

CRYPTO CURRENCY IN INDIA- SOCIO-LEGAL ANALYSIS

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I. INTRODUCTION

As the old legend says that “Change is the only Constant, every decade has seen a revolution in this world”. Every century is a witness to the drastic changes that the world has undergone. From ‘Barter System’ to physical currency, the world has witnessed the change and every Generation has adopted to the changes their respective authoritarians, Kings or Governments chose to Impose. At one stage, even Gold was used as a form of currency, now Gold is a commodity of Investment. For instance, whereas the whole world is introducing some or other kind of restrictions on use of Plastics, Singapore uses High Quality plastic in its currency. It will be ideal to state that even today, Currency is active, and every country has its own physical currency and at some point, when the world starts running out of Paper, Steel and Plastic, the Humans will try and find something else to use for transactions and this currency will eventually revolve. May be perhaps in form of Digital Units, Digital credits, Digital Notes or Digital Currency. There is no limit for predictions as no one knows what the future holds and someday, just like Gold, even Steel could become a commodity for Investment.

India is slowly and steadily moving towards Digitalisation and the Government is also promoting online transactions, online payments, Bank to Bank transfer, Investments etc., We are moving towards the Country’s Goal of a cashless economy.

It is going to take a lot of time to achieve this Goal, but with the advancement in Technology and world of Digitalization, many people have started entering the concept of Investments and interestingly, people have already begun to find alternatives to their investments in form of proposed concept of Cryptocurrencies. Cryptocurrency is already active in various parts of the World.

Indians have connected globally to these Internet world and many of its population is actively in research of the concept of the Cryptocurrency. Even without any official Promotion or Ban from the Government, or even the minimum basic clarity on the legality of Cryptocurrency, the heavy online marketing of Cryptocurrencies on social media platforms have lured people towards itself and have managed to induce people to invest in them.

Many people without having knowledge have also opted to invest in the concept of cryptocurrency and at present it is estimated according to certain News Channels that around 1.5 Crore people approximately in India have made investments to Cryptocurrency and each day the number is increasing.

The Investment structure for decades all together for all Indians has been the traditional Share Market Investments, Commodity purchases such as Gold and Silver Ornaments, Land purchases, private deposits and investments, and the newly introduced Systematic Investment Program (S.I.P). On the face value, any person that ‘invests’, does so with an intention to earn good returns in short term, Medium term or long term or as the name would suggest, in a periodical manner. Just as how every investment is subject to Market Risk, we in India have witnessed the power of Share Market that has turned layman into Riches and has also brought the Rich to the streets. The story of profits from many successful people has drawn many people to take the bearable risk of “Investments”. The concept is simple, let your money make money. Few Succeed, many fail, and that’s the part of Gamble.

The World is fast changing and is digitally coming close together through Global use of Internet; and technology has played a major role in connecting several countries together. Information and News of any country is available on just a click through use of Internet, except for what is classified by respective Countries in order to protect their Security. However, the necessity to travel abroad in order to connect two geographically different nations is no longer a prerequisite, everything is available through use of Internet. As India moves towards Globalisation, every decision that moves around the internal as well as external concerns of Finance, Security, Business, etc., the very use of Internet and Technology has increased and India too has moved ahead towards Digitalisation.

II. CONCEPT OF CRYPTOCURRENCY

Cryptocurrency is a digital or Virtual currency. The concept is derived from the techniques used for encryption which are globally used for securing any network, yet it is recognized for its transparency. It is a cryptographically secured system which makes it immune against centralization, counterfeiting or duplicating. It is based on blockchain technology and every transaction, just like a ledger, is recorded and stored. The main factor of issuance of this cryptocurrency is that it is not issued by a Government or any central authority and thus makes it impossible for any Government to manipulate the same. The cryptocurrency is basically a Digital Asset which is not in direct control of the Government or any central authority. Everything is dependent upon the main

essential ingredient of Blockchain and its related technology. However it is believed by many people that the full fledged introduction of cryptocurrency could destabilise the Governments, Industries and open the flood gates of litigation, however, equal number of experts believe that the Concept of cryptocurrency is the future and just as generations have adopted to change in exchanges or transactions, this concept will also be welcomed by the World. However, just as how there are good side of this virtual coin, there underlies the fear of the existence of the dark side because there have been several news wherein it has been seen that the cryptocurrency is also used for illegal activities.

Just as how the UPI apps such as BHIM UPI, GOOGLE PAY, AMAZON PAY etc., came to be introduced, the concept of spending cryptocurrency acts in a similar way wherein it allows for a secure online payment and whose term is denoted as a “Virtual Token” and the transaction I.D is stored in ledger. Several Ledger entries form a Block and this block is encrypted and several blocks are thus known as blockchains. The techniques and algorithms used to safeguard these blocks is high technology encryptions, public-private keys and hashing functions.

The first block-chain crypto-currency came to be introduced in the year 2009 and was titled as “Bitcoin” and is still in existence and is visibly making advertisement on social media and is attracting people to invest in it and deal through it. They also operate through their own app which is known as Binance and since then several cryptocurrencies have come into market. It is believed that Cryptocurrency holds a higher stake in controlling both, the inflation, manipulation, misuse and to stabilize the global neutrality with regards to Market stability. The concept is however relatively new and merely on the basis of speculation it cannot be accepted as a Truth. The answer however remains undiscovered, it is a currency? Or an Asset? Or any commodity and it requires critical analysis to raise concerns before the entire countries enter into this modern concept of digitalisation.

One of the important functions of the Cryptocurrency is that it does not include a third party like a Bank. The receiver and sender hold their private keys and the transactions are between two people with absolute encryption. This helps the user to avoid the payments of Bank fees or taxes appear to be a dessert served on a platter. But then the disadvantage of Banks Crashing, Governments falling, tax evasions, money laundering, non-tracking of encrypted transactions, etc. will also have to be given due consideration. Although the main function is to ease the payments and to help the user to bear minimum costs, but there are many issues that need to be primarily addressed and the research shall also focus on these issues.

Everything for now is based upon speculation and it will be too early to advocate the pros and cons of the cryptocurrency. However, on the face value, and upon the present scenario of how the sale and cryptocurrency works, clearly gives us a hint that it is an investment, although a form of digital currency, but you buy it for a price. And this price is fluctuating as per demand. The more the demand, the more the value, the less the demand, the cheaper it is sold for. What is also concerning is that if this Cryptocurrency is virtual, and no physical product is sold, then how is it created? For now, the cryptocurrency market is based on supply and demand and it will be fair to call it an investment for the moment. An investment that we can spend as a currency, but however keeping in mind the stand of Government of India, having no authenticated regulation, the ultimate purchaser may be still at risk.

III. IMPORTANT ISSUES RELATING TO CRYPTO CURRENCY

Understanding crypto currency, its purpose and the method of blockchain technology and the concept of its creation for purpose of trading is very important as the rate of investment is rapidly increasing, The role of the government of India on regulation or ban of crypto currency, and whether India is ready to undergo change and adopt crypto currency as a medium of transactions shall taken into understanding to get better insights on the crypto currency issues. To understand the role of cyber crimes in crypto currency, merits and demerits of cryptocurrency on the common life of the citizens.

If India regulates crypto currency or comes up with its own crypto currency in future and in case there are any downsides in use of cryptocurrency, then what all remedies required to be developed to overcome the flaws in cryptocurrency. As Crypto currency is commonly accepted in other countries to get better insights on how some countries have welcomed crypto currencies as medium of transactions, what law and remedy they have adopted in relation to use of crypto currency is an need of an hour.

As India moves towards achieving its goal of digitalization, there are going to be several changes in day to day life which shall also include the steps taken by the Government with regards to several measures concerning the use of Digital Payments in order to bring forth a cashless economy. Since many developed countries have already adopted Crypto Currency as an alternate source of digital payment, and several Respectable Businessmen, Politicians and Personalities have also shown keen interest and have promoted on the use of the same, it is positively believed that India will also adopt to the Global change and bring legislation to the use of Crypto Currency in India. One of the objective of use of Crypto Currency is to exclude the hurdles of a third party channel or interference of the Government As on today, it is a speculation as to how India is preparing to evolve and adopt with this Global Change. The stand of our government on regulation or ban on cryptocurrency. if it is regularized what shall be the law and remedy for the use of crypto currency to overcome the drawbacks if any.

IV. ROLE OF CYBER CRIME IN CRYPTO CURRENCY

As the main ingredient of the crypto currency is encryption and non-interference of a third party, there are chances that the criminal will surely misuse law for their own benefits. Cyber fraud and cybercrime are not new to India and the Information

Technology Act, 2000 as well as the Indian Penal Code have provided a brief framework to curb and bring the cyber criminals to justice.

However, with news challenges of adopting any digitalisation and modernisation, India will have to face the challenges that come with it. Crypto Currency for its essential and attractive feature of privacy has also seen to be used for money laundering, black money transactions, illegal transactions, drug and human trafficking. The extent is beyond imagination and my research shall have its partial focus on concerns that related to Crypto Currency in respect of Cybercrime

As we move towards digitalization it also creates ground for the cyber criminals and crypto currency is not an escape, as the law is not regularized in our country as compare to different foreign nationals, crypto currency is used as tool or target in facilitation with cybercrimes, including cyber money laundering, cyber extortion, phishing, hacking, cyber fraud and other financial crimes such as ponzi and investment scams. . This article begins with a brief discussion on the history of cryptocurrencies. The technical underpinnings of A cryptocurrency are thereafter explained in order to contextualize their use in the facilitation of cybercrime. Lastly, an exposition of the crimes is presented in order to demonstrate how cryptocurrencies can be used as A tool and target in the facilitation of cybercrime.

V. CRYPTOCURRENCY REGULATION: LEGAL ISSUES AND CHALLENGES

As discussed earlier regarding the unique feature of the crypto currency regarding anonymity of transaction and non-interference of the Government, it is definitely going to bring forth legal challenges that require higher perspective of Advocacy skills, Knowledge of Judges, Technological capability of investigation agency, the vast population unaware about the digitalization and the challenges that transpire from Rural Areas in India. In addition to this, the challenges of Tax Evasion, Terrorism concerns and Foreign policies. Some critics have believed that the crypto currency holds the capability of bringing down Governments and in such a case, the biggest legal issue would arise as to the Accountability of Holders. The concept of Crypto currency is relatively new. The procedure of its mining or creation using the computers power and the basic structure of its supply and demand. In addition the fear that this digital asset could one day disappear due to low demand or rise like a boom with immense response. Although the encryption and algorithms are yet to briefly understood, the purpose of my study shall cover the Legal Nature of Crypto currency.

The aim is to understand whether such currency will benefit the economy or is it too volatile to be considered a currency. Considering the fact that, it has been nearly 3 years since the ruling Indian government's demonetization, and leaving nearly most of India's currency notes obsolete overnight.

The government has since announced the "Cashless India" initiative to help the country's population embrace digital payments, bank the ng, and finance with a conscious move away from cash. The Supreme Court has already directed the Indian govt. to regulate Bitcoins but there is no legislation in place yet but RBI has banned all its entities from dealing with such currency. Therefore, understanding the concept of Cryptocurrency is well due in order to understand the rationale behind not recognizing it by countries including India.

VI. FUTURE OF CRYPTO CURRENCY IN INDIA ALL PRIVATE CRYPTOCURRENCY WILL BE REGULATED, NOT BANNED:

Due to the rapid development of information and communication technologies, many activities in our daily life have been merged online and they become more flexible and more effective. A huge growth in number of online users has activated virtual word concepts and created a new business phenomenon which is cryptocurrency to facilitate the financial activities such as buying, selling and trading.

Cryptocurrency represent valuable and intangible objects which are used electronically in different applications and networks such as online social networks, online social games, virtual worlds and peer to peer networks. The use of virtual currency has become widespread in many different systems in recent years. This paper investigates the user's expectations of the future of cryptocurrency. It also explores the users' confidence of dealing with cryptocurrency in a time that using such virtual money is not fully controlled and regulated. Besides, the paper is aimed to measure the spread of cryptocurrency use to have a clear picture from the practical view. There are analyses the way in which 21 different countries have responded in terms of regulations & legislations towards cryptocurrencies to develop a clear picture of its impact on various laws in India in order to regulate it, and as per the recent news soon regulation bill 2021 will be introduced in the Parliament which states that there will be no stringent ban on use of crypto currency, we may adopt it but not as digital currency but as an digital asset, so government already have many plan of actions with regards to adopt the same.

VII. ALL ABOUTTHE UPCOMING CRYPTOCURRENCY AND REGULATION OF OFFICIAL DIGITAL CURRENCY BILL, 2021

From an outright ban on cryptocurrencies in 2016 to an upcoming bill for regulation—the government's stance on digital assets has changed considerably over the past few years. The upcoming cryptocurrency and regulation of official digital currency bill, 2021 is different from the earlier one – 'banning of cryptocurrency and regulation of official digital currency bill, 2019.'

While the older law sought to impose a complete ban on all crypto-related activities including mining, buying, holding, selling, and dealing, the new one will look to make a clear distinction when it comes to its often used categorization as a currency. The new bill of legalizing crypto currency have certain regulations such as tax on trading, investment on cards, no outright ban; investment ceilings for individuals, proposed law is likely to be aligned with the Financial Action Task Force (FATF) guidance, ban investments in private crypto currency

Currently, there is no regulation or any ban on the use of cryptocurrencies in the country. The reserve bank of India's (RBI) order banning banks from supporting crypto transactions was reversed by the Supreme Court order of March 2020.

Some Advantages of Paying with Bitcoin

The transaction cuts the costs of third party as well as encrypted and private transaction without the involvement of the Government and as such has zero interference of any authority including the RBI. The transactions save paper and lengthy procedures. The sale and purchase is made on the click of an app specifically Binance App which is also available on the mobile. The main advantage is the non-trackability in order to protect one's personal transactions.

As government will be soon proposing new bill of regulations in Parliament so government will not ban crypto but regularise it by imposing certain rules, this at least shows certain positivity in the industry of crypto currency, where the government with their rules are trying to adopt with change. But Government will impose Tax on trading, investment on cards, no outright ban, government wants to amend Income Tax Act to introduce define crypto so that trading and investments on domestic and international platforms can be taxed. The bill to regulate digital taxes is expected to be introduced soon in the ongoing Winter Session of Parliament. It will definitely enhance the future advancements in the field of Crypto currency.

VIII. CONCLUSION

India has not regularised the use of crypto currency and neither has put ban on the use of the same. And at present various companies have come into picture who have started advertisements of cryptocurrency as a medium of digital currency as well as an asset.

Supreme Court of India in recent case, writ petition (civil) no.528 of 2018 internet and mobile association of India vs reserve bank of India - in judgement by honourable justice v. Ramasubramanian, has also set aside the blanket ban on crypto currency proposed by rbi. Therefore, it positively appears that India may adopt a common law or draft its own legislation. If India introduces a proper legislation, it will give scope for common public to invest. India might just also introduce its own crypto currency and become a competitive player.

So with this research i would try to find remedy for the situation if crypto currency is regularised what all rules government may come up, follow and apply, since crypto currency's present purpose is to do away with the third party interference as well as the governments intervention, if India regularises and enacts a coded law or rule book or gives wider powers to the rbi, then the very ingredient of government interference will have no relevant meaning. India will definitely address the issues of accountancy and transparency which shall promise minimum hassle and adopt to this global change.

If at all India plans to regularises trade and use of crypto currency, than India should first prepare an infrastructure which shall be safe, secure, credible, reliable and hassle free. Since all these concerns will surely give rise to techno-legal aspect, the investigation agency, lawyer's knowledge of case handling, advanced technology for crime detection, ethical hackers, etc. will also have to be well-prepared and trained.

Perhaps beginning from roots, such as introducing a separate topic for education in colleges would prepare a next generation smart enough to tackle the challenges that lie ahead of us.

As by the latest news and the recent advances in the field of crypto currency, our government is slated to introduce the cryptocurrency and regulation of official digital currency bill 2021 in the third week of the ongoing winter session. So with this we can predict the future of crypto industry in our country, which is awaiting a positive regulation that may allow investing and trading in crypto assets with certain restrictions

The view in the new bill of legalizing crypto currency have certain regulations such as tax on trading, investment on cards, no outright ban; investment ceilings for individuals, proposed law is likely to be aligned with the Financial Action Task Force (FATF) guidance, ban investments in private crypto currency, as stated in news "in the meeting last month chaired by the hon'ble prime minister, the view our government has expressed pertaining to new bill is that, crypto cannot be permitted as a currency, but stringent regulation can be put in place to allow them to be held as assets.

▪ Legalising use of crypto currency is a step towards development and as commonly said that "every coin as two sides" same is with digital currency, with proper developments of law, and proper regulation and training for its use, it can be a success. That one thing history has taught us, that the currency and its circulation has changed over centuries and it will be a positive achievement if the government does away with the paper currency and starts entering digitalisation in this modern day world.

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