

The Regulation of Cryptocurrencies under Ethiopian Legal Norms

Messay Asgedom Gobena *

Abstract

Cryptocurrencies are a subset of virtual currencies that have been devised for anonymous payments made entirely independent of governments and traditional financial institutions. The payment system of cryptocurrencies is expanding at a rapid pace and has reached Ethiopia. This article examines the extent to which cryptocurrencies are regulated under Ethiopia's national payment system and anti-money laundering legal norms. The study has employed doctrinal research supported by in-depth interviews. During the last decade, Ethiopia has adopted several legal frameworks that govern different aspects of the payments landscape, most notably regarding payment services and electronic money. The country has anti-money laundering legal norms that are embodied in domestic laws and international and regional instruments that it has ratified. However, these legal norms have strategic deficiencies in regulating cryptocurrencies. Thus, the government of Ethiopia should consider enacting a comprehensive law that regulates the payment system of cryptocurrencies.

Key terms:

Virtual Currencies · Cryptocurrencies · Bitcoin · Legal Norms · Ethiopia

DOI <http://dx.doi.org/10.4314/mlr.v15i1.6>

This article is licensed under a Creative Commons Attribution-NonCommercial-NoDerivs (CC BY-NC-ND)

Received: 11 January 2021

Accepted: 1 July 2021

Suggested citation:

Messay Asgedom Gobena (2021), 'The Regulation of Cryptocurrencies under Ethiopian Legal Norms', 15 *Mizan Law Review* 1: 173 -194

* Messay Asgedom Gobena (LL.M in Criminal Justice and Human Rights Law); PhD Candidate in Peace and Security Studies at Addis Ababa University, Institute for Peace and Security Studies.

E-mail: messay.asgedom@aau.edu.et or meslak4@gmail.com

Tel: (+251) 912379770 ORCID: <https://orcid.org/0000-0002-7275-0973>

Frequently used acronyms:

CDD Customer Due Diligence

KYC Know Your Customer

FATF Financial Action Task Force

1. Introduction

In ancient societies, individuals conducted trade by barter, an exchange of an item for an item. Through time currency emerged to play a dominant role in world trade. In addition to coins and paper currency, several types of negotiable instruments have also been used. Gradually, due to the advent of globalization and information technology, currency notes started to be replaced by electronic currency, e-money. In line with this, credit cards, debit cards, automated electronic payments, point of sale machines, mobile banking, and internet banking are currently facilitating transactions. More recently, specifically after the world economic crisis of 2008, the issue of cryptocurrencies has become an agenda in the international arena.¹ Cryptocurrencies developed and expanded at a rapid pace, and have reached Ethiopia. Several activities are being undertaken in Ethiopia to expand the payment system of cryptocurrencies in general and Bitcoin in particular.

This article examines the regulation of cryptocurrencies under the Ethiopian legal regime. Specifically, the article examines whether Ethiopia's laws adequately regulate the payment system of cryptocurrencies. The second section discusses the general features of cryptocurrency, including its meaning, characteristics and types. Section 3 explains the nexus between cryptocurrencies and criminality. Section 4 deals with the regulation of cryptocurrencies by raising the experience of some jurisdictions. Sections 5, 6, and 7 discuss cryptocurrencies and their regulation in Ethiopia.

2. Understanding Cryptocurrency

Cryptocurrency is a subset of virtual currencies. Scholars and multilateral bodies have defined the concept of virtual currencies differently. This article uses the definition provided by the Financial Action Task Force (FATF).² FATF defines virtual currency as a “digital representation of value that can

¹ Steven David Brown (2016), ‘Cryptocurrency and Criminality: The Bitcoin Opportunity’, *The Police Journal: Theory, Practice and Principles*, Volume 89, Issue 4, p. 328 <http://dx.doi.org/10.1177/0032258X16658927>

² Financial Action Task Force (FATF) is an independent inter-governmental body that was created in 1989 by G-7 industrialized countries. It is the leading international standard setter against money laundering, terrorist financing, and the financing of proliferation of weapons of mass destruction. The FATF developed 49 Recommendations. These recommendations are recognized as the global anti-money laundering and counter-terrorist financing standard. See more at FATF (2012-2019), ‘*International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*,’ FATF, Paris, France.

be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account, and/or (3) a store of value, but does not have legal tender status in any jurisdiction”.³ Virtual currency is distinguished from fiat currency (real currency). Fiat (sovereign) currency is the coin and paper money of a country that is designated as its legal tender and which circulates, and is customarily used and accepted as a medium of exchange in the issuing country.⁴ However, virtual currencies are neither issued nor guaranteed by any jurisdiction and they fulfill the above functions only by agreement within the community of users.⁵ Virtual currency is also distinct from e-money, i.e., the digital representation of fiat currency in electronic transfer of value denominated in fiat currency.

Virtual currencies have revolutionized financial services by creating a form of currency that is not backed by any government and allows encrypted, and anonymous transactions.⁶ By nature, virtual currencies allow direct peer-to-peer transactions and eliminate the need for a bank or other intermediary to facilitate financial transactions.⁷ There are different types of virtual currencies. Some virtual currencies are convertible while others are non-convertible.⁸ Virtual currencies could be centralized or decentralized.⁹

³ See more at FATF Report, ‘*Virtual Currencies – Key Definitions and Potential AML/CFT Risks*,’ FATF, Paris, France, June 2014, p. 4.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Chad Albrecht and Kristopher McKay Duffin, Steven Hawkins and Victor Manuel Morales Rocha (2019), ‘The Use of Cryptocurrencies in the Money Laundering Process,’ *Journal of Money Laundering Control*, Volume 22, Issue 2, p. 220, <https://doi.org/10.1108/JMLC-12-2017-0074>

⁷ Gareth W. Peters and Efsthios Panayi (2015), ‘Trends in Crypto-Currencies and Blockchain Technologies: A Monetary Theory and Regulation Perspective’, *Journal of Financial Perspectives*, Volume 3, Issue 3, p. 2.

⁸ Convertible (or open) virtual currency has an equivalent value in real currency and can be exchanged back-and-forth for real currency. These include Bitcoin; e-Gold; Liberty Reserve; Second Life Linden Dollars; and WebMoney. Non-convertible (or closed) virtual currency is intended to be specific to a particular virtual domain or world, cannot be exchanged for fiat currency. Examples include: Project Entropia Dollars; Q Coins; and World of Warcraft Gold. See more at FATF Report, *supra* note 3 at 4; Niels Vandezande (2017), ‘Virtual Currencies Under EU Anti-Money Laundering Law’, *Computer law & security review* Volume 33, Number 3, pp. 340 & 341, <http://dx.doi.org/10.1016/j.clsr.2017.03.011>

⁹ All non-convertible virtual currencies are centralized. In contrast, convertible virtual currencies may be either centralized or decentralized. Centralized virtual currencies have a single administrator that controls the system. An administrator issues the

Cryptocurrencies are decentralized and convertible virtual currencies that are protected by cryptography.¹⁰ These currencies are convertible to fiat currencies but unlike fiat-money, they are not administered and issued by a central authority. The ultimate objective of cryptocurrencies would be to become a payment system substituting, complementing, or competing with conventional payment systems.

Cryptocurrencies have three core characteristics: decentralized, unregulated, and quasi-anonymity.¹¹ *Decentralization* is the prime feature of cryptocurrencies. This refers to the absence of central administering authority, and central monitoring or oversight body.¹² Cryptocurrencies are created over the Internet and there is no central authority that issues and regulates them.¹³ The second key characteristic of cryptocurrencies is the *lack of regulation*.¹⁴ No government has full control or say over any cryptocurrency. Because no one is regulating the transactions, no intermediary (such as lawyers, banks, or payment service providers) is needed in the user-to-user system.¹⁵ However, this does not mean that

currency, establishes the rules for its use, maintains a central payment ledger, and has authority to redeem the currency. Currently, the vast majority of virtual currency payments transactions involve centralized virtual currencies. Examples: E-gold, Liberty Reserve dollars/euros, Second Life “Linden dollars”, PerfectMoney, WebMoney “WM units”, and World of Warcraft gold. Decentralized virtual Currencies (cryptocurrencies) are distributed, open-source, math-based peer-to-peer virtual currencies that have no central administering authority, and no central monitoring or oversight. Examples: Bitcoin; LiteCoin; and Ripple. *See* more at FATF Report, *supra* note 3, at 5; Niels Vandezande, *supra* note 8, at 340 & 341.

¹⁰ Cryptography is the technique of protecting information by transforming it into an unreadable format that can only be deciphered (or decrypted) by someone who possesses a secret key. *See* more at Robby Houben, Alexander Snyers (2018), ‘Cryptocurrencies and Blockchain: Legal Context and Implications for Financial Crime, Money Laundering and Tax Evasion’, European Parliament, p. 15 *ff*; FATF Report, *supra* note 3, at 5.

¹¹ A. Can Inci and Rachel Lagasse (2019), ‘Cryptocurrencies: Applications and Investment Opportunities,’ *Journal of Capital Markets Studies*, Volume 3, Issue 2, p. 99; FATF Report, *supra* note 3, at 5 *ff*.

¹² Eveshnie Reddy and Anthony Minnaar (2018), ‘Cryptocurrency: A Tool and Target for Cybercrime’, *Acta Criminologica: Southern African Journal of Criminology (A Special Edition: Cybercrime)*, Volume, 31 Issue 2, p. 72.

¹³ *Ibid*.

¹⁴ Inci and Lagasse, *supra* note 11, at 100.

¹⁵ Satya Prakash Yadav, Krishna Kant Agrawal, Bhoopesh Singh Bhati, Fadi Al-Turjman, and Leonardo Mostarda (2020), ‘Blockchain-Based Cryptocurrency Regulation: An Overview’, *Computational Economics*, p. 2.

cryptocurrencies do not have self-regulation protocols. Cryptocurrencies such as Bitcoin have their own self-regulating protocol.

The third key characteristic of cryptocurrencies is that they are *quasi-anonymous* and difficult to trace. Cryptocurrencies are “traded online and are characterized by non-face-to-face customer relationships whereby users are only identified by their encrypted public addresses”.¹⁶ When a transaction occurs on the blockchain network, each user involved in that transaction has a specific personal key, similar to a user name. Once that transaction is completed and verified, those personal keys are also completed and can never be used again.¹⁷ Every time a user engages in a transaction, a unique and untraceable personal key is generated. Moreover, there is no need for the user to engage a bank account or a credit card for the transaction, thereby keeping anonymity. This anonymity characteristic also opens the door to more potential problems for cryptocurrencies.

The cryptocurrencies market developed very swiftly during the previous decade. According to the Coinmarket Cap estimation, as of March 2021, there are more than four thousand types of cryptocurrencies.¹⁸ However, among several thousand cryptocurrencies, in terms of market capitalization, Bitcoin is the most popular and largest cryptocurrency.¹⁹ Bitcoin is a unique cryptocurrency that is widely considered to be the first of its kind and it is increasingly drawing the attention of regulators in charge of banking and payment institutions.

Bitcoin is an internet-based cryptocurrency introduced globally with the article “Bitcoin: Peer-to-Peer Electronic Payment System” published by a person or group using the name of Satoshi-Nakamoto in 2008 and it was

<https://doi.org/10.1007/s10614-020-10050-0>; Reddy and Minnaar, *supra* note 12, at 72.

¹⁶ Christopher P. Buttigieg, Christos Efthymiopoulos, Abigail Attard & Samantha Cuyle (2019), ‘Anti-money laundering regulation of crypto assets in Europe’s smallest member state,’ *Law and Financial Markets Review*, p. 2.

<https://doi.org/10.1080/17521440.2019.1663996>

¹⁷ Reddy and Minnaar, *supra* note 12, at 74.

¹⁸ See more at ‘Today’s Cryptocurrency Prices by Market Cap’, Accessed on February 10, 2021, <https://coinmarketcap.com/>

¹⁹ See more at Rick Bagshaw (22 April 2020), ‘Top 10 Cryptocurrencies by Market Capitalisation’, <https://finance.yahoo.com/news/top-10-cryptocurrencies-market-capitalisation-160046487.html>; Hossein Nabilou (2019), ‘The Dark Side of Licensing Cryptocurrency Exchanges as Payment Institutions,’ *Law and Financial Markets Review*, p. 1. <https://doi.org/10.1080/17521440.2019.1626545>

released as open-source in 2009.²⁰ Bitcoin was created in 2009 following the international financial crisis of 2008.²¹ Satoshi, who is believed to possess over one million Bitcoins, which value over a billion dollars, thought that the crisis was mainly attributable to an unjust financial regulation system, especially printouts of phony money, than a failure of economic principles.²² Therefore, Bitcoin was said to have been created with the intent to save the world from such kind of financial crisis.

Individuals can earn Bitcoin by trading, mining,²³ and payment for services.²⁴ There are 21 million bitcoins (and each unit can be divided into smaller parts).²⁵ Out of the 21 million Bitcoins, over 18.5 million are already mined.²⁶ The rest are expected to be mined until 2140.²⁷ In 2010 one bitcoin was exchanged for 0.0025 cents of the U.S. Dollar whereas on 25 February 2021 it is exchanged for USD 46,301.56.²⁸ As of January 2020, over 160 international branded companies accept Bitcoin for their services and products. These companies include Microsoft, Overstock, Whole Foods, Starbucks, Newegg, Namecheap, Home Depot, Lolli, Amazon, eBay, BMW,

²⁰ Satoshi Nakamoto (2009), 'Bitcoin: A Peer-to-Peer Electronic Cash System', <https://bitcoin.org/bitcoin.pdf>

²¹ Chuen, D. L. K., Guo, L., & Wang, Y (2017), 'Cryptocurrency: A new investment opportunity?' *The Journal of Alternative Investments*, Volume 20, Issue 3, p. 18.

²² *Ibid.*

²³ Bitcoin mining is the validation of transactions on every Bitcoin block. The decentralized Bitcoin design ensures that transactions are transmitted on the peer-to-peer network and once they have been transmitted, it must be validated that the transaction is legitimate and then registered on the Bitcoin blockchain public transaction database. Miners are basically involved in the processing under verification of transactions before the transactions on the Bitcoin blockchain are registered. Miners would collect transaction fees as new Bitcoins. Yadav et al, *supra* note 15, at 11&12,

²⁴ Asheer Jaywant Ram (2018), 'Bitcoin as a New Asset Class', *Meditari Accountancy Research*, pp. 8 & 9.

<https://doi.org/10.1108/MEDAR-11-2017-0241>; Kroll, Joshua A., Ian C. Davey, and Edward W. Felten (2013), 'The economics of Bitcoin mining, or Bitcoin in the presence of adversaries,' *In Proceedings of WEIS*, P.3.

²⁵ See more at 'How Many Bitcoins Are There?'

<https://www.buybitcoinworldwide.com/how-many-bitcoins-are-there/>

²⁶ Daniel Phillips (11 February 2021), 'What Will Happen to Bitcoin After All 21 Million are Mined?', <https://decrypt.co/33124/what-will-happen-to-bitcoin-after-all-21-million-are-mined>

²⁷ *Ibid.*

²⁸ See more at 'Bitcoin Price Today & History Chart':

<https://www.buybitcoinworldwide.com/price/>

and PayPal.²⁹ This indicates that cryptocurrencies are becoming the payment system of future generations.

3. Cryptocurrencies and Criminality

Cryptocurrencies have their benefits and downsides. With regard to *benefits*, they are easier to transfer funds. The transactions are facilitated through the use of public and private keys for security purposes, and these transfers are done with minimal processing fees, and allow users to avoid the steep fees charged by most banks for internet online-based transactions.³⁰ The *challenges* of cryptocurrencies relate to their vulnerability to several nefarious activities.

However, some scholars such as Kfir (2020) and Bulter (2019) argue that criminals are uninterested in cryptocurrencies: (i) because cash is still a king in the criminal economy and it is working well enough for them,³¹ (ii) due to lack of skills necessary to exploit cyber means for criminal purposes, and (iii) the use of cryptocurrencies in the conflict-affected area –a haven for criminals and terrorist is a colossal challenge.³² According to this argument, fiat money is more available for criminals than virtual money.

On the other hand, scholars including Wegberg, Oerlemans, and Deventer (2019), and multilateral bodies such as FATF argue that cryptocurrencies are susceptible to several types of nefarious activities such as money laundering, terrorist financing, fraud, and other cybercrimes.³³ The FATF, specifically

²⁹ Jordan Tuwiner (5 February 2021), 'Who Accepts Bitcoin? 11 Major Companies', <https://www.buybitcoinworldwide.com/who-accepts-bitcoin/>

³⁰ Bunjaku, F., Gjorgieva-Trajkovska, O., & Miteva-Kacarski, E (2017), 'Cryptocurrencies –Advantages and Disadvantages. *Journal of Economics*, Volume 2, Issue 1, p. 36.

³¹ See more at Isaac Kfir (2020), 'Cryptocurrencies, National Security, Crime and Terrorism,' *Comparative Strategy*, Volume 39, Issue 2, p. 119 <https://doi.org/10.1080/01495933.2020.1718983>

³² See more at Simon Butler (2019), 'Criminal use of cryptocurrencies: a great new threat or is cash still king?' *Journal of Cyber Policy*, Volume 4, Issue 3, 326-345, p. 338 ff, <https://doi.org/10.1080/23738871.2019.1680720>; Europol (2015), 'Why Cash Is Still King? A Strategic Report on the Use of Cash by Criminal Groups as a Facilitator for Money Laundering', *Trends Organ Crim*, Volume 18, Issue 35, p. 357 ff, <https://doi.org/10.1007/s12117-015-9256-x>.

³³ See more at FATF, *supra* note 3, at 9; Rolf van Wegberg, Jan-Jaap Oerlemans, and Oskar van Deventer (2019), 'Bitcoin Money Laundering: Mixed Results? An Explorative Study on Money Laundering of Cybercrime Proceeds Using Bitcoin',

noted that it is a colossal challenge to apply money laundering prevention measures such as *customer due diligence* (CDD) or *know your customers* (KYC) to transactions that use cryptocurrencies and this increases the susceptibility of cryptocurrency payment systems to several nefarious activities. The characteristics of cryptocurrencies including decentralization, anonymity, and being unregulated make them extremely vulnerable to criminality.³⁴ Specifically, cryptocurrencies are straightforward to use, relatively anonymous, and their use is unimpeded by borders or legislation³⁵ and therefore, are becoming the currency of choice for many criminals.³⁶

Several high-profile investigations and prosecutions suggest that cryptocurrencies are used to commit several nefarious activities.³⁷ Criminals used cryptocurrencies to buy and sell illegal drugs and firearms on the Dark Web³⁸, and payment for ransomware.³⁹ Criminals also used cryptocurrencies to launder the proceeds of crime⁴⁰ (i) they could buy cryptocurrencies using the proceeds of crime, and (ii) changing the cryptocurrencies into fiat money

Journal of Financial Crime, Vol. 25 No. 2, p. 420 <https://doi.org/10.1108/JFC-11-2016-0067>

³⁴ FATF Report, *supra* note 3, at 9.

³⁵ Wegberg, Oerlemans, and Deventer, *supra* note 33, at 420.

³⁶ Sesha Kethineni and Ying Cao (2019), 'The Rise in Popularity of Cryptocurrency and Associated Criminal Activity,' *International Criminal Justice Review*, Vol. 30, Issue 3, p. 329 *ff.*

<https://doi.org/10.1177%2F1057567719827051>

³⁷ See more at David G.W. Birch (10 January 2021), 'Why Do Criminals Use Cash and Not Bitcoin?' Retrieved 23 February 2021 from:

<https://www.forbes.com/sites/davidbirch/2021/01/10/why-do-criminals-use-cash-and-not-bitcoin/?sh=25224cf7a56f>; Daniel Dupuis and Kimberly Gleason (2020), 'Money Laundering with Cryptocurrency: Open Doors and the Regulatory Dialectic', *Journal of Financial Crime*, p. 2. <https://doi.org/10.1108/JFC-06-2020-0113>;

³⁸ Dark Website is hidden part of the Internet, which can only be accessed through TOR—The Onion Router browser. The TOR browser encrypts the connection and ensures anonymity. Organized criminal networks navigate the Dark Web using fake identities, making it hard for law enforcement agencies to trace them. See more at Adam Turner and Angela S M Irwin (2018), 'Bitcoin Transactions: A Digital Discovery of Illicit Activity on The Blockchain,' *Journal of Financial Crime*, <https://doi.org/10.1108/JFC-12-2016-0078>

³⁹ Nathaniel Popper (28 January 2020), 'Bitcoin Has Lost Steam. But Criminals Still Love It', Retrieved 23 February 2021 from:

<https://www.nytimes.com/2020/01/28/technology/bitcoin-black-market.html>

⁴⁰ Anna Irrera (9 December 2020), 'Criminals getting smarter in use of digital currencies to launder money', Retrieved 23 February 2021 from:

<https://www.reuters.com/article/crypto-currencies-criminals-idUSKBN28J1IX>

(cash-out strategy).⁴¹ Several law enforcement agencies have investigated the misuse of Bitcoins and their facilitation of criminal activity. The FBI considers the anonymous Bitcoin payment network to be an “alarming haven for money laundering and other criminal activity”.⁴² As far back as 2012, the FBI was expressing concerns about the difficulty of tracking the identity of anonymous Bitcoin users thereby demonstrating how law enforcement agencies were experiencing difficulty identifying suspicious users and obtaining records for Bitcoin transactions.⁴³ Unfortunately, these difficulties are still present with law enforcement agencies.

FATF recommends countries to conduct risk assessment regarding virtual assets to mitigate risks associated with virtual assets through implementing anti-money laundering principles such as undertaking CDD/KYC, conducting risk-based supervision, and reporting suspicious transactions.⁴⁴ FATF also noted that countries are required to license or register virtual asset service providers and subject them to supervision or monitoring by competent national authorities.⁴⁵ The FATF defines *virtual asset service provider* as any natural or legal person who:

- ... conducts one or more of the following activities or operations for or on behalf of another natural or legal person:
- i. exchange between virtual assets and fiat currencies;
- ii. exchange between one or more forms of virtual assets;
- iii. transfer of virtual assets;
- iv. safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and
- v. participation in and provision of financial services related to an issuer’s offer and/or sale of a virtual asset.⁴⁶

The crypto service providers will need to “identify who they are sending funds on behalf of, and who is the recipient of those funds.”⁴⁷ Further, they need to “know their customers and conduct proper due diligence to ensure

⁴¹ Wegberg, Oerlemans, and Deventer, *supra* note 33, at 420.

⁴² Kim Zetter (05 September 2012), ‘FBI Fears Bitcoin's Popularity with Criminals’, Retrieved 23 February 2021 from: <https://www.wired.com/2012/05/fbi-fears-bitcoin/>

⁴³ *Ibid.*

⁴⁴ FATF, *supra* note 2, at 15.

⁴⁵ *Ibid.*

⁴⁶ FATF, *supra* note 2, at 127.

⁴⁷ FATF (2015), ‘Guidance for a Risk-Based Approach: Virtual Currencies’ <https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-RBA-Virtual-Currencies.pdf>

they are not engaging in illicit activity,” as well as “develop risk-based programs that account for the risks in their particular type of business.” The FATF expects all countries to take prompt action to implement the FATF Recommendations.

4. The Regulation of Cryptocurrencies: The Experience of Some Jurisdictions

The introduction of cryptocurrencies has become a challenge to the financial and regulatory sector.⁴⁸ The system of payment offered by cryptocurrencies could operate outside the current structure of the formal financial services and could evade the regulation and licensing regime that is currently in place.⁴⁹ At the same time, cryptocurrencies are filling an identified market gap in which this pattern is predicted to expand further in the future.⁵⁰ Ignoring cryptocurrencies is not an option for financial services. Thus, regulating cryptocurrencies would be inevitable.

Globally, the regulation of cryptocurrencies varies from jurisdiction to jurisdiction. Based on the regulation of cryptocurrencies, countries are categorized into three: countries that legalize its usage, countries that outlaw its usage, and countries that are in a state of a wait-and-see approach. Some states such as the United States (US), Canada, Australia, Finland, Belgium, Cyprus, the United Kingdom (UK), and Japan regulate the use of cryptocurrencies.

The US Department of Treasury’s Financial Crimes Enforcement Network has been issuing guidance on Bitcoin since 2013.⁵¹ The Treasury has defined cryptocurrencies not as currency, but as a money services business. This places it under the Bank Secrecy Act, which requires exchanges and payment processors to adhere to certain responsibilities like reporting, registration, and record keeping.⁵²

⁴⁸ Mohammed Ahmad Naheem (2018), ‘Regulating virtual currencies - the challenges of applying fiat currency laws to digital technology services’, *Journal of Financial Crime*, p. 2 <https://doi.org/10.1108/JFC-08-2016-0055>

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ Department of the Treasury Financial Crimes Enforcement Network (2013), ‘Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies’ p. 3 *ff.*
<https://www.fincen.gov/sites/default/files/shared/FIN-2013-G001.pdf>

⁵² *Ibid.*

Canada maintains a generally cryptocurrencies-friendly stance while also ensuring that the cryptocurrency is not used for money laundering. Cryptocurrencies are viewed as a commodity by the Canada Revenue Agency.⁵³ This means that cryptocurrency transactions are viewed as barter transactions, and the income generated is considered business income.⁵⁴ The taxation also depends on whether the individual has a buying-selling business or is only concerned with investing⁵⁵. Even though Canada considers cryptocurrency transactions as barter transactions, it considers the Bitcoin exchanges as a money service business.⁵⁶ This brings it under the purview of the anti-money laundering laws. Bitcoin exchanges need to register with the Financial Transactions and Reports Analysis Centre of Canada, report any suspicious transactions, abide by the compliance plans, and even keep certain records.

Australia considers Bitcoin as a currency and allows entities to trade, mine, or buy it. Since April 2017, Japan has legalized Bitcoin and recognized it as legal tender.⁵⁷ Though the European Union (EU) has shown some developments in the regulation of cryptocurrency, it has not issued any official decision on its legality, acceptance, or regulation. However, the EU in June 2018 decided to apply money-laundering prevention mechanisms such as CDD/KYC and report suspicious transactions to virtual-currency exchange platforms and digital wallet holders.⁵⁸

Individual EU countries have developed their positions on cryptocurrency. In Finland, the Central Board of Taxes has given Bitcoin a value-added tax-exempt status by classifying it as a financial service.⁵⁹ Bitcoin is treated as a commodity in Finland and not as currency. The Financial Conduct Authority

⁵³ Government of Canada (updated 27 June 2019), 'Guide for cryptocurrency users and tax professionals', <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/compliance/digital-currency/cryptocurrency-guide.html>

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ Irina Cvetkova (2018), 'Cryptocurrencies Legal Regulation,' *BRICS Law Journal*, Volume 5, Issue 2, p. 132, Doi: 10.21684/2412-2343-2018-5-2-128-153

⁵⁸ European Union (2018), 'Fifth EU anti-Money laundering directive', Published on 19 June 2018 in the Official Journal of the European Union (OJ L156, 19.06.2018), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0843>

⁵⁹ OECD (2020), 'Taxing Virtual Currencies: An Overview of Tax Treatments and Emerging Tax Policy Issues,' OECD, Paris. <https://www.oecd.org/tax/tax-policy/taxing-virtual-currencies-an-overview-of-tax-treatments-and-emerging-tax-policy-issues.pdf>

in the UK has a pro-Bitcoin stance and wants the regulatory environment to be supportive of the digital currency.⁶⁰ Bitcoin is under certain tax regulations in the UK. The National Revenue Agency of Bulgaria has brought Bitcoin under its tax laws.⁶¹ Germany is open to Bitcoin; it is considered legal but taxed differently depending upon whether the authorities are dealing with exchanges, miners, enterprises, or users.⁶²

Even the pro-cryptocurrency countries vary in its regulation. Countries such as Argentina, Austria, Bulgaria, Finland, Iceland, Israel, Italy, Norway, Poland, Romania, Spain, Sweden, and the UK govern cryptocurrencies under their taxation laws.⁶³ Costa Rica, Czech Republic, Estonia, Hong Kong, Latvia, Luxembourg, and Singapore govern the cryptocurrency business through anti-money laundering and countering the financing of terrorism legal norms.⁶⁴ Australia, Canada, Denmark, Japan, and Switzerland regulate the cryptocurrency business through both anti-money laundering and taxation laws.⁶⁵

Various countries including Algeria, Bolivia, Morocco, Nepal, Pakistan, and Vietnam have banned cryptocurrency transactions.⁶⁶ Moreover, countries such as Bangladesh, China, Colombia, Iran, Lithuania, Lesotho, and Thailand restrict financial institutions from participating in digital coin transactions within their borders.⁶⁷ China heavily restricted Bitcoin without actually criminalizing the holding of bitcoins. All banks and other financial institutions like payment processors are prohibited from transacting or

⁶⁰ Global Legal Insights (2021), 'Blockchain and Cryptocurrency Regulation 2021/United Kingdom,' <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/united-kingdom>

⁶¹ Ilieva Voutcheva & Co. Law Firm (n.d), 'The European Commission's project to regulate the cryptocurrency market. Tax treatment in Bulgaria,' accessed on March 25, 2021, <https://ivlawfirm.com/en/the-european-commission-s-project-to-regulate-the-cryptocurrency-market-tax-treatment-in-bulgaria/>

⁶² The Law Library of Congress (2021), '*Taxation of Cryptocurrency Block Rewards in Selected Jurisdictions*', <https://www.loc.gov/law/help/cryptocurrency/block-rewards/taxation-block-rewards.pdf>, pp. 39-43.

⁶³ The Law Library of Congress (2018), '*Regulation of Cryptocurrency Around the World*', p. 5. <https://www.loc.gov/law/help/cryptocurrency/cryptocurrency-world-survey.pdf>

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Id.* at 2

⁶⁷ Daniel Dupuis and Kimberly Gleason (2020), 'Money laundering with cryptocurrency: open doors and the regulatory dialectic', *Journal of Financial Crime*, p. 3. DOI 10.1108/JFC-06-2020-0113

dealing in Bitcoin.⁶⁸ The Chinese government has cracked down on miners. India banned banks from dealing in bitcoins and has left the overall legal status of cryptocurrencies unclear.⁶⁹ Columbia does not allow Bitcoin use or investment. Bitcoin and other cryptocurrencies were banned in Ecuador by a majority vote in the national assembly.⁷⁰

In emerging markets, the legal status of cryptocurrency still varies dramatically. Most developing countries have not determined the legality of cryptocurrency, preferring instead to take a wait-and-see approach. Almost all African countries,⁷¹ the Middle East, East Asia, and Latin American countries have neither allowed nor banned the use of cryptocurrency. The decentralized and anonymous nature of cryptocurrencies has challenged many governments on how to allow its legal use while preventing criminal transactions. Countries are wary because of its volatility, decentralized nature, perceived threat to current monetary systems, and links to illicit activities like drug trafficking and money laundering. As many countries are still analyzing ways to regulate cryptocurrency, it generally remains a legal gray area for much of the world.

5. Cryptocurrencies in Ethiopia

The use of cryptocurrencies has spread to all corners of the world and has now reached Ethiopia. In May 2018, Getahun Mekuria, the then Minister of Science and Technology, signed an agreement with Charles Hoskinson, Chief of Executive of Hong Kong-based IOHK.⁷² The company provides

⁶⁸ United Nations (16 November 2017), ‘Regulating the no man’s coin – the rapid rise of cryptocurrencies has regulators scratching their heads,’

<https://www.un.org/development/desa/en/news/policy/cryptocurrencies.html>

⁶⁹ The Law Library of Congress, *supra* note 63, at 99-101.

⁷⁰ The Law Library of Congress, *supra* note 63, at 14.

⁷¹ Pavithra Rao (April 2018-July 2018), ‘Africa could be the next frontier for cryptocurrency Experts say conditions on the continent are great for virtual currency’, <https://www.un.org/africarenewal/magazine/april-2018-july-2018/africa-could-be-next-frontier-cryptocurrency>; Yomi Kazeem (7 August 2018), ‘African governments are playing a waiting game on regulating cryptocurrencies,’ <https://qz.com/africa/1350294/bitcoin-cryptocurrency-regulation-in-africa-is-uncertain/>

⁷² Rachel Wolfson (30 April, 2019), ‘Cardano Founder Launches Enterprise Blockchain Framework In Collaboration With Ethiopian Government’, <https://www.forbes.com/sites/rachelwolfson/2019/04/30/cardano-founder-launches-enterprise-blockchain-framework-in-collaboration-with-ethiopian-government/?sh=3415676e4e10>

Cardano, a type of blockchain record management application. MoU (Minutes of Understanding) was signed to provide training on how to develop cryptocurrency in Ethiopia and to create a new digital payments system that will allow six million users to pay their power and electric bills with cryptocurrency.⁷³

Besides the initiatives of the government, several Bitcoin networks (Bitcoin service providers) exist in Ethiopia. The Bitcoin networks such as AchiversKlub school of Cryptocurrency,⁷⁴ Bit Club, and AWS Mining are doing extensive works to introduce and expand the business of Bitcoin in Ethiopia. The founders of the clubs are Ethiopians living abroad.⁷⁵ Since 2016, the clubs host meetings in Addis Ababa to inform people: how Bitcoin works, and how they can invest in it.⁷⁶ They encourage individuals either to buy Bitcoin or invest in Bitcoin mining. The meeting was so crowded that some people even had to return home. Besides, they use social media outlets such as YouTube, Facebook, Instagram, Telegram, WhatsApp, and Twitter to advertise the business.

Although the expansion of Bitcoin in Ethiopia is yet at its infant stage, a growing number of Ethiopians are investing heavily and profiting by unheard-of margins.⁷⁷ Many Ethiopians are joining the business of Bitcoin by purchasing it. However, some Ethiopians are also engaged in mining Bitcoin.⁷⁸

6. The Regulation of Cryptocurrencies in the Ethiopian Legal Norms

In Ethiopia, there are two arguments on the business of cryptocurrencies in general and Bitcoin in particular. Its ardent supporters, specifically, Bitcoiners argue that Bitcoin provides financial freedom so that the user's money is safe and secure, can be deposited and withdrawn quickly and

⁷³ *Ibid.*

⁷⁴ Achivers Klub school of Cryptocurrency was started in 2017. The Klub gives classroom based or online courses of cryptocurrency, to introduce the technology widely in Ethiopia to be used as an alternative to fiat currency.

⁷⁵ Capital Ethiopia (18 May 2020), 'The Bitcoin Revolution in Ethiopia', <https://www.capitalethiopia.com/capital/the-bitcoin-revolution-in-ethiopia/>

⁷⁶ Kaleab Girma (n.d), 'Despite Murky Picture, Bitcoin Hatches', <https://addisfortune.net/addisfortunefeature/despite-murky-picture-bitcoin-hatches/>

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*

easily, and it eliminates exposure to wrong banking regulations.⁷⁹ They state that Bitcoin can even solve the foreign currency shortage of Ethiopian importers. They encourage importers to invest in Bitcoin stating that they can order items they want to import from their Bitcoin wallet⁸⁰ without waiting for government regulation and foreign currency. These promoters consider Bitcoin as a good opportunity indicating that decentralized governance of networks is innovative and ultimately more effective than the traditional centralized financial governance system in an era of rapid and unpredictable technological change. Moreover, they argue that criminal groups are not interested in cryptocurrencies as it is difficult to use cryptocurrencies where fiat money is more available and it is challenging to get access to the cryptocurrencies form of payment in the country.

However, its opponents argue that this business is against the financial regulation of the country.⁸¹ They state that the main source of income comes in the form of commissions and some experts in the field call it a pyramid scheme⁸² which is prohibited by Ethiopian law.⁸³ Moreover, they consider it as one mechanism of capital flight and its doors are open for criminals to exploit and to launder the proceeds of their illicit activities.⁸⁴ The transaction conducted by Bitcoin is not verified by a centralized government organ but is conducted through decentralized peer-to-peer networks. Because of the anonymity it provides, the virtual currency industry is attractive to nefarious actors.

⁷⁹ Capital Ethiopia (18 May 2020), 'The Bitcoin Revolution in Ethiopia', <https://www.capitalethiopia.com/capital/the-bitcoin-revolution-in-ethiopia/>; 'Can I Trade Cryptos in Ethiopia Legally?',

<https://www.cryptonexchangelistings.com/go/ethiopia-en/article/legal-info/>

⁸⁰ Literally, the Bitcoin Wallet is the account number of the Bitcoiner. The wallet contains private/public key pairs, accounts which have Bitcoin addresses and funds from different transactions associated to it, outgoing and incoming transactions to/from the wallet, user settings, key pool and change addresses and information regarding the best blockchain. See more at Adam Turner and Angela Samantha Maitland Irwin (2017). 'Bitcoin Transactions: A Digital Discovery of Illicit Activity on the Blockchain', *Journal of Financial Crime*, <https://doi.org/10.1108/JFC-12-2016-0078>

⁸¹ An interview with a Financial Intelligence Analysis Team Leader of the Ethiopian Financial Intelligence Center (FIC), on the 24th December 2020 in Addis Ababa.

⁸² *Ibid.*

⁸³ 'Blockchain, Bitcoin and Cryptocurrency in Ethiopia: The Million Dollar Return,' <https://allaboutethio.com/blockchain-cryptocurrency-bitcoin-in-ethiopia.html>

⁸⁴ An interview with a Senior Leader of the FIC, 19th December 2019, Addis Ababa.

Experts from the Ethiopian Financial Intelligence Center⁸⁵ noted that money laundering through cryptocurrencies, specifically Bitcoin would be one of the typologies⁸⁶ of money laundering in the country.⁸⁷ However, except the Center, the law enforcement institutions, specifically the police and public prosecutors have limited awareness about what cryptocurrency is and the challenges of cryptocurrency to their law enforcement functions. The next two sub-sections examine the regulation of cryptocurrencies in Ethiopia's legal regime including its adequacy to govern cryptocurrencies, and the level of comprehensiveness of anti-money laundering laws in governing the threat of money laundering, terrorist financing, and associated predicate offenses that can emanate from cryptocurrencies.

6.1 Cryptocurrencies under Ethiopia's national payment system legal norms

National payment systems, specifically the traditional fiat money is highly exposed to credit risk, liquidity risk, operational risk, legal risk, and systemic risk.⁸⁸ To mitigate these risks, countries have established a robust institutional and legal infrastructure. The government of Ethiopia has enacted several laws to regulate the country's national payment system. The prime legislation in this regard is the *National Payment System Proclamation No. 718/2011*. The law was enacted to "provide rules on establishment, governance, operation, regulation, and oversight of the national payment system to ensure its safety, security, and efficiency".⁸⁹

The law provides the type of national payment system that operates in Ethiopia. Accordingly, the national payment system consists of:

- (a) sending, receiving and processing of orders of payment or transfers of money in domestic or foreign currencies;
- (b) issuance and management of payment instruments;
- (c) payment, clearing and settlement systems;

⁸⁵ The Center is an independent authority established by the government of Ethiopia to collect, store, receive a survey, analyze, and disseminate information about suspected money laundering and financing of terrorism cases and conduct public awareness program about money laundering. See more at *Art 13-16 of the Prevention and Suppression of Money Laundering and Financing of Terrorism Proclamation No. 780/2013* (hereafter the Ethiopian Anti-Money Laundering Law) and *Financial Intelligence Center Establishment Council of Ministers Regulation No. 171/2009*.

⁸⁶ An interview with a Financial Intelligence Analyst of the Ethiopian Financial Intelligence Center, 18th September 2019, Addis Ababa.

⁸⁷ *Ibid.*

⁸⁸ Nabilou, *supra* note 19, at 3

⁸⁹ *National Payment System Proclamation No.718/2011*, Preamble

- (d) arrangements and procedures associated to those systems specified under paragraph ‘c’ ... ; and
- (e) payment service providers, including operators, participants, issuers of payment instruments and any third party acting on behalf of them, either as an agent or by way of outsourcing agreements, whether entirely or partially operating in the country.⁹⁰

The law authorizes the National Bank of Ethiopia to “establish, own, operate, participate in, regulate and supervise: (a) an integrated payment system consisting of a large value funds transfer system and retail funds transfer system, and (b) central securities depository.”⁹¹ The law prohibits the introduction of a new payment system without the prior written approval of the National Bank of Ethiopia.

In 2020, to maintain the safety and efficiency of the national payment system, the National Bank of Ethiopia has issued two directives. These are *Licensing and Authorization of Payment System Operators Directive No. ONPS/02/2020* and *Licensing and Authorization of Payment Instrument Issuers Directive No. ONPS/01/2020*. The first directive provides the procedures used to license and authorize payment system operators. The operators are the National Bank, banks, micro-finance institutions, and any other person authorized by the National Bank.⁹²

The second directive provides procedural requirements to issue a payment instrument and types of payment instruments used in Ethiopia. According to this Directive, a payment system refers to “any instrument whether tangible or intangible that enables a person to make payments or transfer money and it includes electronic money.”⁹³ These laws focused on the payment systems that are centralized and issued upon the authorization of the National Bank of Ethiopia. These types of payment systems are usually known as fiat currencies, and they could be money, e-money, and negotiable instruments.

According to Ethiopia’s national payment legal norms, the use of currency not issued and authorized by the National Bank of Ethiopia is not allowed. However, the nature of cryptocurrencies is decentralized – antithetical to the existing centralized structure of monetary and financial

⁹⁰ *Id.* Art 2(16).

⁹¹ *Id.* Art. 4(1).

⁹² *Id.* Art. 2(18).

⁹³ *Licensing and Authorization of Payment Instrument Issuers Directive No. ONPS/01/2020, Art. 2(18).*

regulation. As cryptocurrencies are not issued and governed by any central authority, it could be argued that cryptocurrencies are outlawed in Ethiopia. However, recent developments do not seem to support this conclusion because the Minutes of Understanding (MoU) signed between the Minister of Science and Technology and IOHK implies the interest of the government of Ethiopia to introduce the payment system of cryptocurrencies.

Moreover, the Bitclub networks are operating in Ethiopia without any restriction. In view of these recent developments, it could be concluded that even though the cryptocurrency payment system is growing in Ethiopia, the legal regime on the national payment system has deficiencies to govern it. The prevailing experience reveals that individuals and groups are engaged in the business/payment system of cryptocurrencies without registration and securing license from the National Bank of Ethiopia.

6.2 Cryptocurrencies under Ethiopia's anti-money laundering legal norms

As highlighted above, there are countries that regulate cryptocurrencies through laws relating to anti-money laundering and countering the financing of terrorism. Ethiopia has enacted a law (*Proclamation No. 780/2013* (henceforth the Ethiopian anti-money laundering law) to prevent and suppress money laundering and terrorism financing. Article 29(1) of the Proclamation states the *actus reas* of money laundering. According to this provision, money laundering is said to be committed by:

Any person who knows or should have known that a property is the proceeds of a crime and who:

- a) converts or transfers the property for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of the predicate offence to evade the legal consequences of his actions;
 - b) conceals or disguises the true nature, source, location, disposition, movement or ownership of or rights with respect to the property;
 - c) acquires, possesses or uses the property; or
 - d) participates in the commission, conspires to commit, attempts to commit or aids, abets, facilitates or counsels the commission of any of the elements of the offence mentioned in paragraphs (a) to (c) of this sub-article ...
-

This provision states five wider substantive offenses of money laundering including conversion of criminal proceeds,⁹⁴ concealment of the illicit origin of property, acquisition of proceeds of crime, participation in the commission of money laundering either in a principal or secondary capacity, or assisting any person who is involved in the commission of the predicate offense⁹⁵ to evade the legal consequences of his actions. Art 2(5) of the law defines property as “any asset, whether movable or immovable, or tangible or intangible, including legal instruments in any form evidencing title to or interest in such assets such as bank credits, traveler's cheques, bank cheques, money orders, shares, bonds, and any interest, dividend or other income or value generated by such asset.”

This definition of property includes both movable/immovable or tangible/intangible assets. By taking this into account, one may argue that the Ethiopian anti-money laundering law governs virtual assets. However, the definition of currency provided in the anti-money laundering law and the list of institutions responsible for the implementation of the anti-money laundering legal norms do not warrant such conclusion. The Ethiopian anti-money laundering law defines currency as “banknotes and coins of Ethiopia or any other country that are in circulation as a medium of exchange”.⁹⁶ According to this article, currency refers to a medium of exchange that has legal tender status in any jurisdiction. However, cryptocurrencies are not issued nor guaranteed by any jurisdiction. Thus, it could be argued that cryptocurrencies are out of the realm of the country’s anti-money laundering law.

The Ethiopian anti-money laundering law intends to protect financial institutions and certain non-financial businesses and professions (commonly known as reporting entities) from abuse and deceit by money launderers and terrorist financiers. Financial institution comprises “a bank, an insurance company, a microfinance institution, postal savings, money transfer institution or any other institution designated as such by the National Bank pursuant to the relevant law” of the country.⁹⁷

⁹⁴ Proceeds of crime means any fund or property derived or obtained, directly or indirectly, from a predicate offence. Art 2(3) of the *Ethiopian Anti-Money Laundering Law*.

⁹⁵ It refers to any offence capable of generating proceeds of crime and punishable at least with simple imprisonment for one year. Art 2(4) of the *Ethiopian Anti-money Laundering Law*.

⁹⁶ Art. 2(25) of the *Ethiopian Anti-money Laundering Law*.

⁹⁷ *Id.* Art. 2(9).

Designated non-financial businesses and professions include: (a) real estate agents and brokers; (b) dealers in precious metals or precious stones; (c) lawyers, notaries and other independent legal professionals when they prepare for, carry out or engage in transactions for their clients; (d) independent accountants; and (e) such other businesses and professions as may be designated by the Center [the Ethiopian Financial Intelligence Center].⁹⁸ These institutions are required to comply with the country's anti-money laundering law. Specifically, they are obliged to pursue a risk-based approach, undertake adequate CDD/KYC measures, keep copies of all records obtained through the CDD measures, and report suspicious transactions, cash transactions, wire transfers, or cross-border transactions of cash and bearer negotiable instruments.⁹⁹

So far, virtual asset service providers are not designated either as financial institutions or non-financial businesses and professions. That is to say, neither the National Bank of Ethiopia nor the Ethiopian Financial Intelligence Center has designated virtual asset service providers either as financial institutions or non-financial businesses and professions. Thus, the virtual asset service providers are beyond the country's anti-money laundering regime. That is to say, Ethiopia's anti-money laundering law focuses on institutions that deal with the actual money which is governed and regulated by the government. This shows the inadequacies in the law to govern current developments and trends such as cryptocurrencies.

Generally, the laws enacted to govern the national payment system and to suppress and prevent money laundering and terrorist financing are aimed at regulating fiat money. There are strategic deficiencies in the country's legal norms to govern the crypto-coins payment system. The government of Ethiopia has not yet disclosed its position on the issue of cryptocurrency in general and Bitcoin in particular. Ethiopia has not enacted a law that allows the use of cryptocurrencies. Nor has it conducted a risk assessment with regard to the problems that can emanate from cryptocurrencies. Like many other developing countries, Ethiopia is in a dilemma thereby placing itself in a state of a wait-and-see.

Meanwhile, however, Bitcoiners are engaged in expanding the business in the country. They inspire Ethiopians to partake in the Bitcoin business either by buying Bitcoin or through engagement in mining. There is thus the need for caveats because Bitcoiners are engaged in the business without a

⁹⁸ *Id.* Art. 2(10).

⁹⁹ *Id.* Arts. 6-12.

license or in the absence of an established mechanism for the licensing and registration of virtual asset service providers.

7. How Can Ethiopia Regulate Cryptocurrencies?

Cryptocurrencies have many potential benefits. They could make payments easier, faster, and cheaper; and provide alternative methods for those without access to regular financial products.¹⁰⁰ However, without proper regulation, they are becoming a virtual safe haven for criminals and terrorists. As discussed in Section 4 above, some countries have started to regulate the virtual asset sector, while others have prohibited virtual assets altogether. Yet, most countries have not taken any action.

FATF encourages less prohibition and more regulation of private actors in the cryptocurrencies ecosystem.¹⁰¹ The regulation of cryptocurrencies has to originate from the unique characteristics of the payment system. The first footstep in regulating such type of payment system is creating a legal base. The Ethiopian government has to enact a law that governs how the business of cryptocurrencies is conducted and the law should indicate the regulatory and law enforcement agencies (commonly known as competent authorities) that deal with it. The law that would be enacted to regulate cryptocurrencies has to focus on how to (i) use the payments system, and (ii) control the nefarious activities that can emanate from this payment system.

Ethiopia should identify, assess, and understand the money laundering and terrorist financing risks emerging from virtual assets and the activities or operations of virtual assets service providers. Based on this assessment, the country should apply a risk-based approach to ensure that measures (both normative and operational) are put in place in order to prevent or mitigate money laundering and terrorist financing that are commensurate with the risks identified.

The National Bank of Ethiopia has to establish a system of registration and licensing of crypto-asset service providers. The virtual assets service providers should conduct a sector-specific risk assessment and take effective action to mitigate their money laundering and terrorist financing risks including conducting CDD/KYC, record keeping, and reporting suspicious transactions. The Ethiopian Financial Intelligence Center, a vanguard organ

¹⁰⁰ FATF, Virtual Assets: How do the FATF Standards apply? [https://www.fatf-gafi.org/publications/virtualassets/documents/virtual-assets-fatf-standards.html?hf=10&b=0&s=desc\(fatf_releasedate\)](https://www.fatf-gafi.org/publications/virtualassets/documents/virtual-assets-fatf-standards.html?hf=10&b=0&s=desc(fatf_releasedate))

¹⁰¹ FATF, *supra* note 2, at 15.

for the prevention and suppression of money laundering and terrorist financing in Ethiopia, has to expand the system of reporting, supervision, and regulation to crypto-asset service providers. This will ensure transparency of virtual asset transactions and keep funds with links to crime and terrorism out of the cryptosphere.

Regulatory and law enforcement agencies such as the Ethiopian Information Network Security Agency, Financial Intelligence Center, Office of Federal Attorney General, National Intelligence and Security Service, and Federal Police Commission have to augment the skills of their human power and technological capabilities to implement the laws that would be enacted to regulate cryptocurrencies, specifically to prevent and suppress the threat of criminality that can emanate from virtual currencies or crypto-asset service providers. Tracing or investigating criminal activities that are committed by using crypto-assets requires highly skilled human power equipped with advanced technology. With this in mind, the law enforcement agencies have to train their human power on what cryptocurrency is, the investigation and prosecution of criminal activities committed using cryptocurrencies, and settings and occurrences that necessitate investigation.

8. Conclusion

The objective of cryptocurrencies is to serve as a payment system by substituting, complementing, or competing with conventional payment systems.¹⁰² There is thus nothing inherently criminal in the development of cryptocurrency. However, recent trends have revealed that the nature of cryptocurrencies (i.e. decentralization, unregulated nature, and anonymity) are providing attractive opportunities for criminal exploitation. In spite of these challenges, the government of Ethiopia has not yet enacted a law that governs cryptocurrencies. Nor has it given due attention to the risk of criminality that can emanate from this business.

Many developing countries, including Ethiopia, are in a state of a wait-and-see approach. This has two contradictory manifestations. On the one hand, the business is expanding at a rapid pace and on the other hand, it is not governed. Thus, the Ethiopian government should consider enacting a law that comprehensively governs the payment system of cryptocurrencies. Along with this, improving the capabilities of financial institutions, law enforcement agencies, and regulatory authorities is crucial to deal with the cryptocurrency payment system. _____■

¹⁰² Nabilou, *supra* note 19, at 1.
