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Economic-Legal Evaluation of Cryptocurrency in India*Dr. Vipul Gupta*

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Abstract

A cryptocurrency is a digital asset treated as a medium of exchange and classified as digital currency. The present research aims to evaluate the economic and legal implications of cryptocurrency in India. The research used the theoretical analysis in order to find the economic and legal implication of cryptocurrency by reviewing the literature. The study also briefly discusses the cryptocurrency bill 2021. The research found that cryptocurrency has various legal issues, such as contractual law issues, jurisdictional issues, fraud and privacy concerns, etc. The findings of the study reveal that cryptocurrencies are not legal in India, but exchange of cryptocurrency is legal. The government of India encouraged blockchain technology because once the unit of account of these transactions changes from rupees to any cryptocurrency, it would enable tax collection. The Indian Government knows the relevance of cryptocurrencies which forced them to regulate it.

Keywords: Cryptocurrency, RBI, Supreme Court, Blockchain, Digital currency.

Cryptocurrencies: A Brief Introduction

“Cryptocurrency” is the technique of an encryption to secure the network digitally. This is the form of currency which exists digitally and has no central issuing authority. Additionally, it records transaction in a decentralized manner and control the issuance of new units with cryptography which secure fraudulent transactions. Cryptocurrency is termed as a technology created and protected money by hiding the identities of its users (Houben, 2018). Crypto is derived from “cryptography” which is computer-based technology for hiding information, enriching security and many more. On the other hand, Currency denotes “money currently in use”. Cryptocurrency is cash designed digitally with easy accessibility, and more reliable than Government Issue money. In general, cryptocurrency is a digital asset that is based distributed network across a large number of computers (Niranjanamurthy, 2019). Cryptocurrency made it possible to make the transactions without involvement of government to produce it and banks to store it. Cryptocurrency transactions can be recorded and verified simultaneously in a ledger and available to everyone in general. The availability of ledger makes transactions transparent

and efficient. The availability of ledger also enabled the role of banks as the recorded transactions can be seen public ally.

This causes a problem double payment and can be copied easily which is double-spending problem (Bohme et al., 2020). The problem can be managed by third party for maintaining a ledger of cryptocurrency for fees. Mostly the third party is an issuer of cryptocurrency for instance PayPal. The cryptocurrency such as Bitcoin is a step ahead and removes the involvement of third-party by relying on decentralized network of validators that maintain and update copies of the ledger with correct ownership of balances (Chiu and Koepl, 2017). The cryptocurrency like bitcoin is based on a blockchain which follows the distributed verification and recording transactions.

In the light of this the present paper is divided into five sections as first section deals with the introduction and statement of problem, the second discusses the review of literature. The controversy of cryptocurrency in India is revealed in section three, the fourth section briefly explain the cryptocurrency bill 2021 and Fifth section concludes the research.

Review of Literature

Raymaekers (2015) revealed the first digital cryptocurrency was launched in the year 2009 which made the digital transactions easier. Shin and Rice (2016) analyzed that the blockchain based bitcoin has attracted large number of investors worldwide. Swan (2015) analyzed that the distributed data base of bitcoin made investments in cryptocurrency viable for investors all over the world. The economists viz. Cretarola and Figà-Talamanca (2017) developed the model of Bitcoin pricing through customer confidence. The literature also raised an issue of bitcoin that whether it should be considered as currency or stock and believed that bitcoin brings forth high market vitality. On the other hand, Low and Teo (2017) revealed that cryptocurrencies including bitcoin was considered as financial instrument but not adjustable in the existing financial market. Manta and Pop (2017) concluded that cryptocurrencies were based on decentralized system backed by legal enforcement. The high volatility of cryptocurrencies with divergent opinions on regulations posed the working of virtual currency difficult. Additionally, Ahluwalia et al. (2020) analyzed that the crowd funding made a shift in lending program of banking industry to crypto markets from traditional banking.

Controversies related to Cryptocurrency in India

RBI with issue of notification in 2018 restricted entities regulated by RBI in the context of virtual currencies or the services in virtual currencies. Later in March 2020 RBI struck relieved cryptocurrency trade in India with Supreme Court verdict.

The verdict is important for many reasons. Apart from lifting RBI's restrictions on crypto exchanges, and consequent enabling of operations of crypto exchanges, there is a fair number of other signals that may be read into or interpreted from this verdict.

The verdict includes the following:

The order recognizes the equality for all in the as prescribed in the constitution of India.

The verdict raised the question on RBI regulations on super ceding the and powers of citizens granted by the constitution of India. The verdict revealed “the case void in understanding was stifling fintech innovations and the SC verdict lifts that veil, albeit only by interpretation”.

The verdict “removes the arbitrariness of regulatory actions even though it does not disgrace it at all. After lifting the ban over cryptocurrency in April 2020 Bit Buddy, a Bitcoin marketplace, recently announced its launch in India. Bit buddy will allow sellers and shoppers to sell and buy directly on its platform. Ashish Agarwal, CEO, Bit Buddy, in a statement said, “India has more than five million crypto users”.

Cryptocurrency and various Legal issues

Legal issues related to contractual law: Cryptocurrencies and blockchain technology uses ‘smart contracts,’ and these contracts are self-generated contracts. According to the provisions of Indian Contract Act 1872, all the contracts must be offline contract. The essentials of contract need to be followed as per Section 10 of ICA 1872 (Patra, 1962). While Information Technology Act 2000 also consisted some of the provisions dealing with the E-Contract under Section 10A which is useful to understand as Cryptocurrency use the cyber world to functions. All the requirements of Indian Contract Act are mandatory regardless of Online or offline contracts. The issue of traditional laws is dealing with smart contract.

Jurisdictional Issues: To regulate the Cryptocurrency, Blockchain technology is used which provided the great security to currency. As this technology is hard to challenge because transaction when made then it passes from blocks to blocks and it is difficult to pinpoint that from which place the transaction is made and which path was being used to complete the whole task. So, the jurisdictional issues arise. Earlier an adequate law to deal with borderless crime was not available. Now, this currency poses great issue regarding the complex jurisdictional issues.

Fraud: Cryptocurrency is referred to as Digital Currency, and it is not issued by Appropriate Government or Central Bank. So, legal implications are still there. People want to invest a huge amount and expect a return but there are some bad actors who used the advanced technology and get the access of authorised person to commit a fraud. It has become the hot topic of discussion for various agencies, conferences, government enforcement attorneys that how it can be utilised to commit fraud and misappropriate the technology to earn money without much hassle. Initial Coin offering is for initial investment in cryptocurrency and mostly these are fabricated and intention was to fled away with ICO. Market manipulation, Ponzi Scam, Pump and Dump scheme are some of the examples of frauds.

Privacy Concerns: Privacy is the biggest concern with Cryptocurrencies. Although the technology used in currency is one of the safest technologies yet there are in number of cases where privacy was compromised.

Cryptocurrency and Regulation of Official Digital Currency Bill, 2021

The Indian Parliament introduced Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 ("Crypto Bill"). The bill initiated a ban on all private cryptocurrencies and created a

legal digital currency framework for India with certain exceptions related to digital currency (Shukla et al., 2023).

Conclusion and Policy Recommendations

The status of cryptocurrencies is not codified as a Law in the Republic of India. The Supreme Court had relieved a ban from cryptocurrency. Cryptocurrencies are not legal in India but exchange of cryptocurrency is legal. On the next hand regulation of the government has made it difficult for them to operate. There has been prevailing shadow of concerns with respect to money laundering and a cloud of terror financing which has always dominated the discussions surrounding the unchecked flow of decentralized cryptocurrency transactions. The literature estimated 1.7 million users of cryptocurrency in India. With the increasing trend of online centralized transactions and easy availability of cryptocurrency, the Government of India has been sceptical of cryptocurrency and struggling to vacillate between wanting to regulate cryptocurrencies or to continue with imposition of ban. The government of India encouraged blockchain technology because once the unit of account of one of these transactions changes from rupees to any cryptocurrencies would enable tax collection.. The blockchain transactions would definitely reap revenue to the government in the form of cryptocurrency. Former Reserve Bank of India (RBI) Governor and eminent economist Raghuram Rajan says the cryptocurrency is nothing but a classic case of bubble. Moreover, literature revealed that cryptocurrencies also emerged as a cushion against the uncertainty raised by COVID-19.

The study provided comprehensive view on Digital currencies in India. This research helped to draw some relevant conclusions regarding why we need to use digital money and what are the problem faced by financial systems if they allow crypto-circulations due to its decentralized nature. The Indian Government knows the relevance of Cryptocurrencies which is the only reason they want to regulate it. It would be interesting to look upon other countries how they deal with it and what are the regulations and secure network they are opting while doing cryptocurrency transactions.

References

- Ahluwalia, S., Mahto, R. V., & Guerrero, M. (2020). Blockchain technology and startup financing: A transaction cost economics perspective. *Technological Forecasting and Social Change*, 151, 119854.
- Ahmad Nadeem, Bano Rubeena, Agarwal V.K.,and Kalakoti Piyush, SUBSTANCE ABUSE IN INDIA, Pravara Med Rev 2009; 1(4).
- Bandy, P & President. P.A, *Recent Literature on Drug Abuse Prevention and the Mass Meida: Focusing on Youth Parents Women and the Elderly*, Journal of Drug Addiction, (1983).
- Böhme, R., Eckey, L., Moore, T., Narula, N., Ruffing, T., & Zohar, A. (2020). Responsible vulnerability disclosure in cryptocurrencies. *Communications of the ACM*, 63(10), 62-71.
- Chiu, J., & Koepl, T. V. (2017). The economics of cryptocurrencies–bitcoin and beyond. *Available at SSRN 3048124*.
- Cretarola, A., & Figà-Talamanca, G. (2017). A confidence-based model for asset and derivative prices in the bitcoin market. *arXiv preprint arXiv:1702.00215*.
- Cretarola, A., Figà-Talamanca, G., & Grunspan, C. (2021). Blockchain and cryptocurrencies: economic and financial research. *Decisions in economics and finance*, 1-7.

- Cretarola, A., Figà-Talamanca, G., & Patacca, M. (2017). A sentiment-based model for the BitCoin: theory, estimation and option pricing. *arXiv preprint arXiv:1709.08621*.
- Houben, R., & Snyers, A. (2018). Cryptocurrencies and blockchain. *Legal context and implications for financial crime, money laundering and tax evasion*, 1-86.
- Low, K. F., & Teo, E. G. (2017). Bitcoins and other cryptocurrencies as property? *Law, Innovation and Technology*, 9(2), 235-268.
- Manta, O., & Pop, N. (2017). The Virtual Currency and Financial Blockchain Technology. Current Trends in Digital Finance. *Financial Studies*, 21(3).
- Niranjanamurthy, M., Nithya, B. N., & Jagannatha, S. J. C. C. (2019). Analysis of Blockchain technology: pros, cons and SWOT. *Cluster Computing*, 22(6), 14743-14757.
- Patra, A. C. (1962). Historical Background of the Indian Contract Act, 1872. *Journal of the Indian Law Institute*, 4(3), 373-400.
- Peters, G. W., & Panayi, E. (2016). Understanding modern banking ledgers through blockchain technologies: Future of transaction processing and smart contracts on the internet of money. In *Banking beyond banks and money* (pp. 239-278). Springer, Cham.
- Raymaekers, W. (2015). Cryptocurrency Bitcoin: Disruption, challenges and opportunities. *Journal of Payments Strategy & Systems*, 9(1), 30-46.
- Shin, D., & Rice, J. (2022). Cryptocurrency: A panacea for economic growth and sustainability? A critical review of crypto innovation. *Telematics and Informatics*, 71, 101830.
- Shukla, V., Misra, M. K., & Chaturvedi, A. (2022). Journey of cryptocurrency in India in view of Financial Budget 2022-23. *arXiv preprint arXiv:2203.12606*.
- Swan, M. (2015). *Blockchain: Blueprint for a new economy*. " O'Reilly Media, Inc."