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Smart Contract in Iraq: A Legal Framework

[1]GHASSAN ADHAB ATIYAH, [2]NAZURA ABDUL MANAP, [3]SAIDATUL NADIA ABD AZIZ

[1]Faculty of Law, Universiti Kebangsaan Malaysia, ghassanadhab@gmail.com
[2]Faculty of Law, Universiti Kebangsaan Malaysia, nazura@ukm.edu.my
[3]Faculty of Law, Universiti Kebangsaan Malaysia, nadia_aziz@ukm.edu.my

Abstract

Blockchain technology's growth in global adoption has attracted attention from various sectors as a means of secure and accessible record-keeping. In the field of law, the technology is being adopted to meet the growing need to develop traditional contracts that govern contractual relationships between parties into smart contracts. These contracts differ from traditional versions in that they rely on computational code to perform the involved parties' contractual obligations. This article explores the current position of traditional contract law under Iraqi legislation and the viability of Iraqi law in handling and incorporating smart contracts within Iraq's legal system. The article adopts a qualitative approach in analysing the current legal practice, relevant statutes and the adaptability of Iraqi laws towards smart contracts implemented with blockchain technology. The findings of this article show that Iraqi contract law is insufficient to incorporate blockchain-based smart contracts into legal practice in Iraq.

Keywords: Smart contract, Blockchain, Law of contract, Iraq.

INTRODUCTION

For many centuries, traditional legal contracts have governed agreements throughout the world. Rahman et al. (2020) The complexity of such contracts and their often-accompanying disputes and litigation have inspired legal practitioners to seek better means of employing standard terms and conditions for all. With the growth of cryptocurrencies and later the blockchain, it became apparent that traditional contracts are not fit to cope with these technologies. Therefore, smart contracts were introduced. And blockchain is deemed comprised of cryptographic distributed digital ledgers, which are grouped into blocks. Each block is linked to the previous block once it has passed the validation process and obtained the consensus of all nodes. One or more entities digitally sign every transaction on the blockchain.

Traditional contracts are limited by not having automated calculations, information storage, or transfer of funds to other parties' bank accounts. The electronic payment systems are slow, and there is no guarantee that the contract will be implemented by the seller and the buyer due to the absence of laws that protect them if the agreement is made electronically. Thus, the non-development of the technology system in Iraq, especially in the banking sector, has motivated some Iraqis to employ smart contracts in their transactions. A smart contract, much like a more traditional contract, contains the terms and conditions agreed upon by two or more untrusted parties. Such logical implications of contracts have formed the operational bases of the executable code that runs blockchain implementations to facilitate the performance of contracts. The main reason

smart contracts were introduced was their ability to synchronise and secure the transactions of all parties concerned to run in a trustless environment. Chaveesuk (2020) states that a smart contract in a blockchain records the sequence of all trades involved. It is then available for verification and is not reversible. Since Nick Szabo (1994) proposed them, smart contracts have received tremendous support due to the promise of being more efficient and cost-effective for transactions than traditional contracts.

However, blockchain-based smart contracts have raised concern in Iraq because of their usage and position under Iraqi contract laws. Thus, this article generally discusses the concept of smart contracts and their operation in blockchain technology. It further discusses the legal issues arising from the adoption of smart contracts under Iraqi laws of contract and the principles of contract law in Iraq. For this article, the position of smart contracts in the United States of America, Europe Country and the United Arab Emirates is also discussed. Finally, the paper offers conclusions on whether the laws of Iraq are viable for dealing with smart contracts.

SMART CONTRACT IN BLOCKCHAIN

Smart contracts can be considered as the products of computer protocols with self-execution abilities executed through network computers without the need of an intermediary. The contracts are built with computer programs utilising cryptographic codes written in programming language to express the involved parties' rights and obligations. This functionality has resulted in reliance on the blockchain as it is capable of being run transparently and autonomously, and it is resistant to tampering. Woebbeking (2019) These features are essential to smart contracts, making blockchain the most viable means of their implementation. Smart contracts in blockchain are acted upon when the conditions of the programming are met, which triggers the necessary action. For instance, when goods are sold or services are delivered, the smart contract will enforce the agreed payment through a distributed ledger. In the event no payment is received, the smart contract will commence the recovery of the goods or revoke any ongoing services. Szabo's smart contract concept started to gain attention when he explained it using the example of a purchase from a vending machine as a primitive smart contract as such a transaction involves an autonomous transfer of ownership upon the receipt of predetermined input. In this case the autonomous transfer involved the confectionary item from the vending machine being delivered upon receipt of the predetermined input, the money inserted into the machine.

The efficiency and cost-effective features of smart contracts have resulted from various developmental efforts across the globe to merge technologies necessary for their implementation. The construction of smart contracts is accomplished on an underlying cryptocurrency platform in a decentralized system for interacting with virtual money in a distributed ledger. This ledger is referred to as blockchain as all transactions are recorded as units linked in a chronological way. A transaction in blockchain is created when parties swap virtual currencies, hence creating blocks which are connected to all other blocks, currently within ten minutes. A transaction on the blockchain is digitally signed and broadcast to a peer-to-peer (P2P) network in a secure and permanent manner. This enables the contract to operate efficiently in a cost-effective way without reliance upon intermediaries such as lawyers or central authorities. Research shows that without the blockchain technology, smart contracts are not feasible to operate.

Blockchain is usually open and transparent for all. It is created as distributed ledger where the participants involved are an anonymous. If the system is showing an address, it usually does not show the person who is associated with the address. The record that it collected is intended to be permanent and immutable. These features have attracted many institutions, especially financial institutions, to employ blockchain due to its security.

Smart contracts are developed to work in concert with blockchain to enforce transactions. Having smart contracts in the blockchain is not only cost-effective but offers other advantages, according to Giancaspro (2017) and Hassan (2018), which include (i) increased efficiency, (ii) reduced involvement of intermediaries and legal costs, (iii) transparency and anonymity, (iv) increased certainty and (v) self-enforceability. These advantages are discussed in detail below.

i. Smart contracts have been proven to increase the efficiency in concluding a contract as the transactions performed on the blockchain are validated through consensus of the network's users. Any contracting parties on the blockchain only need to verify the terms and conditions of the agreement, and the contract will execute itself. This process is efficient as it allows the blockchain to function on its own for various transactions such as record-keeping, auditing, monitoring and enforcement. As a transfer on the blockchain is instant, the settlement becomes effective immediately. This is an improvement over traditional transactions, which require the verification and authorization of intermediaries. With less involvement of intermediaries, the efficiency of a transaction is improved.

ii. The non-existence of a central authority or intermediary in blockchain implementations and the way the blockchain is verified indicate that normal transaction and legal costs incurred during the completion of a contract will no longer exist. Normal fees include the preparation and writing of a contract as well as witnessing and execution of the contract. Smart contracts not only eliminate administrative costs but removing the intermediary and legal costs shows that smart contracts have the potential of removing normal costs associated with the operation of contracts and the commercial expenses borne by the parties.

iii. The transparency features of smart contracts allow for any commercial arrangements executed within the public ledger to be visible to all users, while users enjoy the benefit of remaining anonymous in all transactions. For instance, credit card companies require their agents to approach users and obtain their critical information as proof of identity before they can proceed with payment. This has exposed users to the risk of having their data leaked by hackers or fraudsters who illegally obtain this personal information.

iv. The terms and conditions under smart contracts are finalized through computer programs, and they are expressed in computer language. The terms are translated using Boolean logic with true or false statements. These expressions in computer language have been proven to be more accurate and cause fewer problems in interpretation than traditional contracts wherein the terms and conditions are always open to many interpretations, which vary depending on who is making them. This feature has increased the certainty of smart contracts and has thus become an attractive option for many commercial arrangements.

v. It is well established in the above discussion that smart contracts can execute contract agreements on their own without any hesitation by the parties concerned. Once a smart contract has been concluded, the terms and conditions of the contract are automatically enforceable, and the parties are no longer a requirement. Even though a change of intention of parties might occur, it does not affect the enforceability of the contract since the computer code will authenticate the conditions and make entries in the blockchain database on the change of circumstance. This aspect of smart contract application is not only more efficient and less prone to bias than traditional contracts but in itself, provides a strong impetus for replacement of the entire traditional contract system.

The abovementioned advantages represent a significant departure from traditional contracts. Parties are no longer required to trouble themselves with appointing intermediaries or to obtain prior consent to execute a contract. In fact, the enforceability of a smart contract does not stop by a change of circumstances. but self-executing contracts is a feature traditional

contracts do not provide. Features such as those mentioned above are described by Szabo (1994) as novel ways to create officially safe digital relations that are far more workable than ancestors which their inanimate paper-based. However, these features are still questionable as to whether the current law of contract in Iraq is viable to cope with such a diversion from traditional contracts and whether Iraqis are ready to cope with any loopholes needed to accommodate smart contracts in their commercial transactions.

SMART CONTRACT REGULATIONS IN IRAQ

Unlike other countries with specific statutes to govern contractual obligations of the parties, the law of contract in Iraq is governed under Iraqi Civil Code No. 40 of 1951 (ICC). The law is based on the Egyptian Civil Code, which is modelled after French laws. The ICC deals with several rules relating to legal sources, the distinction between the rights of individuals and legal entities, and the application of the law. The law of contract in Iraq is also governed by the Electronic Signature & Electronic Transactions Law No. 78 of 2012 (ESET). This law governs contracts that are concluded by way of electronic means.

Article 73 of the ICC defines a contract as the unison of an offer made by a contracting party with the acceptance of another party in a manner that establishes the effect thereof in the object of the contract. This definition signifies that a contract can only be formed upon agreement by parties, with the other party accepting the offer. Upon agreement, the parties are bound by the contract terms, and the contract governs the relationship between the parties. To conclude a valid and binding contract, Article 77 of the ICC states that parties must have consented to the terms and conditions of the contract. This refers back to the offer and acceptance that the parties must fulfil. The offer and acceptance can be communicated either expressly by oral communication or impliedly by commonly understood terminologies used between parties. The principles of offer and acceptance are also governed by Article 18 (1) of the ESET, according to which parties may express their offer and acceptance electronically. This provision shows that parties may conclude a contract in Iraq through electronic methods such as email, another internet means-based communication or recording technology. Based on the features discussed above, smart contracts are self-executed. Unlike traditional contracts, they require agreeing on all the terms before signing the smart contract because signing the contract will be directly under execution and cannot be changed except in the case of revocation of a contract. The acceptance or intention of parties to create legal relations may be based on parties' agreement to submit their cryptographic keys for each other. This is in line with Article 87 (1) of the ICC, whereby a contract is deemed to be concluded when the offeror is aware of such acceptance. When applying this rule to smart contracts, it can be said that a smart contract is concluded the moment parties have cryptographically signed the contract became a duty to implement and not at the point of certification by a notary.

In the case of the smart contract wherein, the content does not get out from the traditional contract governed by civil law rules. Nevertheless, smart contracts require adherence to the elements of a conventional contract, which are: (1) the offer and acceptance, which are the universal principles of the law of contract. The Iraqi legislator has defined in the Electronic Signature and Electronic Transactions Law in Article 18 section 1, where the law permitted the offer and acceptance in the contract by an electronic means. Without both of these elements, parties are neither bound to perform any of the obligations under the contract nor can it be said that a breach has occurred.

Concerning the acceptance of the smart contract, there is a general rule for contracts stating that parties are free to choose the manner or the form for the approval upon an offer. And due to the smart contracts utilises software language applications on the blockchain rather than traditional legal forms. Therefore, when the smart contract's code is

deployed on a public blockchain, it can be considered an offer if any participant on the blockchain is qualified to execute the smart contract. But, in some private blockchain systems, both parties can send a smart contract as an offer to another party, constituting an offer solely to that party. Hence the offeree indicates acceptance through signing the contract by his private key. Consequently, after signed a smart contract, blockchain will ensure the transfer of a particular number of cryptocurrencies In return for the service or the commodity purchased that would have constituted a valid acceptance of an offer. Deploying a smart contract to a blockchain, and signing a smart contract using a private key, includes a valid offer and acceptance under applicable Iraqi law.

It is worth stating that there are capacity issues found in smart contracts. These difficulties may not be noticed in the traditional contract. Thus, carrying out a smart contract by modern communication techniques could determine the difficulty in verifying the eligibility of the counterparties in the smart contract. This is because the parties in the smart contract, at a technical level, are not individuals. On the contrary, they are cryptographic private keys. This secret private key represents the parties of smart contracts (Werbach & Cornell, 2017) since contracts for cryptocurrency purchase or payment by cryptocurrency are unknown to the parties. Therefore, there are no recognised exchange platforms in Iraq that enable the Iraqi authorities to detect the parties of the contract in case of any dispute

(2) Subject matter of the contract: according to The Iraqi Civil Code No. 40 of 1951 and amendments (Section,1Act 130), The subject of the commitment in smart contract must be neither prohibited by law nor contrary to public order or morals, Otherwise, it will be deemed invalid. It means the commitment that the debtor must do in the interest of the creditor is either transferring a right, doing it or refraining from doing it. It is well known that there is permissibility to dealing in all things and services via the Internet unless prohibited by law, in response to the principle of liberty of contract, which states that everyone has complete independence to practice any trade, profession, art or craft that they deem appropriate. Dealing with what is considered contrary to the public's good morals (-Amdy, 2015) will make space for the illegality of the subject matter of the contract, as in dealing in sites that provide pornographic pictures or play gambling or sell drugs and weapons in countries whose laws prohibit that (-syn, 2016).

Smart contracts treat the legal and illegal subject matter in the same manner. What matters is only the possibility to implement such subject matter in a "code". There are numerous debates relating to the potential illegal uses of cryptocurrency, which cast a shadow on Blockchain technologies. Smart contracts can also be used for unlawful purposes. For example, for procuring hacker services by employing a contract offering a cryptocurrency as a reward for hacking a particular website. Ethereum's programming language makes it possible to control the promised funds. It releases them only to someone who provides proof of having carried out the job in the form of a cryptographically verifiable string added to the blockchain.

Considering that smart contracts may be programmed to verify certain facts based on information available on certain websites, it may confirm the completion of certain illegal acts (theft, terrorist acts, assassination, etc.) and release established remuneration for that act. Although such a contract will be invalid as infringing fundamental principles of the legal order, it will continue to execute by program code on the blockchain. (Savelyev, 2017) notes that electronic transactions in Iraq are often transboundary. The subject matter of the smart contract may be legitimate in one country and classified as illegal in another. Therefore, with the smart contract, even if the subject of the commitment of the seller or the service provider in the smart contract is legal, the responsibility of the other party, such as the buyer, debtor or the obligor, to pay the wages by the cryptocurrency, would be illegal according to the rules of the Iraq Central Bank. These rules state that currency traders or individuals who carry out transactions in cryptocurrencies would be punished by

penalties cited in the country's anti-money laundering law (Regulation of Cryptocurrency Around the World, 2019). Therefore, the only response that the Iraqi legal system could make is discovering the individuals involved in smart contracts deemed illegal in real life and prosecuting them. It seems impossible since the Iraqi government does not have the technology or technical means to control the dealings of cryptocurrencies in light of the weakness of the legal system that can control the commercial exchange of commodities vs cryptocurrency in the electronic space in general.

(3) cause for the mutual obligation. pursuant the Iraqi legislator regarding the third element for contract (cause), According to Article (132) of the Iraqi Civil Code that Included:

1. The contract will void if the contracting parties are committed without "Cause" or for any reason prohibited by law or in violation of public order or morals.

2. Every commitment has been assumed to have a legitimate reason, even if this reason is not mentioned in the contract unless evidence established appears otherwise.

3 - If a reason is noted in the contract, it is considered the real reason unless the evidence seems otherwise.

According to ICC Article (132), if the smart contract's direct reason is to obtain cryptocurrencies, the smart contract is considered void. because the contract reason here is illegal under Iraqi ICC.

SMART CONTRACT PRACTICE BY INTERNATIONAL COMMUNITY

In order to improve the implementation of smart contract in Iraq, it is best to learn from other countries practice of smart contract.

LAW GOVERNING SMART CONTRACT IN THE UNITED STATES OF AMERICA

In the United States, there two primary sources of law that govern contracts: the common law and the Uniform Commercial Code. therefore, Uniform Commercial Code (UCC) Article 2 governs contracts between a merchant and the sale of goods. Essentially, the UCC contains two sets of rules for contracts. One set involves rules for everyone, and the other set involves rules for merchants.(Juras, 2016) In order to take advantage of the advantages of e-commerce in the US in 1999. California and some states enacted Uniform Electronic Transactions Act (UETA), where the government gave each state the freedom to regulate E-commerce after that in June 2000,The United States enacted Electronic Signatures in Global and National Commerce Act (ESIGN) to regulate electronic transactions at the federal level, but when the contract needs to be enforceable there must include essential elements that determined in uniform Commercial Code (UCC) Article 2. The elements are as follows: (1) mutual assent, in the US contract law, legal intent is usually established as an aspect of offer and acceptance rather than as a separated element; the courts objectively ascertain whether a party's offer was a genuine manifestation of their willingness to enter into a formal bargain and whether the other party's acceptance demonstrated understanding and desire that, in giving assent, they concluded a formal bargain,(Giancaspro, 2017) but in the Uniform Commercial Code had contained in specific sections 2-204 and 2-206 on the offer and the acceptance, however, it expressly provides that a contract possibility be formed through the utilize of electronic agents, and recognizes the acceptance via electronic means. despite have not expressly drafted it in order to be suitable with smart contracts, nevertheless, it would not be difficult to apply them in the future to smart contracts.(Dell'Erba, 2018)

(2) parties with the legal capacity to make a contract, With regard to anonymity of parties in smart contracts to find out capacity, this problem seems like it's approximately is solved according to the American legal system could use digital certificates for users of blockchain platforms which issuing through certificate authority 'that include asymmetric cryptographic key pairs (like process signing on smart contracts that depending as well on pairs of key public and privet) where this

certificate Depending on state legislations, in order to providing the necessary assurance via using at least one trusted third party to associate a specific signer with a specific key pair.' This trusted third party is known as a certificate authority which is "a trusted organization that acts as an issuer and repository for digital certificates.(Schwaer, 2004) where may be a private entity or a state agency, '" A digital certificate also includes the digital signature of the certification authority that issued it.' Thus, the recipient of a smart contract with a digital signature can contact a repository of digital signatures to verify that the certificate and associated public key is correct.(Peterson, 2000) In other words, the technologies of digital certificates in force in the US states provide technological solutions to create legally binding electronic signatures that indicate their possessor identity in order for electronic contracts and commerce to be in a safe and stable environment.

(3) consideration, the term consideration in contract law deemed is the benefit that each party want to receive or expects to receive while intend to enter into a contract. often the consideration is monetary, but it can be a promise to perform a specific act, or a promise to refrain from doing something. In order for an agreement or contract to be legally obligate, every party involved in the contract must receive some sort of consideration. In other sense, a contract deemed has a two-way street, hence each party involved must receive something of value from the other party or parties.(Kailyn Champlin, September 12, 2015)in case smart contract the consideration value would be virtual currencies where According to the governments of many states in the united states America, cryptocurrencies were classified as a medium of exchange not authorized or not adopted by any government. as well as the virtual currencies in some state are being subject to the Uniform Money Services Act (UMSA), chapter 19.230 RCW.117 in the states such as Washington, California and New York.(Hughes, 2017)

Eventually, the U.S. courts seem to be open for giving legal recognition for automated contracting hence the concept of consideration is not problematic in the context of smart contracts. therefore, the smart contract may be approved by some legal systems represented by the American courts, and the reason is that the threshold of consideration is lower in the United States of America than in some other countries such as France, the US courts do not evaluate the adequacy of the consideration but evaluate whether it has been bargained for or not.(Bayramoğlu, 2018)

LAW GOVERNING SMART CONTRACT IN THE UNITED ARAB EMIRATES

Principally, Article 11 of Federal Law No. 1 of 2006 on Electronic Commerce and Transaction (Federal ECT) recognizes the legal effect of offer and acceptance made by way of electronic communication. Article 12 of the Federal ECT further allows the application of smart contracts in transactions. The provision states that a valid and enforceable contract can be formed by a computer program which includes two or more electronic information systems pre-set and pre-programmed to carry out the transaction though no individual is directly involved.

On the same note, Article 13 of Emirate of Dubai, Law No. 2 of 2002 on Electronic Transactions and Commerce (Dubai ECT) holds that the validity and enforceability of a contract shall not be denied merely because it was concluded using electronic communication. Though no definition of smart contract can be found under either law, Article 12 of the Federal ECT and Article 14 of Dubai ECT recognize the enforcement of automated electronic transactions as referring to any transactions that are concluded wholly or partly by electronic means.

LAW GOVERNING SMART CONTRACT IN EUROPE

In Europe, Malta was the first country to establish crypto-friendly laws to regulate the operation of cryptocurrency, blockchain and distributed ledgers. The said laws are described in detail below:

i. The Malta Digital Innovation Authority Act 2018 was established to regulate and develop a legal framework relating to

distributed ledger technology, blockchain technologies, smart contracts and any related components. This act also promotes legal certainty in the application of laws, locally and cross-border.

ii. The Innovative Technology Arrangement and Services Act 2018 was enacted to guide the authoritative body in recognizing and regulating innovative technology arrangements. The act also defines technology arrangements as including smart contracts and related applications, distributed, decentralized, shared and/or replicated ledgers, and immutable cryptography. It also carries out obligations imposed under applicable law to prevent money laundering, protect personal data and to respect the rights of consumers.

iii. The Virtual Financial Assets Act 2018 was enacted to regulate initial virtual asset offerings (IVAO) and virtual financial assets (VFA). Under the act, a cryptocurrency is classified as a VFA. The act also protects consumers by providing strict requirements for launching cryptocurrencies together with other services including brokerages, portfolio managers, custodian and nominee service providers, e-wallet providers, investment advisors and cryptocurrency exchanges. Overall, this act mostly functions in regulating companies that intend to launch cryptocurrency products, and the companies must adhere to the act. Any entity which offers a VFA is classified as a service provider under this act and must apply for a license to be registered as a VFA agent.

Apart from Malta, Spain indicated that they will have blockchain-friendly laws. However, as of the date of this study, no such laws were passed. There is a rumour that the government will regulate crypto-related ads to govern any misleading advertisements on cryptocurrency, but no such regulatory action has yet been taken.

SMART CONTRACT IN BLOCKCHAIN: IS IT VIABLE FOR IRAQ?

The viability issue denotes the practicality of smart contracts to be enforced in Iraq based on the existing laws. In moving forward, Iraq must establish itself as one of the leading countries in blockchain technology. Based on the abovementioned law of contract in Iraq, it can be seen that minor amendments to existing laws to govern the enforcement of smart contracts in blockchain can be proposed. Some of the loopholes that can be improved, among others, are as follows:

i. Although offer and acceptance under Article 18 (1) of ICC can be expressed electronically, the legal issue on the mutual consent of parties is still rebuttable. With the self-execution features, mutual consent seems to be removed as a smart contract does not represent the parties' understanding. The terms and conditions on the smart contract can cause misunderstanding between parties or be executed by mistake. Once parties have discovered the misunderstanding of the error after a smart contract has been completed, it is not reversible and will still be enforceable.

ii. In light of the warning of the Central Bank of Iraq about cryptocurrency users will be punished according to the provisions of the Anti-Money Laundering Law No. (39) of 2015, the smart contract would be invalid due to the use of illegal manner (cryptocurrencies) as means for payment.

iii. Article 93 of ICC states that every person is qualified to enter into contractual relationship unless the law decides or limits his capacity. Generally, minors and any person with mental impairments or intoxicated are not bound by the contract. When a smart contract is formed, no capacity is usually assessed before a person executes the contract. This opens the floodgate to a person without a legal ability to enter into the smart contract. Hence, the issue of whether a smart contract entered by a person without legal capacity can still be enforceable.

iv. As the smart contract is still enforceable even if circumstances change, it is

hard for parties to be entitled to the remedies for any breach of contract, unlike traditional contracts. The non-performance does not automatically entitle a party to remedies as they have no control over the automated transaction. To alter or modify the terms of the smart contract is not as easy as it seems. This is because the smart contract is expressed in computer language on the automatic run of the code will be immutable. Technically, the contract cannot be modified.

Therefore, a careful look into existing laws shall be given to fully enforced contracts in Iraq. To ensure that all elements of traditional contract compatibility with smart contract, the abovesaid discussion must be considered. This is important to ensure that the smart contracts are free from any illegal elements which invalidate the contracts. And assess the validity of blockchain under current contract law. To ensure they can handle any issues arising from the enforcement of smart contracts in the future.

PRACTICALITY OF SMART CONTRACTS IN IRAQ

In analysing the practicality of smart contracts in Iraq and as part of the findings of this study, the author of the view that the structure and implementation of smart contracts are not far from the traditional contract. The different can be spotted on the following areas:

i. The self-execution feature of the smart contract gave more priority for contractual attention parties than the traditional contract, where traditional contract needs the intermediaries or third party are usually involved to conclude the contract. such as the presence of lawyers, witnesses or any parties who have the interest over the contract.

ii. Smart contracts enforce itself to do the self-remedy in the event of non-payment. It will either initiate the recovery process or revoke any services done under the contract unlike traditional contract whereby the non-breaching party will need to seek remedy through legal action which costs them more.

However, the legal framework in Iraq still needs to be improved. This is particularly referring to the law of contract that governs smart contracts. The law of contracts in Iraq is governed under mother law, i.e., the ICC. Although it seems comprehensive enough to govern smart contracts, however, it lacks of important definition.

This is referring to the terms such as self-execution contract, smart contracts, blockchain, electronic agent, electronic record on blockchain and automated transactions. It is suggested that Iraq should enact separate law to govern smart contracts rather than relying on traditional law of contracts under the ICC. In doing so, Iraq may refer to the three Acts passed by the government of Malta for its blockchain-friendly legislation. Iraq also needs to give a specific classification of cryptocurrencies as a means of payment and fulfil the obligation in the smart contract, as the United States did when it classified the cryptocurrency Bitcoin as a commodity

In addition, Iraq needs to develop the infrastructure of information technology and networks in order to create a private blockchain to build a platform for smart contracts that enables the government to know the parties to the contract and the transactions of cryptocurrencies. Further, the legal drafting of the contract should be given attention especially on the capability of computer-generated contracts to draft the smart contracts. Unlike traditional contracts, the drafter would take the intention of the parties as the crux of the contracts. Smart contracts are paperless that it is drafted through computer codes. When it comes to computer codes, one must understand that it does not clearly depicts the traditional offer and acceptance. It is a matter of fact that the rights of the parties are not properly protected under smart contracts.

CONCLUSION

Today, the blockchain has become the main choice in securing commercial transactions to ensure smart contract implementation in a society suffering from slow litigation

procedures in traditional contracts and from the weakness of banks in providing electronic payment services quickly and transparently. In order to deal with technological advances in the twenty-first century, Whereas, Iraq must work to provide protection for users by providing technical mechanisms and legal legislation to govern smart contracts that deal in cryptocurrencies outside the framework of the law.as well Iraq needs to providing the infrastructure for the judicial system to give them better understanding how computer science and smart contracts technology works in order to full of the gap between technology and law, all of this will help Iraq take advantage of the advantages of smart contracts and protect its citizens from fraud transactions.

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