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Challenges of Regulating Financial Service Provision in Cameroon in the Digital Age and a Globalised World

Cosmas Cheka*

Abstract

This article identifies some of the challenges of the digital revolution and globalisation to the regulation of financial services in Cameroon. It provides a reading of records from data collected from documentary and online sources. The results show that to be relevant, the regulation of especially the provision of financial services must take into account evolving concepts about the basis of the operation of the economy and business models. The concepts of 'time', 'space' and 'being', which are central to the ascription of legal responsibility, are also undergoing a re-definition as well as diverse challenges couched *inter alia* as state politics, globalisation and trade, money laundering and the financing of terrorism. The results are significant in alerting to the dire need for reform of the rules governing the provision of financial services. The pre-digital age rules on the ascription of legal responsibility as well as the basis on which the regulation of such services was founded have been profoundly redefined by the information, communication and technology (ICT) revolution and globalisation.

Keywords: Financial service provision, business model, time, being, space money, sovereignty, globalisation.

Résumé

Cet article relève, à partir d'une lecture des données issues des sources documentaires et en ligne, certains nouveaux concepts qui représentent des défis de la révolution numérique et de la mondialisation pour la réglementation des services de prestation financière au Cameroun. Les résultats démontrent que pour la pertinence, une réglementation des services de prestation financière doit tenir compte des nouveaux concepts du fonctionnement de l'économie et les

* LLM, PhD (London), Professor of Law, Head, Department of English Law, Faculty of Law and Political Sciences, Yaoundé University II, Soa, Cameroon. Email: chekacos@gmail.com

modèles d'affaires. En plus, les concepts de « temps », « espace » et « être », qui sont au cœur de l'attribution de la responsabilité juridique, font actuellement l'objet d'une redéfinition ainsi que de divers défis posés notamment par la politique des États, la mondialisation et le commerce, le blanchiment d'argent et le financement du terrorisme. Les résultats sont significatifs dans la mesure où ils appellent à un besoin urgent des réformes portant sur la règlementation des services de prestation financières. Les règles y afférentes de l'ère pré-numérique en matière d'imputation de la responsabilité juridique, ainsi que les bases sur lesquelles lesdites règlementations étaient fondées, ont été profondément redéfinies par la révolution des TIC et la mondialisation.

Mots-clés : Prestation de services financières, modèles d'affaires, temps, espace, l'être, monnaie, mondialisation, souveraineté

Introduction

Regulating the provision of financial services in a globalised world necessarily connects law and economics. Indeed, it is argued that 'a rational system of law played a crucial role in economic development … by allowing individuals to order their transactions with some predictability' (Weber 1978: 334). In other words, law guarantees economic interests and 'economic interests are among the strongest factors influencing the creation of law' (*ibid.*). Besides Weber, current acclaimed literature[1] buttresses the importance of a strong legal and institutional framework to the life of vibrant economies:

> law penetrates the very foundations of economics, for it is by means of legal institutions that prices are agreed upon, wages are in fact set, business organisations are in fact formed and so forth. A theory of socialist economics assumes the existence of a system of administrative law. Berman (1958: 14)

On the other hand, economic development needs stable money and is defined by the circumstances in which it is produced. The attainment of stability involves and requires the rule of law. Whether law can be functional or not to serve development is determined by its responsiveness to the social environment, which invariably comes with challenges that do not exclude the regulation of the provision of financial services. Stable money requires eternal vigilance by the monetary authorities together with – vitally – the cooperation of an informed public who handle powerful new tools. In today's globalised world, the information, speed and the convenience provided by digital technologies so enhance the possible volume of economic and financial activity that monetary authorities that are not alert to and fail to constantly adapt to these developments could simply become irrelevant. As if Moore's law[2] is not enough, thanks to nanotechnology today, the

computer chip continues to have a phenomenal memory with the effect of enabling humans to practically turn William Blake's poetic vision into virtual reality:

> To see a world in a grain of sand ...
> Hold infinity in the palm of your hand
> And eternity in an hour[3]

Indeed, the extent to which the digital revolution might affect the way things are done and their regulation remains unfathomed. In addition to these technological advances, the challenges of regulating the financial sector are peculiar, owing to the fact that the provision of services is operated by financial groups. These 'large financial groups operate on an increasingly global basis; however the legal and institutional framework to resolve these groups are distinctly national in scope' (Lagarde 2017). These large groups operate as businesses with personalities on which legal responsibility is conventionally reposed. The problem however is that both the bases on which businesses operate, including business models and their conventional legal responsibility foundations, seem to be labouring under severe challenges. This article seeks to show that the pre-digital age business and legal responsibility basis on which the regulation of the provision of these services was founded has evolved. It has been profoundly redefined by the information, communication and technology (ICT) revolution and globalisation; thereby presenting regulatory challenges. The challenges may be loosely classified into four categories: those related to the operation of business, those that touch on the fixing of legal responsibility, those veiled in globalisation and trade and those that impede the enforcement of regulations.

Challenges Relating to the Operation of Business

These are key concepts on which the regulation of the business of financial service provision is founded. They include the changing basis of the operation of the economy and new business models.

Changing Basis of the Operation of the Economy

For centuries now, the industrial era has operated on the basis of market exchanges as a means of allocating resources and distributing income. The input market, if efficient, provides those who have some resources (such as labour) to trade it for other resources (such as money) so that other goods and services can be purchased. Demand for goods and services at lower prices justifies the need for the firm, a consolidator of resources, including

labour, but also justifies investing in technology and capital to produce such goods in exchange for money with some profit. This state of affairs drove the research and knowledge generated by the academic disciplines of business, economics, manufacturing, engineering and computing, largely schooled in the role of each discipline and its contribution, towards the logic of markets and the economy the way we know it (Ng 2013).

In the last 30 years, however, there has been a subtle shift in the way the economy has been operating, much of it spurred by the internet. The internet started as a medium to reach out to unserved markets, with the message or product largely unchanged. Gradually, the medium began to change the nature of the message: 'mobile phones have become personal electronic companions, combining computer, GPS, telephone, camera, projector, alarm-clock, research assistant, music player, flashlight, newspaper, translator and TV'.[4] Millions of smart phone applications are listed in online stores. As more products become connected to the internet through the internet-of-things, physical products are set to incorporate more of such pervasive add-ons.

Progressive manufacturing firms and financial service providers will engage in repackaging their services as well as the redesigning of the physical and digital boundaries of their products to create greater value both in their use and in their connectedness to other objects. To be relevant, regulation must keep pace with this technological evolution or there will be chaos in the market place. Keeping this pace presents diverse challenges especially in the regulation of the provision of financial services where especially new business models seem to indicate where the law should go.

New Business Models

The regulation of the provision of goods and services is broadly founded on the business model. Depending on which discipline one speaks to, business models are defined differently. Broadly, to quote Ng, 'the business model consists of three components – *the value proposition* (that which the firm is responsible for) which could be a product or a service; the *value creation* which is the experience of the product or service by the customer; and the *revenue/resource stream,* that which Osterwalder and Pigneur (2009) refer to as value capture, which is the manner in which the firm derives benefit (monetary or otherwise) (Ng 2013). While a business model has three components, it may be nested within another business model for a different customer community. A clear example of this in the Cameroonian context is the case of the mobile phone (a value proposition initially targeting customers wishing to transfer data (orally or via text)

and mobile money nested on the phone, which now enables the phone subscriber to reach out to a different customer community by way of banking services under certain conditions.

Conventionally, money and its management has been the business of banks because as credit institutions, banks traditionally store money in registered cards and servers and would normally have limitations supervising and controlling the issuing of electronic money by a third party whose core business is that of electronic mobile communication. On the other hand, Mobile Telephone operators (MTOs) facilitate the communication of data (and semantically speaking, money is data) in their business of mobile transmission of oral and printed data. Banking procedures are without more, strange to the latter. However, in the age of the Internet-of-things, given the resulting changing business model that favours coupling, as well as the wide reach of MTOs on their subscribers, the current trend is that all MTOs in Cameroon are integrating Mobile Financial Services (MFS) into their service platforms[5]. There are no indications however that the converse (banks buying into MTOs in order to tap into the wide MTO customer base) is true. MTOs are invading the banking sector through mergers and acquisitions (M&A), buying into the shareholding of banks and entrenchment into digital banking by the reinforcement of their human resource bases through an increasing recruitment of new staff from the traditional banking sector.

The business model has seen greater discussion of late because of its systemic nature and the linkages between the components. In the past when firms sold products or services, the linkages between the value proposition (the offering), the value creation (the experience) and the resource benefit (the money) were rather loosely coupled, especially for physical products. In a traditional product economy, value propositions, value creation and resource/revenue streams were therefore loosely coupled and from a systems perspective, each component could be analysed, improved upon or changed without much impact on the other. Consequently, even while their relationship was investigated in some domains such as supply chain and revenue management, consumption, market and manufacturing spaces could often be studied as well as regulated separately and many academic disciplines and their research have progressed on this basis. The regulation of financial service provision in Cameroon seems to have been caught in these divisions and, operators have been licensed in 'silos'. Banks,[6] micro finance institutions[7] and mobile telephone networks[8] in Cameroon are today licensed and governed by separate pieces of legislation even though they all have 'money' as a common stock in trade.

The connected digital economy is changing this. Beginning with the computer and moving quickly into smartphones, devices and other objects, the way value is created by the mobile phone customer within their use contexts is changing the mobile phone operator's relationship with the customer into one that is longer, more enduring and intricately linked to other firms.[9] As indicated earlier, using money stored in the phone as 'data', the customer can make better use of time without leaving their seat and yet *inter alia* pay bills with utility companies, provide pocket money to relatives in distant lands, locate eating places etc. Yet the service provider's licence issued by the regulator may have been for the provision of mobile phone services for making calls and the transfer of 'data' (oblivious of the fact that money too is now stored in the phone as 'data' and eventually used as money). In other words, the dynamism in new business models today constitutes a challenge which the regulator in the licensing of financial service provision must grapple with.

In Cameroon, this challenge is evident in the current multiplicity of money transfer business disputes pitching microfinance institutions such as Express Union and Express Exchange, against Orange and Mobile Telephone Network (MTN) over jurisdiction relating to electronic money transfer activities. This is because mobile phone operators (MTOs) were initially not involved in money transfer or the mobile money business and microfinance institutions relied on the bandwidth of MTOs to carry out this activity. The recent entry into the electronic money transfer business without much ado by multinational (MTOs) (Orange, Nexttel and MTN) has presented the regulator with a challenge regarding the outreach of their licences.[10]

From an academic and legal standpoint, a new business model is not therefore just about product or service innovation (the value proposition), or the changing revenue/resource streams, such as money from ads or subscriptions of music instead of buying music (value capture), or the customer experience enabled through a digital medium (value creation), but potentially all three, due to the tighter coupling of the components. To be relevant and functional today, regulation must be alert to and contend with this.

Challenges that Touch on the Ascription of Legal Responsibility

The digital age and globalisation have altered aspects of human existence through a subtle revisiting of the concepts of time, space and being; all of which, it is submitted, are philosophical notions that lie at the heart of rules relating to fixing of legal responsibility in the provision of financial services. In the digital age, just as virtual space that is simulated and time that seems to be elastic, there is the virtual and artificial being, with diverse

consequences on rule-making and its enforcement. Time, space and being present important similarities, differences and features on questions of the regulation of the quality of evidence like identification and proofs of the violation of rules by operators.

Time

Humans in the digital age are in need of time and information as never before. Conventionally, *time* (Markosian 2003) is a part of the measuring system used to sequence events, to compare the duration of events and the intervals between them, and to quantify rates of change such as the motions of objects. The temporal position of events with respect to the transitory present is continually changing; future events become present, then pass further and further into the past. Time is also an expression of the changing state of matter. This is revealed even by the way we talk about time. In common parlance, it is said that 'time passes' or flows whereas only material fluids can flow, displace or be displaced from point 'A' to point 'B'.

Two contrasting viewpoints on time divide many prominent philosophers.[11] One view is that *time* is part of the fundamental structure of the universe, a dimension in which events occur in sequence. Sir Isaac Newton subscribed to this realist view, and hence this position is often referred to as *Newtonian time*. The opposing view is that, time does not refer to any kind of 'container' that events and objects 'move through', nor to any entity that 'flows', but that it is instead part of a fundamental intellectual structure (together with space and number) within which humans sequence and compare events. This second view holds that time is neither an event nor a thing, and thus is not itself measurable nor can it be travelled.[12]

The foregoing philosophical divide does not however deter a submission to the effect that, in the digital age, *Newtonian time* is of the essence in the regulation of provision of financial services. Deals in the age of the internet of things are struck by Newtonian time; enabling a buyer, for example, to identify an article displayed on their mobile phone, select, pay for it and direct delivery to their address in real time by using the same phone through a simple click; all of this without going to the bank (for money with which to pay) or the shop/warehouse (to collect the goods) or having to meet the courier (to arrange for delivery to their address). Moreover, in terms of the occupation of geographical space, the seller may only have displayed the article on a URL, thus dispensing with geographical occupation and presence on a high street shopping space. The Cameroonian regulator is missing out on all of this business, because, for example, its licensing rules only target businesses that have the conventional high street address. This is

because to today's client, closing the time gap is determinant of the client's use of the service and in the enforcement of the law. This is one challenge the regulator must be alert to for regulation to be relevant.

Space

The concept of '*space*' in the digital age constitutes the law-maker's nightmare. Conventionally, law is passed and enforced within the framework of a fixed and identifiable geographical area primarily on a being who may be a physical or moral person. '*Space*' does not however seem so straight-forward in the digital age because cyberspace is borderless and regulating it is a quandary.

Conventional 'Space'

Generally, the concept of space is considered to be of fundamental importance to an understanding of the physical universe. Space may be considered as public, personal, abstract or concrete. Public space is a term used to define areas of land as collectively owned by the community, and managed in their name by delegated bodies; such spaces are open to all. Private property on the other hand is the identifiable land culturally owned by an individual or company, for their own use and pleasure. Personal space is the region surrounding a person which they regard as psychologically theirs. Most people value their personal space and feel discomfort, anger or anxiety when their personal space is encroached upon (Hall 1966: 199). Permitting a person to enter personal space and entering somebody else's personal space are indicators of perception of the relationship between the people. 'Abstract space' is a phrase used in geography to refer to a hypothetical space that is characterised by complete homogeneity. The foregoing has all along constituted the law-maker's comfort zone; especially considering that the passage and enforcement of laws has traditionally targeted persons and life in a predicatable geographical space.[13]

Disagreement still looms among philosophers over whether space is itself an entity, a relationship between entities, or part of a conceptual framework. For example, Kant in his *Critique of Pure Reason*, rejected the view that space must be either a substance or relation. According to Kant, space and time are part of an unavoidable systematic framework for organising our experiences.[14]

'Space' in the Digital Age

Notions of national identity grounded in geography are problematised in relation to the internet (Tofts 2004: 149). The concept of '*space*' is scuttled and blunted or obfuscated in the digital age by the apparently elastic and

fictional concept of '*virtual space*'. 'V*irtual space*' is a digital or non physical environment. It is a phrase that refers to computer-simulated environments that can mimic physical presence in places in the real as well as in imaginary worlds. This simulation is today stretched even further by the creation of a 'being' devoid of the body as well as the acceptance and current use of virtual money such as Bitcoin[15] albeit in the real world.

Important Similarities, Differences and Features of Time and Space

Space can express change, as in change of the global positioning system (GPS). Matter exists and moves through space. But the number of directions in which this can occur is infinite: forwards, backwards, downwards or indeed in any direction. Movement in space is reversible but movement in time is not. They are two different ways of expressing the same fundamental property of matter – change. In fact, according to Critchley (2009) on *Being and Time*, this 'change' is the only 'absolute' that exists.

Space and time are abstractions that enable humans to understand and measure the material world. All measurement is related to space and time and regulation from the perspective of jurisdiction is tied to local, national, regional or international geographical space or all of the above. Space is otherwise three dimensional, but time has only one dimension.

To the regulator, important features of the virtual world include shared space, immediacy (as interaction takes place in real time), interactivity (users can alter, develop, build or submit customised content), persistence/endurance (as the world exists in perpetuity irrespective of whether individual users are logged in or not) and community/networking.[16] In today's world where time and information are invaluable commodities, immediacy for example, enables the user to maximise the use of transaction time and cause identification, payment, and delivery of merchandise by a simple click, say on the smart phone. The regulator must tap into this medium today or miss out on the gains of the transaction which may include the identification of the type of business and place of transaction, tracking the activities of miscreants for security purposes etc. Failure to harness, master and regulate life in cyberspace might spell the end of human life.

The Difficulty of Regulating 'Space'

Based on the foregoing, the borderlessness of space creates a lawless cyber space that may be harmful to life in the real world. This is because, law constitutes one source of legal rational authority (Bower 1971). For authority to emanate from the law, the lawmaker must have the mandate so to do.

Who has power to regulate life in space if virtual space is a jurisdiction with no territorial boundaries and out of bounds to humans? If humans have power to regulate life in cyberspace, from where do they draw legitimacy and who can withhold the same, under what conditions and within what time-frame? Were life in cyberspace to remain unregulated (because space is a world of its own) and activities here hurt humans (for example a meteorite from space that explodes on earth and causes damage) who is liable? Who picks up the financial tab for the prejudice caused to humans by this object from space; considering that cyberspace is a world of its own?

Being

The word 'being' is used for conceptualising subjective and objective aspects of reality, including those fundamental to the self, related to, and somewhat interchangeable with terms like 'existence' and 'living'. In its objective connotation, a 'being' or a human being, refers to a discrete life form that has properties of mind. In its abstract usage, 'the being' or 'one's being' is the mind's concept of the self as a whole entity – including mind and body – wherein the being is all sensory aspects within the being. According to Heidegger[17] 'being and time' is relatively simple. In other words, 'what it means for a human being to be is to exist temporarily in the stretch between birth and death. Being is time and time is infinite, it comes to an end with our death or is according to Heidegger, 'being-towards-death'" (Critchley 2009). Being is often linked to identity which in turn is traditionally understood as 'aligned with notions of presence, of the embodiment and location' (Tofts 2014: 152 in Goggin 2014). The disembodied virtual being questions this linkage with dire legal consequences.

The 'Virtual Being'

The internet permits the creation of a bodiless 'being', an identity that is used by scammers to exploit the naivety of others.[18] This is in spite of the fact Tofts (2014) claims that 'the duality of actual self and digital representation, or avatar (be it text, graphic or image) is the anchor that smoothes out and reconciles the ambiguous split that seems to occur between the worlds of the body and virtuality, when we communicate across a network'.[19] It is however submitted that the validity of the claim by Tofts here assumes the creation of innocent and traceable innocuous beings in the cyberworld!

Where for example, as is currently the case in Cameroon, national security law is unenforceable on diaspora-based drivers of the on-going conflict in Cameroon's Anglophone regions, because they are bodiless and virtually untraceable, Toft's assertion regarding the duality of actual self is

untenable. Today's creation of the cyber being with untraceable or even dead roots[20] transforms the duality of the self-alluded to by Tofts into an interesting subject in the digital age. Today, it is possible to hide the'body'by using cryptographic dissimulation or veil all traces by using multiple chains, avatars[21] or multiple platforms in the transmission of messages. Evans (2001) discusses this duality in relation to virtual reality. In *Sum Res Cogitans* (I am a Thinking Being) Descartes claims that 'I am a being whose whole essence or nature is to think, and whose whole being requires no place and depends on no material living'.[22] This reflects the duality of mind and body which is interesting to consider in relation to virtual reality which is a place for the disembodied mind (Evans 2001:199).

Legal Consequences of the Disembodiment of the Being

The human body is an important part of our understanding of our identity and of the world. Bodily awareness is closely linked to human knowledge (Evans 2001 (Merleau-Ponty 1962). Therefore, its disembodiment in virtual reality necessarily has an effect on our understanding of being and of law enforcement.

The foregoing makes a powerful case for mastering and regulating the 'virtual being'. The reverse might spell doom for the human race. When (as is the case in the digital age), during a man's lifetime, his thoughts are collected, stored in a database and used when he is dead to generate and direct his activities as he would have done had he lived, who is legally responsible for these actions? Accepting that the tech-savvy (a small minority) are behind the initiative, how does the majority ensure that they are not manipulated by this small group through their results that are virtual beings? What forum exists for use by the non-tech-savvy to influence the process *after* the virtual being is born? In the event of prejudice suffered by a person from the execution of the dead person's directives, who grants redress to the victim; especially considering the bodiless mind and inexistent being that generated the directive?

In addition, today's bodiless being educated by humans has knowledge and 'knowledge is power'.[23] Today's human is capable of identifying their knowledge limitations and making up for this through advances in digital sciences which end up demonstrating that the strength of the human being constitutes their weakness. For example, IBM's Deep Blue[24] proved through a chess tournament between a machine and World Chess Champion Kasparov (the chess game case) that the educated virtual being is capable of beating the human being. Ray Kurzweil[25] takes this further in his theory of the age of singularity; where artificial intelligence is independently taking

over human thinking. In other words, since the chess game case proved humans are capable of creating objects that enhance life but eventually show human limitations, who is the other's subject for the purposes of regulation, the virtual being or the human being? Who takes responsibility for the actions of this super virtual being in financial service provision, for example? Does this not, and without more, eventually mark the end of mankind and the futility and needlessness of regulation by humans, of human activities?

On the positive side, the anonymity of the internet also provides people with the possibility of engaging in new relationships and to reveal hidden aspects of themselves (thus providing criminal researchers with helpful leads). Subject to the proviso that the virtual being as a subject of the law remains at all times traceable for the purposes of law enforcement, the visionary design of virtual environments may be used to extend basic human rights into virtual space, to promote human freedom and well-being. It may also be used to promote, enhance and ensure transition from one stage of socio-political development to another. With the improvement in the technology of data collection, serious concerns emerge about their potential misuse such as the invasion of the user's privacy by hackers. This is because the internet functions by sending data from computer to computer in bundles or packets until the data reaches its destination. Anything could happen to this bundle in the process as the Snowden[26] disclosures or the Cambridge Analytica data harvesting scandal[27] have shown. In this way, almost all personal information is available online and can be used and abused without difficulty by the tech-savvy.

What the foregoing implies is that the digital age invites a revisiting of regulations on financial service provision that are founded on those concepts which, in the digital age, enjoy new meanings and dimensions in their linkage of humans, the law, regulation and its enforcement. Most urgent for law enforcement by humans while they are still able to control machines is the need for an international institution of a digitalised user identity card for access to the internet by all users.

Challenges Couched in Globalisation and Trade

There has always been a connection between the state, politics, trade, security and money; which does not ease the task of its regulation. Based on the 2011-2016 report of the Central Back of Central African States (BEAC) of which Cameroon is part, mobile money is at the centre of the Cameroon's involvement in globalisation and trade.[28] On the strength of this report, 95 per cent of electronic money transfers were effected through mobile money.[29] In addition, BEAC has recognised that mobile money is a tool for

financial inclusion, which is still clogged by some regulatory setbacks.[30] This, to quote the Governor of BEAC, is however because, 'innovations always precede legal framework'.[31] As at March 21, 2018, BEAC is in the process of fine-tuning the legal framework on new rules governing mobile money transactions 'which will include the fight against money laundering'[32] This is especially because trade and globalisation, that are otherwise legitimate, provide a conduit for money laundering and the financing of terrorism. Here, the regulation of financial service provision must strike a balance that facilitates globalised trade without jeopardising the security of the state or trade-based money laundering (TBML).

Reconciling Money, State Politics and Security Interests

The regulation and management of money is always and everywhere political. Every choice about money privileges some interests over others. Money is politics and indeed back in the seventeenth century, John Locke was quick to equate money with property which was the express duty of government to protect when he stated in the Letter Concerning Toleration that:

> Civil Interests I call Life, Liberty, Health, and Indolency of Body; and the Possession of outward Things, such as Money, Lands, Houses, Furniture, and the like. It is the Duty of the Civil Magistrate, by the impartial Execution of equal Laws, to secure unto all the People in general, and to every one of his Subjects in particular, the just Possession of these things belonging to this Life. (Locke 1689 quoted by Carey 2013)

Inevitably too, international money is international politics.[33] As long as there are states, there will be international rivalry between them; currencies are instruments of the state and extensions of state power, occasionally serving as weapons but always representing political interests. Modern history shows that most states in a position to extend their monetary influence have attempted to do so. And in so doing, they have sought to achieve political ends. For example, from the 1860s, France's attempts to establish arrangements like the Latin Monetary Union were political projects designed to enhance its power and to exclude and isolate its German rival; Nazi Germany and Imperial Japan extended their monetary influence in support of their inter-war grand strategies; Britain supervised the sterling area, which facilitated its financing of World War II; in the context of the Cold War, the US bankrolled the dollar-centric Bretton Woods system.[34]

In addition, throughout history, states have managed their international monetary relations with an eye towards the security implications of such arrangements. The link between currency and security is often explicit. For example, US exploitation of the weakness of sterling forced Britain to

abandon its invasion of the Suez Canal Zone in 1956. More recently, between the two Gulf wars the Iraqi dinar was subject to politically-motivated attacks, and at the same time the Baghdad regime engaged in its own currency warfare against the Kurds of northern Iraq. But such highly visible episodes represent the tip of an iceberg of the exercise of monetary power. In fact, states have routinely sought to advance their security interests through the exercise of monetary power – via the practice of currency manipulation, the fostering of monetary dependence, and the exercise of strategic disruption[35] – techniques that remain active and relevant for contemporary politics.[36]

The economies of small participants in monetary arrangements become increasingly conditioned on the economy that provides the centre of gravity for their external macroeconomic orientation. The world is currently living this experience, for example, in the Greek crisis; where finally'a war' is raging between the representatives of the 'old' financial powers and representatives of a vocal and solidarity-oriented minority. Thus, although states may fear offending their larger patrons, a more consequential effect of monetary dependence is that over time, they quite voluntarily come to recalculate the definition of their own national interests. Increasingly, satellite states come to see their own interests as progressively more consonant with those of their most intimate economic associates. This political conditioning is the prize sought out by would-be monetary leaders. This in turn affects, influences and is reflected in the regulation of the provision of financial services by satellite states; an example of which is the 1972 '*Convention de coopération monétaire entre les Etats Membres de la Banque des Etats de l'Afrique Central et la République Française*'. By this treaty and for the purpose of the convertibility of the currency, the French treasury grants unlimited guarantee for money issued by BEAC and deposits held by the latter in the French Treasury against all the foreign reserves of BEAC member states like Cameroon, who undertake financial activities based on the BEAC Statutes. These interests are not to be ignored in the regulation of the provision of financial services in the ICT era.

Globalisation

Globalisation presents a serious challenge to law enforcement agencies and financial regulators, because this apparently legitimate dimension of trade has turned the international financial system into a money launderer's dream. It provides a web that constitutes a conduit for siphoning off billions of dollars a year from economies around the world, extending the reach of organised crime and enhancing terrorism. This represents a challenge for the regulator of the provision of financial services.

Because globalisation represents an overarching international phenomenon, the international community's response to the challenge posed by money laundering has to address the financial, legal and enforcement issues in a universal manner, through harmonisation of remedies.

Money Laundering and the Financing of Terrorism

Money laundering is generally the process by which one conceals the existence, illegal source or illegal application of income to make it appear legitimate (Shroeder 2001). It is the process of choice used by criminals through which they make dirty money appear clean. It constitutes an effective source of legitimisation of dirty money such that dirty money flows naturally, mingling confidently with money from legitimate sources and activities as an integral part of these operations. Though initially considered an aspect integral to only drug trafficking, laundering represents a necessary step in almost every criminal activity that yields profits.

Consequently, money laundering presents not only a formidable law enforcement problem, but also a serious national and international security threat. Criminals quickly transfer large sums of money to and from countries through innocuous looking trade or through financial systems by wire and personal computers (*ibid.*). Such transfers can distort the demand for money on a macroeconomic level and produce an unhealthy volatility in international capital flows and exchange rates.[37] This indeed has led the United Nations and the Organization of American States (OAS) to determine that the laundering of money derived from serious crime represents a threat to the integrity, reliability and stability of financial, as well as government, structures around the world.[38]

The global threat of money laundering poses unique challenges to the law enforcement community. To pursue the evidentiary trail of a money launderer, law enforcement agencies must identify and use tools and techniques that can help them when crossing international boundaries. Multilateral agreements that require participants to adopt anti-laundering measures, and the regional and world organisations that have developed and encouraged a standardised approach to addressing laundering, all have contributed to the strides made in addressing the challenges posed. Nevertheless, efforts undertaken by nations independent of the international community often result in significant variations from the accepted standard and have the effect of facilitating laundering activity rather than combating it (Quillen 1991). For example, the government of Antigua and Bermuda weakened its laws relating to money laundering by introducing changes in the law, which strengthened bank secrecy, inhibited the scope of laundering

investigation, and impeded international cooperation. This resulted in the U.S. Department of the Treasury issuing an advisory warning banks and other financial institutions to be wary of all financial transactions routed into, or out of, that jurisdictions.[39]

Trade based money laundering (TBML) on the other hand is widely regarded as a global challenge (Friedman 1999). Estimates for the amount of money laundering through the abuse of the international trade system range from US$5 billion for Colombia alone to 'hundreds of billions' worldwide (*ibid.*). TBML not only threatens legitimate businesses in both the developed and developing world by undermining legal import and export operations, it also impacts one of the largest sources of income for many developing countries: customs duties. Beyond the threats to legitimate businesses, economic development and the rule of law, the U.S. State Department and U.S. Treasury Department have directly linked TBML schemes with Hezbollah, the Afghanistan drug trade, and al-Qaeda (Delsten and Walls 2003). So TBML represents a challenge that must be addressed in the regulation of the provision of financial services.

Challenges that Impede Law Enforcement

Challenges that constitute obstacles to the enforcement of regulations on the provision of financial services are diverse. They range from the cost to the private sector and the traditional view of sovereignty, through the diversity of national legal systems, to the practical ability/capability to enforce and keep international cooperation agreements.

Cost of Regulation to the Private Sector

The regulatory burden and related costs on the private sector of the enforcement of financial regulations in response to security concerns have increased over the years such that governments need to remain acutely aware of the importance, burdens, and reliance on private sector actors. This means that governments need to check their regulatory practices and increase collaboration and useful information sharing so as to enlist (as opposed to alienate) financial institutions. This also means that governments need to work closely to build consistent regulatory requirements and regimes across borders in order to assist international financial institutions to operate effectively and efficiently. This need will be exacerbated as governments continue to create new regulatory structures and requirements in the wake of the 2008 financial crisis (the effects of which are still being felt) and global security threats that now spare no continent.

The Traditional View of Sovereignty

Sovereignty today can be an obstacle to the international enforcement of criminal law (Nadelmann 1990; see also Simonovic 2000: 384). The way any state understands the notion of sovereignty can affect the effectiveness of inter-state cooperation. Some states are very sensitive with their sovereign right whilst others are not. The former follow the traditional notion of sovereignty while the latter are concerned with a new form of sovereignty. With regards to the traditional view of sovereignty, a state is solely responsible for the creation and implementation of international law. It is the highest level of authority for the state and no other state is allowed to interfere in the way the state treats its inhabitants (Simonovic 2000: 384). This perception discourages states in conducting international cooperation. In this context, the state feels its sovereignty threatened by another state.

The lack of bilateral as well as multilateral agreements is one reason for the hesitation of nation states to cooperate with each other. The way nation-states understand the notion of sovereignty can encourage or discourage them in conducting inter-state cooperation. On the contrary, nation-states that are concerned with the new sovereignty are actively conducting international cooperation in law enforcement matters. This is due to the fact that the state is seen as having a partial role within a network of countries that help address global and regional problems (Chayes and Chayes 1995).[40] Pursuing international cooperation actually is a manifestation of modern states which take into account sovereignty as a process to support each other in combating crimes. In other words, new sovereignty focuses on the dependence of one state to cooperate and collaborate within the international community (*ibid.*). To quote Richard Haass[41]

> In the age of globalization, states should give up some sovereignty to world bodies in order to protect their own interests. Some governments are prepared to give up elements of sovereignty to address the threat of global climate change. Under one such arrangement, the Kyoto Protocol, which runs through 2012, signatories agree to cap specific emissions. What is needed now is a successor arrangement in which a larger number of governments, including the US, China, and India, accept emissions limits or adopt common standards because they recognize that they would be worse off if no country did. Globalization thus implies that sovereignty is not only becoming weaker in reality, but that it needs to become weaker… The goal should be to define sovereignty for the era of globalization to find a balance between a world full of sovereign states and an international system of either government or anarchy. Sovereignty is no longer a sanctuary.

The Diversity of National Legal Systems

A crucial obstacle that discourages cooperation in international law enforcement efforts is the problem of differences in legislation among countries (Nadelman 1990: 44). Sovereignty takes precedence over any possible homogenisation of international law enforcement, which results in differences between legal traditions, procedures, evidence-gathering mechanisms, bureaucracies, legal cultural norms and methods used in criminal investigations (Ronderes 1998: 384). These conditions lead to obstacles in conducting inter-state cooperation as they lead to the conflict between those countries in question and exacerbate the difficulties encountered in fighting transnational money laundering.

Ability to Enforce International Cooperation Undertakings

Another obstacle that is present in cooperating internationally for law enforcement matters is the inability of the requested state to perform requests of the requesting state. This is particularly so for several states that lack financial and technical resources, administrative and language barriers, lack of necessary expertise, and lack of clarity on the nature and relevance of the information that is requested. The lack of coordinated law enforcement efforts can also impede the success of cross-border information-sharing in prosecuting transnational money laundering. Furthermore, lack of political will of the requested countries is also a loophole that is an impediment to efficient international cooperation in fighting money laundering.

It follows from the above that inter-state cooperation in countering the cross-border nature of money laundering is extremely important. This means that no country can solely deal with the problem of transnational money laundering using unilateral action. In other words, the problem of cross-border money laundering cannot be solved without effective international cooperation in law enforcement. The state-nation concept might be put into question as a whole, because all future development in finance, business IT and artificial intelligence are global and unlimited. Even the best inter-state cooperation might not be quick enough to adequately respond to these developments. Indeed the UN governance architecture might have to be pushed forward to a kind of global government with provision made for participatory, democratic processes.

Conclusion

The foregoing review shows how the changing basis of the operation of the economy and the coupling of business models are rendering complex the regulation of the provision of financial services. The ICT revolution is changing the basis of the operation of business. Just as this is inspiring

new business models, it is dictating where the law should go. The digital revolution is also altering aspects of human existence through revisiting the hitherto stable legal concepts of time, space and being; all of which are central to the ascription of legal responsibility. These are no small challenges to which the law must adapt for relevance.

Trade in a globalised world is as legitimate an activity today as it was yesterday but it today presents a conduit for TBML and terrorism. This presents challenges to the regulator that require concessions over sovereignty and striking a balance that facilitates globalised trade without jeopardising security or facilitating TBML.

The challenges thus exposed constitute an indication to the Cameroonian regulator of the dire need for a reform today of the rules governing the provision of financial services.

Notes

1. For example, Acemoglu and Robinson (2012).
2. Whereby the number of transistors per integrated circuit was predicted in 1965 to double every 18 months, see http:// www.mooreslaw.org/.
3. William Blake in 'Auguries of Innocence', http://www.artofeurope.com/blake/bla3.htm, accessed 31 March 2015.
4. Jerome C. Glenn, Elizabeth Florescu et al. *State of the Future* (2015–16), The Millennium Project, 4421 Garrison Street, NW Washington, p. 67.
5. Thus Mobile Telecommunications Network (MTN) issues 'mobile money' by agreement with *Afriland First Bank*, Orange Cameroun (another operator) does the same under an agreement signed with the *Banque Internationale de Crédit et d'Epargne du Cameroun*, (BICEC) and Nexttel (a third operator) issues 'mobile money' by agreement with *Union Bank of Africa* (UBA).
6. *Réglement N° 02/00/CEMAC/UMAC/CM du 20 avril 2000 portant Harmonisation de la réglementation des changes dans les Etats membres de la CEMAC.*
7. *Réglement N° 01/02/CEMAC/UMAC/COBAC du Comité Ministériel de l'UMAC relative aux conditions d'Exercices et de Contrôle de l'Activité de Microfinance dans la CEMAC*
8. Cameroon LAW N° 98 / 014 OF 14 July l998 to govern telecommunications in Cameroon
9. *ibid.*
10. The genesis of this challenge lies in the fact that the rules of BEAC (Cameroon's financial regulator) governed 'electronic money' as the preserve of banks who, to increase their market share, contracted with microfinance institutions like Express Union: https://www.investir au Cameroun.com/../1407-9141.
11. e.g. Rynasiewicz (2004). Newton did not regard space and time as genuine substances (as are, paradigmatically, bodies and minds), but rather as real entities with their own manner of existence as necessitated by God's existence.

12. Gottfried Leibniz (1646–1716), Metaphysics 7, Space, Time and Indiscernibles *in Internet Encyclopedia of Philosophy*; Immanuel Kant (1724–1804), Metaphysics 4, Kant's Transcendental Idealism in *Internet Encyclopedia of Philosophy*. accessed 21 August 2017.
13. It is conventional that laws passed by the Cameroon parliament are applicable and enforceable only on geographical space delimited as Cameroon's.
14. ibid., *Critique of Pure Reason*, see also Lucas, John Randolph, Space, *Time and Causality*, p. 149.
15. On which see: Vigna and Casey (2014).
16. Virtual worlds: today and in the future, http://www.bcs.org/content conWebDoc/3336.
17. Martin Heidegger (1889–1976) in Being and Time (1927), translated version (1996) by Joan Stambaugh, State University of NY Press.
18. A.-M. Johannes, Virtual Reality and the Understanding of Being, 27 October 2005, amjohannes.wikidot.com/virtual-reality-and-the-understanding-of-being, accessed 12 January 2015.
19. *ibid*., p. 152.
20. For example, Eterni.me collects almost everything that you create during your lifetime, and processes this huge amount of information using complex artificial intelligence algorithms. Then it generates a virtual 'you', an avatar that emulates your personality and can interact with, and offer information and advice to your family and friends even after you pass away. See also: Ray Kurzweil, 2045 Initiative, 2045.com; BBC - Future - Back-up brains: the era of digital immortality, accessed 19 February 2015.
21. Geographical representations in computing.
22. http://www.mala.bc.ca/~johnstoi/descartes/descartes1.htm. Indeed, Descartes in his 'Discourse on Method' said '*Je pense, donc je suis*', which translates exactly into the familiar Latin and English phrases. The same principle is laid out more fully in his later 'Meditationes', which he wrote in Latin, but without using the exact phrase 'cogito, ergo sum'.
23. Francis Bacon in *Meditationes Sacrae* (1597), www.monticello.org, accessed 19 August 2017.
24. http://en.wikipedia.org/wiki/Deep_Blue_(chess_computer), accessed 14 August 2017. Deep Blue was a chess-playing computer developed by IBM. On 11 May 1997, the machine, with human intervention between games, won the second six-game match against world champion Garry Kasparov, two to one, with three draws. Kasparov accused IBM of cheating and demanded a rematch. IBM refused and retired Deep Blue.
25. www.youtube.com/watch?v=1uIzS1uCOcE; Ray Kurzweil was at the time of writing, Google's Director of Engineering. He is a successful technologist, entrepreneur and inventor of devices like the flatbed scanner, the first computer programme to recognise a typeface, first text and speech synthesizer etc.
26. Edward Snowden, the Untold Story, www.wired.com/2014/08/edward-snowden/, 22 August 2014, accessed 30 March 2017; Edward Snowden: The 10 Most Important Revelations From, mashable.com/2014/06/05/edward-snowden-revelation, accessed 30 March 2017.

27. where the firms are alleged to have obtained Facebook users' private data to develop 'political propaganda campaigns' in the UK and the US. Cambridge Analytica is a British political consulting firm which combines data mining, data brokerage, and data analysis with strategic communication for the electoral process. https://cambridgeanalytica.org/
28. http//:investirauCameroun.com/bic/2803-10526-la-beac-peaufine
29. ibid
30. there is still the impossibility by users to undertake payments between the Central Afican Economic Community (CEMAC) member countries according to the 2011-2016 BEAC Report.
31. Governor of BEAC, March 21, 2018, http//:investirauCameroun.com/bic/2803-10526-la-beac-peaufine
32. ibid. See also, https// :www.digitalbusiness.AfriqueCentrale
33. Jonathan Kirshner for ISN in http://www.isn.ethz.ch, accessed 19 August 2017.
34. ibid.
35. For example, France was the foremost practitioner of strategic disruption in the inter-war years, taking advantage of its ability to force gold to flow from London in order to strong-arm Britain over international security affairs, raising demands with regard to negotiations with Germany and for recognition of France's geo-political interests in Eastern Europe.
36. Jonathan Kirshner for ISN in http://www.isn.ethz.ch, accessed 18 August 2017.
37. See remarks of Michel Camdessus, Managing Director of the International Monetary Fund, at a plenary meeting of the Financial Action Task Force on Money Laundering, 10 February 1998.
38. United Nations Declaration and Action Plan Against Money Laundering, United Nations Resolution S-20/4 D (10 June 1998); and the Ministerial Communiqué, ministerial Conference concerning the Laundering of Proceeds and Instrumentalities of Crime, Buenos Aires, Argentine (2 December 1995); http://www.oecd.org/fatf/Initiatives_en.htm; accessed 13 November 2016.
39. Press release issued by the US Department of the Treasury, RR-3066 (April 1999) http:www.ustreas.gov/press/releases, accessed 10 January 2015.
40. Cited in Slaughter (2004: 286).
41. www.conspiracyarchive.com/2013/11/28/richard-haass, President of the US Council on Foreign Relations (CFR), the most powerful think tank in the US and practically an antechamber of the US Presidency.

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