

**The links between international financial obligations, digital systems  
and human rights**

**By**

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## **Introduction**

Digital financial services (DFS) vary from conventional financial systems in key ways that have significant consequences for policymakers. The tech allows new business models that include a broader range of players/investors along the financial services value chain, from concept/inception to execution. Digital financial services bring in new providers such as non-banking e-money providers (EMIs), provide agents with a vital role in helping clients, and reach people who would otherwise be disenfranchised or disadvantaged (financial inclusion). As a result, new risks and mitigation strategies emerge. CGAP (the Consultative Group to Assist the Poor) has particularly been interested in understanding how such different models are regulated, and how policy may need to adjust to support DFS models that have the capability to improve access to financial services for many decades. This emphasis examines the regulatory building elements, known as core regulatory enablers, and how they have been applied in reality. Each enabler tackles a different component of developing an enabling and safe regulatory environment for DFS. Therefore, this paper seeks to assess the various challenges of regulating this component of the economy (financial transactions).

### **The challenges facing the regulation of financial transactions within the digital economy at the national, regional, continental and international levels**

The hyper-connectedness of people, organizations, and machines that comes from the Internet, mobile technologies, and the internet of things (IoT) is the cornerstone of the currently evolving digital world. The regulation of this domain is evolving, and as a matter of fact, rules, regulations, standards, and conventions become more pertinent and specific to each context/country. This presents a number of significant issues in terms of making legislation effective. The major problem, as stated by the International Telecommunication Union (ITU), is to ensure that there is a competitive business environment with respect to the rates they impose, their drive to develop, and the quality they supply (ITU, 2016).

For example, in the European Union, the proposed Markets in Crypto Assets Regulation and the policy replies to prior debates, tend to indicate the course of development in the UK concerning stabilized currencies and financial promotional offers, which remain to be a source of

disagreement. There is currently no formal regulatory structure in place for crypto assets (Financier Worldwide Magazine, 2022). Crypto-assets (virtual depictions of wealth or rights that can be exchanged and processed digitally) and cryptocurrencies, as per Laguna de Paz (2022), are not yet governed by the EU or in most nations. They are, more accurately, subject to ordinary economic regulation. Unfortunately, this does not appear to be adequate.

Conversely, authorities and regulators in the EU and UK, depend on frameworks that enforce Financial Action Task Force (FATF)-mandated anti-money laundering (AML) standards, such as the Travel Rule. This generates basic flaws in the embryonic crypto asset sector's progress. However, research suggests that AML regulations are being leveraged to implement prudential protections, mechanisms and regulations, and even consumer safety policies. However, without definitive laws in existence, crypto asset providers are not able to prepare in advance and establish business strategies that will be compliant with the appropriate standards whenever they become effective (Andrew, 2022).

According to World Bank (2018), the issue of financial intermediation/inclusion is to guarantee appropriate intervention through risk-based rules that maintain system integrity while placing the least load on DFS marketing. In terms of client due diligence (CDD), norms applied in various countries and the usefulness of Financial Action Task Force (FATF) recommendations prescribing the use of simpler processes in lower-risk cases remains questionable.

Other issues related to relying on international biometric authentication have been raised, such as the technology's accessibility to poor and disadvantaged communities and underprivileged locations (presenting the question of how regulators implement these mechanisms towards financial inclusion), the ease of access of identification databases to service providers, and the price/cost of employing these solutions. Developments in identification technologies may eliminate the requirement for a wide range of Identification paperwork, but not certainly the necessity for tiered wallet/account architecture. Due to additional criteria related to conventional CDD, such as home address verification, the latter is still necessary for many countries (Cheka, 2018).

## **The nature, scope and purpose of an international consensus on taxation of the digital economy that supports human rights**

The official reaction to the emergence of digitalization has assumed a breadth that matches how profoundly the operational environment has been altered, primarily via the umbrellas of the OECD. Due to the problems the OECD has had in reaching a worldwide agreement, several nations have implemented autonomous policies, like Digital Service Taxes (DSTs), to safeguard their tax revenue base and tax money obtained from specific electronic services conducted inside their territory/ jurisdiction.

Thus, the worldwide agreement on digital market taxes is based on the OECD/G20 Inclusive Framework (Two Pillar Approach proposed on July 1, 2021), which attempts to implement new connection and financial gains distribution regulations that enhance market countries' taxation rights. Income acquisition standards are used (as stated in Pillar 1) to evaluate if revenue comes from an industry jurisdiction, while profitability allotment rules are used to redistribute earnings to financial markets. It also prevents double taxes and simplifies reporting and transaction procedures. To discourage double taxing, there will be perhaps an exclusion or a deduction for income tax paid on the share of earnings allotted to economic states and territories. Pillar 2 guarantees that multinationals and large tech corporations pay the same amount of tax irrespective of where their head offices are or even which states/jurisdictions they conduct business in. It also attempts to preserve the foreign tax framework's stability and enhance taxation predictability for both taxpayers and fiscal/tax authorities (The Bureau of National Affairs, Inc., (2022a).

Similarly, the European Union has enacted two Summit Guidelines with accompanying operational rules on B2C digital services (also known as "digitally provided services") and e-commerce in merchandise. In general, the European Union intends to enforce destination-based Value Added Tax (VAT) on digitalization, streamline cross-border trading inside the European Union, and minimize bureaucratic expenses associated with VAT conformity. The European Union also intends to put European Union firms on an equal basis with non-EU enterprises by eradicating some benefits formerly appreciated by non-EU companies, such as import VAT deductions for low-value shipments (The Bureau of National Affairs, Inc., (2022b).

## **The advantages/disadvantages of regulating the financial elements of the digital economy and of regulating digital systems that support transactions for least developing countries**

Artificial intelligence (AI), blockchain (such as cryptocurrencies) and other digitization programmes are exerting a growing influence on commercial systems, particularly in transactions, banking, and portfolio management. In the transactions/payment business, customers are shifting away from payments made in cash to e-wallets, QR codes, peer-to-peer payments, and buy now pay later (BNPL) items. As per FIS, the global e-commerce market is estimated to be worth over \$8 trillion in transactions worth by 2025.

It should be mentioned that legislation is critical to the development of digital payments. Most nations where the industry exploded would not allow a financial institution to be engaged for whatsoever other than holding money. Before these innovations, they had few constraints regarding whom to run a digital payment scam, few 'know your customer (KYC) standards, and few restrictions on who could act as an agent (ITU, 2016). The rise of computerized networks and their respective regulation has also increased the relevance of intangibles (intellectual property–IP) as an element in the revenue-generating procedure. Because of the high immaterial contribution, corporations can employ accounting/financial methods and disparities in country-specific tariffs to control their tax burden in ways that operate against tax collectors.

Similarly, good oversight and legislation have allowed multinationals and large technology corporations to conform to appropriate regulations and, to a lesser degree, enhance economic stability. It has likewise, helped to balance the competitive ground for providers and improved data protection for consumers. In the absence of any type of control, adaptive effectiveness is extremely likely to result in monopoly power or, at best, monopolistic rivalry' (Marciano, Nicita & Ramello, 2020). As a result, a limited group of large technology companies may come to control the market in many countries, at least in the supply of specific services. They could utilize their competitive dominance to compel financial services to be performed solely through their connections, resulting in a lock-in scenario.

On the other hand, most nations where the industry did not take off had rather severe regulations mandating banks to take the lead - to the exclusion of MNOs. They frequently enforced extra barriers, including stringent KYC checks and restrictions regarding who could function as an agent (ITU, 2016).

## **Measures and mechanisms to ensure that a global digital tax incorporates human rights principles in the way it is levied and how tax revenue generated is used**

Laguna de Paz (2022) suggests that particular laws may be required to minimize vulnerabilities and defend the stakes involved in cryptocurrency legislation. To discourage crypto-assets from being exploited for criminal intentions (money laundering, financing of terrorism, tax evasion/in compliance), stiffer legislation and monitoring may be required. In reality, bitcoins are being used to power a developing broadband network targeted at crimes (The Economist, 2021).

To guarantee a fair sharing of shareholder returns across nations, the OECD Transfer Pricing Guidelines expressly working with electronic wallets take into consideration their peculiarities with respect to operations, uncertainties, and investments (Olbert & Spengel, 2019). New potential global tax standards must be aligned with regional/local/global data security legislation as well as intellectual property law when tackling the issues of digitized corporate systems (Olbert & Spengel, 2017). This is due to the taxation agreements' absence of a consistent understanding of the phrases "the use copyrights" and "rights to be using copyright/s/trademarks." Because the contract procurement jurisdictions' local licensing agreements differ, there are qualifying issues when corporations attempt to credit levies in their region of residency. To reduce the risk of double taxation, it would be preferable if the distinction between payment for providing services and royalties were standardized globally (OECD, 2017).

## **Case studies with regard to practices, legislation or policies at national or regional levels could serve as good examples**

Legislators have difficult decisions about what constitutes innovations and investments as well as anti-competitive restrictive behaviour, and whether to interfere or expect that the market would settle concerns over time. Mobile network operators have willingly developed account-to-account inter-operability in countries like Indonesia, Pakistan, Peru, and Tanzania, for example. Egypt is presently battling interoperability challenges, such as incorporating a digital money portal into the Egyptian Automated Clearing House system (EG-ACH) (ITU, 2016).

Search engine giant Baidu debuted the world's first AI park in Beijing in 2015, thanks to strong laws and policy practices, and the Chinese government proclaimed its ambition to exceed all Western nations in terms of AI implementation in 2017. To that degree, Chinese customers

prefer modern cashless methods such as mobile payment through QR codes and smartphones to debit cards. This indicates that, as a result of its tailored benefits, online markets have become the most popular platform (Li & Reimers, 2015). Credit risk is a key impediment to the development of e-commerce in China. However, China was the first to build Alipay, an Internet third-party payment (TPP) system used by non-financial companies. Tencent, a significant social networking service provider, created WeChat payment to help with payment solutions. TPP has become the primary payment option among Chinese customers because of an inadequate financial system for debit and credit cards in China (Yao, Di, Zheng & Xu, 2018).

Because of the rising hazards connected with cryptocurrencies (such as money laundering, data insecurities and financial instability among others), Chinese regulators have prohibited cryptocurrency exchanges and initial coin offerings (ICOs) (Yifei, 2019). The People's Bank of China (PBC) initiated researching central bank digital currencies in 2014, and it formed its own Institute of Digital Currency in 2017. Leading PBC officials revealed in mid-2019 that the reserve bank had finished top-level architecture, standard establishing, function creation, and practical/operational assessment of the virtual money and had begun deploying experiments in some of these locations.

PayPal, a forerunner firm focused on offering internet banking services, was first presented in the United States in 1998. Its third-party payment network ensures the safety of e-commerce payments for both customers and merchants. Amazon, Apple, Google, Intuit, and PayPal likewise, launched the Financial Innovation Now (FIN) group in 2015 to push laws that encourage increased technology in banking services/systems (Micu & Micu, 2016).

As of the year 2016, Zimbabwe enacted the Federal Financial Integration Programme 2016-2020, which aimed to overcome any barriers encountered in authentic currency deficits, as seen by long lineups at specific institutions and a lack of money accessibility at numerous Automated Teller Machines. According to NCA, Ghana (2018), Ghana has six Mobile Network Operators: Airtel Ghana, Expresso, Ghana Telecom -Vodafone, Glo Ghana, Millicom (Tigo), & Scancom Ghana (MTN) courtesy of the new regulations of the digital finance services. Likewise, owing to the effect of the regulations, now Ghana has four main digital payment providers: Tigo Cash, MTN Mobile Money, Vodafone Cash, and Airtel Money. In Uganda, it was discovered that mobile money utilization indicated a significant impact on legislative support, with households with access to mobile payments recording an increase for each capita in use-measured by the

provision of food, overall health, education and contributions to social economic competencies (Munyegeera & Matsumoto, 2016). The above cases present a key role played by the implementation of the regulations related to digital finance services (given successful case studies). This implies that the practices to ensure regulation of digital money transactions are key to ensuring and guaranteeing the success of the infrastructure encompassing the provision and access to digital financial services in all facets of the economy of the respective contexts. However, the above cannot ride on its own without some challenges which require the stakeholders to innovatively come up with regulatory policies to ensure the sustainability of the services.

### **How the States should deal with the interactions between financial transactions and the metaverse - from a human rights perspective?**

Instead of broad guidelines, most nations have institution- or product-specific financial consumer protection (FCP) rules and regulations. Essentially, the regulation structure ought to encompass all important pathways and service providers in a homogeneous approach. Digital finance services ought to be subject to both basic FCP regulations and DFS-specific restrictions (e.g., e-money, payments, and delivery via agents). Up to now, the countries under consideration have failed to achieve the above-said requirement.

While regulating admittance and access to the telecom administration used to convey financial administrations is a telecom administrative concern, understanding the impacts of valuing such administrations requires both a comprehension of the charges and prices for the financial administrations and an analysis of the competition.

Banking policymakers would often gain immensely from integrating dialogues on interoperability (the capability to exchange money from one supplier's mobile wallet to the other supplier's electronic account) both with telecommunications regulations and competition law enforcement agencies. Both comprehend dynamic marketplaces in the networking business, network externalities, and the requirement of interoperability.

Client/customer safety to the digital financial service provider is essentially a question that surrounds financial regulation. Nevertheless, it moreover covers a number of concerns concerning the core telecommunication network, such as how costs are paid to customers. Disclosure about pricing and qualities associated is critical not just for consumer protection, but also for successful

competition since it allows consumers to evaluate alternatives for their preferences. Various competing agencies are also charged with customer safety.

## **Conclusions**

In a worldwide society, monitoring and legislating the delivery of financial operations must unavoidably involve both legal and commerce. To be effective and relevant in the current and future perspectives, financial payments, transactions and service their respective regulation must take into consideration shifting conceptions about the foundation of the economy's functioning and monetization strategies. Governing the supply of digital financial services is important in raising awareness of the urgent need for change in the various all-inclusive and country-specific policies and regulations governing the delivery of financial services. The pre-digital era norms on assigning legal liability, as well as the foundation upon which such products and services were regulated, have been dramatically reshaped by the information technology advancements, revolution and internationalization.

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