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UNIVERSITY OF BIRMINGHAM



# Draft Report of the Policy Makers Workshop on Cryptocurrency and Blockchain regulation in Uganda (4<sup>th</sup> - 5<sup>th</sup> July 2018)

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# 1 ABSTRACT

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The first ever Policy Makers Workshop on the regulation of crypto currencies and the Blockchain in Uganda took place on the 4<sup>th</sup> and the 5<sup>th</sup> July 2018 at the Golden Tulip Hotel in Kampala. The aim of the workshop was to consider proposals for public consultations that drew on multi-sectoral approaches to policy making. A new interdisciplinary Working Group was set up to write a research brief that could form the basis on which the proposed Task Force on the Blockchain could develop a public facing policy consultation document on the regulation of distributed ledger technologies in Uganda.

- Dr. Maureen Mapp, Convenor and report co-author.
- Mr. Solomon Rukundo, report co-author
- Mr. Patrick Mwaita- (UNAFRI) programme organiser.

The event was co-sponsored by UNAFRI and the University of Birmingham Law School.

# 2 BACKGROUND

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The first ever policy makers workshop on the development of policy proposals for the regulation of cryptocurrencies and the Blockchain in Uganda took place on the 4<sup>th</sup> and 5<sup>th</sup> of July 2018 at the Golden Tulip hotel in Nakasero, Kampala. The workshop was the third in a series of research activities co-organised by UNAFRI and the University of Birmingham Law School on the complexities surrounding the regulation of emergent transformative technologies in Africa. Policy makers included the Minister for Internal Affairs- Honourable General Jeje Odongo who opened the event, and the Minister of State (General Duties) for Finance, Planning and Economic Development, Honourable Dr. Gerald Ajedra who gave the Key Note address. Other participants included regulators like the Central Bank of Uganda, the Uganda Communications Commission, and related agencies like the Directorate of Public Prosecutions, the Uganda Police Force, the Uganda Law Reform Commission, the Judicial Training Institute, the Uganda Revenue Authority. Participants were also drawn from the public, cryptocurrency enthusiasts, academia and Blockchain companies under the auspices of African Blockchain.



The event aimed to consolidate the gains of the first and second Roundtable discussions on the regulation of cryptocurrencies and the Blockchain. The two [2016](#) and [2017](#) Roundtable reports form the basis of the discussions on policy- led public consultations. The first roundtable event held on the 7<sup>th</sup> of July [2016](#) at UNAFRI, recommended that principled guidance be developed for the regulation of virtual currencies including cryptocurrencies. The second round table event hosted on the 6<sup>th</sup> of July [2017](#) at UNAFRI culminated into the [\*Declaration on Fundamental Principles on the Regulation of Cryptocurrencies and the Blockchain \(Digital Ledger Technologies\) in Uganda\*](#) that was adopted by participants in 2017. The Declaration itself is based on principles of a technical, ethical, legal, political and socio-cultural nature, that draw on existing policies, regulatory mechanisms, and the legal frameworks at the localised, regional and global level. The principles are summarised here:

1. Automating regulatory compliance underpinned by the principles of interoperability, scalability, cybersecurity, accountability, transparency and trust.
2. Use of the Blockchain given its benefits (among others) of widening financial inclusion through faster, transparent micro-payments.
3. Technological neutrality in the drafting of legislation, and as a tool in the interpretation of legislation by the courts.
4. Ethical principles of 'do no harm', of fairness, of transparency, of trust, of non-deception and of non-discrimination that protects consumers and encourages socially desirable business. Ethical consumer behaviour (like meeting tax obligations) is to be encouraged.
5. Data security principles of consumer protection underpinned by legal principles on the processing of personal data and the processing of sensitive data.
6. Data protection principles: data subject's rights including data privacy protected under sector specific laws.
7. Legality principle: the constitutional principle of legality should be broadened in order to include the oral customary norms and sanctions. The legality principle can also be achieved through the application of existing laws.
8. Principles of Clarity and Certainty on the definition of terms like cryptocurrencies and the Blockchain, and the qualifying and non-qualifying technology activities.
9. Proportionality principle: compliance requirements should pass the proportionality test whereby the purpose for regulation is legitimate, the means by which the regulators objectives are pursued are laid down in the law, the regulatory intervention (measure) is correctly directed to its technological target, and the regulatory measure does not exceed what is necessary to attain the legitimate objective.

The Declaration and the two [2016](#) and [2017](#) Roundtable reports recognise two broad limits in the current regulatory framework. The first is the lack of clarity of policy objectives and the lack of rationalisation of policies among regulators, which gap could undermine any efforts to engender conceptual clarity surrounding cryptocurrency and the Blockchain. Unclear and non- rationalised policies could in turn weaken efforts to promote fair competition and ethical behaviour, to enhance data security, offer data protection, and make policies relevant at the legal and social cultural



level. The second limit is the gap in the constitutional and legislative mandate of financial and related regulators (through sector specific laws for example) to give clarity to users and investors on the place for cryptocurrency and the Blockchain in Uganda's emergent economy.

The workshop engaged with these two questions and drew on external support from research done by those working in academia and elsewhere in order to engage in critical discourse on Ministerial and departmental level policies that engender a community responsive approach to regulation, agenda setting for public involvement in policy making, and the relationship between regulation and risk-based proportionate policy. Participants acknowledged that giving full effect to the Declaration would require a multi-sectoral approach to bridge the disconnect between policy-makers, regulators and the crypto currency/Blockchain private sector understanding about the socio-cultural, legal, economic and political implications of this technologically enhanced environment. This knowledge gap could undermine principled (and evidence) based policy-making. There was need to plug this gap to ensure that policies, laws, and processes were based not only on evidence, but were also underpinned by a principled approach to compliance, enforcement and adjudication- one that is buttressed by public participation.

Participants reviewed the Kampala Declaration on Fundamental Principles on the Regulation of Cryptocurrencies and the Blockchain (Digital Ledger Technologies) against the backdrop of the just concluded Blockchain Conference on Africa that was hosted in Kampala on the 23<sup>rd</sup> and 24<sup>th</sup> of May 2018. There, the President of Uganda H.E. Mr. Yoweri K. Museveni<sup>1</sup> who expressed his interest in and support for the use of the Blockchain and cryptocurrencies in Africa, cautioned against the adoption of a "dogmatic" approach to financial sector development that would be counterproductive to economic development. The Governor of the Central Bank of Uganda, Professor Emmanuel Mutebile while acknowledging the potential for the Blockchain and cryptocurrencies to revolutionise the financial sector, highlighted the risks that cryptocurrencies pose to the public due to their pseudonymous nature that could facilitate tax evasion and the demand for payments in cryptocurrencies using ransomware. There was also the issue of consumer protection and prevention of the arbitrary use of discretionary power by regulators.<sup>2</sup> The two positions illustrated the tensions for policy makers between promoting innovation and protecting the public from those who misuse the technologies. Engaging the public in this debate was seen as key to developing effective public facing regulation.

A key outcome of this policy maker's workshop was the setting up of a Working Group drawn from the participants, to research on the regulation of cryptocurrencies and blockchain technologies. The group was tasked with researching six areas that were identified by the Minister for Internal

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<sup>1</sup> <https://africanblockchain.org/>

<sup>2</sup> Museveni, Mutebile disagree on cryptocurrencies, NTV Uganda, May 23, 2018, [https://www.youtube.com/watch?v=fxSP\\_5MI9MM](https://www.youtube.com/watch?v=fxSP_5MI9MM)



Affairs, and endorsed by the Minister of State (General Duties) for Finance, Planning and Economic Development:

1. Measures for technological security, trust and risk assessment;
2. Principled policy approaches to regulating cryptocurrencies and block chain technology;
3. The legality of cryptocurrencies including user rights, consumer protection, obligations of the state and of providers, and the promotion of ethical behaviour.
4. The applicability of existing legislative frameworks.
5. Investigatory, prosecutorial and judicial approaches to settlement of disputes using forensic models;
6. Socio-cultural legitimacy surrounding consumer behaviour among 'fringe' communities in order to avoid exploitation and to reduce their vulnerability.

### **3 SUMMARY OF RECOMMENDATIONS**

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The report documents the theoretical and practical prospects and challenges of developing a public facing policy on digital assets and distributed ledger technologies. Among the report's proposals the following stand out:

1. Policy guidance and regulation is needed for financial clarity. A tax policy is a good starting point, as cryptocurrencies could be taxed under the existing law on income tax, capital gains tax or Value Added Tax. Individuals should be obliged to pay their taxes based on a moral sense of duty to pay tax.
2. Content gap on the concept and nomenclature of the technologies and the scope of the existing laws needed to be plugged. Regulatory sandboxes could bring together policy makers and developers and help 'future proof' policy.
3. The existing knowledge gap about the technology and its use is found in both the public and the private sector resulted in misinformation about the emergent technologies. This misinformation could be addressed by nationwide public awareness strategies and programmes on areas like information security.
4. The skills gap on the use of cryptocurrencies and the Blockchain were manifest at all levels of the public and private sector. There was need for a coherent training policy to address the skills shortage.
5. The technology itself suffers from disruption including outages, which could reverse the social, economic, and cultural, benefits of the distributed ledger technologies.
6. Tracing software and systems should be purchased and/or updated to facilitate investigations.
7. To facilitate investigations and monitoring, policies and regulation should allow for the registration of traders/investors who should be obliged to comply with Know Your Customer requirements as well as those on Money Laundering. To this end, pseudo names should not be used by traders.



8. A collaborative approach to policy making was necessary to ensure that Uganda continues to leverage this opportunity to use digital assets and the Blockchain technology while mitigating the risks.
9. Harmonise regulation and policies at the regional level. Such harmonization should consider the issues of extra-territorial jurisdiction and the effect of the European Union General Data Protection Regulation in Africa.
10. Policy should aim to balance innovation with consumer protection. The use of regulatory sandboxes such as that in use by the Uganda Communications Commission should consider not the specific technology, but the integrity of the system or platform and the use of permissioned blockchains to address data privacy and data protection concerns.
11. Regulation should be future proofed so that it does not lag behind the technological developments.
12. Greater visibility and control for individuals and better protection for privacy. Individuals should know when and how their data is being processed.
13. The plurality of legal norms in terms of notions of autonomy, responsibility and obligation, and the practices of non-state systems ought to be integrated in policies and regulation.

A core recommendation was for a cross-sector public policy that embodied the seventeen principles in the 2017 Kampala Declaration, that might form the basis of a national consensus on the regulation of distributed ledger technologies in Uganda. A research brief on this policy would be developed by the working Group and would take into account the policy proposals that underpin the proposed National Taskforce on Blockchain.

The full report documenting the discussions on the prospects and challenges of developing any sort of public facing policy on digital assets and distributed ledger technologies - whether principled, rules based or something else; as well as the report of the Working Group will be released in 2019.

## **4 WELCOME ADDRESS BY MR JOHN KISEMBO, AG. DIRECTOR OF UNAFRI**

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Mr Kitembo welcomed participants to the policy makers workshop and thanked the two government Ministers- Honourable General Jeje Odong and Honourable Dr. Gerald Ajedra for attending the event. He explained that as on the two previous occasions, the event was co-organised by the Africa Centre of Cyber Law and Cybercrime Prevention (ACCP) located at the United Nations African Institute for Crime Prevention and Treatment of Offenders (UNAFRI) in conjunction with the University of Birmingham Law School represented by Dr Maureen Mapp. Uganda, he noted was on record as being the first country in Africa to venture into the area of regulation of cryptocurrencies in 2016. Other African countries including Nigeria had since developed their own position papers and policy documents.



At the time of UNAFRI's inception in the 1990s, the Africa sub-region unlike other regions did not have an organisation that was devoted to strengthening national criminal justice systems with innovative research-based initiatives. It took the combined efforts of the African group at the United Nations and at the Organisation of African Unity (now African Union) to urge the then United Nations Secretary General to set up an institute for the regulation of criminal justice for the African sub-region. Once established, UNAFRI began to develop policies using principled approaches. One example was the correctional policies that drew on rights-based approaches, on theories of rehabilitation and integration, and on the principles of the United Nations (UN) Minimum Rules for the Treatment of Prisoners.<sup>3</sup> The UN Rules were integrated into regional declarations like seminal 1996 Kampala Declaration on Prison Conditions in Africa,<sup>4</sup> and the 2004 Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa.<sup>5</sup> UNAFRI paid tribute to its first policy makers.

2016 marked the start of the first roundtable discussion on the regulation of cryptocurrency in Uganda cohosted by the University of Birmingham School of Law and UNAFRI. The goodwill of participating institutions and individuals led to a proactive initiative to inform and propose policy and regulatory measures due to the use of cryptocurrencies as an investment vehicle and its ability to spark an underground illicit financial industry. The workshop agreed on principles associated with the regulation including in the technological, policy and legal spheres.

The second roundtable adopted the Declaration of fourteen Fundamental Principles on the Regulation of Cryptocurrencies and Blockchain in Uganda. intended to ease draft policies and drafted in line with some key recommendations from the Central Bank of Uganda. The second-round table followed the warning by the Central Bank of Uganda in February 2017 about the use of cryptocurrencies, but it was not clear if the position had changed. This first ever policy maker's workshop would culminate in the setting up of a Working Group to research on key areas of collaboration in the development of research led policies and laws may be useful in the regulation of payment technologies. The Working Group would not be a substitute for established Ministries or government departments but would develop principles and offer expertise and guidance in a collaborative manner.

The subject of concern for this policy maker's workshop was whether digital innovations were for the common good of the people, and if so, how they could be harnessed to foster socio-economic development and build safer community networks. There was the question of how to regulate those engaged in the business of developing, marketing and selling these innovative products. Since the previous roundtable discussions, there was enough information about cryptocurrencies to convince all stakeholders about the need for regulation. The critical issue was to acknowledge the potential use of cryptocurrencies as against the reality of its limits. Given that these innovative technologies were here to stay, there was need to set in place a mechanism to regulate its

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<sup>3</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners 1955

<sup>4</sup> <https://www.penalreform.org/wp-content/uploads/2013/06/rep-1996-kampala-declaration-en.pdf>

<sup>5</sup> <https://s16889.pcdn.co/wp-content/uploads/2013/06/rep-2004-lilongwe-declaration-en.pdf>



adoption and use in transactions and to provide guidance to avoid unintended offences such as money laundering schemes and illicit activities.

Mr Kisembo concluded his welcome address by wishing the participants a fruitful discussion.

## **5 INTRODUCTORY REMARKS BY DR MAUREEN O. MAPP, UNIVERSITY OF BIRMINGHAM**

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Dr Mapp welcomed participants to the first ever policy workshop and passed on greetings from the University of Birmingham. She recognised the presence of the two government ministers: Honourable General J.J Odongo- the Minister of Internal Affairs and Honourable Dr. Gerald Ajedra- the Minister of State for Finance and Planning (General Duties), of Dr. Justice Henry Adonyo from the Judicial Training Institute, and those from the public and private sector, about a quarter of whom were individuals with close interest in cryptocurrencies and Blockchain.

Maureen explained that the 2018 first ever public facing policy making workshop followed two Round tables on cryptocurrency and the blockchain regulation that were held in Kampala. The first roundtable of 2016 set the tone for instructive guidance from regulators on cryptocurrency use, while the second roundtable in 2017 roundtable developed a declaration on principles for the regulation of cryptocurrency and the Blockchain. Since then, there had been expanding interest in the area. The African Blockchain conference<sup>6</sup> held in May 2018 in Kampala to generate discussions among policy makers, banks and the regulators about the use of the Blockchain was but one such example. While it was not in doubt that the blockchain and other distributed ledger technologies supported a cost-effective method of doing e-commerce in Africa, the challenges of regulatory nature like monetary policy control, oversight of the private sector, and determining the best kinds of business models that enabled this digital technology to work, remained. For those involved in law enforcement like the police and prosecutors, or those involved in adjudication like the courts of law, the question of applicable laws and evidential issues was just one of many challenges that they faced.

Cryptocurrency and the Block chain appeared to 'leapfrog' the current technical and regulatory systems leaving regulators, policy makers, even law makers behind. Moreover, the effects of the technology covered a wide range of laws including criminal law, and some civil laws like contract law, tax law and property law. The task for policy makers was further complicated by the fact they needed not just to protect the public interest, but also to design policies that worked for existing organisations and not for futuristic ones. Policy makers needed to encourage innovation, to address unforeseen risks, and to deliver mechanisms and tools for the responsible supervision of the new service providers.

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<sup>6</sup> Details can be found at <https://africanblockchain.org/>.



The two-day workshop would look at ways of merging political learning, policy learning and public engagement to develop 'progressive' policies. Political learning referred to the strategies and procedures that political actors used to try to achieve a political goal. Political learning, in theory, interacted with policy learning where instruments and policies were used and where actors engaged in social learning. Political goals, their pre-conditions and policy learning could lead to policy change. However, a systematic approach was needed to prevent a policy being rejected by a political system. By analogy, the July 2018 public outcry against the social media tax, exemplified how a radical policy innovation appeared to have been rejected by the political system. Minister David Bahati, the Minister of State for Finance, Planning and Economic Development (Planning) had promised Ugandans that the government would have to rethink the tax.<sup>7</sup>

If policy makers followed a collaborative policy making that drew on African values like participation then they could produce a policy that engaged with the polity, with the political system, and with what the policy makers wanted. Such a collaborative approach was necessary in order to leverage the distributed ledger technologies that were changing lives in emergent economies. Africa's burgeoning distributed ledger technology space was combining the use of mobile phones with cryptocurrency and increasingly with the Blockchain. For example, according to research from the GSMA, in 2015, mobile technologies and services generated 6.7% of GDP in Africa, amounting to around \$150 billion of economic value. Mobile technologies were predicted to generate 7.6% of GDP by 2020. Elsewhere, the World Bank's 2017 Global Findex data showed that 44.4% of Ugandans had an account, more than double that in 2011. The increase was driven by mobile money accounts with 38% of Ugandans having a mobile money account.

Economic growth and status, however, was not just based on an emergent smartphone-wielding middle class. It was also hinged on the largely rural-peri urban, illiterate; semi-literate and financially excluded class who used their phones to engage in business. This group were vulnerable, and were likely to be financially excluded, given that in Uganda, 77% of an estimated 44 million people lived in rural areas, may also be illiterate and without access to smart devices. The challenge for policy makers was to ensure that the economic growth driven by mobile technology was all inclusive and did not leave out certain groups like those in rural areas with little or no access to the internet, those who are semi literate or illiterate (digital naive) whatever the age, or those with various impairments: sight, hearing, mobility including those with learning difficulties. The World Bank Findex Index showed that Uganda had a large financial access gender gap with only 36.6% of women having access to financial services. The Luddites posed challenges as well. As people who did not believe in technology preferring the traditional banking and payment systems, cash and paper-based transactions, their non-engagement with technology could affect economic growth. Yet, their views for rejection of technology was important for responsible policy making in order that all views were considered in the delineations.

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<sup>7</sup> More on this story at <http://eagle.co.ug/2018/07/03/social-media-tax-is-inconveniencing-minister-david-bahati.html> .



At the first-round table in 2016, some participants thought that cryptocurrency was akin to witchcraft- it was so incomprehensible at the time. Uganda had now moved from conceptualising digital technologies as 'witchcraft', to working with them to digitise the economy. For example in the May 2018 conference co-hosted by Kwame of Africa Blockchain, Mr Frank [Tumwebaze](#), the Minister of Information, Communications Technology and National Guidance promised to use the Blockchain to leverage information. The chair of the Uganda Bankers Association ([UBA](#)) had announced that banks would do the same in order to lower operational costs and risks. Other East African countries like Rwanda were using the Blockchain to upgrade their land registry. In 2017 Kenya launched its M-Akiba bond which uses block chain technology. Early this year South Africa relaunched the first kind 'ATM' for cryptocurrency called the VTM. The VTM was launched in 2014 on a par with the first ATM in the Canada and just after the one in the United States of America. The African space was moving forward fast in this respect.

Dr Mapp described the Blockchain as a distributed database that recorded, shared, and synchronized transactions in electronic ledgers. Some of its features were transparency, security, and efficiency. There was no dependence on the control of one party that managed a single central repository. The Blockchain technology was driven by the network nodes, each of which could be a regulator who could then collaborate with other participants to develop a solution to the country's regulatory dilemmas. Examples of regulators include the Central Bank, tax authorities, registration bodies; law enforcement organisations like the police, the judiciary, and corporate bodies given that the Blockchain impacted on a variety of fields like payments, contracts, communication systems, and the internet of things.

Cryptocurrencies were the well-known early adopters of the Blockchain, with Bitcoin as the first crypto currency. Some of the familiar features of cryptocurrencies were their relative anonymity, speed, a digital wallet with strong protection using a digital key, and reduced transaction costs. Reduced transactions costs were relative because the 'hidden' costs of electricity that was needed to run these technologies could prove to be prohibitive or quite costly. The adoption of cryptocurrency for financial transactions promoted economic growth in various ways: through money transmission, through currency exchanges between crypto and fiat currencies, through facilitating deposit and withdrawal of fiat currency, offering credit; facilitating small scale transactions like taxi fares, tuition fees, and facilitating insurance and large-scale transactions. All of this was possible with a mobile phone but without necessarily owning a bank account. In fact, Dr. Mapp's research in 2015 found that one of the first documented use of cryptocurrencies in Uganda, was for the payment of airport taxi fares.<sup>8</sup> Another instance was the widely publicised YouTube video about Ronald Nsubuga whose tuition fees was sent in Bitcoins by his sister in

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<sup>8</sup>The findings are in the Report of the Commonwealth Working Group on Virtual Currencies", Commonwealth Law Bulletin (2016) 42 (2) 263-324. The survey on Uganda was conducted by Maureen Mapp under the auspices of the Rule of Law Division of the Commonwealth Secretariat.



America. Ronald Nsubuga received part of the cryptocurrency, but subsequently the merchant vanished in Luwuum street Kampala, so he was scammed of his tuition fees.

The landscape of cryptocurrencies in Africa had changed tremendously. Since 2007 when Kenya launched its M-Pesa mobile money/online exchanges, through to 2009 when Satoshi Nakamoto's cryptocurrency was launched, technological developments had merged crypto assets with the phone, and the use of the internet. Kenya led the way in 2014 with Bit pesa – an international money transfer, and by 2018 there were several products on the market. For example, May 2018 saw the launch of an Africa-specific ethereum based cryptocurrency like Humaniq that included a chat feature for users.<sup>9</sup> In the same month, the M-Coin that works on any phone with or without internet and allows “pseudo-mining” that lets users earn mCoins on any ordinary mobile and lets the owners of mCoin virtual wallet send and receive mCoins by a global ONEm name without inputting a long wallet address. Mcoin could work for the 3 billion people without the internet. June 2018 saw Binance one of the world's largest crypto exchanges launch their cryptocurrency exchange in Uganda.<sup>10</sup>

These positive developments came with some risks. From a criminal law perspective, was the risk of fraud, theft, and hacking. There was the risk of cryptocurrencies being used in money laundering, and for terrorism financing. Then there was the business-related risk of unethical behaviour, practices like contracts for difference and the lack of a charge bank facility. For the start-ups and businesses, themselves was the challenge of securing data and maintaining data privacy. For regulators, the challenge posed by cross border businesses was just the tip of the iceberg.

The May 2018 [BTC](#) Global scam in South Africa that cost investors about a billion Rand, illustrated how companies were able to act fraudulently by convincing people to invest in digital tokens while promising an unachievably high interest rate, and then steal the depositors' money. In June 2018, Bithumb, a South Korean crypto-exchange and one of the largest in the cryptocurrency world suffered an attack in which over 30 million dollars' worth of [cryptocurrency](#) was allegedly stolen. In both instances, it was not clear if investors would get all their money back. Theft occurred where a private key was stolen, or where the owner gave the details of their digital wallet to the cybercriminal and their cryptocurrency was stolen. This happened in the Bithumb hack, where the victims handed over their details genuinely thinking that they were dealing with the managers of their account. Unethical behaviour came in a range of shades with some businesses offering unsuspecting customers high rates and claiming this was the customer's last chance to climb onto the economic ladder. Dr Mapp's discussions with some cryptocurrency start-ups had shown that the lack of a charge back facility where incorrect or disputed transactions could be cancelled was

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<sup>9</sup> <https://humaniq.com/>

<sup>10</sup> Official Launch of Binance Uganda Fiat-Crypto Exchange, June 2018, <https://support.binance.com/hc/en-us/articles/360006584151-Official-Launch-of-Binance-Uganda-Fiat-Crypto-Exchange>



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an area of concern as crypto tokens had sometimes been sent in error to the wrong person and the transaction could not always be reversed in the same way as those for fiat transactions. Regarding the contracts for difference, where an investor is encouraged to bet on the price movement of the coins. Investors (particularly those who are vulnerable) were not always aware of the highly speculative nature of the business and of the fact that they could lose their investment and yet still owe the firm money.

For firms and businesses, the risk posed to data security was real. Every hack meant that people's data including their user names, email addresses, physical addresses and telephone numbers had probably ended up on the dark web. Once data was compromised, it was difficult to get compensation. In the Bithumb scenario, the amount being offered in compensation for personal information leakage was little – about 870 dollars per person even where damage or harm has been proven. This problem would be exacerbated by the lack of regulation that recognises these kinds of currencies in South Korea.

For regulators (and governments), one of the worries was the use of cryptocurrencies for money laundering and terrorism financing. In fact, India was so concerned about this, that they had started to clamp down on cryptocurrency transaction and yet India had been very open to the use of cryptocurrencies. They were worried because of possible terrorism financing and tax evasion

Cross border jurisdiction also posed problems for governments in particular the fact that crypto assets issued in countries with enabling laws (like Japan) could be transferred to Africa, with no legislation or policies in place, yet their origins were difficult to trace (Desné Masi). Switzerland was a popular country for opening up crypto asset head offices as it had one of the most permissive regimes in the world. Once a head office was set up under Swiss law, the product was then launched in an African state that often lacked a robust consumer protection regime or regulatory framework and the product was sold or traded usually without an operating licence. Some start-ups working in emerging economies seemed reluctant to seek licensing or to operate through a registered company especially in African states. Setting up a head office in another country but operating without a licence in an African country indicated a gap in the African regulatory and policy space that left ordinary people vulnerable to exploitation, to lack of data protection and of data privacy among other risks. Looking at the example of the Swiss company and Microsoft that were offering the block chain services to Rwanda Land registry, it was not clear how data security and data privacy would be assured with questions of where personal data would be processed - in Switzerland, in the country receiving the blockchain database, or in a third country not clear. Secondly, what legal regime would apply- the *African Convention on Cyber Security and Data Protection*, or another regional Convention like the European Convention on Cybercrime, or national laws? Moreover, the liability of parties in case of a breach by the 'donor', recipient or third country where none of the countries had ratified or acceded to the African Conventions was unclear. Such areas needed to be given careful consideration before such multi-state systems were launched in Africa.



The Blockchain also posed some challenges to crypto business due to its immutability (lack of change) like that of information privacy, of choice of procedure across jurisdictions, and liability. Access to information was important, as the immutable nature of blockchain needed to be protected. Even so, due to concerns about privacy, some businesses may not want their Know Your Customer (KYC) documentation or customers digital identity to be available to other businesses with which they did not have (or had suspended) a business relationship. Similarly, if business operated in different jurisdictions, or wanted to follow their own in-house KYC procedures that suit their own risk policies and client profiles, this created a quandary regarding which regulations to use. Then there was the issue of liability where the customer who had been verified had themselves executed a fraudulent transaction, and it is not clear who should be responsible for re-verifying the client's digital identity and keeping the distributed database updated. A related question was how often the reverification process should be carried out. Customers themselves posed a problem to the Blockchain due to fraudulent use of the system.

The lack of policy, law and regulations in many African countries gave no clarity about the status of crypto assets like the Blockchain and cryptocurrency; of rights of users, of duties, and obligations of businesses (and individuals), and measures for consumer protection. As Mr Kisembo had pointed out, Uganda was the first country in Africa to host a round table in 2016 to discuss questions surrounding policy making and the regulatory landscape, and to agree on some form of instructive guidance which was then developed in the 2017 Kampala Declaration on Fundamental Principles of regulation drawn from technology, law, policy and sociology (culture) among others.

Three years on and in 2018, Uganda was moving towards agenda setting for public consultation which would hopefully lead to a Green paper that could be used by the government to begin public engagement on the way forward. Still, moving forward needed looking back at the state's response to emergent technologies that were 'leap frogging' the policy, legal and regulatory frameworks so as to draw lessons on collaborative approaches to policy making that engaged all parties. The binary approach to regulating technologies is usually a rule by law or rule by code. Rule by law governed the activities and was usually preceded by policy. Code governed the operations of the algorithm encoded by software. Such algorithms run the Blockchain, cryptocurrencies and related products. The state's response combined both approaches with more emphasis on rule by law. Examples included the Warnings by Central Banks against the use of cryptocurrencies since 2014, such as that issued by Uganda in 2017.<sup>11</sup> Notably, in 2018, Francois Groepe the Deputy Governor of the South African Reserve Bank issued a clear warning

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<sup>11</sup> Other warnings include South Africa (2014), Kenya- 2015; Uganda (2017), Nigeria (2017). The Governor of the Central Bank of Uganda's speech at the May 2018 conference indicates the cautious approach by the Central Banks- <http://ugbusiness.com/5058/bank-of-uganda-governor-remarks-at-africa-blockchain-conference>.



that cryptocurrency was not money as it did not meet the requirements of money in the economic sense: as stable means of exchange, a unit of measure and a stable unit of value.<sup>12</sup>

Another approach by states was to draw on existing strategy or existing policy say on Information Technology, tax, trade, or money in order to regulate business, investment, or usage of technologies. United States was an example of applying existing policy to technologies. Directives such as the 2018 Uganda Communications Commission Directive on sim card registration being congruent with national identity card registration, was another way in which states tried to address loopholes in the technology and to track illegal use of technology. Application of existing laws was usually through looking for compliance of financial rules such as that done in South Africa in 2018. Uganda has a more creative approach to the use of existing laws. For example, at the second-Round table discussion in 2017, the police explained how in the absence of a specific law they used the offence of 'Unlawful Assembly (Penal Code) to arrest those people operating a company called Crypto Save that conned people into investing in cryptocurrencies. It appeared to help the police get more information about the company (but not to prosecute them for fraud). Still, where there was no policy or law, or where public interests, rights, duties or obligations were unclear, parties sought judicial intervention as happened in the case of *Lipisha Consortium Limited & another v Safaricom Limited* [2015] eKLR Petition 512 of 2015.<sup>13</sup>

Uganda had decentralized systems and applications that were governed by the rules of code. At the 2017 Roundtable for example, the National Information Technology Agency (NITA) explained the introduction of the Public key infrastructure (PKI) that relies on a cryptographic standard (X.509) which organisations were using to provide, share and simplify the secure delivery of services or products.

The state response was not without problems. There was the narrow focus on binary controls of rule by law or rule by code; and the way in which regulators operated in regulatory silos with lack of joined up policies that could lead to potential overlap/collision. There was a corresponding lack of clarity for both investor and customer about rights, duties and obligations in this area. A third problem was that the regulatory response eschewed the current plurality of norms that sometimes differed from legal norms in terms of notions of autonomy, responsibility and obligation, and practices of non-state systems in many African countries. Uganda had taken tentative steps towards policy formulation as evidenced in the announcement in May 2018 by the Minister for Information, Communication Technology and national Guidance Honourable Mr Frank Tumwebaze that a Task Force on the Blockchain would be set up soon. This was welcome news,

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<sup>12</sup> SARS's stance on the tax treatment of cryptocurrencies, SARS 06 April 2018, <http://www.sars.gov.za/Media/MediaReleases/Pages/6-April-2018---SARS-stance-on-the-tax-treatment-of-cryptocurrencies-.aspx>

<sup>13</sup> In *Lipisha*, the petitioners argued that suspension of their service without notice violated the petitioners' right to fair administrative action under Article 47, the right to property under Article 40 and the consumer rights under Article 46 of the Kenyan constitution.



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however, given that the Blockchain was a technology that could either support or even replace the law, there was need to engage in wider research on the limits of blockchain-based systems of regulation. Agenda setting was one of the main tasks for the workshop that would help identify regulatory problems that needed to be addressed and also look at how they could be addressed. Participants were encouraged to explore questions about how to define the public, which categorisation could include investors, consumers, businesses, the luddites, academics and the marginalised groups. There were related questions on ways of engaging the public on policy questions; and whether to look at sector specific policy making or use a multi-sectoral approach to policy making. Problem identification could run simultaneously or be undertaken separately from policy formulation. The other policy 'circle' stages of policy adoption, implementation and evaluation would follow in due course.

The questions for the public facing policy making covered a range of areas. First there was the question of the status of cryptocurrency and the differing regulatory implications which would need research into the theory of money and currency in relation to the sovereign state, and which transactions and uses fell within consumer protection regimes. Proportionality as a basis of policy and legislative reasoning was another area to investigate. There was the question of ethics of responsibility in developing progressive policies such as the ethical standards of technology in relation to data security and privacy. Attaining procedural legitimacy through public participation in policy making would be a challenge but could rest on the African values like reciprocity, respect, and social harmony as espoused by some like Thaddeus Metz. The list was not exhaustive.

The 2017 Kampala Declaration *on Fundamental Principles on the Regulation of Cryptocurrencies and the Blockchain (Digital Ledger Technologies) in Uganda* was a useful starting point as it recognised two broad limits in the current regulatory framework: the lack of clarity of rationalised policy objectives, and the gaps in the constitutional and legislative mandates of financial and related regulators to govern the use of the new technologies. Giving full effect to the Declaration would need a multi-sectoral approach to bridge the disconnect between the public (broadly defined), policy-makers, and regulators about the socio-cultural, legal, economic and political implications of this emergent distributed ledger environment. Plugging this gap would help ensure that policies were not only evidence based, but also took into account technical rules (like those on exchange control, unfair competition and taxation), the principles of legality, technological neutrality, proportionality and the like, and were underpinned by a public participatory approach to policy making.

In her concluding remarks, Dr. Mapp pointed out that policy makers acknowledge that emergent technologies like distributed ledger technologies were a cost-effective method of enabling e-commerce. Even so, these technologies created unique challenges of a regulatory nature for policy makers regarding whether to promote innovation, to focus more on consumer protection or on some other policy objective. To resolve this tension, a move to develop progressive policies



that harnessed the benefits of the digital technologies, managed their risks, all the while engaging the public in the discussion was needed.

## **6 OPENING ADDRESS BY HONOURABLE GENERAL JEJE ODONG, MINISTER FOR INTERNAL AFFAIRS**

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The Minister welcomed the participants to the policy maker's workshop. He began his address by stating that cryptocurrencies and the Blockchain were difficult to understand by ordinary Ugandans. Cryptocurrencies were based on the generation of units of digital representations of currency and on the transfer of those units (funds) using encryption techniques to prevent unauthorised access to information and to verify users. There was no doubt that these cryptocurrencies had a considerable impact on the economy, on security, and on the interaction between people and nations.

On the one hand, cryptocurrencies were important for development. The Bitcoin for example, provided an outlet for gaining personal wealth, and it was possible for digital transformations to translate into a public good. On the other hand, although cryptocurrencies were making people wealthy, this development had happened outside the oversight function of the state and of its regulatory mechanisms. Cryptocurrencies operating outside of the established banking and trading systems could be used for illicit activities which could become harmful to the state and to individual citizens. Using the breakup of the Soviet Union as an analogy, the Minister explained how the fragmentation led to the creation of new states some of which were awash with illegal weapons. Those trading in and using illegal weapons were difficult to trace. By comparison, the down side of cryptocurrencies was that they could be used for illegal activities facilitated by the Dark Web. In such a situation, the function of the state was to protect the welfare of its citizens.

In response to these concerns, an initiative to inform policy considerations of the safe utilisation of these digital inventions was set up by UNAFRI and School of Law of the University of Birmingham. The Government of Uganda welcomed this expertise intervention and paid tribute to the University of Birmingham, and UNAFRI for leading the way in researching policy approaches to give clarity to cryptocurrency and block technology-based businesses and users and investors in the products. The Minister urged the participants to exhaustively discuss and propose ways to help the government prepare researched policy proposals. He was happy that the Minister for State for Finance General Duties was present as he would be well placed to bring any policy proposals to the attention of the government at an appropriate time.

Way back in July 2016 when the first Roundtable took place in Kampala, the notion of virtual currencies was a myth covered in mystery; evoking curiosity but also causing a lot of anxiety. Since then, there had been wider exposure on the subject including how it worked and its use as a means for the provision of services and goods. For that matter, there had to be a clearer understanding about its benefits and risks. This level of understanding had not yet been fully



achieved, which was why for example in February 2017, the Central Bank of Uganda issued a cautionary warning to the general public against the continued use of and dealing in cryptocurrencies. This cautionary note served its purpose: to indicate that the Central Bank was yet to indulge in the digital revolution that produces cryptocurrencies. The Bank that ought to guide the public appeared to be at the fringe of the revolution. Secondly, that cautionary note indicated that the policy making processes had not given direction to the adoption of cryptocurrencies in the mainstream operations of trade and commerce. The note was simply an acknowledgement that cryptocurrencies were not yet mainstream and yet they were gaining use in the economy, sometimes with unfortunate consequences to the unsuspecting public like fraud or theft arising from the lack of regulatory mechanisms and policy guidelines on their use. The public were left to face these challenges with no protection whatsoever. The positive and negative aspects of cryptocurrencies pointed to the need for regulation.

When discussing regulation, one needed to be clear on who bore the responsibility for regulation. The primary function of the state is to promote the welfare of its citizens as members of one family. It attains this function primarily by safeguarding those interests that are common to all people living within the state's jurisdiction. In fulfilling this responsibility, the state needs money and it is in this context that the state often evokes its financial function and attendant regulations. The policy question at heart of the debate was what the regulation was meant to do: promote innovation or safeguard the interests of all stakeholders? This question had to be deliberated on at the workshop.

The Minister requested the workshop participants to pay attention to six specific areas; measures for technological security, trust and risk assessment; approaches to regulating cryptocurrencies and block chain technology; the legality of cryptocurrencies including rights and obligations of the state, of the businesses/providers and of the users, as well as consumer protection and the promotion of ethical behaviour; the applicability of existing legislation frameworks in areas such as taxation, insurance and proceeds of crime; investigatory, prosecutorial and judicial approaches to settlement of dispute using forensic models; and finally the socio-cultural legitimacy surrounding consumer behaviour among the poor, rural and illiterate communities, and the use of socio-cultural legitimacy to protect these fringe communities.

In his closing remarks, General Odong requested the participants to read the Roundtable reports and the Kampala Declaration and to refine the recommendations in the Declaration. The recommendations of the workshop would help the government better engage in the development of a policy for the regulation of cryptocurrencies. The Government (through the Ministry for Finance) were keen on taking up the workshop recommendations and to promote them to other Ministries and government departments with a view to having wider discussions and adoption. Such workshops and roundtables were a step in a right direction as they were based on the exchange of expert and professional knowledge, views, and ideas which would help demystify the concept of cryptocurrencies and help deliver the expected intervention from the policy makers and regulatory authorities.



The Minister then officially declared the Workshop open.

## **7 KEY NOTE ADDRESS BY HONOURABLE DR. GERALD AJEDRA ARIDRU, MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES)**

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The Minister thanked the Director of UNAFRI, and the representative from University of Birmingham, Dr Mapp, for organising the workshop and welcomed participants to the workshop.

In his Key Note address, Dr Ajedra outlined the responsibilities for his Ministry in relation to policies for taxation, economic growth, financial stability and the like. Some policies raised concerns among the public regarding the justifications for the policies. A current example was the tax on social media (July 2018). The tax raised arguments which were similar to those posed by crypto currency enthusiasts. Arguments such as online transactions were conducted outside of Uganda, so they should not be taxed, or that the transactions are done only on the internet, were mooted in opposition to the social media tax. Similarly, some may argue that cryptocurrencies are transacted outside of the country and are intangible as we cannot touch or see them, so the state should not regulate them.

The Minister noted that the concept of cryptocurrencies was more complex than that of money, and therefore difficult for some to understand. The concept of money was easier to appreciate because it was based on the need for a medium of exchange. Historically, people engaged in barter trade- for example exchanging potatoes for salt. The system was imperfect so a medium of exchange that was acceptable to everybody was developed, leading to the creation of money. For example, in the 19<sup>th</sup> Century, the dollar was created and was backed by gold, but later on the United States Federal Reserve Bank decided to move away from backing the dollar with gold. The dollar today was not worth its equivalent at that time. The digital currency now posed challenges for the traditional concept of money

This policy maker's workshop was of significance to the development of Uganda. The upsurge in modernisation in the field of information and communication technologies had ushered in the digital revolution that had birthed the global phenomenon of virtual currencies that included cryptocurrencies. Cryptocurrencies were a technological development which was now manifest among the youth who were digital natives. Arguably, these technologies appeared to be prevalent and used by individuals and various organisations in the country. Still, despite large volumes of cryptocurrencies being traded daily, one of the challenges it faced was the volatility of the cryptocurrency. Bitcoin was one example- hitting a high of USD 20,000 per Bitcoin at one point before falling to 11,000 and then 8,000 USD. Such volatility raised questions about whether those



investing in or buying the cryptocurrency, particularly non-digital natives, understood it sufficiently to appreciate its benefits and risks. Equally, policy makers and regulatory bodies were facing challenges in coping with these developments as the cryptocurrencies were running parallel to the legal tender, functioning as a sort of measure of value but without any oversight by the financial sector.

Opportunities for understanding the concept of cryptocurrencies had been brought nearer to the public through initiatives such as the two roundtable discussions and the policy makers workshop organised by UNAFRI in collaboration with the University of Birmingham Law School. In continuing the search for effective interventions based on expert knowledge, this workshop had brought together Ministers, the judiciary, regulators, academics, and cryptocurrency and the Blockchain businesses to discuss contemporary issues in policy making and to lay strategies for public consultation on policy recommendations while drawing on and modifying the principles set out in the Kampala Declaration 2017. The Minister recalled that this initiative was organised on an annual basis to offer technical assistance to the Government of Uganda in the development of policy and legislation on the regulation of cryptocurrencies. This initiative was important to the Government because of the need for research and empirical findings from legitimate sources to guide the action plans for the development of Uganda's economy. Indeed, the momentum for policy guidelines had attracted the attention of experts, policy makers, judicial authorities, law enforcement agencies, bankers, and regulatory bodies in various fields. The Government was pleased that this initiative had resulted in a set of principles found in the Kampala Declaration which was discussed in 2017.

The Minister referred to the previous speaker (Dr Mapp) point about how M-Pesa had revolutionised the payment systems and the ways of receiving money. M-Pesa was a financial transactions development developed here in Africa and had now spread round the continent. Uganda's MTN Mobile Money was an example of how payment systems had been modelled around the M-Pesa concept and had contributed towards the financial inclusion of millions of people in rural Uganda. In the coming years, the integration of African economies would become a reality. Governments needed to consider cost effective policy measures to this digital transformation which would affect economic development. For this ideal to be realised, states needed to put in place a mechanism for its regulation. The problem, however, was the disconnect between policy-makers, the general public and the crypto currency businesses about the socio-cultural, legal, economic and political effects of this emergent cryptocurrency environment. It was imperative to plug this gap, so that the development of policy and laws, as well as law enforcement procedures, and the adjudication processes could be based on effective regulations and guidelines.

The Minister reiterated that on their part as policymakers, the Ministers would take the recommendations of the workshop, inform the Cabinet on the necessary actions to be taken. The Government of Uganda attached significant importance to this event that built on expertise in economics and related policy issues surrounding the regulation of Cryptocurrency and the



Blockchain technology. The Minister requested the participants to sustain the flow of relevant updates about regulation of cryptocurrencies in the country. He suggested that the topics for discussion be sector specific and cover a variety of areas including Ministerial or departmental level policies in the nascent area of cryptocurrency and the Blockchain regulation; in agenda setting for public involvement in policy making; in the role of policy making as a tool for proportionate law making; on the relationship between regulation and risk-based proportionate policy, on co-regulatory or self-regulatory approaches to regulation, and on the role of research in policy making. The workshop would inform policy developments in this area by offering recommendations and proposals on how the government could adopt, regulate and safely embrace the use of cryptocurrencies in Uganda's dynamic economy. The recommendation would contribute towards bringing Uganda to the middle level income status powered by a vibrant economy, consistent with Government policy of attainment of necessary transformation in all sectors of production as stated in the Agenda 2040.

Dr. Ajedra, concluded his speech by supporting the continued partnership between the government and the different stakeholders on the development of policy guidelines. While receptive to cryptocurrencies and the Blockchain, he reiterated that the government was seeking answers to the question of how to regulate them so that those risks including where people lost their hard-earned money through fraud, theft, hacking or some other action, could be minimised. He wished the participants a constructive discussion.

## **8 PANEL 1: LEGAL, TAX AND RELATED POLICY ISSUES**

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### **8.1 EXECUTIVE DIRECTOR OF THE JUDICIAL TRAINING INSTITUTE- DR. JUSTICE HENRY A. ADONYO**

Justice Adonyo noted that the reports from the previous two roundtable discussions, and from the presentations of the Ministers showed that there were questions regarding the direction that policy should take in this area needs to be done. He referred to an article written by Rahul Nambiapurath<sup>14</sup> which argued that African countries were warming up to cryptocurrencies which were being adopted mainly by the youth who wanted to earn a living from cryptocurrencies. Even so, Judge Adonyo warned that there was little by way of consumer protection at all stages of the cryptocurrencies eco-system like mining and investment. Many such businesses that operated cryptocurrencies did not have insurance or a bond to protect investors in African countries.

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<sup>14</sup> Rahul Nambiapurath, Uganda May Turn out to Be the Pinnacle of Cryptocurrency Trading and Evangelism, BTC Manager, March 26, 2018, <https://btcmanager.com/uganda-may-turn-out-to-be-the-pinnacle-of-cryptocurrency-trading-and-evangelism/>



Moreover, the volatility of cryptocurrencies could lead to economic uncertainty, financial instability and in the worst-case scenario: bankruptcy.

Given the unclear concept of cryptocurrencies and their status in relation to legal tender, their volatility and fraud surrounding its use, it was clear that there was going to be plenty of litigation in this area. As cases came to court for dispute settlement, the main problem was what legal regime would be appropriate for the aggrieved parties. There was the question of territorial jurisdiction- where the offence occurred or where the transaction took place, more so in relation to extra-territorial jurisdiction where the act or its effects fell outside the Ugandan courts. Another pertinent question for the courts would be the applicability of existing laws on electronic transactions like the Computer Misuse Act to digital assets whose ownership was not always easy to ascertain.

In his view, determining the type of policy, its purpose and who should make the policy, and at what level-national, regional or international level was an ongoing process. Equally important, however, were the appropriate remedies that the courts could give to aggrieved parties in the case of a breach. The latter was an area that required input from several stake holders in the Justice Law and Order Sector including the Law Reform Commission.

## 8.2 UGANDA REVENUE AUTHORITY, MR SOLOMON RUKUNDO

Mr Rukundo, began his presentation by explaining that cryptocurrencies were not being taxed in Uganda even though people made considerable profits through their usage. Non-taxation arose because the Uganda Revenue Authority (URA) was yet to pronounce itself on the status of cryptocurrencies which meant that users, investors and businesses were not certain about whether they were to pay taxes. This was unlike other countries like the United States where in March of 2014, the United States Internal Revenue Service (IRS) announced that it would treat cryptocurrencies as 'property' for tax purposes.<sup>15</sup> The IRS treats cryptocurrencies as an asset in the hands of the owner, similar to stocks or bonds.<sup>16</sup> A US taxpayer who held cryptocurrencies for more than one year would be deemed to own a long-term capital asset, which would attract capital gains tax at the disposition of the property.<sup>17</sup>

If cryptocurrencies were performing an economic function, whether as a store of value or a medium of exchange, this had tax implications.<sup>18</sup> Despite the legal uncertainty surrounding

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<sup>15</sup> IRS, *IRS Virtual Currency Guidance: Virtual Currency Is Treated as Property for U.S. Federal Tax Purposes; General Rules for Property Transactions Apply* (March 25 2014) <https://www.irs.gov/newsroom/irs-virtual-currency-guidance> accessed 3 June 2017

<sup>16</sup> Roman, José Andre, *Bitcoin: Assessing the Tax Implications Associated with the IRS's Notice Deeming Virtual Currencies Property*, 34 *Review of Banking & Financial Law* 451-457 (2015) at 453

<sup>17</sup> *Ibid*

<sup>18</sup> Dong He *et al*, *Virtual Currencies and Beyond: Initial Considerations*, IMF, 30, (January 2016) <https://www.imf.org/external/pubs/ft/sdn/2016/sdn1603.pdf> accessed 6 July 2018



cryptocurrencies, they were nonetheless subject to income tax. He cited a Kenyan case which held that regardless of the legality of the source of income, it was still taxable.<sup>19</sup> A similar approach had been adopted by other jurisdictions around the world.<sup>20</sup> Under the current legal regime, arguably cryptocurrencies were taxable under Ugandan law. URA could also issue practice notes setting out its interpretation of the tax laws for purposes of clarity.<sup>21</sup>

One possible tax was Income Tax paid on chargeable income.<sup>22</sup> The Tax Procedures Code Act 2014 (TPC) provided for a self-assessment tax regime,<sup>23</sup> where tax payers were required to file returns monthly or biannually<sup>24</sup> based on business income, employment income or property income.<sup>25</sup> Whether the income generated takes the form of regular fiat currency or cryptocurrencies, a portion of that income was still owed as taxes to the Government of Uganda. The challenge with taxing these individuals and companies is administrative not legal. The tax authority simply needed to build its capacity to reach these individuals and companies and to educate them on their tax liabilities and it would be possible to get them to comply bearing in mind that online exchanges and related businesses would be difficult to trace given that the law envisaged a physical presence.<sup>26</sup>

A second possibility was Capital Gains tax payable upon disposal of a capital asset such as land or company shares, in which the excess of consideration received at disposal over the cost base of the asset<sup>27</sup> was the gain. Capital Gains Tax (CGT) was a tax on the profit made upon disposal of an asset which has increased in value. By contrast, a capital loss was the excess of the cost base of the asset over the consideration received at disposal.<sup>28</sup> As the law stood, cryptocurrency users would be liable for CGT. The cost base of the cryptocurrency would be calculated upon acquisition as determined by the value of the cash, and the Fair Market Value (FMV) of the goods or services exchanged for the cryptocurrency. However, calculating these values required detailed record keeping about the use of currencies, moreover, the pseudonymous nature of cryptocurrencies also posed a challenge to the tax administrators who did not know which individual made a gain unless they declared this in their self-assessment of income.

Cryptocurrencies appear to qualify as supply of services under the Value Added Tax Act Cap 349 (VAT Act). Under section 16(2) (d) of the VAT Act, electronic services delivered to a person in Uganda qualified as a taxable supply of services. The supply of virtual goods like computer files

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<sup>19</sup> *Republic v Kenya Revenue Authority ex parte Yaya Towers Limited* Kenya CACA 55 of 2009

<sup>20</sup> *CIR v Delagoa Bay Cigarettes Co Ltd* 1918 TPD 391; *Mann v Nash* 16 TC 523, *Southern v AB Ltd* 18 TC 59

<sup>21</sup> Section 44 of the TPC Act 2014

<sup>22</sup> Section 4 of the Income Tax Act Cap 340 [Hereinafter ITA]

<sup>23</sup> Section 20 of the Tax Procedures Code Act 2014 [Hereinafter the TPC Act]

<sup>24</sup> Section 15 of the TPC Act 2014

<sup>25</sup> Section 17(1) of the Income Tax Act Cap 340 (ITA)

<sup>26</sup> Section 78 of the ITA

<sup>27</sup> Section 50(1) of the ITA

<sup>28</sup> Section 50(2) of the ITA



was considered by some like Jones and Basu as a supply of services.<sup>29</sup> Therefore cryptocurrencies as commodities were prima facie subject to payment of VAT. Penalties could arise where a person failed to register for taxes,<sup>30</sup> failed to furnish returns<sup>31</sup> and failed to keep proper records.<sup>32</sup> URA faced a major challenge with VAT fraud. Similarly, in other countries like the United Kingdom, in the case of *Navee Limited*<sup>33</sup> where the company's VAT account was deactivated, in court, Her Majesty's Revenue and Customs (HMRC) defence was that it was trading in cryptocurrency and therefore could not be audited.

Mr Rukundo pointed out the potential for tax evasion on a large scale given the pseudonymous nature of cryptocurrencies with users having multiple accounts but without providing significant identifying information, making it difficult to trace these earnings back to the service provider.<sup>34</sup> For example, despite an elaborate explanation by the IRS regarding how to account for income earned through cryptocurrencies, in February 2018 it was reported that only 7 percent of the estimated cryptocurrency users in the USA were accounting for the massive gains<sup>35</sup> made in 2017.<sup>36</sup>

In conclusion, a tax regime that hindered cryptocurrency use would in Mr Rukundo's view discourage legitimate use while leaving illicit users largely unaffected. Indeed, some legitimate users would end up becoming illicit users. At the policy level, the URA needed to issue a practice note clarifying the tax consequences of dealing in cryptocurrencies. The practice note would consider the various options available and their consequences and give cryptocurrencies an air of legitimacy by offsetting the impact of the Bank of Uganda caution issued in February 2017. However, compliance costs would increase because additional efforts would be needed to uncover the financial information of virtual currency users in order to verify their tax declarations. Partnering with tax agencies from other jurisdictions was one way in which risks of tax non-compliance could be dealt with.

### 8.3 BOWMANS UGANDA, MR DAVID MPANGA

Mr Mpanga used a jurisprudential approach which looked at new ways of doing old things. Writing was initially done on vellum as official documents. Over the years the same document, say a bill

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<sup>29</sup> Richard Jones and Subhajt Basu 'Taxation of Electronic Commerce: A Developing Problem' 16 1 International Review of Law Computers & Technology 35 (2002)

<sup>30</sup> Section 52 of the Tax Procedures Code Act 2014 (TPC)

<sup>31</sup> Section 54 of the TPC Act 2014

<sup>32</sup> Section 56 of the TPC Act 2014

<sup>33</sup> *Navee Ltd v Revenue and Customs* [2017] UKFTT 602 (TC) (03 August 2017)

<sup>34</sup> Omri Mariam

<sup>35</sup> Robert A Green, *Cryptocurrency Traders Owe Massive Taxes On Fat 2017 Gains*, Forbes, (9 January 2018) <https://www.forbes.com/sites/greatspeculations/2018/01/09/cryptocurrency-traders-owe-massive-taxes-on-fat-gains-in-2017/#1f6ea4e55472> accessed 3 May 2018

<sup>36</sup> Jen Wiczner, *Bitcoin Investors Aren't Paying Their Cryptocurrency Taxes*, Fortune, (13 February, 2018) <http://fortune.com/2018/02/13/bitcoin-cryptocurrency-tax-taxes/>



of exchange, migrated from being written on vellum to being printed on paper. The legal effect of the official document remained the same, although the form it took varied with years. Cryptocurrencies could be seen in much the same way- as a new form of expressing old ideas of value and exchange. Mr Mpanga also emphasised that the purpose of law was to protect citizens from harm, to prevent illegitimate and illegal businesses and to criminalise fraudulent acts. The Anti-Money Laundering Act<sup>37</sup> was an example of this. Any law relating to cryptocurrencies would have to fulfil this key purpose of law.

Regulation as a means of promotion and protection for innovation and deepening of financial inclusion was necessary in some industries. There was evidence that cryptocurrencies could be useful in increasing insurance penetration in Uganda beyond its current levels of one percent<sup>38</sup> through automatic payment systems and smart contracts.<sup>39</sup> Despite these innovations, at the level of policy, in particular taxation policy, there was need to question the need for new legislation or administrative measures. Policy makers also had to bear in mind the value of the Blockchain as a means of managing and regulating assets. Even in the extensive sector of agriculture which is still the backbone of the country's economy, profits still were largely untaxed.<sup>40</sup> If we cannot tax cattle what about cryptocurrencies? Determining a gain may also need to be considered-as whether in fact there was a gain in the use of cryptocurrencies may be questionable.

Case law would be useful as judges would need to come up with new ways to deal with these developments and innovations. Even if the law was not amended and no new law is passed, people would still go back to the courts to settle their disputes. Judges would have to sieve through the facts to decide on the core issues and the long-standing legal principles would still apply. Judges could find the ingredients of a contract present in the sale or purchase of cryptocurrencies or when they are used to buy items or services. This could mitigate our fears over the cryptocurrency revolution.

While it may be true that the drivers of cryptocurrencies were illegal or illicit activities such as tax evasion, money laundering and so on, participants would bear in mind that the main drivers in the development of the Internet was questionable activities like pornography. This was the main reason for the development of video streaming via the Internet. Many aspects of e-commerce developed to support the pornography industry and were subsequently extended beyond it.<sup>41</sup> The cause may be immoral, but people were all enjoying the benefits.

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<sup>37</sup> Anti-Money Laundering Act, 2013

<sup>38</sup> Insurance Regulatory Authority, Annual Insurance Market Report, 2015, <https://www.ira.go.ug/report2015.pdf>

<sup>39</sup> Valentina Gatteschi et al, Blockchain and Smart Contracts for Insurance: Is the Technology Mature Enough?, Future Internet, 2018, [www.mdpi.com/1999-5903/10/2/20/pdf](http://www.mdpi.com/1999-5903/10/2/20/pdf)

<sup>40</sup> Alon Mwesigwa, Agriculture Grows but Tax Contribution Remains Low, The Observer, 26 October 2016, <https://allafrica.com/stories/201610260382.html>

<sup>41</sup> Paul Rudo, Ten indispensable technologies built by the pornography industry, Enterprise, June 5, 2011, <http://www.enterprisefeatures.com/ten-indispensable-technologies-built-by-the-pornography-industry/>



As the technology was adapted to suit Uganda, the question of the nomenclature was important to making distributed ledger technologies more acceptable. For example, the Luganda word for 'the Internet' could be translated as '*Omutimbagano*'. The translation would of course depend on what we conclude that cryptocurrencies actually are: securities, commodities, or currencies? Mr Mpanga concluded his talk by suggesting that the nomenclature and other legal questions would have to be decided basing on questions relating to proof of ownership and contractual rights.

#### 8.4 MR. ROBERT KIRUNDA, BIRTECO LIMITED

Mr Kirunda noted that one of the major challenges to policy making was the use of the term "currencies" to describe cryptocurrencies. He wondered if it was better to describe them as a "digital assets frameworks" as this might be more representative of the nature in which they were used. Such a term might lead to less hostility from government regulators. There was an ongoing debate on this<sup>42</sup>, but it was important to understand how cryptocurrencies worked and the different types of tokens. There three types of crypto-tokens: Assets backed tokens, utility tokens and cash-based tokens were all distinct and functioned differently. The challenges posed by each ought to be addressed uniquely and separately.

Mr Kirunda cautioned against introducing regulation before coming up with a policy. The policy had to precede the regulation otherwise we could end up with scenarios like those of the ill-planned tax on social med which had led to protests among the public.

In developing policy, Mr Kirunda reminded participants about the disruptive but unstoppable nature of these cryptocurrencies. Years ago, when the Internet was in its infancy, the idea of email seemed foreign as there were concerns about how it would impact on the post office and so on. It was viewed as disruptive technology. If email had been banned, how would the ban have been enforced and would it have been successfully implemented? Now years down the road, the post office was seeing a revival as it now supported delivery of items through e-commerce done on the Internet. Policy makers needed to distinguish between risks and challenges. Some risks were genuine, but others were just concerns about the disruptive nature of the cryptocurrencies.

#### 8.5 MR. ARNOLD BAGUGWAGYE, FINANCIAL MARKETS DEPARTMENT, BANK OF UGANDA

Mr Bagugwagye began by demystifying the alleged incident at the May Kampala Blockchain conference between the President and the Governor of the Central Bank. He explained that there was no disagreement, but rather the Head of State was only asking the Central Bank to be more flexible. Central banks, he explained, were designed to function like auditors. They approach

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<sup>42</sup> Nathan Rose, Crypto Assets, Cryptocurrency – What's In A Name?, Citizens of the World, Feb 5, 2018, <http://citizensoftheworld.io/crypto-assets/>



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everything with professional skepticism and try to find fault with every innovation and new financial product. The Central Bank's conservative approach is by design and it is there to protect the interest of the depositors. That said, he explained that the Governor was very clear when he said that the Bank was open to discussion especially around the technology of the block chain which is the underlying technology on which the cryptocurrencies are based or built. Everyone appreciates what the blockchain can do. It has capabilities to enhance efficiency. It can help with the work of the Central Bank, which is why they were open to discussion.

Regarding cryptocurrency regulation, Mr Bagugwagye saw this as a third engagement which means that some progress has been made already. There remained the challenge of the word "currency" which continues to be used. In his view, as long as we continue using the word "currency" then there was bound to be a clash with Bank of Uganda, because the definition of a currency takes on certain characteristics such as store of value, medium of exchange and unit of account. The archetypical cryptocurrency is Bitcoin which had a value oscillating between USD 20,000 to USD 8,000 in a matter of hours. One could of course argue that the Uganda shilling could lose value, however, a currency like the Uganda shilling only depreciated by a rate of about 5% per year.<sup>43</sup> With Bitcoin, the depreciation could go up to 60% in a very short period of time. Bitcoin also failed as a medium of exchange. For something to qualify as medium of exchange it must be acceptable by both parties that is by both the seller and the purchaser in a transaction. The US dollar is a medium of exchange across the globe because it is acceptable. These cryptocurrencies are not yet fully acceptable as a medium of exchange. Of course, one could argue that the workshop was the start of the discussion about whether this was a medium of exchange. Perhaps in a few months everyone could be using Bitcoin as a medium of exchange but until that point we should not call it a currency. The third issue is whether cryptocurrencies could function as a unit of account. There was bound to be a lot of confusion in society where multiple cryptocurrencies are in operation simultaneously.

There are number of other concerns. Some countries had made progress in terms of adopting cryptocurrencies and even have cryptocurrency ATMs.<sup>44</sup> You could go to an ATM and withdraw cash, but that means there must be some clear mechanisms through which you can exchange your cryptocurrency and get cash. But there was uncertainty about how much money one could get out of it. There were also jurisdictional issues. In some countries they have been declared illegal. So from the regulatory perspective, one needed to study all these cases and try to understand why these jurisdictions, even jurisdictions where this whole concept appears to have started, are a bit cautious of it.

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<sup>43</sup> Martin Luther Oketch, Uganda Shilling depreciated by 5.5 % in 2016, says BoU, Daily Monitor, January 4 2017, <http://www.monitor.co.ug/Business/Uganda-Shilling-depreciated-by-5-5---in-2016--says-BoU/688322-3505632-bcgk3j/index.html>

<sup>44</sup> Victor Kiprop, Kenya's first bitcoin ATM up, offers instant cash purchases, The East African, June 18 2018, <http://www.theeastafrican.co.ke/business/Kenya-first-bitcoin-ATM-up-offers-instant-cash-purchases/2560-4619198-146gfg8z/index.html>



In his concluding remarks, Mr Bagugwagye recommended a rethink of the word “currency”-it could be called something like “crypto Uganda shilling” or “Uganda crypto shilling” and could be backed by the legal framework and by the state. It could be managed in terms of its elasticity when there is a lot in supply. This would however remove the juice from the typical cryptocurrency which people are holding because it was likely to go in one direction-upwards.

## 8.6 MR TOM WALUGEMBE, OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS:

Mr Walugembe raised questions regarding the use of certain platforms for various sorts of services that could either encourage or facilitate criminal activity. The question was how the platform could be regulated given that people embraced these new technologies faster than those in the criminal justice system. Some criminals were even more sophisticated than the law enforcement agencies who were trying to chase them.

There were five major areas where cryptocurrencies posed a risk in terms of criminal activities: tax evasion, money laundering, fraud, covert transactions and extortion. At the time of the workshop, the DPP’s office had not yet prosecuted a cryptocurrency related criminal case in Uganda, but around the world, there had been some criminal cases that involved cryptocurrencies. One of the incidents that captivated my mind occurred in December 2017 in Ukraine, Pavel Lerner a blockchain expert working with a UK based exchange was kidnapped and the company had to pay USD 1 million in ransom, but in Bitcoin.<sup>45</sup> Similarly, in 2017 there were ransomware attacks where criminals hacked websites of service providers and demanding for payment in Bitcoin.<sup>46</sup> If such a crime were to happen in Uganda, the question was how the prosecutors could gather evidence given the problems of anonymity.

The other criminal risk is theft of the cryptocurrency itself though the proponents of cryptocurrency will argue that it is very safe and very hard for one to steal it. There had been reports of theft of cryptocurrencies, with one report stating that over USD 1. 2 billion worth of cryptocurrencies had been stolen since 2017.<sup>47</sup>

Any policies in this area would aim to protect the consumers. Mr Walugembe proposed that in regulating the fintech industry, Uganda could borrow a leaf from Japan who had moved to regulate the exchange of Bitcoin and other cryptocurrencies incorporating it into the mainstream financial

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<sup>45</sup> Russia's bitcoin expert Pavel Lerner freed after kidnapping, DW, 30 December 2017,

<https://www.dw.com/en/russias-bitcoin-expert-pavel-lerner-freed-after-kidnapping/a-41975644>

<sup>46</sup> Michael Baker, How Cryptocurrencies Are Fueling Ransomware Attacks And Other Cybercrimes, Forbes, Aug 3, 2017, <https://www.forbes.com/sites/forbestechcouncil/2017/08/03/how-cryptocurrencies-are-fueling-ransomware-attacks-and-other-cybercrimes/#40f60d9f3c15>

<sup>47</sup> Gertrude Chavez-Dreyfuss, About \$1.2 billion in cryptocurrency stolen since 2017: cybercrime group, Reuters, May 24, 2018, <https://www.reuters.com/article/us-crypto-currency-crime/about-1-2-billion-in-cryptocurrency-stolen-since-2017-cybercrime-group-idUSKCN1IP2LU>



sector.<sup>48</sup> Japan now treated people dealing in cryptocurrencies as “accountable persons”. Under Uganda’s Anti-Money Laundering law, an accountable person would be required to do due diligence on one’s customers to find out what their source of income is. He noted that in Japan after the passing of the amendment that required cryptocurrency exchanges to report suspicious transactions, over 170 cases of suspected money laundering had been reported within six months.<sup>49</sup> Uganda could require the people who exchanged cryptocurrencies to be named as accountable persons under the Anti-Money Laundering Act so that they too had to comply with due diligence requirements.

Mr Walugembe concluded by emphasising the importance of skills training for prosecutors and police detectives. Even the judges themselves, he argued needed to be open to new knowledge. However, a starting point was the development of strategies and policies that would protect consumers from criminal behaviour, and also prevent the platforms themselves from being used as tools for furtherance of criminal enterprises.

### **8.7 MS JEROLINE AKUBU, UGANDA LAW REFORM COMMISSION:**

Ms Akubu began with an observation about the sizeable proportion of people in Uganda who were interested in cryptocurrencies and the blockchain, and the large numbers who knew little or nothing about these technologies. She underscored the need for mass education so that ordinary people to be able to understand what the policy discussions were about. Public facing policy making was important if laws were to be understood.

From the perspective of law making, regulation and policy, Ms Akubu highlighted the National Payments Bill that was discussed by the Cabinet in 2017 and was nearing completion. Of completion would be the principles as agreed by the Cabinet because it was not clear if the Bill addressed all the issues related to what was discussed. Some pertinent questions included what the law ought to cover, and whether the regulation or law should take the form of an amendment to any principal legislation already in place. What was not clear was whether the existing laws were applicable to cryptocurrencies and the Blockchain or whether sector specific laws were required.

Very few countries she noted, had specific legislation in this area. Most countries which have developed a friendly approach, had welcomed cryptocurrencies and were trying to see how to work with them and how to come up with laws to protect investors and other people from risks. The areas to be looked at ranged from taxation to issues of data protection, and fraud. If one were to prefer legislation as a regulation, then what were the jurisdictional issues that arose in cross

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<sup>48</sup> Amy Castor, How Japan Is Creating a Template for Cryptocurrency Regulation, Bitcoin Magazine, May 11, 2018, <https://bitcoinmagazine.com/articles/how-japan-creating-template-cryptocurrency-regulation/>

<sup>49</sup> Jiji Kyodo, 170 money-laundering cases in Japan involved cryptocurrency in six months since April, Japan Times, Nov 30, 2017, <https://www.japantimes.co.jp/news/2017/11/30/national/crime-legal/police-say-170-cryptocurrency-laundering-cases-suspected-six-months-april/#.W37qJbhRWUk>



border activities. In drafting laws, issues of the taxonomy were important such as whether cryptocurrencies could be categorized as currency. For instance, in Germany cryptocurrencies were not a commodity, not a stock, not a currency but were classified as private money which was equivalent to foreign exchange.<sup>50</sup>

In her concluding remarks, Ms Abuku informed participants that the Law Reform Commission was developing a law reform program which intended to cover all the areas of legislation for the next four to five years. The regulation of distributed ledger technologies would be definitely be captured in the program.

## 9 PLENARY SESSION DAY 1

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The Plenary session identified four main policy gaps, issues of public engagement and regulatory matters.

1. First was the content gap on the concepts of and taxonomy of the new technologies. The definition remained one of the main challenges especially if technologies had to be defined in a way that the public could understand. Such definitions included what the technology did, how they functioned and how they differed from other technologies. For example, how cryptocurrencies differed from regular currencies. A clear nomenclature was needed- one that was understood by the public.
2. The second gap was the legal gap. It was agreed that the scope of the existing law needed to be clear including on issues of extra territorial jurisdiction law. Examples of the Data Protection Bill was considered to illustrate how some of these gaps remain.
3. The third gap was the knowledge gap which existed not just in the public sector but also in the private sector. Participants noted that although it was popularly believed that those who worked in the public sector did not know about emergent technologies, one would be surprised at how knowledgeable some civil servants were about them. Some public and civil servants had attended some workshops and trainings about cryptocurrencies and had noted that there was a lot of misinformation. The presenters from the private sector were telling lies to the unsuspecting public. So, it could be that the private sector did not fully grasp this concept and the functionalities of the technologies involved.
4. The fourth gap was the skills gap which was mentioned by the DPP's office. It was imperative that professionals working in law enforcement and in related sectors like the judiciary obtained the relevant skills to handle technologically enhanced matters.
5. The final question was where and how the public would be sensitised- in the villages? Online only? These were questions that were pertinent to public engagement. Most importantly, the message that went out to the public needed to be contextualised and

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<sup>50</sup> Matt Clinch, Bitcoin recognized by Germany as 'private money', CNBC, 19 Aug 2013, <https://www.cnbc.com/id/100971898>

harmonised in a simplified manner that targeted the different regions. In one region, cattle may be viewed as an asset while in another region, it was millet. The messages to these different areas needed to be framed in appropriate language and terminology. The end product had to be a message which could be validated and integrated into the policy paper that could in turn be used for public consultations.

6. Other participants observed that the industry was correcting itself and dealing with those challenges through new technologies. Whereas three years ago, people have been cloning their blockchain technologies from the original bitcoin blockchain., today we had the third generation blockchains original.<sup>51</sup> Regarding cryptocurrencies, new coins were dealing with the problem of scalability, others with the speed of the transactions and even others with volatility. For example, Dagcoin<sup>52</sup> was developed to deal with limitations of scalability and speed. They claimed to do up to one million transactions per second.<sup>53</sup> The faster the speed of the transactions and the lower the transaction fees the better. New coins like NetSEC were developed to stabilise the cryptocurrency market and deal with the issue of volatility. The value of all these assets, it was argued could not all go down at the same time. Similarly, if gold went down, the oil and gas industry may still go up or forex trading may go up. This was one way that the industry was sorting itself out, and regulators needed to take this into account. The President's pronouncements at the May conference had increased transactions for dealers in cryptocurrencies with more transactions in cars, even houses. The reality was that policy makers ought to be more supportive of the technologies that were here to stay

## 10 DAY 2: MORNING SESSION PANEL

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### 10.1 UGANDA COMMUNICATIONS COMMISSION, MR JULIUS MBOIZI

Speaking as a technology regulator, Mr Mboizi focused on the Blockchain. He explained that the Uganda Communications Commission (UCC) looked at three aspects of the technology: the integrity of the platform; data privacy and protection and the inter-operability of systems. UCC used a service and technology neutral approach to regulation which meant that they did not look at the specific technology or specific service. Instead, they looked at whether that service or technology was being offered in a safe, secure and reliable manner. The UCC considered if the proposed regulation was obsolete. By applying a principles-based approach to regulation, this enabled the UCC to 'future proof' the regulation to ensure that it did not become obsolete or overtaken by advancement in technology.

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<sup>51</sup> Sudhir Khatwani, Top Five Blockchain 3.0 To Watch Out For In 2018, CoinSutra, 18 April 2018, <https://coinsutra.com/3rd-generation-blockchain/>

<sup>52</sup> <https://dagcoin.org/>

<sup>53</sup> Yary Ribero and Daniel Raissar, Dagcoin whitepaper, Dagcoin, 19 July 2017, <https://dagcoin.org/whitepaper.pdf>



Some of the principles that ought to be considered with any regulation were harmonization which required some sort of private-public sector collaboration. This could include the harmonisation of technology across telecom companies; the tax, finance, insurance and legal sectors. That way, the different government agencies could speak to each other. Harmonisation could also occur across borders at the regional and continental level. A second principle was proportionality. Too much regulation too soon could suffocate all the innovation that was coming up. However, we cannot just leave everything to run unregulated because the consumers would remain exposed to unscrupulous businesses. Third was the neutrality principle which required that the focus should be on how a service is offered rather than the type of service being offered.

The UCC was looking to use Sandbox regulation as the best alternative for the Blockchain. The sandbox regulation was an actual pilot environment or test environment whose compliance requirements were not be as stringent as the requirements that apply to existing traditional technology applications. For example, requirements in terms of costs and of proof of concept were much lower. The idea was that whoever is interested and had products which showed some potential could apply and may be allowed to operate in the market subject to modifications. After a given period of time, the technology regulators would have built enough capacity and knowledge to understand how to deal with the product on offer.

Mr Mboizi concluded by showing how the sandbox regulation approach dealt with potential risks and benefits including the scope and classification of products and services that would be accommodated in that sandbox. The UCC considered the eligibility criteria for players as well as the rules of the scheme in terms of oversight and control obligations, risk management controls, customer protection safeguards and customer redress mechanisms. UCC also looked at reporting requirements both interim and final, expiring and revocation of approval and the duration that a company could be the sandbox environment. At the end of the test period end, either the company moves out of the sandbox and is offered a licence or is rejected if the product is too risky to be let out into the market. UCC was looking at possible regulatory exemptions and incentives like spectrum, numbers and other resources that could be used to incentivise people to join the sandbox. Finally, the limitations of operation within the sandbox for example, determining how many customers any regulated business can bring on board when testing the product or determining the maximum value of transactions that one would be allowed to engage in were also considered.

## **10.2 MR DAN MUNANURA, ASSISTANT COMMISSIONER OF POLICE IN CHARGE OF THE ELECTRONIC COUNTER MEASURES UNIT, UGANDA POLICE FORCE**

Mr Munanura began by pointing out that from the outset, cryptocurrencies were created to avoid regulations. Cyber criminals always sought anonymity such as hiding their IP addresses or using



fake IP addresses to commit a crime. Use of fake IP addresses suggested that they were in fact in another country. Whereas anonymity on its own was not wrong, it did make it easier for some crimes to be committed such as terrorism financing, money laundering, drug trafficking, ransom collection, forgery, and the hiring of assassins. Hacking was also easier to facilitate as illustrated by recent Distributed Denial of Service attacks. For those cryptocurrency users who were not conversant with information security, their private keys could be used to transfer the cryptocurrencies from their wallet accounts.

In Uganda, people were taking advantage of the popularity of cryptocurrencies and were creating fake companies which purported to deal in them. Within Kampala alone, the police had handled over 100 companies which are involved in that kind of fraud. Criminals had fleeced a lot of money from unsuspecting citizens. The police had also received reports of cases involving well known cryptocurrencies like the Bitcoin, but most of these involved people who had not taken care of their private keys. This was because many users were still not conversant with computers and so they opened cryptocurrency accounts with the help of agents to whom they entrusted their private keys. An agent who was fraudulent could then easily transfer some coins from the customer's wallet. So far, the police had not yet successfully investigated to conclusion, any cryptocurrency related case. However, countries like Denmark,<sup>54</sup> the police had succeeded in getting convictions in cases. Afrifol, the FBI and Interpol had taken an interest in cryptocurrencies, and Uganda had collaborated with Interpol in cases relating to online child exploitation and successfully tracked down the culprits involved.

Mr Munanura offered some recommendations on policy:

- (1) Traders should be registered with regulators to enable the police get information about that accounts involved in fraudulent money transfers.
- (2) Cryptocurrency traders should comply with the Anti-Money Laundering (AML) requirements. However, the requirements should provide for real names and exclude pseudonyms which makes criminals difficult to trace.
- (3) Agencies of government involved in prosecuting and investigation should be offered relevant training.
- (4) Tracing technology should be purchased to help with investigations.
- (5) Mass sensitization on information security should be carried out to enable people learn how to secure their private keys and passwords.

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<sup>54</sup> Már Másson Maack, Danish police first in the world to hunt down criminals using bitcoin, The Next Web, Feb 21, 2017, <https://thenextweb.com/eu/2017/02/21/danish-police-hunt-down-criminals-using-bitcoin/>



### **10.3 MR. MICHAEL KIZITO, SCHOOL OF COMPUTING AND INFORMATION TECHNOLOGY, MAKERERE UNIVERSITY**

Mr Kizito began by outlining the distinction between the Bitcoin which runs on the blockchain technology. The blockchain is a distributed ledger technology or file system that keeps copies of files of the participants who agree on the changes by mutual consensus. The file consists of blocks, where every block has a cryptographic signature of the last block, making an immutable record. This could potentially render the existing banking and related systems obsolete. Blockchains' secure value transfer features could enable the information technology revolution penetrate major sectors which include finance, economics and law, IT has been used for a while now in these sectors, but they have not completely been transformed.<sup>55</sup>

Mr Kizito pointed out that some commentators argued that the blockchain was a solution that could replace many inefficient information systems like electronic patient records, property transfers, legal contracts and payments systems. Many of these systems had one control system and in case of no backup they could fail due to a server failure or an attack from hackers. Blockchain systems could offer a solution as they were highly decentralised and distributed in nature. The records are saved on several servers and computers the world over which eliminates the central point of failure.

Some financial institutions in USA and Europe were in the process of implementing private ledgers. These were controlled application of technology, where the user identity was known and confirmed. Conversely, the public ledgers were censorship-resistant pseudonymous ledgers where the user or wallet was not traceable to the individual executing the transaction. In other words, the private ledgers were permissioned while the public ledgers are permissionless. The private groups could implement business rules such as transactions which take place only where no more than two parties had endorsed them, and where another transaction had been completed before the next one could take place.

For example, in the private sector in the USA where the ownership and origins for goods are mapped out by distributed ledgers had a consortium R3 CEV of over 70 large financial institutions- a blockchain startup dedicated to the development of standards for the industry. The NASDAQ adapted the technology to record trading in securities of private companies.<sup>56</sup> They developed Corda a platform that is using permissioned blockchain. It was built with the financial industry's context in mind to avert some of the problems the original blockchain would pose in the finance

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<sup>55</sup> Swan, M. (2015), "Blockchains may replace the institutions that safeguard commercial activities", London School of Economics (LSE) Business Review, available at: [www.blogs.lse.ac.uk/businessreview/2016/03/31/blockchains-may-replace-the-institutions-that-safeguard-commercial-activities](http://www.blogs.lse.ac.uk/businessreview/2016/03/31/blockchains-may-replace-the-institutions-that-safeguard-commercial-activities)

<sup>56</sup> Morgan, R. (2016), "It's all about the blockchain: Amid the hoopla over bitcoin and other virtual currencies, it's the underlying documentation platform that's revolutionizing transactions", ABA Banking Journal, p. 51, available at: [www.bankingjournal.aba.com/2016/03/its-all-about-the-blockchain](http://www.bankingjournal.aba.com/2016/03/its-all-about-the-blockchain)



industry. This consortium started in 2014 but in 2016 a number of financial institutions left the consortium. Despite some players leaving the consortium, it continued to develop Corda and get new players coming on board.

Mr Kizito recommended the need for the public to get involved in permissionless distributed ledgers which required sensitisation. People would have more confidence in the technologies, but regulation was necessary to protect consumers. Regulatory intervention ought not to be highly restrictive because placing many limitations at this stage would limit innovation and inhibit growth. The regulatory framework should focus on consumer protection in relation to cryptocurrencies and prevention of crimes like money laundering. This happened in the US case of *Liberty Reserve*<sup>57</sup> and the shadow trading site called Silk Road<sup>58</sup> which were used for money laundering and other crimes.

#### **10.4 KWAME RUGUNDA, BLOCKCHAIN ASSOCIATION OF UGANDA<sup>59</sup>**

Mr. Rugunda thanked UNAFRI and the University of Birmingham for breaking the ground and trailblazing in discussing the regulation of cryptocurrencies and blockchain easing the way for those with some interest, some knowledge and some enthusiasm in the sector. Mr Rugunda began by setting out the context and discussions of the May Conference- the largest event on blockchain in Africa. One of the highlights was the President of Uganda's speech in which he urged developers to translate complex concepts around the blockchain into the ordinary language of *wananchi*.<sup>60</sup> Translating policy into local languages was equally relevant to today's issue of public awareness.

Mr Rugunda illustrated how the Blockchain is truly a transformational technology which is why the World Economic Forum which happened in January 2018<sup>61</sup> focused on (among other things) this new innovation which was dubbed the fourth industrial revolution.<sup>62</sup> A company called Binance, which is the world's largest cryptocurrency exchange, announced last week that it will be setting

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<sup>57</sup> Jonathan Stempel, Liberty Reserve founder must face \$6 bln laundering case in U.S., Reuters, September 24, 2015, <https://www.reuters.com/article/usa-cybersecurity-liberty-reserve-idUSL1N11T2G420150923>

<sup>58</sup> Andy Greenberg, Silk Road Creator Ross Ulbricht Loses His Life Sentence Appeal, Wired, 31 March 2017, <https://www.wired.com/2017/05/silk-road-creator-ross-ulbricht-loses-life-sentence-appeal/>

<sup>59</sup> <https://www.baoug.com/>

<sup>60</sup> Citizens

<sup>61</sup> Blockchain, <https://www.weforum.org/agenda/archive/blockchain/>

<sup>62</sup> World Economic Forum, Blockchain Beyond the Hype: A Practical Framework for Business Leaders, April 2018, [http://www3.weforum.org/docs/48423\\_Whether\\_Blockchain\\_WP.pdf](http://www3.weforum.org/docs/48423_Whether_Blockchain_WP.pdf)



up offices in Uganda.<sup>63</sup> Blockchain technology, could enable Uganda to move to middle income status<sup>64</sup> in a much more rapid fashion. Regulators had also taken notice and now want to understand what a cryptocurrency exchange does and how people could use fiat currency, the Uganda shilling, to buy cryptocurrencies on the largest exchange in the world. This meant that there was going to be a huge global demand for the Uganda shilling and this would be a boost to our economy.

Mr Rugunda concluded by calling upon parties to contribute towards the work of the Task force where issues of anti-money laundering and regulatory policy dynamics would be captured in the mandate of the task force. He expressed the desire for the Working Group to make the most of their contribution for the development of the country.

## 11 PANEL 3: KTA ADVOCATES AND SOLICITORS, MR MUHANGI KENNETH

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Mr Muhangi focused on the question of whether we need new regulation or whether we need any regulation at all and what the current legal position in Uganda is. In 2017 Bank of Uganda issued a notice against the cryptocurrency One Coin<sup>65</sup> warning that it is similar to a Ponzi scheme.<sup>66</sup> The Bank of Uganda notice was to the effect that anyone who was dealing with One Coin or Bitcoin was doing so at their own risk. However, perhaps because Uganda is a defiant society, despite that warning, the use of other cryptocurrencies and the talk about the blockchain has since tripled.

The blockchain has a number of benefits some of which previous speakers had already mentioned. One example was the land registry where there was a lot of fraud which was being investigated by the commission of inquiry into land matters.<sup>67</sup> The inherited Torrens system was adopted from the common law system, but it requires a certificate of title as conclusive proof of ownership. However, because of the nature of the land registry, it was easy for people to forge these titles and this had been happening over time. The blockchain offered a unique code for each property and this code was linked to a smart key which is only held by the owner. Transfer of the property would then require surrender of the smart key by the owner and without it, a transfer of property cannot be effected. The use of Blockchain to record property transactions

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<sup>63</sup> Official Launch of Binance Uganda Fiat-Crypto Exchange, Binance, June, 2018, <https://support.binance.com/hc/en-us/articles/360006584151-Official-Launch-of-Binance-Uganda-Fiat-Crypto-Exchange>

<sup>64</sup> One of the Ugandan government's goals is to have citizens attain middle income status by the year 2020: Uganda National Planning Authority, Roadmap to Attaining Middle Income Status for Uganda, <http://npa.ug/wp-content/uploads/ROADMAP-MIDDLE-INCOME-STATUS-FOR-UGANDA.pdf>

<sup>65</sup> <https://www.onecoin.eu/en/>

<sup>66</sup> Warning to the general public about 'One Coin Digital' Money operations in Uganda, Bank of Uganda, February 14, 2017, <https://www.bou.or.ug/bou/media/statements/One-Coin-Digital-Money-operations-in-Uganda.html>

<sup>67</sup> Land commission resumes hearing, New Vision, 24 July 2017, [https://www.newvision.co.ug/new\\_vision/video/1458381/land-commission-resumes-hearing](https://www.newvision.co.ug/new_vision/video/1458381/land-commission-resumes-hearing)



could also produce more effective property management as information could be reviewed in real time with less on-going management time required. Recently there was a notice issued by the Ministry of Lands saying that to do any land transaction, the lawyer must visit the land office with his or her client.<sup>68</sup> However, this is very impractical in a sense that for most clients a lawyer is meant to assist them effect the transfer of their land without them having to go to the land registry physically. Such challenges can be dealt with by adopting the blockchain technology.

Mr Muhangi explored the question of the need for regulation in Uganda. He looked at several laws like the Electronic Transaction Act<sup>69</sup> which governs electronic transactions in Uganda. There is also the Computer Misuse Act<sup>70</sup> and the Electronic Signatures Act.<sup>71</sup> These three provide seemingly comprehensive legal framework for electronic transactions or e-commerce in Uganda. The ETA (Electronic Transactions Act) gave legal effect to electronic transactions. The ETA provides for the use and facilitation of electronic transactions. The Electronic Signatures Act gives effect to digital signatures. Reading these sections suggested that blockchain is covered under those two acts. The Acts do not mention the word “blockchain” or the word “cryptocurrencies” but they mention electronic transactions and they go into detail and explain what automated transactions are especially what a digital signature is. This is how blockchain works.

In his view, there was no need for new legislation, but there was a need for a policy or guidelines. The main thing was to see how the Task Force would conceptualise how the blockchain could be used in our day to day work and in the government’s day to day work. Introducing a strict legal and regulatory framework could also help regulators identify and remove criminal elements or illegal schemes. In relation to cryptocurrencies, it was possible for the Bank of Uganda to include them under Agency banking, since Bitcoin may be lent or exchanged with local currency. This has been done in Germany, when in July 2013, when Bitcoin Deutschland GmbH, the company that manages the exchange platform Bitcoin.de, entered into a partnership with Fidor, a bank, in order to provide banking services to Bit- coin.de clients. Regulation could also widen Uganda Revenue Authority’s capital gains and value added tax collections, if clear taxation policies/guidelines were introduced. Most importantly, ICO (Initial Coin Offering) regulation, crypto-exchange oversight and legal scaffolding for onboarding institutional investors into the crypto markets would be key to promoting the capital markets & innovation eco-systems. In order for Bitcoin to be fully relevant to eCommerce and be adopted by Ugandans and Africans at large, clear rules were required, along with some kind of governmental acceptance. This might be formal acceptance of Bitcoin as a form of legal tender or as a formally recognized form of currency that can be used in trading.

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<sup>68</sup> Department of Land Registration, *Guidelines on Deposit of Documents for Registration at the Ministry Zonal Offices*, Ministry of Lands Housing and Urban Development, 2 July 2018, <http://mlhud.go.ug/wp-content/uploads/2015/09/PN-4.pdf>

<sup>69</sup> Electronic Transaction Act No 8 of 2011

<sup>70</sup> Computer Misuse Act No 2 of 2011

<sup>71</sup> Electronic Signatures Act No 4 of 2011



## 12 PROFESSOR RONALD KAKUNGULU MAYAMBALA, MAKERERE UNIVERSITY LAW SCHOOL

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Professor Kakungulu identified several issues relating to data protection and privacy which policy makers and regulators needed to pay attention to.

The first one was the correction limitation principle, when data is being collected there should be a limitation on the data and data should be obtained lawfully and using fair means so that when data is collected the purpose must be explained to the data subject. The second was that the purpose for which the data was required had to be clear and consent of the data subject had to be sought. For example, those who went to register with NIRA to get a national ID, should not have their data transferred to another public body for a different use- like updating the electoral register. One needed to seek consent of the data subject for that data to be used for a different purpose. Data must be used for only that purpose for which it was given (limitation principle). That is why things like marketing were not allowed. Indeed, in Section 18 of the Computer Misuse Act it is an offence to use data for other purposes other than for the purpose for which it was given. This was why the request by the URA for customer information from the banks has led to a clash as the bank confidentiality rules do not permit this sharing of information for taxation purposes.

The other principle is security of the information, but this was subject to the limitation and lawful retention rule. Sometimes the information requested is so much, but it is not necessary for the processing of the data and can be redundant. Then the other is for how long this inform should be retained- it should be for as long as is necessary. In terms of cryptocurrency and data protection, some of these currencies are operating anonymously, but the data relates to a living identifiable person. The question is for how long can that data be kept and for what purpose. The use of pseudonymous data is more complex because although some details are anonymized, it questions about how the data will be protected need to be clarified.

Finally, cross border transactions meant that there was need to investigate if each of the countries had an adequate law on data protection else data could be shared illegally or with counties with weak legal regimes. Attention needed to be paid to the storage of data in the EU given the passing of the GDPR. If one was in the EU and had their data transferred here under the cryptocurrency it will could raise legal challenges as Uganda did not have a robust data protection framework as yet.

In conclusion, Professor Kakungulu- Mayambala considered what laws could be relied upon in the prevailing circumstances where there is no law on data protection. He suggested that Article 27 of the Constitution could be stretched to data protection. Alternatively, one could use Section 18 of the Computer Misuse Act. However, he considered the move to merge some these agencies could lead to duplication of roles say between the UCC and NITA which leaves the question of



data protection unresolved. In the absence of data protection policy (and laws), one could only rely on the on good will of data processors to do the right thing.

### 12.1 PLENARY SESSION 4

Members agreed that the Working group would prepare the policy document for further discussion.

## 13 CLOSING SPEECH BY MR KISEMBO (ACTING DIRECTOR, UNAFRI)

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Mr Kisembo thanked all the participants and the Working Group for contributing to discussions on public facing policy. He noted that the group started out in 2016 with few numbers and had grown to over 52 people by 2018. He promised that UNAFRI would re-visit the action points and continue to engage with policy makers so that the challenges raised could be addressed to give clarity to all involved in this transformative technology.

Mr Kisembo thanked the press who had publicised the event and who were a big engine for mobilisation and awareness raising. He noted that one key player was left out of these discussions and these were the Correctional services. A lot of activities were taking place in the correctional services including running criminal gangs from prison. It was time to include the correctional services in the policy debates as they would close the loop in relation to how to treat prisoners who were convicted of offences relating to the use of distributed ledger technologies. He concluded by encouraging participants to respond to UNAFRI's call for closer engagement in the policy discussions on the regulation (or not) of transformative technologies.

## 14 WORKING GROUP DELIBERATIONS

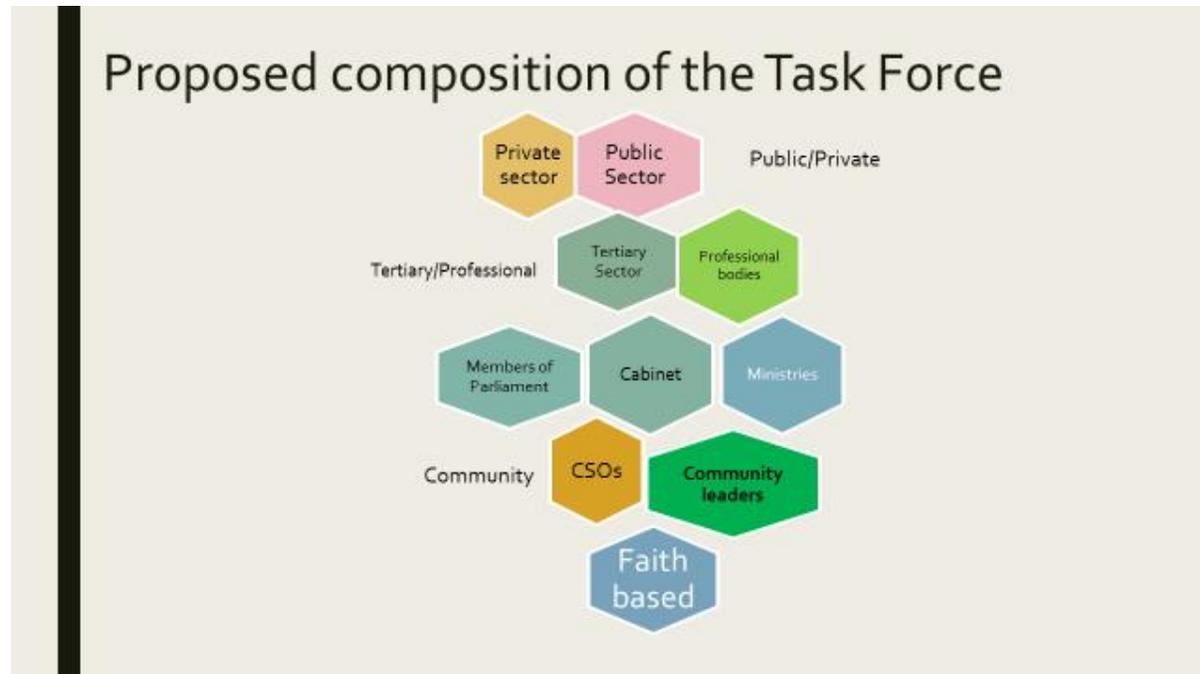
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The Working Group reflected on the policy areas that were highlighted by the Minister for Internal Affairs and the government's request for any proposed regulatory mechanism to consider the social, cultural, economic, legal and political effects of this technology in the policy sphere.

The group began by examining the policy strategy contained in the proposal by the Minister for ICT Mr Frank Tumwebaze to create a National Task Force on the Blockchain. The Group decided to build on this idea and made the following propositions. That the Minister for ICT be requested to expand the remit of the task force to cover a wider range of emergent technologies that could be called digital assets, tokens, distributed ledger technologies or some other term. That the composition of the Task force would be multi- sectoral comprising people drawn not only from the

technology sector, but from other sectors, both public and private, to ensure that a range of voices were heard. The justification for this broad remit and composition was to ensure greater clarity surrounding regulation and potentially to avoid over regulation of the technology sector.

#### 14.1.1 Proposed composition of the Task Force



Private sector was understood to cover investors, miners, businesses as well as their representative bodies like the Uganda Manufacturers Association, the Blockchain Association to Uganda, Kampala City Traders Association (KACITA), and Uganda Chamber of Commerce and so on. The press/media was viewed as an important part of dissemination of information. The public sector included the government departments represented in in the Justice Law and Order Sector (JLOS)<sup>72</sup>, and others not directly covered under JLOS including the financial, monitoring and related regulators like the Central Bank of Uganda, Uganda Revenue Authority, Uganda Microfinance Regulatory Authority, Insurance Regulatory Authority, Capital Markets Authority, National Information Technology Association (NITA), Uganda Communications Commission (UCC), National Identification and Registration Authority (NIRA), Financial Intelligence (FIA), Uganda Investment Authority (UIA), Uganda Registration Services Bureau (URSB) and the Savings and Credit Cooperative Organisations (SACCOs).

<sup>72</sup> JLOS departments include: The Judiciary, the Uganda Police, Uganda Prisons, Office of the Director of Public Prosecutions, and the Uganda Law Reform Commission.



Tertiary bodies were conceptualised in terms of educational institutions given their wide-ranging experience in creating public awareness through various forms of teaching and learning. Tertiary bodies included universities, the National Council for Higher Education, the National Curriculum Development Centre, the Judicial Training Institute, the Police Training Schools, and the Law Development Centre. Professional bodies covered those professions like the one for bankers (Uganda Bankers Association) for lawyers (The Uganda Law Society) for certified accountants (Institute of Certified Public Accountants of Uganda-ICPAU) and ethical oversight bodies like the National Council for Science and Technology.

Members of Parliament, the Cabinet and government ministers were seen as a separate group consisting of the Parliamentary Members Association (in order to avoid having too many sub groups and then missing some of the Members of Parliament. The Cabinet was thought of as one of the key players, and finally, there were some key ministries in the development of these policies like the Ministries for Finance, Planning and Economic Development; for Information, Communication and Technology and National Guidance; for Gender, Labour and Social Development; for Justice and Constitutional Affairs, for Internal Affairs; for Education; for Local Government; for Trade, Industry and Co-operatives, for Foreign Affairs and the Directorate of Ethics and Integrity (Office of the President).

Civil Society Organisations (CSOs) and community leaders, were broadly defined. Some CSO's were doing public interest litigation and advocacy in this area- like the Cyberlaw Initiative, yet others like Rotary and the Lions were doing lots to empower people at all levels. Then there were other CSO's like those working with people with varying forms of impairment (visual, hearing, mobility, learning and the like), those working with women, the elderly, youth and so on. Alongside these were the community leaders. The Working Group chose this term carefully so as not to focus narrowly on traditional leaders or on opinion leaders, but rather to capture the nuance in communities be it kingdoms, chiefdoms or acephalous 'stateless' societies.

The last group of faith-based organisations referred to those with a 'Luddite' approach to mobile technology, groups like the End Time that do not believe in the use of mobile phones. Given the fact that some of these groups wielded considerable influence over their followers, it was best to engage with them (or groups like them) not only to gain an understanding of their ideology, but also to help them see that the use of technology could enhance the economy and people's lives.

#### 14.1.2 Next steps for the proposed Task Force

The Working Group considered what sort of topics that the Task Force might consider as part of their Terms of Reference. The first was the nomenclature. It was necessary to decide on the terms to be used to describe the emergent technologies, and whether there would be one definition or sector specific definitions related to each regulator's remit. The latter would mean that each regulator could develop their own description say of the technology that appeared to disrupt their



sector, have their own understanding of how it works and what the technology meant for the sector's aims and purposes. A second term of reference would be to establish the legal status of cryptocurrency which might lead to the amendment or revision of existing Acts of Parliament like the Constitution or the Bank of Uganda in order to give legitimacy to the regulator to provide oversight of a given sector.

Deciding on the nomenclature and how to give legitimacy to cryptocurrencies and related assets/tokens would be conceptualised differently using diverse approaches depending on the discipline: economists or sociologists would have a different understanding of the nomenclature and the meaning of legitimacy from lawyers, insurers, or those in the tech area. This difference of opinion might well lead to contradictory messages going out to the public during the public consultation process. To avoid any confusion, there was need to contextualise and harmonise the language of the consultation questions in a simplified manner that targeted the different regions and population demographic. Reason being that in one region, cattle could be viewed as a prized monetary asset and yet in another region, the money might be saved in millet or banana crops. Developing a set of Frequently Asked Questions in the localised dominant languages of could help avoid misinformation, as would the distribution of leaflets in those languages.

Of utmost importance was that the message should be validated and integrated into a policy paper (if deemed suitable) for public consultations. Prior to the consultation, a categorisation of the public would help deliver a targeted message to the right group. The Working Group proposed three categories: high income, middle income and low income could work while using inclusive language that took into account the fact that some people in the high-end net worth group might not fully understand the terminology or risks of a product. It was imperative that the messages were packaged for each group.

#### 14.1.3 Institutional Action points

With the support of UNAFRI, it was agreed that the policy proposals would be sent to the Ministers and circulated to other government ministries and departments. However, the group recommended that given the exponential use of Cryptocurrencies, and the emergent use of the blockchain in Uganda, institutions needed to have policy action points to work on. One example was the Central Bank that could declare itself on status of cryptocurrency. The Uganda Revenue Authority could also issue a practice note on the tax implications of dealing in cryptocurrencies.

Other policy makers (and regulators) could follow suit to offer further clarity, but it was important for regulators to state who had the remit over the various technologies to avoid over regulation. Following the pronouncements by various policy makers, the regulators would then seek guidance from the Uganda Law Reform Commission as to which laws were applicable; and what mode of regulation would suit.



\*Final report to be released in 2019.

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