

A Bitcoin Governance Network: The Multi-stakeholder Solution to the Challenges of Cryptocurrency*

Transcript of Interview with Jerry Brito

Former Director of the Technology Policy Program, George Mason University

Introduction:

Digital currencies, such as bitcoin, are products of the digital revolution and the networked age. As their usage and value have grown, government policymakers have struggled to play catch-up, finding it difficult to comprehend this phenomenon, let alone regulate and govern digital currencies effectively. Incumbent interests, such as large financial institutions, have been similarly caught off guard. Meanwhile, digital currencies march forward. The Bitcoin economy has grown to over \$8 billion in value and the bitcoin ecosystem, once composed exclusively of a few hobbyists and technologists, now includes merchants, financial services firms, start-ups, foundations, advocacy groups, investment companies, venture capitalists, government regulators, law enforcement agencies and NGOs. Thought leaders and business innovators, such as Jerry Brito, are now pushing forward with bold new applications for the bitcoin protocol. We were fortunate enough to sit down with Mr. Brito for a candid and in-depth interview.



Jerry Brito

We would like to thank Mr. Brito for his time and for his thoughts on this disruptive and fast-changing technology.

Participants:

Guest: Jerry Brito

Interviewer: Alex Tapscott, Author, "[A Bitcoin Governance Network](#)"

The Interview:

Tapscott Thank you very much for taking the time. I think I described in the email that I'm writing a whitepaper on behalf of a program called the Global Solution Networks Program at the University of

Toronto. What GSN is is essentially a landmark study of the potential of global web networks for cooperation, problem solving and governance. The program started last year and since then we've written a number of substantial papers and as a result have gotten quite a bit of traction with large corporations, NGOs, heads of state, etc. The whitepaper that we're writing on virtual currencies tries to tackle largely the question of governance, meaning how do you govern something that has no borders, is distributed, is open sourced and is spreading rapidly around the world. With that in mind, we're talking to key stakeholders within the bitcoin ecosystem, government and the private sector, regulators, people in law enforcement, academics, etc. I came across your name through my research largely from the *Beyond Silk Road* testimony from last fall.

Brito Right.

Tapscott On the back of that I would just like to open up a bit of a discussion here. Before we get started, would you please tell me a little bit about your background and how you ended up becoming an authority on the subject?

Brito Sure. So until very recently, until last week actually, I was Director of New Technology Policy Programs at Mercatus Center at George Mason University. What we did there was we focused on the regulation of emerging technologies, so everything from old school telecom issues and copyright privacy to issues affecting emerging technology like bitcoin currencies. We just focused on looking where emerging technologies were butting up against regulatory issues and tried to make a survey of the cost benefit of the regulations. I came across bitcoin in 2011 or 2102, and I was just fascinated by it. I thought it was amazing. It's a simple yet profound innovation and at the same time I immediately saw all of the obvious regulatory issues that would no doubt surface, so I began to write about it and research it. Talking to people here in DC, policy makers, I discovered it was something that was beginning to bubble to the surface of popular consciousness and there was just absolutely no understanding of it, they didn't really understand what it was, how it operated, what it meant and so we wrote to policy makers and explained what it is, what are the challenges to governments, what are the benefits for the country and the economy? That was very successful and that led to a lot conversations with a lot of regulators, members of Congress and opportunities to testify. Since then I have just continued to write about this.

Tapscott So since 2011, when you first started looking at this in earnest, how in your opinion has the outlook or viewpoint of government changed, or has it?

Brito I think the initial reaction was negative. But since then folks in government have begun to educate themselves about what this is and what it means and have begun to understand it. So now their reaction I think has changed. It is more about the challenges, but also the potential and figuring out a way to meet the challenges without squelching any of that potential. I think at this point they're sort of optimistic about it. At the same time they are sort of suspicious, and I think for a lot of the regulators and law enforcement as well that it is one more thing they have to deal with. They could

stand to live without it but they appreciate it. Using New York as an example, the initial reaction of the regulator there was very negative. The way he announced his entry into the space of investigation was by subpoenaing a dozen bitcoin companies and venture capitalists. So quite aggressive but since then, you know, he himself has realized this is not just... this is not even primarily about criminal enterprise so he says there's challenges here but I accept the benefits now and how do we deal with it? That's what happened last year.

Tapscott Most recently the Department of Finance Services came out with the BitLicense proposal, and then I think we're still in the midst of question period or the comment period.

Brito The comment period yeah.

Tapscott I know that a lot of people in industry are actually asking that they extend it so they can put their comments together in full. So on one hand you started off by doing something that clearly showed a different or constructive bitcoin and now we're looking at something that looks like green sense to the entire industry. What do you think of those new regulations? Do you think they are suitable or do they go too far or not far enough?

Brito We actually just filed comments in that proceeding and they are available on the Marcatus website if you want to find them—it goes into obvious detail there. So just to mention quickly, I don't understand this call for extending the comment period. I have found a lot of the time at a lot of proceedings at the federal level you get 60-90 days, so 45 days is a little stingy but not unreasonable. What I think is more important is taking the time and issuing a second draft and us getting a second round of comments.

But putting that aside, what do I think? I think that the proposal misunderstands a lot about the currency so I think there's a lot wrong simply out of ignorance. That's to be expected, and is the reason we have a comment period, so the parties can point out certain mistakes and certain things that regulators missed or need to think about. Number one, the reason why they were going to create a BitLicense, and you have to understand that; but during the whole BitLicense proceeding, bitcoin businesses, cryptocurrency businesses would be regulated as money exchanges. In New York State this already exists, and in every other state what regulators are doing is figuring out how to apply that to bitcoin businesses until guidance says you follow this law and here's how it applies to you. But what Superintendent Lawsky and the department said is New York's money law was especially antiquated. I think it was made in 1800 or something like that, early 1800s. It really didn't fit the technology and they saw unique characteristics with bitcoin currency and they wanted to make sure they got it right and so they are going to create this new BitLicense to address the unique characteristics for bitcoin. So that's terrific, that's laudable, the problem is that they ignore a lot of the unique characteristics of the cryptocurrency, what makes it so revolutionary, so useful, so beneficial.

Then one of the biggest issues I have with the proposals is what they call a virtual currency business activity. So if you are engaged in a currency activity you need a license and any transactions you conduct on behalf of customers you have to make a record of not only the identity and the physical address of your customer, but also of the recipient of the transaction. That totally destroys the entire value of cryptocurrency. If you think about PayPal, if we each have PayPal accounts and I want to send you money it is perfectly simple to take out and have my identity and my physical address because I'm a customer of PayPal and they have yours because you are a customer of PayPal so they have both files. With cryptocurrency you only have one side and requiring the company to have both sides as a condition of the license would be like asking Gmail to know the identity and physical address for the recipient's email from the addressors. It's a non-starter, it destroys the open nature of the network and so the only way you could respond to that if you were trying to set up a cryptocurrency business in that world would be to allow your customers to send money to your customers the same way that at one point CompuServe only allowed you to send email to other CompuServe customers. What's the point of having cryptocurrency if you could do that already on your regular license? You create a BitLicense in order to take into account the specific unique characteristics of bitcoin, and then you do this? We should point it out to them. I hope it is a matter of ignorance and then they read this and go, "oh wow, we didn't realize," and they change it. More likely it is just ingrained in the anti-money laundering law enforcement mentality that you always need intermediaries to track both sides, but we'll see how it plays out.

The other thing I'll say about the proposed regulations is: but for this new license these businesses would have been regulated as money transmissions. That should mean these licenses are no more onerous, no more difficult to get, no more difficult to comply with, than a money transmission license. But if you compare them it is way more onerous to comply, way more onerous to acquire for lots of reasons and we point out all of those. We need a level playing field for sure. Part of the reason why they are doing this in New York is because they want to maintain their lead as financial capital of the world and they want to promote financial innovation. That's what they're trying to do in creating a license that is more onerous to comply with and that's just not going to work and we are going to point that out as well.

Tapscott One final criticism I've heard from people within industry: I had a conversation yesterday with Jeremy Allaire from a company called Circle and he filed comments as well, basically saying the law as it is written right now is built to distinguish between actual exchangers, the companies that will be taking bitcoins and transmitting them into CI currencies or acting as an intermediary or a comment wallet, versus companies that happen to be just using the coin protocol for any number of novel new applications and having them need to apply or requiring them to uphold the same level of scrutiny requirements, AML requirements, etc. is unrealistic. Are you of a similar viewpoint?

Brito Yeah, absolutely. We make the same point in our filing. I was just talking to someone today who is a technologist and he has an idea for a product that is basically—I'm not going to do a good job of explaining this but basically—it's like a notary service where it kind of proves that two documents are

identical at a certain point in time. The reason they are not doing that in the States at least is because they are never going to comply with all of this so they are probably going to do it overseas somewhere and I think that's part of the issue here. To the extent that regulators are involved in US competitiveness, they're going to have to think about this because other jurisdictions might be more progressive.

Tapscott It's interesting you mention that. I saw that George Osborne, the ex-Chancellor in the UK, said they are planning on releasing their report on bitcoin I think in December and he said they want to make London the bitcoin capital of the world in keeping with its global preeminence in the financial system. One of the reasons New York was quick to act was a bit like this proposal because I think people recognize that although there are obviously some challenges and risks here, there could potentially be a pretty meaningful economic opportunity. I find that at least encouraging.

Brito I think that's right.

Tapscott The question from my perspective is we are no longer regulating something that is discreet in the sense that it is contained within the boundaries of one country or managed by a state monopoly like a CS currency, this is something that is distributed globally, moves quickly and is pseudonymous, is that how you say that word?

Brito Pseudonymous, yes.

Tapscott Pseudonymous. My point being even if government can put together an intelligent response, is government regulation enough to govern this whole system or do you think it requires a more multi-stakeholder approach?

Brito It depends what you mean by government.

Tapscott I can elaborate on that. Sets policies, act as a watchdog, sets technical standards, advocates education, etc. All of these functions of governance are what I think about when I think about governance.

Brito Yes I think there's a lot of that which is already happening sort of privately because this is an open sourced process, so the standardization of the protocol happens on IRC, on forums on Github. Anybody is welcome to contribute or you can have a small group of people who are making the most contributions and setting the direction. It's kind of like IETF, the Internet Engineering Task Force, that essentially standardizes all of the technology that powers the Internet and they have no building, they have no office, they have no budget really and yet they operate completely in a bottom up process. I think there's a lot happening. Now when you get to the consumer side, when you get to the money laundering side, that's less about governance protocol and more about developing and enforcing individual government policies. So there I think it works the same way it has worked on the Internet,

where you go after intermediaries. Intermediaries are still going to be subject to jurisdictions in their operations and they are going to have the law enforcing that. I think we've done this before and it has worked out.

Tapscott It is interesting that you bring up the Internet as an example of how you could see it progressing because we have been thinking about using the governance model for the Internet as something of a rough comparative. When we talk about governance we're talking about what you are alluding to, which is a network of sorts where you have different stakeholders performing different roles—governments performing one role on a regulatory basis for AML functions, people within the academic community such as yourself who are acting as educators and advocates, people in the technology community that are setting standards in the protocol itself— and together this is functioning like a governance ecosystem not unlike what we do with the Internet. So this is the direction we're moving with our argument—that as this matures it could begin to resemble what the Internet looked like in the early to mid-1990s and then it could develop as the Internet governance network has developed.

Brito Absolutely. I think that is exactly how I see it. To me, and the reason I'm excited about bitcoin, is this feels like it felt in the mid-90s. It is exactly the same, with the added bonus that there is no ICANN. So ICANN is this organization that is the one centralized bottleneck of the Internet, where you do have a central authority and so this weird compromise is created. Most recently ICANN has been put on a path to full independence, but with bitcoin you will have that eventually. It is only IETF and IFAC so it's even better than that. Now what we need, and I recommend to you to read The Green Paper that... do you remember that?

Tapscott I don't think I've come across that one.

Brito Yeah, so Ira Magaziner was sort of Bill Hartney's Internet... let me see if I can find it and send it to you. But essentially this is when NSF Net had been opened for commercial use and the question was how do we regulate this? Do we allow anybody to use the Internet? At one point it was illegal to do commerce on the Internet, it was against norms for federal law as well which is fascinating. Ira Magaziner led a commission to study this and the recommendation was made by the Clinton administration that basically said we're going to allow anybody to come on the Internet and basically connect and innovate and integrate and do commerce and we will intervene when necessary. That gave us the explosion of innovation that we saw. It's a fascinating... we already have the policy that works, and it is amazing we have to relearn it in this case. It's a fantastic sort of articulation of the policy towards the Internet that gave us the Internet we have today. For me, it's like a perfect template for what we should have. I wish we could see the same statement about bitcoin that we saw made back then about the Internet.

Tapscott It sounds to me you think the response thus far has been more heavy hand than light touch.

Brito No, I wouldn't say that. I think it has potential to become more heavy handed. In the US at least, I'm not going to comment on other countries where I'm not as familiar, but in the US, what have we seen? Well we've seen FinCEN guidance in March 2013. Since then I think regrettably they did not ask for comments before issuing that guidance and so they got some of that wrong and then since then it's the usual thing, it's negative but then they learn and they watch. What they issued was, well, if you are a virtual currency business you qualify as a money service so you need to register with FinCEN and comply with the Bank Secrecy Act. There's no way we're going to sustain that so I'm not sure that's heavy handed but it's a little different than the Internet where the Internet is completely permissionless. If you want to start a new website, a new product, a new Facebook, you just launch it and you don't have to ask for permission so this introduces the same that you would normally have on the Internet. It's the sort of thing where you are doing money transmissions and there is no way you are going to escape that. Beyond that what else have we seen? Not much. We've seen the IRS issue guidance on tax treatment. There I think their hands are tied. The IRS looks at the law, at their statute, and bitcoin could only fit into one of two buckets, it is either property or currency and as the statute is written it is clearly not currency because it is not US money and it's not a foreign country's money so they chose property which I think is the only thing they could choose. You could call it heavy handed, but I think at some point that may be changed, but that is mostly a factor of the law that existed that never had bitcoin in mind. Beyond that, at the federal level there has been very little federal regulation. CFPB recently put out a consumer alert but I don't think that means much as we have seen a lot of these consumer alerts.

Tapscott The EBA in Europe, the European Banking Association, has put out similar alerts.

Brito A lot of countries have done that.

Tapscott But again, that's not a regulatory framework, it's just identifying reasons why this might be either risky or potentially...

Brito It is risky at this point, you know, so that leaves the States where the action really is because the States are the main regulators of money transmitters and so this is why the New York Regulation was formed. I think a lot of states are going to attempt to follow New York's lead and in that sense I do think that New York's regulations as they are proposed today would be very heavy handed but we're not there yet. I am very optimistic that we will continue to see right touches in New York. I don't think we have seen heavy handed yet.

Tapscott Using the model of the Internet, policy makers in the US will take that approach. There's one thing about this that is potentially a bit more incendiary than the Internet which is that bitcoin advocates early on were really libertarian politically, anti-government, and they were looking at this technology as a way to decouple a mode of exchange of the monopoly of the government I guess.

Brito Undermine the whole system, yeah.

Tapscott Undermine the whole system, bring down the man, take down the whole government, you know. I'm of the view that is probably not going to happen, and that this is going to end up just getting integrated into the more conventional society, but having said that it does pose some sort of existential threat to government monopoly of issuing and printing of currency. If there is a unit of exchange that is not directly issued and controlled by government they begin to use their certain levers and powers, specifically the utility to move interest rates up and down and other monetary policies and measures. I wonder from that perspective is there any part of you that looks at government and thinks that they maybe want to tread even more lightly or be more careful with this technology than other technologies?

Brito Right, so a couple of things. First I would point out the early enthusiasts and developers of the Internet, and they similarly were Libertarian and anarchists. Go read John Perry Barlow's Declaration of Independence of Cyberspace.

Tapscott I remember that book, I actually read it.

Brito So this is the same thing all over, the Internet is going to be something that undermines the system, you know, you can't touch us here and of course no actually you can. So I think that is history repeating itself. The monetary implications—I'm not an economist, but I don't understand people who think bitcoin is going to replace the dollar. I see it as virtually impossible and we actually commissioned a paper for Mercatus about that by Will Luther. You can find that on the website as well where he says no, the network effects of the dollar are just so massively bigger that switching costs would be huge, it's impossible. You have to understand that money is three things, it is a unit of account, it is a unit of exchange and I forgot the third one.

Tapscott Stored value?

Brito Stored value, thank you very much. Bitcoin is, you know, paying for value depending where you are relative to the dollar and if you take a longer view it has a stored value and it is a great means of exchange, better than paper dollars because you can't send paper dollars over the Internet. There is going to be a day when you go into Walmart and prices are going to be denominated in bitcoin. I think that we are a long way away from that and it doesn't affect any of the monetary functions the government has. It is going to have prices written in dollars, you're going to have contracts written in dollars, you're going to have loans written in dollars, so as a result the central bank is still going to have its power over the economy. That's not to say that it's going to be the case in some small country with a really bad monetary policy—you might get enough network effects for Bitcoin to supplant the currency there. But as far as the dollar, the Euro, the yen go, I just don't see it.

Tapscott It's interesting that you mention that. A lot of people like bitcoin in Argentina, a country where you've got a relatively weak currency and a government that is not particularly stable and strong capital controls and onerous taxes—it is getting popularity there. Okay great so I think I've asked all the questions that I wanted to ask.

That was really helpful and quite honestly, as I work through this, I would like to keep an open dialogue with you and anything that you might have from our conversation, for example some of those Mercatus papers if you have those handy or can tell me where to get them I would love to know as well.

Brito I'll shoot you an email right now. I'll send you the Magaziner green paper and the Luther paper.

Tapscott The Luther paper that was the one. Alright thank you very much Jerry I appreciate it.

Brito Sure anytime and please...

Tapscott What's the next stage for you?

Brito I can't say yet. It's crazy, it's ridiculous to be in this position, but in a couple months it should be launched. We're not ready to launch it yet so we're not saying but it's basically going to be doing a lot of what I have been doing already, just focused on cryptocurrency and more research and academic work, but focusing really on cryptocurrency.

Tapscott That sounds exciting, I'm looking forward to it.

Brito And don't forget to send me a copy of the report when it comes out.

Tapscott Absolutely.

* ["A Bitcoin Governance Network"](#) is a research project of the [Global Solution Networks](#) program.