

Research on the Legal Nature of Sovereign Currency in the Process of RMB Internationalization

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ABSTRACT

The theoretical research on RMB internationalization is still incomplete. Under the new Bretton Woods system, there is no international agreement to give a single currency a superior status, and each currency may rise to international currency through currency competition. The lack of international reserve function of the leading currency is the urgency of reforming the international monetary system. The super-sovereign reserve currency is not the main direction of the reform of the international monetary system. International currency is the main way, in this process, the RMB must have a place. Since the financial crisis, the trend of loose monetary policies in developed countries has not fundamentally overturned the previous theoretical judgment on the premise of currency internationalization. The gap between RMB and some international currencies in performing basic monetary functions is rapidly narrowing, and internationalization is facing new opportunities.

Keywords: *Sovereign currency, The legal nature of currency, Permanent interest-free national debt, RMB internationalization.*

1. INTRODUCTION

An internationalized sovereign currency serves as an important cornerstone of a country's economic prosperity. Usually, the international status of a sovereign currency corresponds to the economic status of the country that issues the currency. A typical example is the perfect combination of the world's most important international currency, the US dollar, and the economic status of the United States. And the interdependence and mutual support of the US dollar and the American economy have strengthened America's position as the world's sole superpower. Looking back at China, however, the international status of the renminbi (RMB) lags far behind China's economic status, and the non-international RMB has become an important factor hindering the economic development of China. The internationalization of china's national currency is a good way to solve this problem. The Russian ruble, Indian rupee and other currencies have gone international. China, the world's second largest economy, is also actively promoting the internationalization of the RMB. Today, in the context of the continuous slowdown of global economic growth, RMB internationalization has become the only way for China to maintain sustained economic prosperity, and it is also a strategic choice for China to

fully integrate its economy into the global economy. At present, the research on the internationalization of the RMB from the perspective of economics and finance is ongoing. Also, the research on the internationalization of the RMB from the perspective of law is also rising. Based on my interest in law and the internationalization of RMB, the author chooses to study issues related to the internationalization of the RMB from a legal perspective.

2. THE LEGAL NATURE OF SOVEREIGN CURRENCY

2.1. Definition of the concept of sovereign currency

In order to define the concept of "sovereign currency" accurately, it is necessary to study the background of the use of "sovereign currency" in detail and evaluate the background of "sovereign currency" in China and even the world. "Sovereign currency" or "sovereign credit currency" has been widely used. The International Monetary Research Institute of Renmin University of China used the concept of "sovereign currency" for five times and "sovereign credit currency" for 12 times in the Report on the Internationalization of the RMB in 2013 - Changes in World Trade Pattern and the

Internationalization of the RMB, and used the concept of "sovereign currency" to define "currency internationalization". This paper also puts forward the new concepts of "national sovereign currency" and "national sovereign credit currency". It points out, for example, that any national sovereign currency could theoretically function as a world currency[1]. Furthermore, it must be noted that all the problems are related to the institutional flaws inherent in the Bretton Woods system, in particular the inconsistencies between the national sovereign credit currency system and the arrangement of the international gold-exchange standard exchange rate.

National credit consists of domestic credit and foreign credit. Domestic credit is the credit obtained from the residents by the country as a debtor. Foreign credit is the credit obtained by a country as a debtor from non-residents and foreign governments[2]. John Hicks, the Nobel Prize winner of economics, proposed that if we understand money from the perspective of credit, we can get closer to the essence of money[3]. Early credit money was "a credit security that served as both a payment function and a circulation function in the market as a metal currency symbol." [4] Credit money reflects the credit relationship between creditors and debtors. Marx once pointed out: "Credit money arises from the payment function of money. After commodity sellers get credit bonds, which contributes to the circulation of credit money due to the transfer of creditor's rights." After the collapse of the gold standard, all countries have terminated the system of exchanging paper money for gold; the issue of credit currency also shifted from scattered to centralized; the country, with the highest credit, has the right to issue; and currency owners no longer have the right to require the country to use gold to repay currency. At this point, the sovereign currency has completely evolved into a credit currency in the modern sense.

Synthesizing the context and elements of using "sovereign currency", this paper defines the concept of "sovereign currency" as: a sovereign country independently decides a specialized agency to manage currency according to currency sovereignty, promulgates laws and regulations related to currency, determines the name of currency, establishes a currency system, and independently issues currency based on national credit.

2.2. The private law nature of sovereign currency

2.2.1. The theory of property rights

The idea that a sovereign currency is a thing pervades Chinese publications. Like Marx's political economy, traditional legal theory also regards sovereign currency as a special commodity with the characteristics of a thing. Therefore, money possess the basic legal characteristics

of things possess. In the field of civil law theory in our country, the understandings of the property rights of money are mainly as follows: "Currency is a thing stipulated or recognized by national laws and can be directly used to repay debts, and it is the object of real rights." [5], "Money is a special class of things that can substitute for each other as a means of payment in merchandise transactions" [6], "Money is a means of payment created by law and its general equivalent." In the field of financial law, some people also argue that money is a kind of thing and belongs to a kind of original property right. The classification of real rights in various countries is basically two types: movable and immovable, such as Article 516 of the French Civil Code: "all property is either immovable or movable". Article 92 of "Guarantee Law" in China: " In this law, movable property referred to refers to things that are immovable property".

Immovable property generally refers to land, buildings attached to the land and other fixed objects. Money is obviously not immovable property. As one can only be classified as either movable property or immovable property, currency can only classified as movable property.

The reason why sovereign currencies show the characteristics of the property right largely depends on the fact that the vast majority of currencies in the world still have material substance, giving people the characteristics of objects in the sense. [7] Indeed, different parts of the world have used different things as "money" throughout history; Sheep and shells were used in ancient China; Sugar was used by the West Indians; Tobacco was used by the Virginians and dried cod was used by the Newfoundlanders. With the rise of metal currency, gold and silver have become the hard currency in the world. But they are not separated from the characteristics of things. The reason why they can act as a medium of exchange in different periods is because they are relatively precious commodities themselves. In fact, the way of transaction was actually still barter. Gold and silver had use value and exchange value, but what the buyer used to exchange was fixed by gold and silver. There was no question of internationalizing sovereign currencies under the gold and silver standard, because gold and silver were scarce commodities that could travel across countries. Currency originated from barter and is the product of commodity economy, but Currency is not a commodity. By sorting out the development of currency, Felix Martin proposed that although currency originated from barter, it is not a commodity in essence. Jean-Baptiste Say, the founder of vulgar political economy, said in "Introduction to Political Economy", "Silver and coins made of any material are goods.", "If money is a commodity, then in a country There is no real difference between national currency and private currency: gold is gold, minted or not." [8] We cannot regard the origin of

currency as currency itself. As Gibran said: "Children are the children that life desires for. They come through their parents, but not the parents themselves." Similarly, currency comes through things, but not the things themselves. Now that we have a vague glimpse of currency, why bother with its former manifestations and not let it go? From a legal point of view, we need to observe the currency itself, not the manifestation of the currency. Currency itself is not a thing, but the manifestation of currency can be a thing. The possession, disposal, use and benefit of currency are realized through the possession, disposal, use and benefit of the specific manifestations of currency. However, as the torrent of history continues to move forward, the manifestation of money must become more and more abstract and virtual.

The withdrawal of paper money from the stage of history is the inevitable development of the form of currency. In May 2015, the Danish government announced a plan to repeal the law that forced the circulation of cash and change the way of payment in Denmark to bank cards and Internet payments. The plan, if approved by the Danish parliament, would mean Denmark could become the first country in the world to abolish cash. On January 20, 2016, the People's Bank of China held a seminar on digital currency in Beijing to discuss basic issues such as the overall framework of digital currency issuance, and vowed to issue digital currency as soon as possible. This paper concludes that the virtualization of money is the general trend.

2.2.2. The theory of monetary property rights

The theory of monetary property rights argues that contemporary sovereign currency naturally belongs to the category of property, and is an independent form of property directly drawn up by law and based on national credit, rather than is equivalent to objective property such as "things"[9]. The theory of monetary property rights is developed based on the monetary credit theory in finance, which holds that "the essence of money is credit"[10]. It is based on the full understanding of the important role of credit that people create various credit tools, and currency at the top of the pyramid of credit tools. With money, many economic activities of human beings can be carried out normally. The theory of monetary property rights defines credit currency as subjective property whose value basis comes from the enactment of national laws. The value of subjective property is eternal and regional in the legal sense, without objective property object. However, objective property is usually not regional, and its physical attributes form its value. Its property attributes are not affected by legal areas, which means it is property in any legal area. Monetary property is the typical representative of subjective property, while property right is the typical representative of objective property.[11] "Every currency now is cashless currency, relying only on the authority or approval of the

government." The property attribute of contemporary sovereign currency depends on the legal provisions of a country. Sovereign currency is not only the property, the medium of exchange, but also the basic tool of macro-control of the country issuing the currency. Its quantity depends on the monetary policy of a country, but does not need to be limited by any other property.

2.2.3. The point of view of this article

This paper argues that sovereign currency is a debt certificate and a permanent interest-free national debt. In this paper, the definition of permanent interest-free national debt is the bond issued by the country or the country designated institutions without fixed interest, return time. This kind of national bond has the characteristics of interest-free and no term. Interest-free means that the country does not have to repay interest, and no term means that under normal circumstances the country does not have to repay its debts during its existence, but it has the responsibility to ensure that the country as a whole always maintains its "ability to repay".

2.3. The public law nature of sovereign currency

The public law nature of sovereign currency is determined by domestic and international currency law. Domestic monetary law constitutes the specific content of a country's currency sovereignty, while the main function of international currency law is to recognize and constrain national currency sovereignty and coordinate the settlement of international currency disputes. In recent years, the importance of international currency law becomes more and more obvious as the United States abuses its currency hegemony to harm the interests of other countries.

2.3.1. Legal nature of sovereign currency under domestic currency law

The legal nature of sovereign currency under domestic currency law is legal tender. Legal tender is "the currency which the country has by law endowed with legal solvency in commodity transactions"[12]. Legal tender is created by the law of the country issuing the currency and is the creation of law. Its soul is not the material of making money, but the law of adjusting money. The concept of fiat money is derived from the role of law in establishing monetary system and authorizing the issuance of currency, emphasizing the decisive role of law in constructing domestic currency system. Legal tender embodies the national legal will and has many important characteristics.

2.3.2. The legal nature of sovereign currency under international currency law

Under international monetary law, sovereign currency belongs to national currency. The International Monetary Fund names it the metropolitan currency to distinguish it from other currencies issued within a country. Article II, Section 2.01 of the IBRD General Rules for Loan and Guarantee Agreements defines "a country's currency" as the legal tender used by a country to repay public and private debts. China's domestic monographs define national currency as the current currency (including banknotes and coins) issued by the state. The State Theory of Money holds that a country has the right to establish and define its own monetary system and issue currency in this system, so national currency naturally is under the jurisdiction of the country issuing the currency. National currency has the characteristics of the power of the country, which reflects the social credit relationship based on the country's authority. The international monetary system dominated by national currency is not a neutral system. In the international monetary system, national currencies represent the interests of issuing countries, and there is fierce competition among various currencies.

Countries with international currencies can influence the monetary policies of other countries and dominate the pricing power of bulk commodities in international transactions, which ultimately affects the economic development of other countries.

2.4. The internationalization of the RMB from the perspective of law

The internationalization of the RMB belongs to the category of sovereign currency's internationalization[13]. The New Palgrave Dictionary of Monetary and Finance defines the "internationalization of currency" as the evolution of a currency into an international currency. "Currency internationalization" includes two key words: "international currency" and "the course of evolution". This shows that "currency internationalization" is a dynamic development process, as a country's currency to become an "international currency" is the development goal, and the "the course of evolution" is the process to achieve this goal. Therefore, in order to accurately define the concept of "the internationalization of the RMB", it is necessary to make clear the concept and meaning of "international currency". Hartmann (1998) notes that international currency refers to the currency that can provide residents and non-residents with a medium of exchange, unit of account and means of storing value in a wide international scope[14]. Jiang Boke (2005), Yu Yongding (2010) and other researchers believe that national currency become an international currency if the movement of national currency goes beyond national boundaries and is freely convertible and circulated in the

world and widely used as a pricing, settlement, reserve and market intervention tool. Pan Liying (2014) argues that international currency is a public good provided by one country for other countries. Although international currency has a strong attribute of national interests, it will also benefit other countries that use it in a certain period of time. Based on the definition of international currency by various scholars, this paper holds that the internationalization of sovereign currency refers to the process in which the functions of a sovereign currency go beyond national boundaries and are widely used in the valuation and settlement of international trade, international capital flow and foreign exchange reserve and perform the monetary functions. Correspondingly, the concept of RMB internationalization should be the process in which the currency function of the RMB exceeds China's national borders, and is widely used by market players around the world in the valuation and settlement of international trade, international capital flows, and foreign exchange reserve, and performs the function of an international currency.

3. MEASURES OF REALIZING THE INTERNATIONALIZATION OF RMB BASED ON THE LEGAL NATURE OF THE SOVEREIGN CURRENCY

From the legal essence of RMB internationalization, this paper discusses how to achieve RMB internationalization. From the perspective of private law, the measures of RMB internationalization mainly include: (1) strengthening the economic foundation of RMB internationalization; In essence, the sovereign currency is just the symbol of its issuer. A currency without physical support cannot be called a currency, let alone an international currency, which must be supported by internationalized commodities. The rising stars of international currency, the euro and the yen, all follow this rule. This proves the preliminary conclusion that the success of RMB internationalization depends on the sustained growth of China's real economy. (2) maintaining the property value of the RMB; At present, the cross-border use of RMB is mainly focused on the relationship between Chinese and foreign customers, and there is little international capital flow between other countries. Therefore, RMB internationalization inevitably requires China to actively open its own financial accounts and dredge the backflow channel under the financial accounts of the RMB. The confidence of overseas market players in RMB is the key to the success of RMB internationalization. From this point of view, it is necessary for the Chinese government to keep an exchange rate stable of the RMB and realize the preservation and appreciation of RMB properties. (3) Ensuring the fairness and stability of China's sovereign credit rating and promoting the internationalization of China's local credit rating agencies which is a major problem to ensure China's financial security. China

should actively take the initiative of sovereign credit rating in its own hands. Only in this way can China ensure the fairness and stability of its sovereign credit rating, strengthen its voice in the international financial market, and lay a better financial market foundation for RMB internationalization. From the perspective of public law, the measures of realizing RMB internationalization mainly include: (3.1) maintaining the legal exclusivity of the RMB which is crucial to the legal status of the RMB. If the domestic status of the RMB is not guaranteed, it will not be used internationally. Therefore, in achieving RMB internationalization, China must strictly observe the domestic legal status of RMB and defend the legal exclusivity of RMB within China. (3.2) Adhere to the sovereignty of the RMB exchange rate; The nature of the RMB is a national currency under public international law, and the exchange rate regulation of the national currency is a foreign exchange arrangement under the supervision of the IMF. Therefore, it is crucial to clarify the scope of the Chinese government's sovereignty and obligation of the exchange rate under the current international law for the promotion of RMB internationalization.

4. CONCLUSION

The sovereign currency not only plays the monetary function and promotes the development of economy and trade, but also constructs a "currency boundary". Especially in the current situation of numerous sovereign currencies and complex and frequent fluctuation of exchange rates, the numerous factors of sovereign currencies have become an obstacle to global economic integration. Therefore, hastily promoting the process of monetary integration before the time is ripe is likely to lose the international status of RMB and ruin the future of RMB internationalization. However, since monetary integration is the development trend of currency, we should also actively study the phenomenon of monetary integration and strive to promote the internationalization of RMB, so that RMB can occupy more weight in the common currency in which China will participate in the future.

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