

2016

Bitcoin in Argentina : Inflation, Currency Restrictions, and the Rise of Cryptocurrency

Elena Christine Moreno

Follow this and additional works at: http://chicagounbound.uchicago.edu/international_immersion_program_papers

 Part of the [Law Commons](#)

Recommended Citation

Elena Moreno, "Bitcoin in Argentina : inflation, currency restrictions, and the rise of cryptocurrency," Law School International Immersion Program Papers, No. 14 (2016).

This Working Paper is brought to you for free and open access by the Student Papers at Chicago Unbound. It has been accepted for inclusion in International Immersion Program Papers by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

Bitcoin in Argentina
Inflation, Currency Restrictions, and the Rise of Cryptocurrency

by Elena Moreno

I. Introduction

This paper will discuss why Bitcoin, a groundbreaking and experimental cryptocurrency protocol, has flourished in Argentina's modern economic climate. Argentina has long been plagued by high inflation rates. Argentina has historically used the strength of the US dollar to stabilize its fiat currency, the Argentine peso, in times of inflation. Most recently, former President Cristina Fernández de Kirchner attempted to stabilize inflation by setting the exchange rate between the peso and the dollar, and then strictly limiting access to dollars within Argentina to avoid depleting the country's reserves of US dollars, the Central Bank's most stable asset. These currency controls made it almost impossible for Argentines to obtain US dollars outside of the black market. Because Argentines had been reliant on the US dollar to keep their wealth secure in the face of high inflation, there was a need for some type of stable currency in which to place wealth. Additionally, Argentina had trouble printing enough cash and coins to serve its population. For many Argentines, Bitcoin represented a solution to both these problems. And while the new President Mauricio Macri has since relaxed these currency controls, Bitcoin's advocates are certain that there is still a future for this cryptocurrency both within Argentina and worldwide. Bitcoin is not a trend, but rather an innovation that will only increase in relevance for the global economy.

II. What is Bitcoin?

Bitcoin is a decentralized, convertible virtual currency protocol that was born on October 31, 2008, when a person by the name of Satoshi Nakamoto published a white paper via a cryptocurrency mailing list that detailed how the currency would function.¹ “Bitcoin - with capitalization, is used when describing the concept of Bitcoin, or the entire network itself” whereas “bitcoin - without capitalization, is used to describe bitcoins as a unit of account.”² Bitcoin operates through the use of a blockchain.³ The basic premise of the blockchain is that every transaction gets added to a public register, and assigned a unique code, so that it is impossible to fake a transaction. Each legitimate transaction is verified by a network of computers. Thus, Bitcoin is a “decentralised, anonymous, self-verifying and completely reliable register,” or “banking without banks, and money without money.”⁴ It allows entities to safely transfer value without the aid of any bank or state government.

¹ Santiago E. Eraso Lomaquiz, “Las monedas virtuales en el Derecho argentino. Los Bitcoins,” at 2, *La Ley* (Dec. 31, 2015); John Lanchester, “When Bitcoin Grows Up,” *London Review of Books* 38.8 at 3-12 (Apr. 21, 2016), <http://www.lrb.co.uk/v38/n08/john-lanchester/when-bitcoin-grows-up>. Craig Steven Wright, an Australian computer scientist and entrepreneur, recently claimed to be Bitcoin’s inventor. *See, e.g.*, “Craig Steven Wright claims to be Satoshi Nakamoto. Is he?” *The Economist* (May 2, 2016), <http://www.economist.com/news/briefings/21698061-craig-steven-wright-claims-be-satoshi-nakamoto-bitcoin>.

² “Some Bitcoin words you might hear,” Bitcoin.org, <https://bitcoin.org/en/vocabulary>.

³ Andrés Chomczyc, “Estatus legal actual de los Bitcoins en Argentina (Primera Parte),” *Abogados In House* (Nov. 9, 2015), <http://www.abogados-inhouse.com/editorial.php?id=156>; Lanchester, *supra* note 1.

⁴ Lanchester, *supra* note 1.

III. Economic Background

To understand the role of Bitcoin and other cryptocurrencies in Argentina, it is important to understand the complicated history of Argentina's fiat currency, the peso. The peso has long been tied to the US dollar because various regimes have used the dollar to help stabilize the peso and lower inflation. The most famous example is the Convertibility Law enacted by Argentina's Congress on April 1, 1991 during the presidency of Carlos Menem. The Convertibility Law was a response to hyperinflation; it pegged the peso to the US dollar on a one-to-one ratio, thus using the United States' stable fiat currency to stabilize the peso.⁵ Initially, pegging the peso to the dollar was successful. Argentina came out of a recession and enjoyed strong economic growth from 1991-1994 and again from 1996-1997.⁶ But Argentina's economy became reliant on borrowing, in part to service the demands of the Convertibility Law, and in December 2001, the Argentine economy went into a tailspin.

President Cristina Fernández de Kirchner, the predecessor to Argentina's current president, also introduced regulations dictating the exchange rate between the US dollar and the peso. On October 31, 2011, the

⁵ J. F. Hornbeck, "The Argentine Financial Crisis: A Chronology of Events," CRS Report for Congress (Jan. 31, 2002), <http://fpc.state.gov/documents/organization/8040.pdf>.

⁶ *Id.*; Daniel Frank, "How Currency Boards Collapse – The Case of Argentina," Seminar Paper, Institute for Foreign Trade and Payments and European Integration, Economics Department, University of Basel, Switzerland (Winter 2004-2005), http://www.tiberian.ch/files/cbrd_arg.pdf.

Administración Federal de Ingresos Públicos (AFIP), Argentina's equivalent of the Internal Revenue Service, released General Resolution 3210/11.⁷ The new controls required that any individual or financial institution wishing to convert pesos into US dollars or any other foreign currency would need to obtain permission via a black box application process.⁸ The same program suspended the sale of dollars through internet banking and ATMs.⁹ The currency controls made it virtually impossible for the average Argentine citizen to convert their wealth to US dollars, either physically or online, or to store wealth abroad in foreign bank accounts.

The rationales behind this policy included protecting Argentina's dollar reserves by stopping the widespread practice of converting wealth from pesos into US dollars and stemming capital flight, or investors pulling their money out of Argentina in favor of other markets with a more stable currency.¹⁰ The currency control program, like Menem's Convertibility Law, was initially successful. On February 17, 2012, the Central Bank reported that capital

⁷ Javier Canosa, "Argentina Tightens Foreign Currency Controls," IR Global (Nov. 28, 2011), <https://irglobal.com/article/argentina-tightens-foreign-currency-controls-1181>.

⁸ "El cepo cambiario cumple un año: impacto directo en el dólar, inmuebles y turismo," La Nación (Oct. 31, 2012), <http://www.lanacion.com.ar/1522087-el-cepo-cambiario-cumple-un-ano-el-impacto-directo-en-el-dolar-las-propiedades-y-el-turismo>.

⁹ Javier Canosa, *supra* note 7.

¹⁰ Pedro Ylarri, "¿Qué es el cepo cambiario de Argentina? ¿Cómo funciona?" El Economista (Dec. 3, 2013) <http://www.economistaamerica.com.ar/economia-eAm-argentina/noticias/5364147/12/13/-Que-es-el-cepo-cambiario-de-Argentina-Como-funciona.html>; Eliana Raszewski, "Argentine President Tightens Foreign Exchange Controls: Timeline," Bloomberg (Mar. 20, 2013) <http://www.bloomberg.com/news/articles/2013-03-20/argentine-president-tightens-foreign-exchange-controls-timeline>.

flight in the fourth quarter of 2011 had decreased to \$3.3 billion, down from \$8.4 billion in the third quarter.¹¹ But the downsides of the policy were many. The main problem was that foreign investment “dried up.”¹² Another was that Argentine demand for US dollars continued to be high. The currency controls were also designed to fight inflation, although according to official numbers inflation was not a problem in Argentina. The government had been manipulating official statistics since at least 2007, during the presidency of Nestor Kirchner’s, Cristina’s husband.¹³ But economists have estimated that the inflation rate during Cristina Kirchner’s presidency is estimated to have been around 24%.¹⁴

During this time there was a thriving black market for converting pesos to US dollars. While officially the exchange rate was about 9 pesos to 1 US dollar, on the black market the exchange rate was closer to 16 pesos to 1 US dollar.¹⁵ Argentines would go to great lengths to obtain US dollars. For example, they would travel to casinos in Uruguay, buy chips with pesos or a credit card, walk around for a while, and then trade them in for US dollars.

¹¹ *Id.*

¹² Daniel Politi, “President Mauricio Macri lifts Argentina’s capital controls,” *The Financial Times* (Dec. 17, 2015), <http://www.ft.com/intl/cms/s/0/556d51b4-a447-11e5-873f-68411a84f346.html>.

¹³ Alexei Barrionuevo, “Inflation, an Old Scourge, Plagues Argentina Again,” *N.Y. Times* (Feb. 5, 2011), <http://www.nytimes.com/2011/02/06/world/americas/06argentina.html>.

¹⁴ IMF’s Christine Lagarde says Argentina faces ‘red card,’ *BBC* (Sept. 25, 2012), <http://www.bbc.com/news/world-latin-america-19709273>.

¹⁵ Kari Paul, “Can Bitcoin Still Thrive in Argentina Without Price Controls?” *Motherboard* (Mar. 2, 2016), <http://motherboard.vice.com/read/can-bitcoin-still-thrive-in-argentina-without-price-controls-peso-dollar-Mauricio-Macri>.

Eventually the government learned what was happening and coordinated with Uruguay to forbid this behavior.

As another example, Argentines were able to convert pesos into US dollars using PayPal. Argentines would create two PayPal accounts – one in Argentina, one in the United States. They would then pay themselves for made up services from the Argentine account to the US account; PayPal would automatically convert the pesos to US dollars using the government-sanctioned exchange rate (as opposed to the less favorable black market rate). Then the Argentines would wire the money from PayPal to a United States bank account, either their own or one of a friend. Then they would have someone withdraw the US dollars and pay a broker to bring them into Argentina. This example reveals the severity of the restrictions on Argentines' access to US dollars, and the lengths it took to obtain them.

IV. Bitcoin in Argentina

A. Current Use

In the midst of Cristina Kirchner's currency controls, Bitcoin made its way to Argentina. A stateless currency free from any exchange manipulation, Bitcoin looked like the antidote to the frustrations Argentines felt over their fiat currencies. As Nathaniel Popper put it, "Citizens of countries such as Argentina, whose governments have a near perfect track record of debasing

their own currency and destroying the savings of their citizenry, have shown signs of preferring bitcoin to their own state's money.”¹⁶

For some Argentines, bitcoin is a legitimate alternative to state-backed currency. According to one estimate, bitcoin users in Argentina trade \$70,000-\$80,000 over the counter per day. There are approximately 145 businesses in Buenos Aires that accept bitcoin (including at least one Subway sandwich shop).¹⁷ According to Wences Casares, use of bitcoin in Argentina is “very real. People using bitcoin do not know technology, they are not financially savvy. They are every day people using bitcoin, not because they think it is cool or glamorous but because it solves a problem.”¹⁸ Wences Casares, an Argentine investor and bitcoin advocate, believes that bitcoin has been used in this way in Argentina and not in other countries like the United States because the dollar “is a currency that they feel has served them, their parents and grandparents well. People have credit cards and they can pay online. Why would they want to fix something that is not broken.”¹⁹

There is a growing community of Argentines who actively promote the use of bitcoin and the development of bitcoin infrastructure in Argentina. One example is Bitcoin Argentina, a non-profit organization aiming to

¹⁶ Lanchester, *supra* note 1.

¹⁷ Tom Jeffreys, “Can Bitcoin Save Argentina’s Flailing Economy?” Digg (Jan. 15, 2016), <http://digg.com/2016/argentina-bitcoin>.

¹⁸ Yessi Bello Perez, “Wences Casares: The Bitcoin-Obsessed Serial Entrepreneur,” CoinDesk (June 11, 2015), <http://www.coindesk.com/wences-casares-the-bitcoin-obsessed-serial-entrepreneur/>.

¹⁹ *Id.*

advance the use of Bitcoin in Argentina. The organization works with universities to produce quality papers and information about Bitcoin. It also hosts meetups of individuals in the Bitcoin community within Argentina and provides educational seminars to businesses in order to inform them about Bitcoin.

B. Current Regulation

Virtual currency is defined under relevant Argentine law as “the digital representation of value that can be used for digital commerce and whose functions are to provide a medium of exchange, and/or a unit of account, and/or a store of value, but they are not legal tender, nor issued or backed by any country or jurisdiction.”²⁰

Currently there is next to no regulation of Bitcoin in Argentina. Argentina’s Central Bank (Banco Central de la República Argentina, or BCRA) is the authority with the power to issue legal currency.²¹ And on May 27, 2014 BCRA issued a statement – almost identical to a statement issued

²⁰ Art. 2 of Resolution 300/2014 of the Financial Information Unit, “la representación digital de valor que puede ser objeto de comercio digital y cuyas funciones son la de constituir un medio de intercambio, y/o una unidad de cuenta, y/o una reserva de valor, pero que no tienen curso legal, ni se emiten, ni se encuentran garantizadas por ningún país o jurisdicción.”

²¹ National Constitution of Argentina (Constitución de la Nación Argentina), Aug. 22, 1994, art. 75, para. 6, <http://www.constitution.org/cons/argentin.htm> (declaring that Congress has the ability to establish a federal bank to create money, “Establecer y reglamentar un banco federal con facultad de emitir moneda, así como otros bancos nacionales”); “Regulation of Bitcoin in Selected Jurisdictions: Argentina,” The Law Library of Congress (Jan. 2014), <http://www.loc.gov/law/help/bitcoin-survey/>.

by the European Banking Authority (the EBA)²² – stating that it does not consider bitcoin or other virtual currency to be legal currency.²³

Some experts have argued that bitcoin can nonetheless be regulated as a good under Argentina’s Civil and Commercial Code (Código Civil y Comercial de la Nación). Article 15 provides that “People are holders of individual rights over the property constituting their assets in accordance with what is established in this Code.”²⁴ In the case of bitcoin, the asset may be the private key that each individual uses to access his or her digital wallet.²⁵

The May BCRA statement is only the second official pronouncement about virtual currencies issued by a governmental agency in Argentina. The other is Resolution 300/2014, issued on July 10, 2014 by the Financial Information Unit (Unidad de Información Financiera, or UIF), Argentina’s anti-money laundering agency.²⁶ This resolution “ordered all financial services companies in the country to report transactions that involve bitcoin

²² European Banking Authority, “EBA Opinion on ‘virtual currencies,’” (July 4, 2014), <https://www.eba.europa.eu/documents/10180/657547/EBA-Op-2014-08+Opinion+on+Virtual+Currencies.pdf>.

²³

²⁴ “Las personas son titulares de los derechos individuales sobre los bienes que integran su patrimonio conforme con lo que se establece en este Código.” <http://www.infoleg.gob.ar/infolegInternet/anexos/235000-239999/235975/norma.htm#20>. See also Andrés Chomczyc, “Estatus legal actual de los Bitcoins en Argentina (Primera Parte),” Abogados In House (Nov. 9, 2015), <http://www.abogados-inhouse.com/editorial.php?id=156>.

²⁵ Chomczyc, *supra* note 24.

²⁶ Daniel Rybnik, Money Laundering (ML) and Financing of Terrorism (FT) prevention, EnterPricing, <http://www.corptax.org/images/publicaties/bitcoin-uif-english-final.pdf>.

and digital currency.”²⁷ This regulation impacted Bitcoin in Argentina because it caused some banks to close the accounts of Bitcoin exchanges like Unisend.²⁸

V. Macri and the Future of Bitcoin in Argentina

One of President Mauricio Macri’s first moves when he assumed the presidency in December 2015 was to relax currency restrictions.²⁹ On the one hand, Argentines can now access dollars without resorting to the black market measures discussed above. But on the other hand, the peso’s official value against the dollar fell by 29 percent.³⁰ This may not have much practical effect, since much of the economy was already operating by the black market, competitive exchange rate. But on paper Argentina does look a lot worse off.

But that does not worry Bitcoin Argentina. In fact, President Macri might be the best president for the development of bitcoin. The Bitcoin community in Argentina is optimistic that the Macri administration will not pass any regulation that will seriously harm the future of Bitcoin in Argentina. President Macri’s party, Pro, campaigned on promises of supporting innovation and technology. There is some evidence that President

²⁷ Tanaya Macheel, “Argentinian Bitcoin Exchange Loses its Bank Accounts,” CoinDesk (Aug. 5, 2014), <http://www.coindesk.com/argentina-bitcoin-exchange-loses-bank-accounts/>.

²⁸ *Id.*

²⁹ Politi, *supra* note 12.

³⁰ Steve Johnson, “Argentina slides down wealth tables after devaluation,” The Financial Times (Dec. 18, 2015), <http://www.ft.com/intl/cms/s/3/a606a2ee-a4e0-11e5-a91e-162b86790c58.html>.

Macri might not be as “pro” innovation in technology as some of his supporters had hoped. He stood with taxicab drivers against the recent expansion of Uber into Argentina. Uber is one of the first major technology companies to launch in Argentina under the new administration, so it is not heartening news.

But bitcoin is already in use in Argentina with little opposition, and it seems unlikely that Argentina will issue any new regulations of bitcoin in the near future, and especially not before the European Union or the United States begins to regulate bitcoin. Argentina tends to follow the European Union and the United States when it comes to regulating new areas, and both continue to be quite friendly toward bitcoin.

According to Leandro Elduayen, who runs the Legal & Compliance Department at Koibanx, an Argentine blockchain software company, and is a member of Fundación Bitcoin Argentina and the Latin American Bitcoin Conference, Bitcoin has a bright future in Argentina, and especially in the capital city of Buenos Aires. The city recently convened an “innovation table” to discuss a variety of subjects, including the future of bitcoin. Bitcoin Argentina is hopeful that Buenos Aires will soon become a Bitcoin-friendly city. This would push Argentina to become a bitcoin hub, with local businesses accepting Bitcoin and having Bitcoin ATMs around.

But for bitcoin’s most fervent advocates in Argentina, as in other countries all over the world, the interest in bitcoin goes beyond solving

immediate problems. Bitcoin has the potential to democratize money; according to Argentine investor Wences Casares, bitcoin “may change the world more than the Internet did.”³¹

³¹ Perez, *supra* note 18.

ACKNOWLEDGEMENT. Many thanks to Leandro Elduayen from KOIBANX and Fundación Bitcoin Argentina for his advice, knowledge, and insight.