

Bitcoin Regulation: Impossible? Or Simply Impractical?

Review of: *Bitcoin Pandemonium: The Ongoing Economic, Public, and Legal Debate Over the Nature and Impact of Bitcoin*

Nicolas L. Wenker

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Reviewed By Olivia Vaché

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“Even if Bitcoin does not stay the dominant digital currency, regulators the world over will soon be forced to accept the rude reality that Satoshi Nakamoto’s software has opened the financial equivalent of Pandora’s Box ... [n]ow that global crypto-currencies exist, there is no turning back.” (p. 1859)

In Nicolas Wenker’s innovative book, *Bitcoin Pandemonium: The Ongoing Economic, Public, and Legal Debate Over the Nature and Impact of Bitcoin*, he discusses the breakthrough not only in crypto-currency technology, but also the modern concept of how we see currency as a fundamental part of our society. He uses bitcoin - not necessarily as a definitive piece of the future - but at the very least as a huge stepping-stone and potential paradigm shift to the transformative reality which currency is becoming. This review will cover the strengths and weaknesses of Wenker’s work, and how casual audiences as well as those participating in the field of bitcoin might use this book.

Nicolas Wenker is a third-year law student studying at the University of Texas, concentrating in financial regulation and business law.¹ He holds a Master of Arts and Political Science from the University of North Carolina at Chapel Hill and a Bachelors of Arts in German and Humanities from University of Texas, Austin.² Wenker is a member of the Online Journal

¹ See Author page for Nicolas Wenker, AMAZON.COM (last visited October 4, 2014), available at http://www.amazon.com/Nicolas-Wenker/e/B00M95F8GU/ref=ntt_athr_dp_pel_1.

² See About Author Nicolas Wenker, PATRIOTINSIDER.COM (last visited October 4, 2014), <http://patriotinsider.com/author/nicolasw/>.

of Law, Ethics, and Healthcare.³ He has previously worked with the Texas Supreme Court, The U.S. Senate Judiciary Committee, the Texas House of Representatives, the German Parliament, and the Bavarian Parliament.⁴ Wenker's previous works include articles analyzing regulatory clashes between Wall Street and the U.S. government, financial politics of the European Union, and how social media is impacting authoritarian regimes around the globe.⁵ In addition, Wenker is a former political blogger for the Houston Chronicle and is a co-founder and former officer of the Fort Bend County Young Republicans.⁶

Bitcoin Pandemonium delves not only into the inner workings of bitcoin technology, but discusses the potential shift to the world's first non-fiat digital currency.⁷ Wenker believes that despite the criticism and bumpy start, bitcoin - or something like it - will soon be the first widely distributed official digital currency.⁸ This shift is already bringing with it a host of legal and ethical problems, which are now being hashed out quietly by parties who either hold steady that bitcoin must be an anonymous currency, or those who believe in the currency but want to find a good medium between our current government-run currencies and unregulated ones.⁹ Legally speaking, the regulatory burden that follows bitcoin is immense. Wenker discusses how bitcoin was designed to be an unregulated and completely untraceable currency, and how the currency we hold today has always been highly regulated and easily traced by the government.¹⁰

³ See Author Page for Nicolas Wenker, *supra* note 1.

⁴ See Author Page for Nicolas Wenker, *supra* note 1.

⁵ See Author Page for Nicolas Wenker, *supra* note 1.

⁶ Nicolas Wenker, LINKEDIN.COM (last visited October 4, 2014), available at <https://www.linkedin.com/in/nicolaswenker>.

⁷ See Nicolas Wenker, *Bitcoin Pandemonium: The Ongoing Economic, Public, and Legal Debate Over the nature and Impact of Bitcoin*, 127 (2014).

⁸ See *id.*

⁹ See Wenker, *supra* note 8, at 84.

¹⁰ See Wenker, *supra* note 8, at 84.

Currently, it is even debatable whether bitcoin's relatively recent arrival will invalidate its status as a viable currency.¹¹

Wenker organizes his ideas into six major categories.¹² First, he discusses the origins of bitcoin, from its humble beginnings within libertarian crypto-anarchist's societies to how this transformative new technology was created by a cyber-libertarian "enigmatic genius whose identity remains hidden even years after he created his own currency."¹³ Second, he discusses with great detail the inner working of bitcoin as a technology and exactly why bitcoin is the crypto-currency that leaves other digital currency in the dust.¹⁴ He then explains the complex nature of bitcoin's perfect balance between unregulated currency and a security system, which is transforming into something safe enough for the population at large to use.¹⁵

Third, Wenker discusses his belief that "[t]he Internet is going to be one of the major forces for reducing the role of government. The one thing that's missing, but that will soon be developed, is a reliable e-cash, a method whereby on the Internet you can transfer funds from A to B without A knowing B or B knowing A."¹⁶ He gives us a glimpse into the struggle between those who believe that currency is a tool for the state and that all currencies without regulation are doomed to fail, and those who believe that digital currency is the next step in the evolution of currency.¹⁷ With the introduction of the digital age, he poses the question: How can currency be the only thing that remains unaltered?

¹¹ See Wenker, *supra* note 8, at 100.

¹² See Wenker, *supra* note 8, at 67.

¹³ See Wenker, *supra* note 8, at 84.

¹⁴ See Wenker, *supra* note 8, at 162.

¹⁵ See Wenker, *supra* note 8, at 890.

¹⁶ See Wenker, *supra* note 8, at 405 (quoting Milton Freedman).

¹⁷ See Wenker, *supra* note 8, at 413.

A large hurdle which bitcoin has had to overcome in its infancy was a website called Silk Road.¹⁸ Silk Road was one of the first websites to transact its business entirely in bitcoin and was subsequently shut down in October 2013 due to drug trafficking, money laundering, and computer hacking.¹⁹ Wenker talks about the public reaction to bitcoin in his fourth section, which comes as a mixed bag.²⁰ Many people believe that an unregulated, untraceable currency is exactly what people need to maintain a certain level of privacy, which we are rapidly losing in this digital age.²¹ Many others believe that this form of currency will be a safe house for illegal activity and that governmental regulation in currency is the most important factor in a successful currency.²² Wenker continues, in his fifth section, to show a happy medium, which might be attained by allowing governments to trace some transactions, but have no real regulatory power.²³ Ending with a solemn note, Wenker asserts that, no matter what we are doing now, the regulations we have in place to control currency are apples and oranges to bitcoin.²⁴ He concludes that the regulations we have now simply will not function in the future with bitcoin. Wenker discusses how “U.S. Bitcoin regulation is currently so fractured and internally contradictory because digital currencies span so many different areas of the law, whereas different regulatory agencies can ‘only look at Bitcoin through the prism of what they understand.”²⁵

Wenker shows us in his book, *Bitcoin Pandemonium*, that bitcoin is not simply a cryptocurrency a cut above the rest, but is also a glimpse into the complex concepts of the

¹⁸ See Wenker, *supra* note 8, at 738.

¹⁹ *Silk Road (marketplace)*, WIKIPEDIA.COM (last visited October 4, 2014), available at [http://en.wikipedia.org/wiki/Silk_Road_\(marketplace\)](http://en.wikipedia.org/wiki/Silk_Road_(marketplace)).

²⁰ See Wenker, *supra* note 8, at 651.

²¹ See Wenker, *supra* note 8, at 732.

²² See Wenker, *supra* note 8, at 739.

²³ See Wenker, *supra* note 8, at 864.

²⁴ See Wenker, *supra* note 8, at 1754.

²⁵ See Wenker, *supra* note 8, at 1719.

technological issue, which arises behind the regulatory implications of using an untraceable, unregulated currency.²⁶ Wenker spends a lot of time in his book explaining, in the simplest way possible, the inner working of bitcoin technology.²⁷ He explains it in such a way that, although this is a mind-blowing concept, most readers will walk away with a fairly good understanding of how bitcoin functions internally.²⁸

He also spends a great deal of energy discussing the categorization of bitcoin; some counties believe it should be a currency while others concede it can only be an asset, which, when explained in the context of the book, seems to be a more relevant fact than the issue of regulating the currency.²⁹ If bitcoin cannot be categorized as a currency or an asset, which regulations are already in place for, then a whole new method of regulation must be structured around whatever bitcoin is determined to be.³⁰ Wenker suggests that this might be the answer, but leave us only to question what is going to happen in the future of bitcoin categorization.³¹

Wenker discusses the implications of bitcoin usage in a variety of contexts, spurred by the ever-invasive government and technological resources to track people's movements and behaviors; bitcoin has attempted to satisfy a huge market by simply being anonymous.³² Generally, bitcoin has more upsides than downsides. Bitcoin is anonymous, international, digital, and cheaper than using dollars.³³ However, bitcoin usage has an inherent downside of being a wildly variable value, with a higher vulnerability to cyber-theft.³⁴

²⁶ See Wenker, *supra* note 8, at 930.

²⁷ See Wenker, *supra* note 8, at 206.

²⁸ See Wenker, *supra* note 8, at 206.

²⁹ See Wenker, *supra* note 8, at 100.

³⁰ See Wenker, *supra* note 8, at 100.

³¹ See Wenker, *supra* note 8, at 100.

³² See Wenker, *supra* note 8, at 1046.

³³ See Wenker, *supra* note 8, at 180.

³⁴ See Wenker, *supra* note 8, at 582.

Bitcoin Pandemonium is definitely written for the more educated audience - people who want to understand the basics about bitcoin technology - but who may not necessarily want to learn how to use bitcoins themselves. Although his analysis and explanation of bitcoin mining was superb, the reader is left slightly confused about exactly how to get involved, or even how to conduct bitcoin transactions, if that is what his or her interest was in reading this book in the first place.³⁵

Wenker's discussion on bitcoin technology and its improvement and subtle transformations, which have taken place throughout its infancy, shows the reader how profoundly he understands the complex concepts behind his topic.³⁶ However, Wenker never gives us a clue as to what he feels is or could be the solution to the ever more convoluted problem which is bitcoin itself.³⁷

At the heart of Wenker's analysis of bitcoin is the underlying belief that somehow there will be regulatory change to enhance and make possible the introduction of virtual currency into our world.³⁸ He shows through great detail how many different agencies and countries are wrestling with the dilemma of how to regulate such an enigma and promulgate their own ways of using bitcoin or something like it.³⁹ This is an incredibly valuable perspective on bitcoin regulation because it is an honest, unbiased perspective on how many different entities see bitcoin.⁴⁰ It also gives readers a taste of how each entity would regulate and change bitcoin if it could.⁴¹ *Bitcoin Pandemonium* discusses the regulatory implications of digital currency, but it is

³⁵ See Wenker, *supra* note 8, at 224.

³⁶ See Wenker, *supra* note 8, at 206.

³⁷ See Wenker, *supra* note 8, at 100.

³⁸ See Wenker, *supra* note 8, at 1850.

³⁹ See Wenker, *supra* note 8, at 871.

⁴⁰ See Wenker, *supra* note 8, at 915.

⁴¹ See Wenker, *supra* note 8, at 915.

Wenker who really gives the reader a good outline of how bitcoin is changing the world, and why it is changing the world in the ways it is.⁴²

I found myself really enjoying this book; it reads more casually than one might think a philosophical discussion of virtual currencies would read. I began reading this book with little to no knowledge of bitcoin and feel as if I now have a decent grasp not only of the technology behind bitcoin, but also the immense challenges that it faces today and in the future. The discussion spans not only American audiences but also a wider, educated audience, challenging the current view of currency and monetary value as we know it, just enough to make readers think but not enough to scare them. I would definitely recommend this book to the casually interested reader, as it is a good place to begin familiarizing yourself with the topic of bitcoin while containing a politically oriented edge.

⁴² See Wenker, *supra* note 8, at 957.