

SANCTIONS, FINANCIAL REGULATION, AND CRYPTO IN
LATIN AMERICA

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INTRODUCTION

Combatting corruption lies at the heart of most, if not all, legal systems.¹ Corruption “is the abuse of public power for private benefit.”² In the United States, distaste for corruption takes on many forms.³ For example, the Founders made corruption an impeachable offense in the Constitution.⁴ With the globalization of the economy

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¹ Vito Tanzi, *Corruption Around the World: Causes, Consequences, Scope, and Cures* (Int’l Monetary Fund, Working Paper No. 98/63, 1981), <https://www.imf.org/en/Publications/WP/Issues/2016/12/30/Corruption-Around-the-World-Causes-Consequences-Scope-and-Cures-2583> [<https://perma.cc/VUG6-CNB7>].

² *Id.* at 8.

³ *Id.* at 4.

⁴ *Id.*

and increasing dependence on international transactions, anti-corruption practices now take the form of a myriad financial of regulations.

The Office of Foreign Assets Control (“OFAC”), one of the United States’ anticorruption mechanisms, works, somewhat uniquely, backward. Instead of criminalizing past behavior, the President institutes sanctions, via executive orders, that OFAC enforces by prohibiting future transactions with bad actors.⁵ The United States sanctions individuals, sectors of economies, or entire countries based on national security goals, human rights abuses, and, varying political reasons.⁶ Sanctions seek to enforce trade restrictions and block the assets of the specified individuals, corporations, countries, or sectors of a country’s economy by prohibiting United States citizens and entities from interacting with the sanctioned entity.⁷ Blocking assets through sanctions usually means that the sanctioned entity will not be able to access any of its assets held by U.S. institutions.⁸ In the international community sanctions are presented as inter-state punishments for presumed breaches of international law.⁹ Thus, sanctions create an illusion of punishing corruption by forcing corrupt actors out of the well-regulated international financial system that “good” actors created. This exclusion paradoxically enables corruption by disabling integration into the global financial market. As a main sanctioning body, the United States should imitate this well-regulated financial system.

While sanctions reflect punitive reactions to corrupt entities, OFAC is far from being the most emblematic anti-corruption mechanism within the United States. Instead, OFAC sanctions serve the dual purpose of directly prohibiting transactions with enumerated entities and sending a message of intolerance for certain standards. For example, President Biden threatened to enforce personal sanctions against

⁵ See generally U.S. DEP’T OF THE TREASURY, *The Treasury 2021 Sanctions Review* 3 n.3 (Oct. 2021), <https://home.treasury.gov/system/files/136/Treasury-2021-sanctions-review.pdf> [<https://perma.cc/L47Q-WCEM>] [hereinafter *Treasury 2021 Sanctions*].

⁶ *Id.*

⁷ U.S. Dep’t of the Treasury, *Office of Foreign Assets Control – Sanctions Programs and Information*, <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information#:~:text=OFAC%20administers%20a%20number%20of,an%20OFAC%20%22Country%20List.%22> [<https://perma.cc/9KH6-U2A8>] (last visited Jan. 22, 2022).

⁸ U.S. Dep’t of the Treasury, *Frequently Asked Questions: Basic Information on OFAC and Sanctions*, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1501> [<https://perma.cc/29AV-JQ8B>] (last visited Feb. 27, 2022).

⁹ See Alexandra Hofer, *The Proportionality of Unilateral “Targeted” Sanctions: Whose Interests Should Count?*, 89 NORDIC J. INT’L L. 399, 400 (2020).

Russia's President Vladimir Putin if Russia invaded Ukraine.¹⁰ Threatening sanctions offers political advantages: (1) it sends the message that the United States is watching and will retaliate; and (2) it makes Biden look like a human rights supporter. However, sanctions simply require less effort from the international community than a coordinated defense, meaning that it is a way of taking action without putting their people at risk. Putin's actual invasion of Russia pushed the international community to levy coordinated sanctions against Russia, which put Europe at risk of going back into a recession.¹¹

Therefore, analyzing sanctions can point out the goals of an administration while also highlighting eras of arguably bad actors. Latin American countries have not been subjected to many sanctions by the United States.¹² Interestingly, the sanctions that the United States has imposed on Latin American countries have been largely ineffective because of a lack of regional support.¹³ The United States' relationship with Latin America differs from country to country, but the historically asymmetrical power dynamics make it so that Latin Americans look at the United States as a hegemony.¹⁴ Latin America is a notoriously corrupt region, and the United States' politics with Latin American countries centers on control and stifling disagreeable actors.¹⁵ Since the rise of digital currencies – whether cryptocurrency or a central bank digital currency (“CBDC”) – corrupt governments in Latin America have looked for creative ways to avoid regulatory bodies.

The United States *de facto* encourages corrupt actors in Latin America to seek financial protection from other powerful nations, like Russia or China, by sanctioning bad actors and then leaving them

¹⁰ Julian Borger, *Biden Threatens Putin with Personal Sanctions if Russia Invades Ukraine*, THE GUARDIAN (Jan. 26, 2022), <https://www.theguardian.com/world/2022/jan/26/biden-threatens-putin-with-personal-sanctions-if-russia-invades-ukraine> [https://perma.cc/X4Q7-AG8D].

¹¹ Associated Press, *The West's Risky Sanctions Game: Economic Pain for Europe and Much Now More for Russia Later*, FORTUNE (July 18, 2022), <https://fortune.com/2022/07/18/west-sanctions-economic-pain-for-europe-now-more-for-russia-later/> [https://perma.cc/SD4D-XN3U].

¹² Frank O. Mora, *Economic Sanctions: The Triumph of Hope Over Experience*, GLOB. AMS. (Jan. 5, 2018), <https://theglobalamericans.org/2018/01/10507/> [https://perma.cc/A63Y-MLQ3].

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Before Venezuela, US Had Long Involvement in Latin America*, ASSOCIATED PRESS (Jan. 25, 2019), <https://apnews.com/article/north-america-caribbean-ap-top-news-venezuela-honduras-2ded14659982426c9b2552827734be83> [https://perma.cc/QDC8-35AV].

without the ability to trade with the greater international community.¹⁶ This Note will analyze (1) the link between the lack of financial regulation in Latin America, (2) how that has complicated Latin American governments enabling the use of state-sponsored cryptocurrency, and (3) how U.S. sanctions affect Latin American economies and politics. This Note will begin with an analysis of anti-corruption regulations and cryptocurrency. It will then discuss the history of corruption in Latin America before the proliferation of cryptocurrency use in the region and move on to examine responses from different Latin American countries regarding cryptocurrency with a focus on Brazil, Venezuela, and El Salvador. Finally, the Note will dive into the relationship between cryptocurrency, corruption, and U.S. sanctions. Overall, the goal is to explore whether U.S. sanctions enable corrupt practices in Latin America.

I. THE FOREIGN CORRUPT PRACTICES ACT

The United States' main international anti-corruption statute is the Foreign Corrupt Practices Act ("FCPA"). The FCPA prohibits companies that are publicly traded in the United States from paying "bribes to foreign officials to assist in obtaining or retaining business."¹⁷ The provisions of the FCPA can apply to any prohibited conduct in the world, and its jurisdiction extends to enforce these provisions "to publicly traded companies and their officers, directors, employees, stockholders, and agents. Agents can include third-party agents, consultants, distributors, joint-venture partners, and others."¹⁸ In other words, the FCPA prohibits any publicly traded company operating in the United States, along with any actor operating on behalf of the U.S. actor, including partnered businesses in foreign companies, employees at foreign branches, or even an independent contractor or hired consultant or facilitator in the foreign jurisdiction, from issuing any kind of bribe to foreign officials for the U.S. actor's business or private gain.¹⁹ Moreover, the FCPA requires that these actors maintain

¹⁶ Evan Ellis, *Russia's Latest Return to Latin America*, GLOB. AMS. (Jan. 19, 2022), <https://theglobalamericans.org/2022/01/russia-return-latin-america/> [<https://perma.cc/HK29-LE7W>].

¹⁷ U.S. Sec. Exch. Comm'n., *Spotlight on Foreign Corrupt Practices Act*, <https://www.sec.gov/spotlight/foreign-corrupt-practices-act.shtml> [<https://perma.cc/5QUK-WC2K>] (Feb. 2, 2017); *see generally*, The Foreign Corrupt Practices Act of 1977 (FCPA), 15 U.S.C. §§ 78dd-1, et seq.

¹⁸ *Id.*

¹⁹ *Id.*

accurate records and institute proficient internal compliance measures to ensure that transactions are up to the standards authorized and set by management.²⁰ Given that publicly traded companies in the United States include most of the world's corporate conglomerates, the general societal presumption relies on the idea that corruption measures indicate low levels of corruption domestically compared to other countries.²¹

While the FCPA falls under the jurisdictions of the Securities and Exchanges Commission (“SEC”) and the Department of Justice (“DOJ”),²² and both are committed enough to enforcement to have specialized units within their Enforcement Divisions,²³ the civil penalties imposed upon breaching companies almost always encourage the breaching company to self-disclose, which automatically entitles the breacher to a fine reduction.²⁴ It seems as though the SEC and DOJ largely rely on the effects of the combination of their enforcement, the annoyance of dealing with making amends for these violations, and the stain on breaching actors' reputations to send the message that non-compliance will not be tolerated. Nonetheless, corporate sanctions do not necessarily deter individual actors from acting unethically when “landing massive overseas contracts by paying off foreign officials without risking the loss of equally profitable business with the United States – largely outweigh the cost of getting caught.”²⁵ When sanctions can be deemed a convenience tax, what is the point of claiming that massive penalties can be incurred? Moreover, what significance do OFAC sanctions have when public companies in the United States are only subjected to a slap on the wrist?

²⁰ *Id.*

²¹ See e.g. Calley Griffin & Amy Mackinnon, *Report: Corruption in U.S. at Worst Level in Almost a Decade*, FOREIGN POL'Y (Jan. 28, 2021), <https://foreignpolicy.com/2021/01/28/report-transparency-international-corruption-worst-decade-united-states> [<https://perma.cc/EH4Q-X8NQ>].

²² *Id.*

²³ *Id.*; see generally U.S. Sec. Exch. Comm'n, *SEC Enforcement Actions: FCPA Cases*, <https://www.sec.gov/enforce/sec-enforcement-actions-fcpa-cases> [<https://perma.cc/G6NP-KJBF>] (Sept. 26, 2022).

²⁴ See U.S. Dep't of Just., *FCPA Corporate Enforcement Policy § 9-47.120*, <https://www.justice.gov/criminal-fraud/file/838416/download> [<https://perma.cc/2RBP-D2H4>] (Mar. 2019).

²⁵ Drury D. Stevenson & Nicholas J. Wagoner, *FCPA Sanctions: Too Big to Debar?*, 80 FORDHAM L. REV. 775, 803 (2011).

Similarly, most major financial regulatory overhauls are done in response to crises.²⁶ The most recent changes to the U.S. financial regulatory system were introduced by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), which was passed in response to the 2008 Recession.²⁷ The international financial regulatory framework’s reaction to the 2008 financial crisis was the creation of the Financial Stability Board (“FSB”), which consists “of the finance ministers and financial regulator from the G-20 countries, four official international financial institutions, and six international standard-setting bodies . . . to formulate agreements to implement regulatory reform.”²⁸ The FSB’s agenda on international standards for regulatory reform contains many similarities to the Dodd-Frank Act.²⁹ One of the main focuses of financial regulators in fighting corruption is anti-bribery. This makes sense, as corruption often takes on the form of a government actor being bribed to grant a contract to a company or overlook an import.³⁰ While there is an international effort to have a coordinated regulatory agenda, it is up to independent countries to incorporate these protocols domestically for these agendas to work.³¹ Without international coordination, companies can, and do, threaten to take their business operations elsewhere in response to a country enacting a regulation or provision the company disapproves of.³² Regulatory protocols aim to promote financial stability and in large part hope to do so by deterring corruption, which they oftentimes fail to do.³³

Within the United States, one grows accustomed to hearing about corruption. The United States fell nine points in Transparency

²⁶ MARC LABONTE, CONG. RSCH. SERV., R44918, WHO REGULATES WHOM? AN OVERVIEW OF THE U.S. FINANCIAL REGULATORY FRAMEWORK 1 (2020).

²⁷ While this Note will not dive into the intricacies of the Dodd-Frank Act, it is worth noting that it created multiple federal oversight agencies while also redistributing the responsibilities of some existing agencies to protect the average consumer more in case of financial system failure. *Id.* at 14-15.

²⁸ LABONTE, *supra* note 26, at 26.

²⁹ *Id.*

³⁰ *What Is Corruption?*, TRANSPARENCY INT’L, <https://www.transparency.org/en/what-is-corruption> [<https://perma.cc/Q7MK-3D7V>] (last visited Feb 27, 2022).

³¹ *See generally* Barry Eichengreen, *International Financial Regulation After the Crisis*, DEDALUS (2010), <https://www.amacad.org/publication/international-financial-regulation-after-crisis> [<https://perma.cc/QME7-2QBU>] (explaining that there is not an international association akin to the WTO that imposes standards of conduct upon member States’ for supervision and regulation).

³² *Id.*

³³ *Id.*

International's Global Corruption index since 2015, clocking in at sixty-seven points for the year 2021.³⁴ For reference, this places the United States below most of Western Europe and Scandinavia, with a ranking of the twenty-seventh least corrupt nation in the world.³⁵ As a self-appointed example of financial accountability, economic growth, and a robust sanctions enforcer, it makes sense that anti-democratic nations are taking this moment as an opportunity to swerve the United States' regulations. The developing world is lagging in its cooperation to regulate cryptocurrency, and the growing worldwide use of cryptocurrency services operating across borders makes supervision and enforcement of regulations very difficult.³⁶

While the United States seeks to enforce OFAC sanctions and the FCPA alike, the country recently announced an anti-corruption policy that confronts cryptocurrencies and cybercrime.³⁷ Still, a vision of a decentralized financial market with an emphasis on anonymity and transparency spurred the creation of cryptocurrency over ten years ago. Why would countries with strong anti-corruption and anti-money laundering interests wait until after the cryptocurrency market reached a value of more than \$3 trillion to implement regulations?³⁸ Democracy in Latin America is entering a critical phase with a majority of democracies experiencing varying fragility, a couple of strong democracies, and a handful of authoritarian regimes.³⁹ As the United States has spent decades interfering with Latin American politics and economies with the veil of promoting democracy and rule of law,

³⁴ *CPI 2021: Trouble at the Top*, TRANSPARENCY INT'L (Jan. 25, 2022), <https://www.transparency.org/en/news/cpi-2021-trouble-at-the-top> [<https://perma.cc/H9MY-NFST>].

³⁵ *Id.*

³⁶ Tobias Adrian, Dong He & Aditya Narain, *Global Crypto Regulation Should be Comprehensive, Consistent, and Coordinated*, IMFBLOG (Dec. 9, 2021), <https://www.imf.org/en/Blogs/Articles/2021/12/09/blog120921-global-crypto-regulation-should-be-comprehensive-consistent-coordinated#.Y1aRQn94Nvg.link> [<https://perma.cc/37BW-Y95J>].

³⁷ THE WHITE HOUSE, UNITED STATES STRATEGY ON COUNTERING CORRUPTION 25 (2021), <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf> [<https://perma.cc/UC9E-RPAB>].

³⁸ Joanna Ossinger, *The World's Cryptocurrency Is Now Worth More Than \$3 Trillion*, TIME (Nov. 8, 2021, 8:23 PM), <https://time.com/6115300/cryptocurrency-value-3-trillion/> [<https://perma.cc/J2WL-VYZU>].

³⁹ Daniel Zovatto, *The Rapidly Deteriorating Quality of Democracy in Latin America*, BROOKINGS INST. (Feb. 28, 2020), <https://www.brookings.edu/blog/order-from-chaos/2020/02/28/the-rapidly-deteriorating-quality-of-democracy-in-latin-america/> [<https://perma.cc/TX3A-3GYM>].

cryptocurrency usage in the region might be fueled by anti-imperialist sentiments and waning trust in governments.⁴⁰

II. BLOCKCHAIN AND CRYPTOCURRENCY

Blockchain is “a digital record of transactions – or ledger – that is decentralized (no single entity controls network) and distributed (records are shared with all participants), and in which transactions are stored in a highly secure, verifiable and permanent way using various cryptographic techniques.”⁴¹ The creation of blockchain for Bitcoin was done so that users could remain anonymous while performing secure and encrypted transactions.⁴² The irony is that while Bitcoin was created as a disruption to the financial system, blockchain technology can strengthen the financial sector more than it has the capacity to destroy it.⁴³ Blockchain technology can hold documents, account numbers, and records of transactions in a completely secure way that can also be easily shared, verified, or stored.⁴⁴ In the realm of the financial world, this would mean that records of transactions that generally go through multiple intermediaries before being reflected at every end of the transaction can all be updated simultaneously and securely on every ledger without the need for third-party intermediaries.⁴⁵

With the inception of blockchain technology and cryptocurrency, the implications for international trade and regulation are many. As it stands, international trade is regulated through painstaking cooperation among financial institutions, governments, companies, and third-party messengers like Society for Worldwide Interbank Financial Telecommunication (“SWIFT”).⁴⁶ Blockchain has the capacity to simplify every transaction by allowing different secured ledgers to

⁴⁰ Sabrina Escobar, *Latin America Embraces Bitcoin, What's Next for Crypto in Emerging Market?*, BARRON'S (July 19, 2021, 2:35 PM), <https://www.barrons.com/articles/bitcoin-el-salvador-emerging-markets-51626719533> [<https://perma.cc/EQB5-PGB8>].

⁴¹ Emmanuelle Ganne, *Can Blockchain Revolutionize International Trade*, WORLD TRADE ORG. 120 (2018), https://www.wto.org/english/res_e/booksp_e/blockchainrev18_e.pdf [<https://perma.cc/Q3SY-UWFC>].

⁴² *Id.* at 4.

⁴³ *See generally id.*

⁴⁴ Marco Iansiti & Karim R. Lakhani, *The Truth About Blockchain*, HARV. BUS. REV. (Jan. 2017), <https://hbr.org/2017/01/the-truth-about-blockchain> [<https://perma.cc/Q3SV-3S57>].

⁴⁵ *Id.*

⁴⁶ Shobhit Seth, *How the SWIFT Banking System Works*, INVESTOPEDIA (July 7, 2022), <https://www.investopedia.com/articles/personal-finance/050515/how-swift-system-works.asp> [<https://perma.cc/CP3U-HT7E>].

communicate to reflect the same shared records.⁴⁷ Integrating blockchain technology in Latin America creates the possibility of more seamless and accountable participation in the global economy. However, the general lack of regional regulation and the cost of new technology makes it more likely than not that the same few will remain the main beneficiaries of any economic advancement. While blockchain development can facilitate trade in developing countries, without an effort to bridge the digital gap, there is no way an average person in their country would be able to benefit.⁴⁸ For context, less than half of Latin Americans have bank accounts.⁴⁹ Even with international support for blockchain technology development, programs to develop blockchain technology have “emerged through a private-public partnership (“PPP”) model in the non-governmental organization (“NGO”) sector that embraces tech disruption and innovation.”⁵⁰ Implementation of blockchain technology in developed countries has been slow and driven by the private sector; in the developing world, it represents an embrace of Silicon Valley’s cultural values and inflation of the view that cryptocurrencies are streamlined.⁵¹ Cryptocurrencies manifest the success of blockchains, but the proliferation of these technologies through systems that do not reflect the capacities of the society can be an intolerable risk to a region like Latin America.⁵²

III. REGULATORY FRAMEWORK IN THE AMERICAS

The United States enforces a lot of its international trade protocols through the International Emergency Economic Powers Act (“IEEPA”),⁵³ Office of Foreign Assets Control programs, the Bank for

⁴⁷ DLT Labs, *Blockchain Simplified*, MEDIUM (Nov. 20, 2019), <https://dltlabs.medium.com/blockchain-simplified-10cde4762925> [<https://perma.cc/U2SE-PV7X>].

⁴⁸ Ganne *supra* note 41, at 13, 28.

⁴⁹ The World Bank, *Percent People with Bank Accounts*, THEGLOBALECONOMY.COM, https://www.theglobaleconomy.com/rankings/percent_people_bank_accounts/Latin-Am/#:~:text=People%20with%20bank%20accounts%2C%20percent,available%20from%202011%20to%202017 [<https://perma.cc/YAS4-JFSD>] (last visited Jan. 28, 2022).

⁵⁰ Olivier Jutel, *Blockchain Humanitarianism and Crypto-Colonialism*, 3 PATTERNS 1, 1 (2022).

⁵¹ *See id.* at 3-4 (describing that blockchain as a “market-led neoliberal approach to the development sector while presenting itself as a transcendent technology of empowerment” reflects Silicon Valley’s values).

⁵² *Id.* at 4.

⁵³ 50 U.S.C. § 1701.

International Settlements guidelines,⁵⁴ U.S. Antiboycott Laws,⁵⁵ U.S. Customs Regulations,⁵⁶ the Foreign Corrupt Practices Act,⁵⁷ the Arms Export Control Act,⁵⁸ and the Committee on Foreign Investment in the United States (“CFIUS”).⁵⁹ Together, these institutions and programs enforce safe and effective trading in the United States and abroad, as the consequences of not following these guidelines while trading with a U.S. company or individual can subject anyone to fines from U.S. regulatory bodies.⁶⁰ The widespread effect of the United States’ regulations stems from the U.S. dollar’s status as the world’s reserve currency and most vastly used currency in international trade.⁶¹ A country’s reserve currency is “a foreign currency that a central bank or treasury holds as part of its country’s formal foreign exchanges. Countries hold reserves for a number of reasons, including to weather economic shocks, pay for imports, service debts, and moderate the value of its own currency.”⁶² Because almost all international trade is done in U.S. dollars, any of these transactions can be sanctionable, as the source of the money comes from accounts at the Federal Reserve.⁶³ These regulatory bodies and programs ripple throughout the world and specifically have heavy implications in the context of Latin American socioeconomic development.

Latin America and the Caribbean are known for many things, like food, music, and the Amazon rainforest, but the narrative that dominates the region is that of socioeconomic inequality and political

⁵⁴ *Reporting Guidelines for the BIS International Banking Statistics*, BANK INT’L SETTLEMENTS (July 2019), <https://www.bis.org/statistics/bankstatsguide.pdf> [<https://perma.cc/KV7F-AMR5>].

⁵⁵ Bureau of Industry and Security, *Office of Antiboycott Compliance*, U.S. DEP’T OF COMM., <https://www.bis.doc.gov/index.php/enforcement/oac> [<https://perma.cc/9WVS-VXD2>] (last visited Oct. 24, 2022).

⁵⁶ 19 C.F.R. §§ 4.0-192.14.

⁵⁷ 15 U.S.C. §§ 78dd-1, et seq.

⁵⁸ 22 U.S.C. §§ 2751-2799(aa) (2).

⁵⁹ U.S. DEP’T OF TREASURY, *The Committee on Foreign Investment in the United States*, <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius> [<https://perma.cc/S8WW-XVKL>] (last visited Oct. 24, 2022).

⁶⁰ Anshu Siripurapu, *The Dollar: The World’s Currency*, COUNCIL ON FOREIGN RELS. (Sept. 29, 2020, 10:00 AM), <https://www.cfr.org/backgrounder/dollar-worlds-currency> [<https://perma.cc/3LZK-TD4Q>].

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

instability.⁶⁴ Since the 1950s, almost every country in Latin America has undergone some kind of coup, military dictatorship, or populist tyranny.⁶⁵ For context, the average lifespan of a Latin American country's constitution is 16.5 years.⁶⁶ Generally, the rule of law and regulatory frameworks are especially weak in Latin American countries because of constant changes in the ruling political party, which means upheaval of the existing framework and high levels of corruption and impunity.⁶⁷ As such, when the narco-trafficking trade escalated in the 1980s and the United States began the War on Drugs, a microscope was placed on Latin America and the persistent violence and weak institutions of the region.⁶⁸ The narco-trafficking trade takes advantage of the weak government institutions, which in turn makes the government less trusted, creating a vicious cycle of mistrust and volatility.⁶⁹ A new Mexican law requires that registered crypto trading platforms report all transfers above \$2,830 enacted in Mexico and the United States to track cartels laundering money through cryptocurrencies has been slow to take effect.⁷⁰ Meanwhile, drug cartels are already using cryptocurrency to launder money.⁷¹

An effect of narco-trafficking in Latin America, and all the criminal activities that narco-trafficking entails, is that a large part of financial crimes in the region can be linked to illicit activities.⁷² With the creation of blockchain technology and cryptocurrency, the initial

⁶⁴ *Latin American and the Caribbean: Improving Security and Economic Political Inclusion*, U.S. AID, <https://www.usaid.gov/where-we-work/latin-american-and-caribbean> [<https://perma.cc/L9MQ-KP42>] (July 21, 2021).

⁶⁵ Adam Taylor, *Map: The World of Coups*, WASH. POST (July 22, 2016, 11:16 AM), <https://www.washingtonpost.com/news/worldviews/wp/2016/07/22/map-the-world-of-coups-since-1950/> [<https://perma.cc/6929-Y5LB>].

⁶⁶ Ryan Eustace, *Fluid Constitutions: A Latin American Phenomenon*, COUNCIL ON HEMISPHERIC AFFS. (July 3, 2014), <https://www.coha.org/fluid-constitutions-a-latin-american-phenomenon/> [<https://perma.cc/5RGQ-ATWQ>].

⁶⁷ *Id.*

⁶⁸ German Lopez, *How the War on Drugs Perpetuates Violence in Latin America*, VOX (Nov. 14, 2014, 12:10 PM), <https://www.vox.com/2014/11/14/7189219/drug-war-mexico-colombia> [<https://perma.cc/2G89-T7NB>].

⁶⁹ *Id.*

⁷⁰ Diego Oré, *Latin American Crime Cartels Turn to Cryptocurrencies for Money Laundering*, REUTERS (Dec. 8, 2020), <https://www.reuters.com/article/mexico-bitcoin-insight/latin-american-crime-cartels-turn-to-cryptocurrencies-for-money-laundering-idUSKBN2811KD> [<https://perma.cc/2HQH-XHQ5>].

⁷¹ *Id.*

⁷² Celina B. Realuyo, *Following the Money Trail: To Combat Terrorism, Crime, and Corruption in the Americas*, WILSON CTR. (Aug. 2017), https://www.wilsoncenter.org/sites/default/files/media/documents/publication/follow_the_money_final.pdf [<https://perma.cc/YQZ6-227T>].

thought was that these new technologies would incentivize and protect the drug trade because of the implied anonymity of transactions since the entire exchange can be done on the dark web with cryptocurrencies.⁷³ Anti-money laundering and anti-bribery enforcement provisions are “woefully selective, sparse and inadequate in a region awash with dirty money.”⁷⁴ Nonetheless, Latin America has El Grupo de Acción Financiera de Latinoamérica (“GAFILAT”)⁷⁵ and Comisión Interamericana para el Control del Abuso de Drogas (“CICAD”),⁷⁶ as functional financial regulators.⁷⁷ GAFILAT is the Financial Action Task Force of Latin America, and its purpose “is to work toward developing and implementing a comprehensive global strategy to combat money laundering and terrorist financing.”⁷⁸

Moreover, GAFILAT is an intergovernmental organization that consists of seventeen South, Central, and North American countries that adhere to the forty best practice recommendations it specifies to meet the international standard of preventing and combatting money laundering and terror financing.⁷⁹ GAFILAT is not an enforcement institution because it cannot enact penalties or enforce jurisdiction. GAFILAT is seeking to develop a global anti-money laundering strategy in Latin America, which may increase cross-bordering money laundering monitoring and enforcement.⁸⁰ Part of the larger GAFI⁸¹

⁷³ James Martin & Monica Barratt, *Dark Web, Not Dark Alley: Why Drug Sellers See the Internet as a Lucrative Haven*, THE CONVERSATION (Mar. 4, 2020), <https://theconversation.com/dark-web-not-dark-alley-why-drug-sellers-see-the-internet-as-a-lucrative-safe-haven-132579> [<https://perma.cc/B427-UB45>].

⁷⁴ Joachim Bamrud, *Growing Crime and Weak Enforcement Boost Money Laundering in Latin America*, DIAZ REUS INT'L L. FIRM & ALL. (Nov. 24, 2014), <https://diazreus.com/money-laundering-in-latin-america-continues-to-grow/> [<https://perma.cc/S6WE-Q48N>].

⁷⁵ *¿Qué es el GAFILAT?*, GAFILAT, <https://www.gafilat.org/index.php/es/gafilat/que-es-gafilat/> [<https://perma.cc/ZP9G-ZLRW>] (last visited Jan. 21, 2022) [hereinafter *GAFILAT*].

⁷⁶ *Comisión Interamericana Para el Control del Abuso de Drogas*, ORGANIZACIÓN DE LOS ESTADOS AMERICANOS, http://www.cicad.oas.org/main/default_spa.asp [<https://perma.cc/KA99-2VSC>] (last visited Jan. 21, 2022).

⁷⁷ *Convenios y Instituciones Internacionales Que Tratan el Problema de Lavado de Activos*, ORGANIZACIÓN DE LOS ESTADOS AMERICANOS, http://www.cicad.oas.org/Main/Template.asp?File=/lavado_activos/framework_spa.asp [<https://perma.cc/6SFW-TVAX>] (Sept. 17, 2018) [hereinafter *CICAD*].

⁷⁸ *Financial Action Task Force of Latin America (GAFILAT)*, FATF, <https://www.fatf-gafi.org/pages/gafilat.html> [<https://perma.cc/5Q6W-L5QM>] (last visited Jan. 21, 2022).

⁷⁹ GAFILAT, *supra* note 75.

⁸⁰ Bamrud, *supra* note 74.

⁸¹ Also known as the Financial Action Task Force (“FATF”).

provisions is that countries conduct mutual evaluations of their anti-money laundering and terrorist financing legal and enforcement systems.⁸² Countries that successfully complete the evaluation process “join[] the GAFI network and receive[] an endorsement rating,” allowing “it to demonstrate to the international community that its system is effective in the prevention and repression of money laundering and terrorist financing criminal offences.”⁸³ Sadly, the “overseeing” countries are all colonial powers, which is part of the economic power dynamic. On the other hand, CICAD mainly deals with drug trafficking prevention and control; however, it has an Expert Group for the Control of Money Laundering that concentrates on helping and training about financial mechanisms and judicial law enforcement.⁸⁴ Both bodies focus on intergovernmental cooperation as an essential tool to combat money laundering.

It is worth reiterating that while Latin America has these organizations, that does not mean that there is significant financial regulation in the region. Weak judicial enforcement makes private enforcement actions rare, meaning the burden of overseeing corporate compliance falls on public enforcers rather than private actors.⁸⁵ Despite recent improvements, most Latin American countries simply lack the judicial speed or the resources to enforce vast financial compliance provisions.⁸⁶ From the paradigm of societies that are painfully aware of the instability of their governments, the reason behind why Latin Americans are quick to embrace digital currencies should not be a mystery. The legal gray area behind the lack of crypto transaction regulation is not a deterrent for many average Latin Americans when it might be a clear step toward financial stability.

⁸² Rafael Collado González, Lucía Álvarez Galvez, Josefa Zamorano Quiroga & Camilo León Millones, *Anti-Money Laundering and Counter-Terrorist Financing in Latin America*, in *THE GUIDE TO CORP. COMPLIANCE* (Andrew M Levine, Reynaldo Manzanarez Radilla, Valeria Plastino and Fabio Selhorst eds., 2d ed. 2021).

⁸³ *Id.*

⁸⁴ *The Interamerican Drug Abuse Control Commission*, FATF, <https://www.fatf-gafi.org/pages/theinter-americandrugabusecontrolcommissioncicadoas.html> [<https://perma.cc/RM76-LMTF>] (last visited Oct. 24, 2022).

⁸⁵ OECD, *Public Enforcement of Corporate Governance Related Rules in Latin America: A Comparison of Argentina, Brazil, Chile, Colombia, Brazil, and Peru 6* (2020), <https://www.oecd.org/corporate/Public-Enforcement-Corporate-Governance-Latin-America.pdf> [<https://perma.cc/HR6N-CE9P>].

⁸⁶ *Id.* at 26.

Even the largest economy in the world, the United States, has only recently begun to figure out how to regulate cryptocurrency.⁸⁷ Given the emphasis on cross-border coordination for anti-money laundering and counter-terrorist financing regulation,⁸⁸ if Latin America hopes to have compliance and curb narcotrafficking and corruption, without complete reliance on the United States, they need to do better. Along with this, FCPA regulators and OFAC have a vast interest not only in regulating bank transactions but in all financial transactions.⁸⁹ Cryptocurrency can be considered to fall into the purview of both the FCPA and OFAC, given that cryptocurrency can be used to bribe, exchange, or purchase anything. Even then, regimes with massive violence and drug trafficking rates like Mexico, Colombia, Bolivia, and Peru have never been subjected to OFAC sanctions.⁹⁰ Instead, the United States has invested over a trillion dollars to promote criminal enforcement efforts against the War on Drugs.⁹¹ Though it is said that sanctions seek to punish autocracies and promote democratic idealism, U.S. sanctions on Venezuela and Cuba have been found to contribute to the countries' instability.⁹²

IV. HISTORY OF CORRUPTION IN LATIN AMERICA

While corruption in Latin America has arguably existed since Spain and Portugal colonized and pillaged the region, it is fruitless to begin with an entire history of colonial and post-colonial attitudes that predated the narcotrafficking trade to analyze current financial

⁸⁷ Michelle Price, *Explainer: How U.S. Regulators Are Cracking Down on Cryptocurrencies*, REUTERS (Sept. 24, 2021, 12:54 PM), <https://www.reuters.com/technology/how-us-regulators-are-cracking-down-cryptocurrencies-2021-09-24/> [<https://perma.cc/C4YP-V9TJ>].

⁸⁸ González, Galvez, Quiroga & Millones, *supra* note 82.

⁸⁹ *See generally*, Treasury 2021 Sanctions, *supra* note 5, at 2.

⁹⁰ *See* Mora, *supra* note 12.

⁹¹ Nathaniel Lee, *America Has Spent over a Trillion Dollars Fighting the War on Drugs. 50 Years Later, Drug Use in the U.S. Is Climbing Again*, CNBC (June 17, 2021), <https://www.cnn.com/2021/06/17/the-us-has-spent-over-a-trillion-dollars-fighting-war-on-drugs.html> [<https://perma.cc/M99K-TP5M>].

⁹² *New Report Documents How U.S. Sanctions Have Directly Aggravated Venezuela's Economic Crisis*, WASHINGTON OFF. ON LATIN AM. (Oct. 29, 2020), <https://www.wola.org/2020/10/new-report-us-sanctions-aggravated-venezuelas-economic-crisis> [<https://perma.cc/GT2F-DRZW>]; Christopher Sabatini, *U.S.-Cuba Sanctions: Are They Working Yet?*, CHATHAM HOUSE (Aug. 20, 2020), <https://www.chathamhouse.org/2020/08/us-cuba-sanctions-are-they-working-yet> [<https://perma.cc/6G5H-NNAP>].

practices.⁹³ Instead, beginning with the Petrobras scandal in Brazil and looking at corruption since, there is better room for an exploration into the contemporary proliferation of corruption in the region. Petrobras – also known as *Petróleo Brasil S.A.* – is Brazil’s largest and most important company, with the government owning 64% of it.⁹⁴ Petrobras finds, extracts, refines, and transports petroleum, natural gas, and renewable energy fuels, among other things.⁹⁵ Its construction projects and “other contracts for Petrobras[’s] business run into the billions of dollars annually,” which allowed the company to create a massive corruption and bribery scheme.⁹⁶ Large construction firms in Brazil “organized an illegal cartel with the aim of landing overpriced contracts” with Petrobras, where the companies would bribe Petrobras employees to receive these contracts.⁹⁷ Bribe money “was channeled discreetly through black-market financial operators known as *doleiros*” who would take money from construction companies’ “businessmen through offshore companies and funnel it to the intended recipients.”⁹⁸ All of this information was obtained as a result of Operation *Lavo Jato* (“Operation Car Wash”).⁹⁹

A. Operation Car Wash in Brazil

Operation Car Wash began in March 2014, and “undertook seventy-one phases (or operations) resulting in 119 complaints filed, 116 criminal actions, 165 individuals convicted in both first and second instances, forty-nine signed collaboration agreements, and fourteen signed leniency agreements.”¹⁰⁰ This was all in Brazil alone. Moreover, the heart of the scandal lay in the intricacies of Brazil’s legal system, where government officials can only be prosecuted by the country’s highest court and where, until recently, no government official

⁹³ See generally Barney Warf & Sheridan Stewart, *Latin American Corruption in Geographic Perspective*, 15 J. LATIN AM. GEOGRAPHY 1 (2016).

⁹⁴ Esther Fuentes, *Understanding the Petrobras Scandal*, COUNCIL ON HEMISPHERIC AFFS. (Apr. 7, 2016), <https://www.coha.org/understanding-the-petrobras-scandal> [<https://perma.cc/5DCJ-FR5B>].

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Fabio Ramazzini Bechara & Paulo C. Goldschmidt, *Introduction*, in LESSONS OF OPERATION CAR WASH: A LEGAL, INSTITUTIONAL, AND ECONOMIC ANALYSIS 6–7 (2020).

was ever found guilty of corruption.¹⁰¹ While these corruption scandals account for bribery and systemic changes that are difficult to fathom, the international community may view the existence of Operation Car Wash as a positive force in Brazil's journey toward abolishing the culture of impunity that persists in the country.¹⁰²

Odebrecht specializes in large public-works projects as Latin America's largest construction company.¹⁰³ Headquartered in Brazil, Odebrecht has built mass-transit systems in various major cities in Latin America and even built the Miami International Airport, among various other projects.¹⁰⁴ Gaining government contracts usually involves a competitive bidding process to secure the contract, but Odebrecht secured contracts by generously bribing influential politicians.¹⁰⁵ The U.S. Department of Justice stated that between 2001 and 2006, "Odebrecht paid \$788 million in bribes . . . for 100 projects in 12 countries."¹⁰⁶ The company's corruption knew no bounds; through its Division of Structured Operations department, "Odebrecht used bribes to secure construction contracts worth over \$3 billion. High-level officials have been linked to Odebrecht scandals in Colombia, Mexico, and the Dominican Republic, including links to former presidents and vice presidents in Brazil, Peru, Argentina, Ecuador, and . . . Panama."¹⁰⁷ The scandal touched almost every corner of Latin America. As the biggest construction provider in the region, the direct implication of governments where officials and even presidents were lauded as representatives of their people was surprising not because of the breadth but because of the potential for a rare demonstration of accountability.¹⁰⁸

¹⁰¹ Fuentes, *supra* note 94.

¹⁰² Bechara & Goldschmidt, *supra* note 100, at 121-22.

¹⁰³ Lindsay Mayka & Andrés Lovón, *How One Company's Deep Web of Corruption Took Down Governments Across Latin America*, WASH. POST (May 23, 2019, 5:00 AM), <https://www.washingtonpost.com/politics/2019/05/23/how-one-companys-deep-web-corruption-took-down-governments-across-latin-america/> [<https://perma.cc/M7K2-Y73F>].

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Understanding Odebrecht: Lessons for Combating Corruption in the Americas Before the Subcomm. on the W. Hemis. Civ. Sec. & Trade of the H. Comm. Of Foreign Affairs*, 116th Cong. (2019).

¹⁰⁸ Bechara & Goldschmidt, *supra* note 100, at 26.

B. Regional Implications of Operation Car Wash

Throughout Operation Car Wash, other Latin American companies have been indicted for corruption and bribery by the United States government. “Between December 2016 and December 2017, at least four companies reached resolutions with the U.S. DOJ or the U.S. SEC (or both), acknowledging bribe payments made to or through Petrobras” and for “additional improper payments to other government or state-owned entities (“SOEs”) or officials.”¹⁰⁹ The alleged payments spanned to include companies in Argentina, Brazil, Colombia, the Dominican Republic, Ecuador, Guatemala, Mexico, Panama, Peru, and Venezuela.¹¹⁰ In December 2016, for example, *Petróleos Mexicanos* (“PEMEX”) started looking into “whether any of its executives received illicit payments in connection with” Operation Car Wash.¹¹¹ By the end of 2019, PEMEX cooperated with relevant authorities in Mexico after the federal attorney general obtained multiple arrest warrants for a former PEMEX executive officer and some members of his family for alleged crimes linked to Operation Car Wash.¹¹² The DOJ and SEC also are also allegedly investigating PEMEX.¹¹³

Additionally, *Citgo Petroleum Corporation* (“*Citgo*”) confirmed that it received a subpoena requesting information relating to bribery in Venezuela.¹¹⁴ While *Citgo* has been subpoenaed for documents and implicated in several guilty pleas by individuals, it has not been charged publicly or reached a public corporate resolution.¹¹⁵ Ironically, Venezuela charged six executives at *Citgo* with corruption in 2020, even though there was a general consensus that the Maduro government jailed the individuals for political reasons and not for actual wrongdoing.¹¹⁶ *Petróleos de Venezuela, SA* (“*PDVSA*”), *Citgo*’s

¹⁰⁹ Jocelyn E. Strauber, Julie Bédard, Lauren A. Eisenberg & Mayra Suárez, *Latin America’s Compliance Climate Today*, in *THE GUIDE TO CORP. COMPLIANCE* (Andrew M Levine, Reynaldo Manzanarez Radilla, Valeria Plastino and Fabio Selhorst eds., 2d ed. 2021).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ It is worth noting here that *Citgo* is a United States oil and petroleum refining company that is owned by Venezuela’s state oil firm. *Citgo 6: U.S. Oil Executives Convicted of Corruption in Venezuela*, BBC (Nov. 27, 2020), <https://www.bbc.com/news/world-latin-america-55097195> [<https://perma.cc/Z65R-38XU>] [hereinafter *BBC*]; see also Strauber, Bédard, Eisenberg & Suárez, *supra* note 109.

¹¹⁵ Strauber, Bédard, Eisenberg & Suárez, *supra* note 109.

¹¹⁶ *BBC*, *supra* note 114.

owner, is also consistently being monitored by the United States for possible instances of wrongdoing with charges by the DOJ “against 27 individuals, 20 of whom have pleaded guilty, as part of a larger, ongoing investigation by the U.S. government into bribery at PDVSA.”¹¹⁷

The aforementioned instances of corruption are just a few of the notable ones where there has been involvement by the U.S. government in investigating, trying, and finding corrupt actors. Further, these occurrences showcase what most Latin American citizens already know about their countries where “corruption stands as one of the top five concerns for the region at large.”¹¹⁸ According to Transparency International’s Corruption Perception Index (“CPI”), “[p]eople prioritize corruption alongside public safety and economic issues. In fact, between 2008 and 2016, anxiety about corruption grew annually until approximately eight percent of those surveyed cited it as their country’s most significant problem.”¹¹⁹ The region has the highest wealth disparity in the world, and “[c]orruption plays a significant role in perpetuating economic inequality across the region at both a geopolitical and local level.”¹²⁰

Corruption scandals have pervasively touched every corner of Latin America. The corrupt actors have been ex-presidents, high-level government officials, and people trusted by their constituents to institute adequate regulations and improve their country’s respective situations.¹²¹ When so many powerful actors have made the region seem like an investors’ nightmare, is there a scenario where cryptocurrency or blockchain, with their emphases on transparency and little to no oversight, makes sense? Endemic corruption in the region exists cyclically as both a symptom and a cause of unstable democracies and

¹¹⁷ See Press Release, Dep’t of Just., Off. of Pub. Affs., Former Venezuelan Off. Charged in Connection with Int’l Bribery and Money Laundering Scheme (Aug. 6, 2020) <https://www.justice.gov/opa/pr/former-venezuelan-official-charged-connection-international-bribery-and-money-laundering> [<https://perma.cc/WDB6-6C2Z>].

¹¹⁸ Paul Lagunes, Xiaoxuan Yang & Andrés Castro, *The State of Corruption in Latin America*, BAKER INST. REP. 4 (July 8, 2019).

¹¹⁹ *Id.*

¹²⁰ Teresa Romero, *Corruption in Latin America: Statistics & Facts*, STATISTA (June 21, 2022), <https://www.statista.com/topics/6468/corruption-in-latin-america/#dossierKeyfigures> [<https://perma.cc/A4WP-D45N>].

¹²¹ Jan Martínez Ahrens & Javier Lafuente, *Pandora Papers in Latin America: Three Active Heads of State and 11 Former Presidents Operated in Tax Havens*, EL PAÍS (Oct. 3, 2021, 5:41 PM), <https://english.elpais.com/usa/2021-10-03/pandora-papers-in-latin-america-three-active-heads-of-state-and-11-former-presidents-operated-in-tax-havens.html> [<https://perma.cc/L448-KL2L>].

lack of institutional oversight. A new government may come, hoping to deter corruption, but when previously oppressed actors begin to act for their gain by taking advantage of preexisting systems, it becomes a cyclical issue. When the new private actors learn to create their own pathways of malfeasance and bring in more cronies, the actors in positions of power once again lack the incentive to promote financial regulations.

V. CRYPTOCURRENCY AND BLOCKCHAIN IN LATIN AMERICA

Blockchain offers transparency that could be seen as a kind of “messiah” for previously bad actors to embrace in order to regain the public’s trust. Odebrecht launched a blockchain initiative called Observ Institute to guarantee transparency in its operations of public construction projects.¹²² “The project proposes a governance system which prevents any actor in the infrastructure market from having political power at Observ and also assures that data and analysis are open and auditable by society.”¹²³ In fact, Odebrecht started the “initiative as part of its leniency agreement actions signed with the Public Prosecution Service” within Operation Car Wash.¹²⁴ The leniency agreement offers Odebrecht “a chance to contribute positively to systemic change” by pushing it to become part of the “evolving trend toward greater transparency and reduced public corruption.”¹²⁵ Ironically, the initiative was launched while Operation Car Wash was still issuing indictments to bad actors.

¹²² León A. Martínez, *Blockchain, Odebrecht y el Combate a la Corrupción, ¿Qué Podría Salir Mal?*, EL ECONOMISTA (Sept. 26, 2018, 8:15 PM),

<https://www.eleconomista.com.mx/tecnologia/Blockchain-Odebrecht-y-combate-a-la-corrupcion-que-podria-salir-mal-20180926-0088.html> [<https://perma.cc/89TL-HB4G>].

¹²³ Ethos Institute, *Group Creates Observ to Monitor Public Notices*, OEC (Sept. 10, 2018), oec-eng.com/api/en/news/take-look-summary-article-published-valor-economico-about-creation-public-notice-monitoring [<https://perma.cc/6EPL-QKNS>].

¹²⁴ *Id.*

¹²⁵ María González Calvet, Patrick J. Reinikainen & Kent Ford, *Recent Developments in Latin American Anti-Corruption Enforcement*, ROPES & GRAY 4 (Jan. 9, 2019), <https://www.ropesgray.com/-/media/Files/articles/2019/01/20190109-Recent-Developments-in-LatAm-AntiCorruption-Enforcement-tRepr.pdf?la=en&hash=E2C70B98DBAD0DD6F52A1ABFAE531A5EC8DC0AA1> [<https://perma.cc/B6UU-LJJN>].

A. Venezuela's Corruption and Crypto Experiment

Recent sporadic corporate accountability and then helping the actors readjust to a new standard of regulation seems extremely lackluster, as almost all of these companies are majority owned by their country. As the most corrupt country in the region by a long shot,¹²⁶ Venezuela's state-owned PDVSA constitutes a private "vehicle for corruption" for the government.¹²⁷ "For example, a 2014 currency exchange scheme was designed to embezzle and launder around \$600 million from PDVSA, money obtained through bribery and fraud. By May 2015, the conspiracy had allegedly doubled in amount, to \$1.2 billion embezzled from PDVSA."¹²⁸ These examples reflect a government that has left 96% of its population living at poverty levels.¹²⁹ While government officials line their pockets with U.S. dollars or similarly stable currencies, haphazard changes to the Venezuelan Bolivar only provoke more public mistrust.¹³⁰ In a measure hoping to stimulate the economy, the Venezuelan Central Bank ("BCV") created a digital currency and simultaneously introduced a "banknote worth 1 million bolivars."¹³¹ Instead of creating a view of transparency, these measures add to feelings of unrest and unease as they maneuver an ever-changing financial market. Rather with "[i]nterannual inflation . . . running at 2,665% as of January," the initiatives can rightly be considered a band-aid while Venezuelans have defaulted to using U.S. dollars for most of their transactions.¹³² According to the BCV, "[t]he monetary scale adjustment . . . is necessary at a moment when the country begins on the path of economic recovery following the crisis produced by brutal attacks against our economy, our currency, and the criminal

¹²⁶ Lagunes, Yang & Castro, *supra* note 118, at 3.

¹²⁷ U.S. DEP'T OF TREAS., *Treasury Sanctions Venezuela's State-Owned Oil Company Petroleos de Venezuela, S.A.* (Jan. 28, 2019), <https://home.treasury.gov/news/press-releases/sm594> [<https://perma.cc/ZQ6U-XWSC>].

¹²⁸ *Id.*

¹²⁹ Noelani Kirschner, *Under Maduro, Nearly All Venezuelans Live in Poverty*, U.S. MISSION TO THE UN AGENCIES IN ROME (Aug. 3, 2020), <https://usunrome.usmission.gov/under-maduro-nearly-all-venezuelans-live-in-poverty/> [<https://perma.cc/Q76F-B8S6>].

¹³⁰ *Id.*

¹³¹ *Venezuela to Introduce 1-Million-Bolivar Bill as Inflation Persists*, REUTERS (Mar. 5, 2021), <https://www.reuters.com/article/venezuela-economy/venezuela-to-introduce-1-million-bolivar-bill-as-inflation-persists-idUSL2N2L401H> [<https://perma.cc/Y44D-Y6QZ>].

¹³² *Id.*

imposition of a financial blockade.”¹³³ Notably, when the Venezuelan government refers to attacks on its entire financial system, it refers to the “weight of crushing US sanctions, with GDP shrinking by 65% between 2013 and the first trimester of 2019.”¹³⁴ The United States began lifting some of the oil-related sanctions imposed on Venezuela as a result of the Ukraine-Russia crisis.¹³⁵ Regardless, the reasons to impose and relieve the sanctions were political, and the supposed requirement for a less corrupt Venezuela has not automatically occurred.

PDVSA continues to be the most important “corporate actor” in Venezuela because oil “sales make up 99% of export earnings and roughly one-quarter of gross domestic product.”¹³⁶ When a state-owned company is able to embezzle one billion U.S. dollars in the span of one year, it is difficult to think of any action by the government as a desire for transparency. Fighting an economic, humanitarian, and political crisis, the Venezuelan government created the Petro as a currency that would be tied to the tangible assets of the country.¹³⁷ The Venezuelan government is calling the Petro a cryptocurrency.¹³⁸ The Petro is rarely practical considering that most Venezuelans use crypto to protect their money from the inflation facing the bolivar.¹³⁹ As such, Venezuela as one of the world’s top cryptocurrency adopters categorically failed in the creation of the Petro.¹⁴⁰ Of course, the creation of the Petro was intended to promote international trade by evading sanctions and enabling cross-border transactions, but former President

¹³³ Ricardo Vaz, *Venezuela to Roll Out New Monetary Reconversion*, VENEZUELA ANALYSIS (Aug. 7, 2021), <https://venezuelanalysis.com/news/15282> [<https://perma.cc/5ZLY-LRJ2>] (quoting a statement from the BCV).

¹³⁴ *Id.*

¹³⁵ Associated Press, *U.S. to Ease a Few Economic Sanctions Against Venezuela*, POLITICO (May 17, 2022, 1:51 PM), <https://www.politico.com/news/2022/05/17/us-ease-venezuela-sanctions-maduro-00033082> [<https://perma.cc/T4H4-EYJN>].

¹³⁶ Amelia Cheatham, Diana Roy & Rocio Cara Labrador, *Venezuela: The Rise and Fall of a Petrostate*, COUNCIL ON FOREIGN RELS., <https://www.cfr.org/backgrounder/venezuela-crisis> [<https://perma.cc/4GCT-UR7T>] (Dec. 29, 2021).

¹³⁷ *PETRO: La Primera Criptomoneda Venezolana*, GOBIERNO BOLIVARIANO DE VENEZUELA PDVSA, http://www.pdvs.com/index.php?option=com_content&view=article&id=8734&Itemid=577&lang=es [<https://perma.cc/8F96-DKQU>] (last visited Jan. 28, 2021).

¹³⁸ *Id.*

¹³⁹ Brian Ellsworth, *As Venezuela’s Economy Regresses Crypto Fills the Gaps*, REUTERS (June 22, 2021, 10:21 AM), <https://www.reuters.com/technology/venezuelas-economy-regresses-crypto-fills-gaps-2021-06-22> [<https://perma.cc/XTE7-GTJ8>].

¹⁴⁰ Sergio Goschenko, *A Look at Why Venezuela Is the Third Country with the Most Crypto Adoption*, BITCOIN.COM (May 28, 2021), <https://news.bitcoin.com/venezuela-numbers-cryptocurrency-adoption-factors> [<https://perma.cc/ZX9V-TZ2R>].

Trump quickly reacted by prohibiting U.S. citizens from purchasing or trading the Venezuelan digital currencies.¹⁴¹ The Petro lost any kind of potential it had when the asset became politically volatile.¹⁴²

If Venezuelans trusted their government to create a cryptocurrency, maybe the Petro would not have tumbled domestically so quickly.¹⁴³ Just one-third of Venezuelans trust their government's institutions.¹⁴⁴ In an attempt to simultaneously gain legitimacy and avoid sanctions, the government's launch of the cryptocurrency: (1) pushed use of the Petro by ordering branches of the BCV to promote it to citizens; (2) forced every airline flying into or out of Caracas to pay for fuel with Petro; and (3) gave citizens the "freedom" to pay for their taxes, utility bills, and passport fees with Petro.¹⁴⁵ The Petro's vigorous promotion campaign highlights the extent of the failure of the government's efforts and underscores the pattern of self-reliance among Venezuelans.¹⁴⁶ Moreover, the Venezuelan government continues to control digital assets, which goes "against the principles of the cryptocurrency movement, but also undermine[s] the value of the currency."¹⁴⁷ It does not help that little is known about how much control the Maduro regime has over the Petro.¹⁴⁸ Greater concerns over this vastly distrusted government's oversight were expressed when the government took the blockchain that supports the Petro down for maintenance.¹⁴⁹ Since the temporary halt, "the [P]etro's blockchain has been irreversibly changed in a way that renders old versions of the [P]etro obsolete" meaning those users could not access their digital

¹⁴¹ Rahul Nambiapurath, updated by Kyle Baird, *The Venezuelan Petro: Failed Digital Token or Diamond in the Rough?*, BE[IN]CRYPTO, <https://bein-crypto.com/the-venezuelan-petro-failed-digital-token-or-diamond-in-the-rough> [https://perma.cc/8RHH-LKLS] (July 9, 2020).

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ Laura Silver, Courtney Johnson & Kyle Taylor, *Venezuelans Have Little Trust in National Government, Say Economy Is in Poor Shape*, PEW RSCH. CTR. (Jan. 25, 2019), <https://www.pewresearch.org/fact-tank/2019/01/25/venezuelans-have-little-trust-in-national-government-say-economy-is-in-poor-shape/> [https://perma.cc/L2NF-MMAP].

¹⁴⁵ Nambiapurath & Baird, *supra* note 141.

¹⁴⁶ *Id.*

¹⁴⁷ Jake Frankenfield, *Petro (PTR)*, INVESTOPEDIA, <https://www.investopedia.com/terms/p/petro-cryptocurrency.asp> [https://perma.cc/4XZP-RJR9] (Feb. 26, 2022).

¹⁴⁸ *Id.*

¹⁴⁹ Jose Antonio Lanz, *Did Venezuela Just Fork Its Petro Cryptocurrency?*, DECRYPT (May 13, 2020), <https://decrypt.co/28720/venezuela-secretly-hard-fork-petro-cryptocurrency> [https://perma.cc/GT78-W8R2].

wallets with their previous addresses.¹⁵⁰ By rebooting the blockchain and changing users' addresses, Venezuela demonstrated that the Petro is not a real cryptocurrency by showing its hand in how much it can manipulate the entire platform.

B. *Venezuela's Second Digital Currency Attempt*

Though few Venezuelans trust their government, an independent cryptocurrency likely would have succeeded given a large portion of the population already uses crypto.¹⁵¹ A truly public blockchain and cryptocurrency gives Venezuelans the possibility of waking up the next day, week, or year, and still having the same value of assets in their digital wallets because public blockchains are less centralized and can be accessed anywhere, not just through a government webpage.¹⁵² In 2021, the Venezuelan Central Bank launched the digital bolívar ("BsD"), wiping off six zeroes and replacing the sovereign bolívar ("BsS") to simplify the value of the currency.¹⁵³ Given the Venezuelan government's control over the digital wallet assets, the government creating an entirely new digital currency with the same goal in mind is anticlimactic at best.¹⁵⁴ The BCV "claimed that the CBDC ["central bank digital currency"] and redenomination of the currency will have no effect on the bolívar's value," but it did not provide any insight into any study, nor did it discuss how valuable the bolívar is considering the currency's rapid inflation.¹⁵⁵

A country and government that is known to cut corners to line its officials' will face a variety of difficulties in its attempts to re-legitimize its economy. Just before announcing the CBDC, the Venezuelan government proposed the Law on Special Economic Zones.¹⁵⁶ The law hopes to create economic development areas that attract investors by

¹⁵⁰ *Id.*

¹⁵¹ Ellsworth, *supra* note 139.

¹⁵² Toshendra Kumar Sharma, *Public Vs. Private Blockchain: A Comprehensive Comparison*, BLOCKCHAIN COUNCIL (Aug. 7, 2019), <https://www.blockchain-council.org/blockchain/public-vs-private-blockchain-a-comprehensive-comparison> [<https://perma.cc/55A8-QASX>].

¹⁵³ Vaz, *supra* note 133.

¹⁵⁴ *Id.*

¹⁵⁵ Brian Quarmby, *Venezuela to Launch CBDC in October — And Cut Six Zeros from Its Currency*, COINTELEGRAPH (Aug. 6, 2021), <https://cointelegraph.com/news/venezuela-to-launch-cbdc-in-october-and-cut-six-zeros-from-its-currency> [<https://perma.cc/5XLM-275Z>].

¹⁵⁶ Paul Dobson, *Venezuela's Left Voices Concern over Government's Special Economic Zone Project*, VENEZUELANALYSIS.COM (June 8, 2021, 4:49 PM), <https://venezuelanalysis.com/news/15226> [<https://perma.cc/Q6G2-F6WW>].

granting tax breaks and access to Venezuela's natural resources.¹⁵⁷ The government's rhetoric is consistent, in that the law also is supposed to "break" sanctions imposed by the United States.¹⁵⁸ Critics say that the law simply looks to evade international pressure and reinforce corruption and organized crime in Venezuela.¹⁵⁹ This combination of the Petro, the BsD, and the new law creates a regulatory nightmare and a packed pool of possible corrupt actors for the United States to hold accountable under the FCPA.

Even so, Venezuelans' and Latin Americans' reliance on cryptocurrencies, regardless of the fact that they are known for their lack of regulation and volatility, is worth considering. The reality is that "Latin Americans prefer to use cryptocurrencies despite the inherent volatility" because "their national currencies are even more unpredictable."¹⁶⁰ Moreover, the fact that cryptocurrencies are not "under the control of the government . . . has become a favorable factor for the growth of cryptocurrencies in Latin America."¹⁶¹ In more advanced economies, distrusting the government is not necessarily a reason to entrust a cryptocurrency to keep your assets at their true value. Latin America's embrace of cryptocurrency is in no way seamless considering the "[l]imited access to the internet or smartphones, lack of education and awareness on how to use the technology, and uncertainty on international regulations."¹⁶² However, "[r]isk perception depends on many factors, and the signs are that for Latin American economies, adopting bitcoin may be more of an opportunity than a danger."¹⁶³

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ EFE, *Borges: La Ley del ZEE que Adelanta el Régimen Busca Fortalecer la Corrupción y el Crimen Organizado en Venezuela*, EL NACIONAL (May 31, 2021), <https://www.elnacional.com/venezuela/borges-la-ley-de-zee-que-adelanta-el-regimen-busca-fortalecer-la-corrupcion-y-el-crimen-organizado-en-venezuela> [<https://perma.cc/GY85-77ZJ>].

¹⁶⁰ Ruchi Gupta, *Why Cryptocurrencies Matter in Latin America*, VOLUNTEER LATIN AM. (May 25, 2021), <https://www.volunteerlatinamerica.com/blog/posts/why-cryptocurrencies-matter-in-latin-america> [<https://perma.cc/3MRU-SH54>].

¹⁶¹ *Id.*

¹⁶² Moises Rendon, *How Open and Public Cryptocurrencies Can Help Venezuelans*, CTR. FOR STRATEGIC & INT'L STUD. (Apr. 13, 2021), <https://www.csis.org/analysis/how-open-and-public-cryptocurrencies-can-help-venezuelans> [<https://perma.cc/VH7H-GPCK>].

¹⁶³ Enrique Dans, *Bitcoin and Latin American Economies: Danger or Opportunity*, FORBES (June 14, 2021, 7:01 AM), <https://www.forbes.com/sites/enrique-dans/2021/06/14/bitcoin-and-latin-american-economies-danger-or-opportunity/?sh=1ac88fce5bfe> [<http://perma.cc/DT6E-4HDQ>].

When considering Latin Americans' widespread adoption of cryptocurrencies in response to a lack of trust in their governments, it is difficult not to think of how the international trade market affects their perceptions. Venezuela, for example, was subject to widespread OFAC sanctions from the United States, which worsened the already vast economic and humanitarian crisis.¹⁶⁴ If U.S. sanctions hurt civilians the most, is the implementation of cryptocurrency as an impromptu workaround for the average person lessening the negative impact that sanctions have?

The issue is not that the average Latin American is learning to rely on volatile digital assets to meet their daily needs and expenses, but rather that Latin American governments seeking to avoid international sanctions are also learning to rely on digital assets.¹⁶⁵ As an extreme example, Venezuela's various digital asset efforts to avoid international sanctions were completely transparent.¹⁶⁶ On the other hand, El Salvador's adoption of Bitcoin as a legal tender earlier in 2021 is an adoption of an existing digital currency that has a somewhat established reputation.

C. *El Salvador's Legal Tender*

On June 5, 2021, El Salvador's President, Nayib Bukele, announced that the country would be adopting Bitcoin as legal tender.¹⁶⁷ Shortly after, on June 8, the El Salvadoran legislature passed the Bitcoin Law.¹⁶⁸ However, one might think that El Salvador's government, like Venezuela, had nothing to lose by adopting a digital currency because the national currency itself lacks value. This perception is entirely incorrect. Twenty years ago, with the blessing of the U.S. Treasury and the International Monetary Fund, El Salvador let go of its national currency and officially adopted the U.S. dollar as the

¹⁶⁴ Luis Oliveros, *The Impact of Financial and Oil Sanctions on the Venezuelan Economy*, WASH. OFF. LATIN AM. 3 (Oct. 2020), <https://www.wola.org/wp-content/uploads/2020/10/Oliveros-report-summary-ENG.pdf> [<https://perma.cc/7D8W-GNUQ>].

¹⁶⁵ Dans, *supra* note 163.

¹⁶⁶ Helen Partz, *Maduro Claims Crypto Will Play Role in Fighting Sanctions Against Venezuela*, COINTELEGRAPH (Sept. 30, 2020), <https://cointelegraph.com/news/maduro-claims-crypto-will-play-role-in-fighting-sanctions-against-venezuela> [<https://perma.cc/QK57-MHT3>].

¹⁶⁷ Steve H. Hanke & Manuel Hinds, *El Salvador's Big Bitcoin Mistake*, WALL ST. J. OP. (June 22, 2021, 5:58 PM), <https://www.wsj.com/articles/el-salvadors-big-bitcoin-mistake-11624399097> [<https://perma.cc/FFC3-5UE5>].

¹⁶⁸ *Id.*

national currency.¹⁶⁹ Since the adoption of the U.S. dollar, El Salvador has had an average inflation rate of 2.03%,¹⁷⁰ which is incredible compared with Venezuela's multiple-thousand percent estimated inflation rate.¹⁷¹ El Salvador's economic growth is above the Latin American average, with exports gradually increasing faster than in other Latin American countries.¹⁷² As such, El Salvador, despite corruption and widespread poverty, "has achieved macroeconomic stability."¹⁷³ While macroeconomic stability is not everything, it may mean that adopting the U.S. dollar countered the daily disruptions that El Salvadorans face. An important aspect of inflation to note, though, is that because the U.S. dollar is El Salvador's national currency, the economic growth experienced in El Salvador is not at all reflected in the U.S. dollar's stability.¹⁷⁴ Nevertheless, as this Note starts looking at the implications of the Bitcoin Law, it is important to keep in mind that this context includes an officially dollarized economy to look at how U.S. interventionism may or may not have affected this decision by the government.

Before officially adopting Bitcoin as El Salvador's legal tender, grassroots activists in a surfing town called El Zonte created a community network of cryptocurrency payments called Bitcoin Beach.¹⁷⁵ The Bitcoin Beach operation was a success because it emphasized the everyday use of Bitcoin while also giving it time to gain the trust of the community.¹⁷⁶ Inspired by this community, the government passed the Bitcoin Law,¹⁷⁷ but it failed to adopt the implementation methods of Bitcoin Beach.¹⁷⁸ As part of its transition to using Bitcoin, the government issues a digital wallet called "Chivo," which colloquially

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ Ellsworth, *supra* note 139.

¹⁷² Hanke & Hinds, *supra* note 167.

¹⁷³ *Id.*

¹⁷⁴ *El Salvador Marks 20 Years of Dollarization with Weak Economic Impulse*, THE TICO TIMES (Jan. 4, 2021), <https://ticotimes.net/2021/01/04/el-salvador-marks-20-years-of-dollarization-with-weak-economic-impulse> [<https://perma.cc/PU2C-XMJ3>].

¹⁷⁵ Anatoly Kurmanaev, Bryan Avelar & Ephrat Livni, *Bitcoin Preaches Financial Liberty. A Strongman Is Testing That Promise*, N.Y. TIMES (Oct. 7, 2021), <https://www.nytimes.com/2021/10/07/world/americas/bitcoin-el-salvador-bukele.html> [<https://perma.cc/D8KF-NKFC>].

¹⁷⁶ *Id.*

¹⁷⁷ Decreto N. 57, *Ley Bitcoin*, ASAMBLEA NACIONAL EL SALV. (June 8, 2021), <https://www.jurisprudencia.gob.sv/DocumentosBoveda/D/2/2020-2029/2021/06/E75F3.PDF> [<https://perma.cc/MQQ3-TMN5>].

¹⁷⁸ *Id.*

means “cool” in El Salvador.¹⁷⁹ The first day that Bitcoin was legal tender, the Chivo went offline temporarily, prompting protestors to take over the streets of the capital to denounce the government’s adoption of the currency.¹⁸⁰ Chivo allows citizens “to send and receive bitcoin-denominated claims, convert them to dollars, and withdraw them from special A.T.M.s. It also gave \$30 in bitcoin to every Salvadoran that adopt[ed] the wallet.”¹⁸¹ It did not help that “the price of Bitcoin dropped sharply” that day, “demonstrating the volatility of the cryptocurrency market.”¹⁸² Another early caveat was that many of the ATMs did not have bills left to issue because people went to change their Bitcoin holdings into U.S. dollar bills.¹⁸³ Moreover, the Bitcoin Law mandated that “every economic agent . . . accept bitcoin as payment when offered by whoever acquires a good or service.”¹⁸⁴ This means that instead of Bitcoin being legal tender, which typically only sets out which currencies discharge debts, it is a forced-tender law.¹⁸⁵ “Forced-tender laws remove the freedom of choice in the use of currencies for all transactions including everyday purchases like groceries. When forced tender is imposed, all domestic exchanges . . . must be conducted in the currency designed by law.”¹⁸⁶ Forced-tender laws are extremely common in totalitarian communist regimes; the Soviet Union’s forced use of rubles is the most prominent example thereof.¹⁸⁷

Logically, international regulators were not pleased with El Salvador’s bitcoin announcements and have voiced legal concerns.¹⁸⁸ For example, the World Bank and the International Monetary Fund “have said making Bitcoin an official currency could leave a country open to money laundering and other illicit financial activity.”¹⁸⁹ Most Salvadorans do not have access to banking services, meaning they are entirely dependent on cash; however, most people own cellphones that can access the Chivo.¹⁹⁰ President Bukele, so far, has purchased 550

¹⁷⁹ Ephrat Livni & Oscar Lopez, *El Salvador’s Adoption of Bitcoin Off to a Rocky Start*, N.Y. TIMES (Sept. 7, 2021), <https://www.nytimes.com/2021/09/07/business/el-salvador-bitcoin.html> [<https://perma.cc/ZS24-8TJ4>].

¹⁸⁰ *Id.*

¹⁸¹ Kurmanaev, Avelar & Livni, *supra* note 175.

¹⁸² Livni & Lopez, *supra* note 179.

¹⁸³ Kurmanaev, Avelar & Livni, *supra* note 175.

¹⁸⁴ Hanke & Hinds, *supra* note 167.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ Livni & Lopez, *supra* note 179.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

Bitcoins for Salvadorans to use via Chivo.¹⁹¹ It is unclear how much control the government has over the Chivo as the government is providing the service of “free convertibility” of bitcoins into dollars.¹⁹² Notably, there is “no explanation on how [officials] will prevent the use of bitcoin for money laundering, or what would happen if the conversion fund out of cash.”¹⁹³ The value of the Bitcoin and dollar funds at the disposal of the El Salvadoran government remains unclear, as is the worth of the numbers reflected in the Chivo Wallets.¹⁹⁴ As the first cryptocurrency, Bitcoin’s design is synonymous with wanting little or no government control of money.¹⁹⁵ However, the El Salvadoran government “has treated the bitcoin policy as a state secret,” even classifying information about or related to Chivo.¹⁹⁶ No one knows who runs the enterprise because it is private despite the fact that it was created with taxpayer funds and that bitcoin is supposed to be a transparent distributed ledger system.¹⁹⁷ While Bukele has said more than half of all adults installed Chivo, most are still hesitant to buy into the enterprise because of Bitcoin’s price volatility.¹⁹⁸ Even so, providing an avenue for digital payments, investing savings, or boosting savings has been very useful for at least some people in El Salvador.¹⁹⁹ Small business owners are able to accept small payments, and people have access to a different form of payment, so at least there seems to be more socioeconomic mobility.

Although one Twitter profile has named Bukele “the coolest dictator in the world,” his rapid consolidation of power and crackdowns on political opponents has led to concerns that the adoption of bitcoin was motivated by Bukele’s quest for more power.²⁰⁰ The Salvadoran government claims that its adoption of Bitcoin was in search of financial inclusion, but as the country’s relationship with the Biden administration deteriorates, Bukele has become more concerned with the United States’ influence in the country’s economy.²⁰¹ Interestingly, Bukele could have created a central bank digital currency or a

¹⁹¹ *Id.*

¹⁹² Kurmanaev, Avelar & Livni, *supra* note 175.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ Livni & Lopez, *supra* note 179.

¹⁹⁶ Kurmanaev, Avelar & Livni, *supra* note 175.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

cryptocurrency of El Salvador's own, like the Petro, instead of adopting yet another foreign-created currency. El Salvador's economy and people rely on remittances by Salvadorans who left their country for a quarter of its gross domestic product.²⁰² As such, the Chivo offers a workaround for the American banking system "in the event of future economic pressure from Washington."²⁰³

Considering the general volatility of Latin American governments' attitudes toward the United States, it is not difficult to conceive of the embrace of cryptocurrencies and digital assets by these governments as a meaningful step toward eliminating the U.S. dollar as a reserve currency. If digital currencies are meant to become more mainstream, industry participants must first figure out how to allow blockchains to handle high traffic.²⁰⁴ Further, cryptocurrencies', including Bitcoin's, volatility hinders each from functioning as a currency because it does not work as "a unit of account."²⁰⁵ To become mainstream, cryptocurrencies must allow "individuals to make intemporal choices on their purchasing power," facilitate "the exchange of goods and services by eliminating the inefficiencies associated with a barter economy," and act "as a measure of value in the economic system."²⁰⁶ Nonetheless, when it comes to becoming mainstream, crypto must first thrive in a regulatory environment that "is highly complex because many nations have separate sets of rules, which means that global regulations are greatly fractured."²⁰⁷

VI. CONCLUSION

Latin American countries know that cryptocurrencies do not necessarily have legal status, but some countries have different views. These diverging perspectives have "led to friction between and within the region's traditional banking industries and prompted some banks in Chile to close accounts held by cryptocurrency exchanges in late

²⁰² Kurmanaev, Avelar & Livni, *supra* note 175.

²⁰³ *Id.*

²⁰⁴ FXCM Rsch. Team, *Could Bitcoin Replace the Dollar As a Reserve Currency?*, (Oct. 5, 2018, 9:38 AM), fxcm.com/markets/insights/could-bitcoin-replace-us-dollar-as-reserve-currency [<https://perma.cc/ZDE5-KL94>].

²⁰⁵ *Id.*

²⁰⁶ eToro, *Cryptocurrencies Could Become Mainstream Payment Solution Within Next Decade Finds New Imperial College and eToro Report*, PR NEWSWIRE (July 9, 2018, 4:30 PM), <https://www.prnewswire.com/news-releases/cryptocurrencies-could-become-mainstream-payment-solution-within-next-decade-finds-new-imperial-college-and-etoro-report-833609231.html> [<https://perma.cc/ST8N-RX69>].

²⁰⁷ FXCM Rsch. Team, *supra* note 204.

2018. Subsequent court rulings have offered short-term protection to these exchanges but it is clear that more definitive guidelines are needed.”²⁰⁸ While Venezuela stands out as an outlier for its simultaneous expansive adoptions of alternative currency and general environment of corruption and non-compliance, El Salvador presents a more intriguing case. As a country not subjected to sanctions, it appears in Venezuela disregarding all rules, which has influenced an increased lack of abidance by other Latin American countries. Moreover, the politics of Latin America do not mirror the United States’ red and blue, meaning that the “pink tide” going through the region looks like corruption to the United States, and like meaningful structural change to many Latin Americans.²⁰⁹ With an often simultaneous message of anti-corruption and anti-communism, the United States pushes for influence under the same guise of imperialism has pushed countries further left. Sanctions in Venezuela and Cuba, which were largely ineffective, failed to deter further corrupt behavior and even encouraged an alternate system. Many questions arise about what this kind of paradigm disconnect may result in. In the end, the operative question is: how does *any* country avoid the instinct to stifle the United States’ authority over their country when that direction rarely helps?

²⁰⁸ *Latin America Cryptocurrency Regulations*, COMPLY ADVANTAGE (July 6, 2018), <https://complyadvantage.com/knowledgebase/crypto-regulations/cryptocurrency-regulations-latin-america> [<https://perma.cc/Q22Q-MPZC>].

²⁰⁹ Marco Aquino, *Another Pink Tide? Latin America’s Left Galvanized by Rising Star in Peru*, REUTERS (June 21, 2021, 6:12 AM), <https://www.reuters.com/world/americas/another-pink-tide-latin-americas-left-galvanized-by-rising-star-peru-2021-06-21/> [perma.cc/X4R9-3RBT] (referring to “pink tide” as a phrase indicating a rise of leftist leaders).