised environments.

iii.   A broader solution involves the harmonisation of international regulatory frameworks. Given the cross-border nature of cryptocurrency transactions, regulatory cooperation among governments is essential to avoid conflicting laws. Organisations such as the G20 and the Financial Action Task Force (FATF) could expand their crypto regulations beyond anti-money laundering (AML) measures to include clear jurisdictional guidelines. Additionally, bilateral or multilateral agreements among countries could establish uniform legal principles for blockchain-based transactions. In the long term, a specialised global body for cryptocurrency disputes, similar to the World Trade Organisation (WTO) or the International Court of Justice (ICJ), could be developed to handle legal conflicts. However, regulatory

harmonisation remains difficult due to varying national policies and outright cryptocurrency bans in certain countries.

iv. Some scholars propose a jurisdictional model based on blockchain network nodes. Since blockchain transactions are processed through nodes distributed globally, courts could determine jurisdiction based on the physical location of these nodes or the geographical presence of developers and validators who exercise control over the blockchain. Another possible approach is to consider the country where the most significant economic activity related to the transaction occurs. Despite its theoretical appeal, this model presents difficulties due to the dynamic nature of blockchain nodes and the lack of centralised authority in many networks.

v. Another recommendation involves enhancing the legal recognition of cryptocurrency entities such as exchanges, wallet providers, and blockchain foundations. If these entities are legally registered in the jurisdictions where they operate, regulators could establish clear rules on dispute resolution, taxation, and legal liability. Countries such as Switzerland and Singapore have implemented crypto-friendly regulatory frameworks that provide legal clarity while ensuring compliance with financial laws. Similar measures could be adopted globally to balance innovation with investor protection.

vi. Resolving jurisdictional challenges in cryptocurrency disputes requires a combination of legal adaptation and technological innovation. While smart contract jurisdiction clauses and decentralised arbitration offer immediate solutions, long-term legal clarity depends on international regulatory cooperation and the development of new jurisdictional models tailored to blockchain technology. As the cryptocurrency ecosystem continues to evolve, legal systems must adapt to provide both regulatory oversight and the flexibility needed for a decentralised financial landscape.

Damap & Maza

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