Blockchain & Legal Innovation I

Readings List

# Topic 5 – Disputes, Organisations & Governance

## General

### Chapters 8-12: Blockchain and Law: The Rule of Code by De Filippi & Wright

## Dispute Resolution:

### Kleros: <https://blog.kleros.io/>

### Constituent Documents: <https://medium.com/cryptolawreview/we-the-people-can-constitutions-unify-blockchain-communities-8a82a8ba2028>

## Organisations

### None:

#### Bug fixes: <https://news.bitcoin.com/bitcoin-history-part-10-the-184-billion-btc-bug/>

#### Soft forks: <https://bravenewcoin.com/insights/segwit2x-the-new-york-agreement>

#### Hard forks: <https://bitcoinist.com/bitcoin-cash-abc-vs-bitcoin-cash-sv-examining-the-bitcoin-cash-hash-war/>

### DAO vs LAO: <https://medium.com/openlawofficial/the-lao-a-for-profit-limited-liability-autonomous-organization-9eae89c9669c>

### NFP Foundation: Libra - <https://libra.org/en-US/>

### Centralised: Tether - <https://tether.to/legal/>

### Random Elections?: <http://unenumerated.blogspot.com/2008/03/unpredictable-elections.html?m=1>

## Crypto and Society

### Money: Financial Stability Board “Addressing the regulatory, supervisory and oversight challenges raised by “global stablecoin” arrangements – Consultative Document” (in reading folder)

### Money: <https://www.coindesk.com/the-man-who-forecast-a-currency-cold-war?utm_source=newsletters&utm_medium=blockchainbites&utm_campaign=&clid=00Q1I00000LxCyFUAV>

### Money: <https://medium.com/@giaglis.g/everything-you-always-wanted-to-know-about-cbdcs-but-were-afraid-to-ask-c7b11fe67aba>

### China’s National Blockchain: <https://www.coindesk.com/chinas-national-blockchain-will-change-the-world>

### Liquid Democracy?: <https://medium.com/@memetic007/liquid-democracy-9cf7a4cb7f>

### Allen, D, Lane, A,& Poblet, M.”The Governance of Blockchain Dispute Resolution” Harvard Negotiation Law Review Vol. 25: Fall 2019 pp 76-101 (in reading pack)

### Allen, Darcy and Berg, Chris and Lane, Aaron M. and Potts, Jason, The Economics of Crypto-Democracy (May 24, 2017). Available at SSRN: <https://ssrn.com/abstract=2973050> or <http://dx.doi.org/10.2139/ssrn.2973050>

# Key Themes

## The central problem for the usefulness of blockchain-based systems is whether, and to what extent, they can, and should, turn inter-subjective understandings shared between human beings into objective realities through code and market dynamics without that interface being mediated by other real human beings.

## To solve this problem, three inter-related choices have to be made: choices as to dispute resolution, governance, and protocol design.

## By dispute resolution we mean resolving conflict between identified parties. Dispute resolution is an issue because the software protocol can never anticipate all future events. To broaden the use-case for digital assets there must be a means of fairly and legitimately resolving unexpected conflicts or problems. The choice here is:

### Non-existent: no dispute resolution mechanism – all disputes become governance problems or are resolved off-chain;

### Native: the protocol itself has some kind of built in dispute resolution mechanism;

### Non-Native: an alternative dispute resolution protocol is used that is not native to the blockchain from which the dispute arises;

### Off-chain: rely on traditional courts or forums for disputes.

## Governance means resolving conflict between groups of participants. It is inherently political. Humans have a tendency to form groups to undertake complex tasks, particularly (Theory of the Firm) when the transaction costs and other inefficiencies of the public market make it more sensible to source from within. These groups necessarily give rise to governance needs and, eventually, norms. Choices here include:

### Hard forks vs Soft forks

### Incorporated vs Unincorporated ventures

### How do you determine Membership; Directors; Voting, Compliance; Solvency & Liquidation;

## Protocol design obviously means the way you have chosen to make your protocol operate. But certain design choices can retard or optimise, facilitate or eliminate, governance and dispute resolution options. In particular:

### Does the protocol assume the existence of a Foundation or governance structure? How does it assign a role and to whom within the organisation?

### For disputes, how are arbitrators or jurors appointed? How are they given access to the protocol?

## Solving these problems is a necessary step for broader usefulness of blockchains. It sets their character – permissioned vs non-permissioned. If the solutions are always some form of permissioned blockchain, then the question becomes: Why blockchain? Why not a centralised-but-distributed database?

## The existence of these problems and the difficulties in solving them clarify that there will not be one-size fits all. If blockchains are useful they will be useful in many ways and in many designs. It is a platform on which solutions can be built, not a solution in and of itself.

## The Chinese government appears to have the most ambitious vision: a national blockchain that is inter-operable with other types of blockchain. So you get a mix-and-match, patchwork solution. The major innovation is the existence of a national blockchain infrastructure on which to build.