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CRYPTOCURRENCY REGULATION IN INDIA

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ABSTRACT

Today's most widely used decentralised payment method is cryptocurrency. With the emergence of Fintech, the modern era is jam-packed with innovations. Fintech, or the combination of finance and technology, is solely responsible for any improvements the country has made in financial services. The creation of virtual currencies is one such innovation. Cryptocurrency is a brand-new payment system that has just recently gained popularity. Cryptocurrency operates and is utilised in a very different way than traditional payment systems. The government and banking institutions do not control cryptocurrencies. In conclusion, cryptocurrencies cannot be a virtual currency because the article's objective is to evaluate the virtual currency model. The impact of currency on monetary policy, central banks, and consumers is also examined in this study. Lastly, this article will address the research question of whether or not cryptocurrencies will displace fiat money in India. This article's study focuses on the situation of cryptocurrencies in India. After assessing the advantages, disadvantages, and government report, the study into whether India should proceed with a comprehensive justification – whether you support cryptocurrency or not – will continue. To get to a suitable conclusion, the analysis makes use of a number of criteria with the provided arguments. Cryptocurrency is among one of the most famous words we hear these days.

Keywords: *Cryptocurrency, Virtual Currency, Fintech, currency*

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I. Introduction

One of the topics that people talk about the most in India and around the world these days is cryptocurrency. The name itself suggests that it usually relates to digital currency. On the other hand, the official definition of a cryptocurrency is "a digital or virtual currency secured by cryptography, which makes it nearly impossible to counterfeit or double-spend." A distributed ledger kept up to date by numerous computer networks, blockchain technology is used on decentralised networks, where the majority of cryptocurrencies are found.

It is arguable that the rise of cryptocurrencies is a result of technological improvement. Moreover, cryptocurrency is a very small subset of the too broad category of "Virtual Currency." Virtual currency is defined by the RBI in Box 3.4 of the report that they filed.

"Members of a particular virtual community use and accept virtual currency, an unregulated form of digital money. Its developers are in charge of issuing and controlling it," the statement says. "Virtual Currency as a digital representation of value that can be traded digitally and functioning as a medium of exchange, a unit of account, and a store of value but not having a legal tender" according to the FATF."[1]. When the Bitcoin software was released to the public on January 3, 2009, Satoshi Nakamoto—a pseudonym for an anonymous computer programmer or group of programmers—created the first cryptocurrency. After being made available to the public, the software would discharge about 21 million Bitcoins.

1.1 Why Do We Need Cryptocurrencies?

Coins or genuine paper money have always been the accepted forms of payment for a very long time. Nonetheless, the first cryptocurrency ever, Bitcoin, or BTC, was revealed by Satoshi Nakamoto in 2008. It's a peer-to-peer electronic payment system that uses cryptographic proof to cut out the middlemen and enable direct communication between network participants. Cryptocurrencies are made using cryptography, and instead of being safeguarded by individuals or a trust, digital currencies are protected by mathematics.

Investors are using cryptocurrencies more frequently now than ever before.

1 Parul, Legality and scope of Cryptocurrency in India, Indraprastha Law Review (last visited on 4th may, 2024) https://indraprasthalawreview.in/wp-content/uploads/2022/09/GGSIPU_USLLS_ILR_2021_V2-I2-03-Parul-1.pdf

Industrialization and technological advancement have given digital currencies like Bitcoin a competitive edge over others. The use of cryptocurrencies streamlines money transfers and lessens the necessity for banks and other financial institutions.

India has over 19 million cryptocurrency investors out of which nearly nine per cent are women, data from a report by cryptocurrency exchange platform CoinSwitch showed[2]. The latest Chainalysis' report, 'Global Crypto Adoption Index 2023', ranks India first amongst 154 nations in grassroots crypto adoption or the extent to which ordinary people in a country are adopting cryptocurrency for utilization in daily life.[3]

1.2 Advantages of Cryptocurrencies:

i. Protection of inflation: A scenario where money loses value is referred to as inflation. Rising prices for goods, services, and commodities are the cause of this. A hard cap restricts the overall quantity of Bitcoin coins that can be produced. For instance, the price of Bitcoin will rise if the money supply expands faster than the amount of Bitcoin that is in circulation. The same mechanism that regulates supply in many other cryptocurrencies also serves as a safety measure against inflation.

ii. Cost effective transactions: Cryptocurrencies can facilitate international money transfers. With the aid of cryptocurrencies, transaction costs can be negligible or even $0. Since it does away with the necessity for third parties like VISA to validate transactions, it is insignificant.

iii. Transaction speed: Speed to sending money in form of payment is very fast. Once the block with your transaction in it is confirmed by the network, it's fully settled and the funds are available to use.

iv. Accessibility: Anyone can access cryptocurrency. Therefore, there are no prerequisites to meet in order to be eligible to use bitcoins. All you require is an internet connection and a computer or smartphone. Opening an account at a regular financial institution is far quicker than setting up a bitcoin wallet. ID verification is not present. No credit or background check

2 Ajinkya Kawale, *India has over 19 million crypto investors with 75% youth: Report*, BUSINESS STANDARD (Dec. 22, 2023) https://www.business-standard.com/markets/cryptocurrency/india-has-over-19-million-crypto-investors-with-75-youth-report-123122200814_1.html (last visited on 5th may,, 2024)

3 The 2023 Global Crypto Adoption Index – Chainalysis (Sep.12, 2023) https://www.chainalysis.com/blog/2023-global-crypto-adoption-index/ (last visited on 5th may 2024)

is performed. takes place on the publicly accessible blockchain. Anyone can utilise tools to search for transaction details, such as the amount, time, and location of cryptocurrency sent from a wallet address. Anyone may also see how much cryptocurrency is stored in a wallet.

v. Possibility of large profits: Although there are risks associated with cryptocurrencies, such as unstable markets and possible fraudulent activity, most cryptocurrency investments result in significant returns. From its projected $4.67 billion in 2022, the cryptocurrency market is expected to increase at a compound annual growth rate of 12.5% between 2023 and 2030.

vi. Decentralization: The fact that no single financial institution or governmental entity controls cryptocurrencies is their greatest advantage. This ensures that no government or central bank will be able to control the value of cryptocurrencies and breaks up the money monopoly.

1.3 Disadvantages of using cryptocurrencies:

i. Lack of regulation: Therefore, neither an organisation nor a centralised authority may serve as a regulatory body. Currently, there is no supervisory body or management in charge of overseeing the use of cryptocurrencies.

ii. Cryptocurrencies can be an extremely volatile investment: It's basically because the price of cryptocurrency keeps fluctuating. They can crash to terrifying lows at any time.

iii. Crypto newbies are vulnerable to security risks: Although utilising cryptocurrencies may not be as risky as employing central middlemen, they still have security vulnerabilities. If you own bitcoins, you run the risk of losing the private key that unlocks all of your holdings. Then there are additional harmful control strategies like phishing and hacking. Novice investors are more prone to these kinds of scams, even if more seasoned investors are aware of this.

iv. Lack of key policies: One of the main issues with cryptocurrencies is their lack of meaningful transactional policies. Transactions that are performed incorrectly across wallets will typically default to the no refund or cancellation policy, despite the fact that each cryptocurrency stock market and programme has its own set of regulations.

II. Is Cryptocurrency Legal in India?

In order to respond to the inquiry on the legality of cryptocurrencies in India, a comprehensive explanation is necessary. Although there is currently no legislation surrounding cryptocurrencies, they are legal as of right now. This is because there aren't enough of them. Although digital assets are not accepted as legal cash, anyone can own and exchange them; still, they cannot be used for routine domestic transactions. There is no official body in India that regulates the use of cryptocurrencies as a form of payment. There are no established principles or rules governing the resolution of disagreements when using cryptocurrencies. Thus, bitcoin trading is done at the investor's own risk.[4]

2.1 Indian Government On Cryptocurrency

The impending Cryptocurrency and Regulation of Official Digital Currency Bill, 2021, adds to the complexity of the matter. It's still unclear where cryptocurrencies will go, but this action might make private ones illegal, which would make things more confusing. Good things are starting to happen in spite of this regulatory uncertainty. One example of how the Indian government has acknowledged the promise of blockchain technology is the Telangana Web3 Sandbox programme. This raises the possibility that authorised cryptocurrency exchanges and India's banking system would eventually combine.

For Indian cryptocurrency investors, however, prudence is essential. Risks are increased by the market's well-known volatility and the unstable regulatory framework. Scams and security lapses continue to be issues, underscoring the necessity of strong security protocols in all cryptocurrency operations.

III. Different Institutions Stand Regarding Cryptocurrency

3.1 RBI's stand on cryptocurrency

P. Vasudevan, an executive director at the Reserve Bank of India (RBI), stated that cryptocurrencies lack underlying value and therefore cannot be considered as currencies.[5] Basically, RBI as such does not recognise cryptocurrency as currency.

4 Cryptocurrency Regulations in India: Everything You Need to Know https://www.kychub.com/blog/cryptocurrency-regulations-in-india/ (last visited on 5th may , 2024)

5 Crypto currencies have no underlying value, says RBI official, The Hindu (Feb.16, 2024) https://bfsi.economictimes.indiatimes.com/news/policy/crypto-currencies-have-no-underlying-value-says-rbi-official/107774920#:~:text=P.,cannot%20be%20considered%20as%20currencies. (last

3.2 CERT guidelines

Under sub-section (6) of section 70B of the Information Technology Act, 2000, the Indian Computer Emergency Response Team ("CERT-In"), which is housed within the Ministry of Electronics and Information Technology ("MeitY"), released directives on April 28, 2022, regarding information security practices, procedures, prevention, response, and reporting of cyber incidents for Safe & Trusted Internet. The purpose of these directives is to improve India's cybersecurity measures. They mandate that all companies, governmental organisations, data centres, middlemen, and service providers report cybersecurity incidents to CERT-In.

The blockchain, VDA, and Web3 sectors are immediately impacted by every "attack or malicious/suspicious activity affecting networks, servers, software, applications, systems, or related to the Directions." Blockchain technology, virtual currencies, virtual currency exchanges, and custodial wallets..." should be notified as soon as possible after the incident is discovered. Furthermore, every virtual asset exchange, custodian wallet, and virtual asset service providers are required to hold onto any financial transaction records and data that are acquired via Know-Your-Customer ("KYC") procedures for a minimum of five years.

3.3 Central Bank Digital Currency (CBDC)

RBI has achieved its long-standing goal of creating India's CBDC, or e-Rupee, with the successful launch of the Rupee CBDC trial. This approach is supported by an enabling legal environment gained through amendments to the Reserve Bank of India Act, 1934. It has made it possible for RBI to issue its own CBDC by extending the definition of "bank note" to include bank notes issued by RBI in both physical and digital formats.[6]

3.4 Government Committee Reports

The Indian government established a number of committees to research cryptocurrencies and suggest laws. Subhash Chandra Garg, the chairman of the Inter-Ministerial Committee (IMC), came to one of the most important conclusions. In order to advance the underlying technology, the IMC introduced the "Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019," which

visited on 5th may, 2024)

6 Dhrupad Das, Pranay Agrawala, Nishchal Anand, *India*: *Blockchain & Cryptocurrency Laws and Regulations 2024* (Oct.30, 2023) https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/india/ (last visited on 5th May, 2024)

advocated for the outlawing of private cryptocurrencies with certain restrictions. But a lot of individuals opposed this bill because they thought it was too harsh and didn't comprehend the nuances of cryptocurrency.

IV. Current Scenario

Numerous individuals expressed dissatisfaction with the Regulated Entities' decision to stop offering cryptocurrency trading services, which led to the closure or relocation of numerous Indian cryptocurrency businesses, including Zebpay and Unocoin. The RBI's announcement was contested by a number of Indian associations and businesses operating in the cryptocurrency field, who filed a complaint with the Indian Supreme Court. The Supreme Court of India overturned the Crypto Ban Notification in its ruling in Internet and Mobile Association of India v. Reserve Bank of India on March 4, 2020, reviving cryptocurrency businesses, dealers, and exchanges. In response to the ruling of the Supreme Court, several bitcoin shops and exchanges in India have reopened for business.

Some other bitcoin dealers and exchanges have chosen to stop business in India since they see this as a murky area. In addition, some think they might be subject to penalties or lose their ability to do business in India in the future. In addition, it was recently revealed that the RBI, Ministry of Electronics and Information Technology, and Ministry of Law and Justice are involved in government talks to propose laws that would officially forbid cryptocurrency trading in India. But as of right now, no formal statement has been made. Consequently, we can conclude that neither an act nor an authority exists. laws that govern how cryptocurrencies are regulated in India

V. Impact of Legalization of Cryptocurrency in India

i. Greater financial inclusion: Through the provision of financial services to underbanked or unbanked individuals, cryptocurrencies have the potential to enhance financial inclusion and stimulate economic growth.

ii. Lower transaction costs: Cryptocurrencies can help businesses deal worldwide more conveniently and economically by providing lower transaction fees.

iii. More investment options: Businesses and consumers may have additional

investing possibilities thanks to cryptocurrencies, which could promote economic growth.

iv. Decentralisation: There is greater trust in the financial system and less possibility of government manipulation because cryptocurrencies are not regulated by a single body.

VI. Potential Risks of Cryptocurrency Adoption for The Indian Economy:

i. Financial stability risks: Due to their extreme volatility, cryptocurrencies could endanger the stability of the financial system if they become extensively used and see large fluctuations in value.

ii. Cybersecurity risks: Cryptocurrencies are susceptible to cyberattacks, and the financial system and the economy might suffer greatly from a significant compromise.

iii. Money laundering and illegal activities: The possibility of cryptocurrency use for money laundering and other illicit purposes could result in a rise in financial crime.

iv. Consumer protection risks: If adequate consumer protection procedures are not in place, consumers may be in danger of losing their money or falling victim to fraud.

v. Regulatory risks: Investor anxiety and the expansion of the cryptocurrency industry may result from a poorly defined legal framework for cryptocurrencies.

VII. Impact on Economy

7.1 Positive Impact

a. Employment growth: There are currently about 50,000 workers in the bitcoin industry. A recent analysis states that the industry is anticipated to experience a notable increase in employment growth.

b. Improvement of transparency: With cryptocurrency, transparency is increased because every transaction can be traced back to its original source. Moreover,

blockchain technology, the foundation of cryptocurrencies, is immutable. This suggests that transaction histories are permanent and irreversible.

c. *Reach Atmanirbhar Bharat's objective:* If the government decides to establish a single, officially recognised cryptocurrency, then there will be less dependence on unofficial, private, and foreign-based cryptocurrencies.

d. *Improve digital payments:* Cryptocurrency transactions are inexpensive and fast. The trades are done instantaneously because there is no need for a middleman; the sender and recipient finish the transaction directly.

7.2 Negative Impact

a. *Negative for investors:* Because cryptocurrencies are so volatile, there are no losses that investors may carry forward. This worry will always deter traders from doing so, particularly when it comes to regular investors and cryptocurrencies.

d. *Dilemma:* In India, income tax is determined by assets, not by the means of acquisition, so taxing cryptocurrencies does not formally and completely declare them to be lawful.

c. *Bad for Indian banking system:* Authorities from the Reserve Bank of India claim that this could have a detrimental impact on the Indian banking sector since investors might decide to put their money into these assets because they seem tempting. their hard-earned savings in these currencies, which lowers the quantity of cash that banks are willing to lend out. Authorities warned that if the crypto bubble busts, the people's hard-earned riches would be destroyed in the long run.[7]

VIII. SUGGESTIONS

The adoption of cryptocurrency in India is a complex issue that requires careful consideration by the government. Here are some potential suggestions for the Indian government to contemplate.[8]

7 Bhavana Sahu, Hariom Divaka, *Cryptocurrency and its Impact on Indian Economy*, 11:3 JOURNAL OF GLOBAL ECONOMICS https://www.hilarispublisher.com/open-access/cryptocurrency-and-its-impact-on-indian-economy.pdf (last visited on 6th May, 2024)

8 M. Srinivas, V. Ramachandra Murthy, Shathaboina Raju *Impact of Cryptocurrency on the Indian economy* 11 IJCRT https://ijcrt.org/papers/IJCRT2308786.pdf (last visited on 5th march , 2024)

i. Clear and comprehensive regulatory framework: A suitable central regulatory body is required for blockchain technology and cryptocurrencies. The framework should take into account issues like consumer protection, fraud prevention, taxation, and anti-money laundering measures while fostering innovation and growth in the blockchain sector.

ii. Engage Industry Experts and Stakeholders: When creating legislation, consult blockchain companies, business leaders, and other pertinent stakeholders to achieve a balance between security and innovation. Collaboration among participants can yield well-informed recommendations that consider the needs of the public and industry.

iii. Education and Awareness: More education, awareness must be spread regarding the cryptocurrency through campaigns, awareness programs etc. Encourage ethical trading and investment while raising awareness of the dangers of speculative trading.

iv. Taxation Guidelines: Give precise definitions to the capital gains tax, income tax, and transaction reporting regulations pertaining to cryptocurrencies. Tax certainty will boost government revenue and encourage compliance.

v. Promote Innovation: Provide rewards and assistance to blockchain and cryptocurrency start-ups. Encouraging innovation can propel India to the forefront of the blockchain industry.

vi. Data Security: To secure user data in bitcoin transactions, make sure that stringent data security and privacy measures are in place.

vii. Global Best Practices: Take note of the lessons that other nations that have effectively controlled bitcoins and modify international best practices for the Indian environment.

viii. Transparency: Preserve the openness of the regulatory process by giving interested parties the opportunity to comment on and influence the regulations.

The Indian government is run by, for, and in the interest of the people. Furthermore, the State is required by law to defend Indian people. The Indian government does not want its citizens to lose their security in order to fall into a trap of ease. There are already enough criminal crimes committed in India, therefore the government

is attempting to put an end to them all. Criminals frequently search for those methods that allow them to conceal their identities. And virtual money satisfies this fundamental need for them. Because virtual currency allows for anonymity, those involved in illicit activity find it appealing.[9]

IX. Conclusion

Cryptocurrency is an example of an invention that has become popular throughout the world. The RBI has earlier advised Indians not to use bitcoin because of suspicions that it is associated with money laundering and terrorism financing. However, cryptocurrencies are an innovative technology and a practical instrument that we should prepare for. Even though the number of cryptocurrency investors has been steadily increasing in recent years, the Indian government has not responded with any laws. The Indian government must take prompt and responsible action to regulate this kind of currency, as the number of users is rapidly increasing. In India, cryptocurrencies seem to have a bright future ahead of them.

By improving financial inclusion, providing a better financial environment, assisting in the overcoming of a lack of social trust, and expanding access to financial services, cryptocurrencies might be considered as a way to boost the growth process in developing countries (Nakamoto, 2008). financing traceability and to help people get out of poverty. The author hopes to provide a thorough overview of cryptocurrency operations in India, including the current regulatory framework and necessary changes and enhancements, through this article and study. It is imperative that the Supreme Court take action and establish appropriate regulations to address this matter. The author suggests that the government reevaluate its position regarding cryptocurrency.

9 Parul, supra Note 1



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