



### Blockchain Technology and Cross-Border Payments: Navigating the Legal Landscape

- Shashank Raj (IV B.A.LL.B.)

Blockchain technology is used as a payment mechanism in cross-border payments by creating a decentralized platform where parties can securely and transparently transfer funds without the need for intermediaries, such as banks and Paypal. It is used for smart contracts, cryptocurrencies, stablecoins, and cross-border payment networks.

The rules of private international law must be applied to ascertain the appropriate legislation for blockchain transactions due to no consistent private law standards adopted globally. In countries like India, dealing of Virtual Digital Assets (VDAs) is carried out via authorized dealer banks which are subject to reporting requirements. Similarly, Dubai has a relatively positive stance towards VDAs and has implemented regulatory frameworks to oversee their use with the crypto token regime. However, the USA has a complex state-to-state distribution

framework with no consistent laws governing blockchain transactions. Regardless, VDAs remain a specific part of blockchain transactions, and laws relevant only to specific parts will not suffice the need for transactions on an international scale. Blockchain transactions such as smart contracts can be valid under Articles 14 and 18 of the United Nations Convention on Contracts for the International Sale of Goods (CISG) if their codes constitute the entirety of the agreement. However, the UN Commission on International Trade Law (UNCITRAL) has not addressed smart contracts with respect to CISG and its applicability remains a debate.

Blockchain offers a promising solution to the world's increasing need for secure and efficient modes of transactions. The lack of a positive framework and high taxes on VDAs in various countries discourages people from getting involved. The guidelines issued by MSA in Singapore reflect this as well as countries at the forefront of innovative technology and mass manufacturing, like China, have banned all forms of cryptocurrency. Without a unified legal framework, it is essential to

### News at a Glance

Secret talks were held on May 12 by the Qatari Prime Minister with the leader of the Taliban in Kandahar. The meeting marks the first reclusive Taliban chief is known to have held with a foreign leader. The meeting is said to have resolved tension the Taliban has had with the international community where among other things, ending bans on girls' education and women's employment in Afghanistan was discussed. For more information see [here](#).

The United States imposed sanctions on 17 people and entities based in China and Mexico which were accused by her of enabling production of counterfeit fentanyl-laced pills.

Washington has been seeking greater help from Beijing in stemming the illicit flow of fentanyl "precursor" chemicals from China, but U.S. officials have accused that the Chinese have been reluctant to cooperate. These sanctions have been condemned by Liu Pengyu, the Spokesperson for China's Washington embassy. For more information see [here](#).



balance the benefit of blockchain and regulatory oversight. The present differences in the framework regarding blockchain transactions create uncertainty. With a binding international convention regulating blockchain transactions, there will be legal certainty. Enforcement thus becomes easier as international conventions will provide a firm legal framework for trade facilitation. The interoperability between blockchain systems and networks will lead to seamless cross-border transactions, reducing the regulatory burden with clear and consistent rules, and will help in reaching various goals in international trade including paperless transactions and cost reduction from inefficient border procedures.

### Digitalization of Evidence in International Criminal Court Proceedings

- Somil Jain (I LL.B.)

Amidst the Ukraine-Russia war, charges are being pressed against the alleged culprits of the war crimes committed during the Russia-Ukraine war in the International Criminal Court (ICC).

Currently, Vladimir Putin, and Maria Lvova Belova, are under ICC investigation for the alleged war crime of abducting and deporting Ukrainian children from Ukraine to Russian military camps. The prosecutor, Karim Khan, has been using Digital Evidence to support his contention.

Digital evidence has reshaped the prosecution, investigation, and assessment of war crimes and brought a more efficient way to deal with the alleged charges of mass atrocities. The usage of digital evidence or forensics in international tribunals has seen a rise in a decade. We can point to its inception in the case of The Prosecutor vs Ahmed Al Fagi Al Mahdi where the accused pleaded guilty after a series of digital evidence was produced against him for the destruction of Timbuktu's culture, shrine, and mosques; which were also UNESCO sites. It raises multiple questions, such as whether digital evidence can be treated as a primary source of evidence, especially in cases of mass atrocities.

Prior to digital evidence, the investigative findings were based

### News at a Glance

Uganda condemned the Western response to the East African country's new anti-LGBTQ law, stating that sanctions and threats from donors amounted to "blackmail". "While we appreciate the support we get from partners, they must be reminded that we are a sovereign country and we do not legislate for the Western world. We legislate for our own people here in Uganda. So that kind of blackmail is not acceptable." said Ugandan Information Minister Chris Baryomunsi in response to the condemnation. For more information see here.

Despite a malfunction sending North Korea's new launch vehicle and the country's first spy satellite crashing into the ocean it is considered that the secretive country is unlikely to be deterred from its quest to place cargoes in space. "Even if this satellite launch is a failure, General Secretary Kim Jong Un himself has made clear that this satellite is the first of many," he said. "This won't be the end of those efforts. For more information see here.



on bones and mud, and digital evidence was treated as secondary evidence. To validate the authenticity of digital evidence, ICC now follows the [Berkeley Protocol](#), which sets standards of digital evidence for legal relevance, security, and handling of such evidence. It lays out specific steps to be followed to validate evidence: foremost is the procurement of such evidence before any AI-bot or any person sees and deletes it; the second step is when analysts, after a complicated process, look for distinctive objects like trees, buildings, etc. via satellite images; the third step is to run the evidence through a facial recognition software in order to identify the accused.

The author thus believes that India, being one of the founding members of the United Nations Organisation and not a member of the ICC, can become proficient in the usage of Electronic Evidence in the Indian criminal justice system if India decides to learn from the ICC and other International Tribunals. It can also incorporate provisions in the Indian Evidence Act, Criminal Procedure Code, and Banker's Book Evidence Act inspired from

the Berkeley Protocol, which will further standardize the evidence procurement process for law enforcement agencies.

### Opiod Ordeal: The Geopolitics of Synthetic Opioids

- Anuradha Lawankar (I B.A.LL.B.)

About 500,000 deaths annually are caused due to drugs, with over 70% of these deaths attributed to opioids and 30% to overdose. Synthetic opioids, including fentanyl, are anodyne and soporific in nature. Often, these substances are found as contaminants in drugs like cocaine, MDMA, and methamphetamine or are sold unknowingly as heroin or counterfeit prescription medications. The [INCB](#), in its 2018 report, identified a link between the synthetic opioids crisis and the widespread availability of fentanyl on the darknet.

While the opioid epidemic has primarily impacted North America, there are indications that it is an emerging threat in other regions, including Asia, Europe, and Australia. This was especially apparent after 3700 liters of

### News at a Glance

The United Nations Human Rights Chief has formally conveyed his concerns over a new British migration law to the government, saying that he is concerned that it would bar people from seeking asylum. The Illegal Migration Bill, If passed by the House of Lords would allow for the swift detention and deportation of those arriving in the boats back home or to so-called safe third countries such as Rwanda. For more information see [here](#).

South Korean and Pacific Islands leaders have agreed to strengthen development and security cooperation after Korea-Pacific Islands Summit where Seoul said it would double development assistance by 2027. A joint declaration from the first Korea-Pacific Islands Summit, held in Seoul, recognised shared values of "freedom, democracy, the rule of law, human rights" and the "rules-based regional and international order". For more information see [here](#).



methylfentanyl was discovered in Myanmar in [2020](#). According to a study by the Brookings Institute, the suspension of counter-narcotic measures by the Chinese government since August 2022 derailed the cooperation channel between the US and [China](#). This provided an impetus for criminal syndicates and their operations.

The global governance of fentanyl and its related substances falls within the purview of international law under three international conventions: the Single Convention on Narcotic Drugs ([1961](#)), the United Nations Convention on Psychotropic Substances ([1971](#)), and the United Nations Convention Against Illicit Traffic in Narcotic, Drugs and Psychotropic Substances ([1988](#)). These conventions oblige states to integrate measures into their domestic policies to tackle the drug issue. However, it is to be recognised that these conventions do not explicitly assign collective responsibility to the international community.

The accession to the three conventions has been made by a majority of countries including Myanmar, the US and China. The

Government of Myanmar especially made reservations under both the 1971 and 1988 [Conventions](#). These reservations indicate that the state does not consider itself obligated to refer disputes regarding the interpretation or application of the conventions to the International Court of Justice. There is no legal entity to specifically introspect over the provisions, rather than [INBC](#) and UNODC that make reforms. The conventions' rigid approach and strict categorisation of drugs limit countries' ability to adapt to changing drug use patterns and emerging substances. Balancing access to controlled substances for medical purposes while preventing diversion for illicit use is a complex task, particularly for countries with limited healthcare [resources](#).

### [The Surrogacy \(Regulation\) Act, 2021 And The Right To Parenthood Of The LGBTQI+ Community](#)

-Pritesh Shende (III B.A.LL.B.)

[The Surrogacy \(Regulation\) Act](#) (SRA), 2021 was passed by parliament to regulate the practice of surrogacy in India. However, this act appears to be discriminatory

### [News at a Glance](#)

The head of the U.N. refugee agency that the estimate of a million people fleeing Sudan by October may be conservative, and conflict there risks increasing people trafficking and spreading weapons across a fragile region. UNHCR had foreseen about 800,000 Sudanese and 200,000 people of other nationalities leaving Sudan over six months. For more information see [here](#).

The European Union will send a special human rights envoy to Cuba this year to discuss the aftermath of anti-government protests in July 2021, but the EU's top diplomat said it will not "impose" demands on the Caribbean nation. Rights groups, the European Union and the United States have all critiqued Cuba's response to protests as heavy-handed and repressive. Cuba's communist government has stated hundreds of people who are jailed are guilty of assault, vandalism and sedition. For more information see [here](#).



and arbitrary as it excludes homosexual couples' right to opt for surrogacy. Further, by creating a distinction between heterosexual and homosexual couples and allowing only the former to opt for surrogacy, this legislation violates Article 14 of the Indian constitution. Along with the right to equality, this provision is inconsistent with many international human rights instruments which are binding on India.

Several international instruments recognise the right to parenthood as a human right. The Universal Declaration of Human Rights (UDHR), under Article 16, recognises the family as the natural and fundamental group unit of society. It requires that states should adopt legislative, administrative or other measures to protect the family. Also, it ensures equality and non-discrimination for all who want to marry and found a family. Further, Article 17 of the International Covenant on Civil and Political Rights (ICCPR), protects every individual from arbitrary and unlawful interference with his privacy, family, home, or correspondence. This Article obligates the state to adopt legislative and other measures for

protecting the rights irrespective of whether the interference or attack emanates from the state authorities or other individuals. Also, Article 10 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), accords protection to the family and recognises the right to parenthood. The rights discussed above are available to all individuals without any discrimination.

The right to found a family and parenthood are basic human rights and must be available to all irrespective of sexual orientation or gender identity. Especially, when a homosexual couple is unable to have a child through a natural reproductive process, surrogacy could play a vital role in fulfilling their right to found family and parenthood. Thus, there is a need to amend SRA, 2021 to make it inclusive for the LGBTQI+ community. The community is also being discriminated against in all spheres of life including the home, the workplace and the public places. Along with the surrogacy law, India needs to make the family laws including, marriage, adoption and inheritance, accommodative for the gender beyond binary and the diverse forms of relationships.

### News at a Glance

The United Arab Emirates stated today that she withdrew from a U.S.-led Middle East maritime security coalition two months ago after evaluating her security relationships. The Combined Maritime Forces is a 34-nation task force, headquartered at the U.S. naval base in Bahrain, working on security, counter-terrorism and counter-piracy in the Red Sea and Gulf areas. For more information see [here](#).



### Colonial History, Failed Pacts & Different Maps: The Militaristic Game Along The Border Of India & China

- Rutuja Bhand (III B.A.LL.B.)

India & China share a 3,488 km long border but there is a difference in the perception of the border along the Line of Actual Control (LAC) as it isn't clearly demarcated through bilateral pacts. This disagreement has caused military clashes like the Galwana Valley incident & the Yangtse Clash. These conflicts have a variety of causes. First, there is a territorial dispute over Aksai Chin in the western part, which China claims is a part of the Xinjiang province, while India maintains that it is part of Jammu-Kashmir. In the eastern sector, China considers the McMahon Line of the 1914 Convention along Arunachal Pradesh & Sikkim illegal, claiming that Tibetan representatives who signed the Convention weren't entitled to do so. Thus China claims parts of Arunachal Pradesh, including Tawang, as part of Tibet.

To settle these boundary issues in the eastern & western sectors, China suggested a Swap Agreement that

involves both nations recognizing the status quo of Aksai Chin & Arunachal Pradesh. India turned down this proposal, stating, "Thieves shouldn't be told to keep one item if they return another."

In addition, China & India have been conducting Confidence Building Measures (CBMs) at their shared border & have thus far signed five agreements, none of which have been effective. Firstly, the 1993 agreement advocated for demilitarising the LAC and peaceful negotiations between the two nations. It was realised later however that the Agreement inherently failed to address the countries' differing views on the LAC itself. The 1996 Agreement forbids the use of firearms & explosives; nonetheless, the agreement was outwitted at Tawang where sticks & canes were utilised as weapons. The 2005, 2012, & 2013 Agreements further stress the use of diplomatic channels & forbid unilateral supremacy. However, both nations have flouted these agreements by engaging in military confrontations like the Galwana or Yangtse incidents.

### Upcoming Activities

**The Law of the European Convention on Human Rights Event**

On 14 June 2023, the Human Rights Law Centre, University of Nottingham will host a roundtable discussion to commemorate the launch of the 5th edition of Harris, O'Boyle and Warbrick, *The Law of the European Convention on Human Rights*. The event will be in person and online. More details are available [here](#).

**Call for Abstracts: Symposium on Russia, Imperialism, and International Law (14-16 September 2023)**

The Walther Schücking Institute for International Law at the University of Kiel, Germany, will host an international symposium on 'Russia, Imperialism, and International Law' on 14 – 16 September 2023. Scholars of international law and its related disciplines (including political science, history, and economics) are invited to submit abstracts on topics related to this theme by 3 July. Details can be found [here](#).



Besides these not-so-effective agreements, there have been SR-level discussions between the two countries but no definitive settlement is in sight. It is now time for both countries to evaluate their respective perspectives on LAC & reach an agreement through diplomatic channels. Additionally, they can have agreements to strengthen their bilateral ties & power dynamics in the Indo-Pacific area. Besides this, they should engage in risk control at a higher politico-strategic level.

## Upcoming Activities

Tel Aviv University International Law Workshop Special Roundtable: Remembering Karen Knop – A Roundtable on Her International Law Scholarship

The online roundtable was rescheduled to be held on 26 June 2023, 16:15-17:45 Tel Aviv Time. More information can be found [here](#).

Countering Terrorism and Violent Extremism in the Public Interest Workshop

From 31st October – 1st November, 2023, the T.M.C. Asser Instituut is organizing a hybrid workshop titled 'Countering terrorism and violent extremism in the public interest.' Interested contributors are asked to submit an abstract of up to 500 words on topics falling within the workshop's overarching themes by 16th June, 2023. For more information, see [here](#).

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