
VIRTUAL CURRENCIES IN INDIA: LEGAL AMBIGUITIES AND REGULATORY CHALLENGES

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ABSTRACT

The rise of virtual currencies has significantly altered the way financial transactions are conceived and conducted, bringing with it both innovation and regulatory concern. In India, the growing use of cryptocurrencies has outpaced the development of a clear legal framework, resulting in uncertainty regarding their legal status and regulation. This paper examines the legal ambiguities and regulatory challenges associated with virtual currencies in India, with particular attention to the absence of comprehensive legislation and the evolving responses of regulatory authorities. It analyses the roles of institutions such as the Reserve Bank of India, the Securities and Exchange Board of India, and the judiciary in shaping India's regulatory approach. The paper also addresses practical issues including investor protection, financial stability, money laundering risks, taxation, and the anonymity of digital currencies. Drawing on judicial developments and comparative international practices, the study argues that sustained regulatory uncertainty hinders innovation, undermines investor confidence, and limits effective governance. The paper concludes by emphasising the need for a clear, balanced, and forward-looking regulatory framework that mitigates risks while supporting technological innovation in India's digital economy.

Keywords: Virtual Currencies; Cryptocurrency Regulation; Legal Ambiguity; Financial Regulation; Digital Economy

1. Introduction

Emergence and Growth of Virtual Currencies

The last decade has witnessed a significant transformation in the global financial ecosystem with the emergence of virtual currencies, commonly referred to as cryptocurrencies.¹ Powered by blockchain technology and decentralised networks, virtual currencies challenge the traditional understanding of money, financial intermediaries, and state-controlled monetary systems.² What began as a niche technological experiment has evolved into a global phenomenon, attracting individual investors, financial institutions, technology firms, and governments alike.³

In India, the adoption of virtual currencies has grown rapidly despite regulatory uncertainty. Millions of users participate in cryptocurrency trading, investment, and related digital asset activities through domestic and international platforms.⁴ Factors such as increased digital literacy, expansion of internet access, growth of fintech innovation, and the promise of high returns have contributed to this rise. At the same time, the decentralised and borderless nature of virtual currencies has raised serious concerns regarding financial stability, consumer protection, illicit financial flows, and regulatory oversight.⁵

Virtual Currencies and the Indian Legal Landscape

Unlike traditional forms of money, virtual currencies do not fit neatly within existing legal or financial categories under Indian law. They are neither recognised as legal tender nor expressly prohibited by statute. This ambiguous position has resulted in fluctuating regulatory responses, ranging from cautious observation to restrictive measures and, more recently, attempts at limited recognition through taxation.⁶

Indian regulators have repeatedly expressed concerns about the risks posed by virtual currencies, including volatility, lack of intrinsic value, anonymity, and potential misuse for money laundering and terror financing.⁷ At the same time, judicial intervention has played a

¹ Rainer Böhme et al., *Bitcoin: Economics, Technology, and Governance*, 29 J. ECON. PERSP. 213 (2015).

² Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System* (2008).

³ Douglas W. Arner et al., *The Evolution of Fintech*, 47 GEO. J. INT'L L. 1271 (2016).

⁴ Ministry of Fin., Gov't of India, *Economic Survey of India* (relevant fintech chapters).

⁵ Int'l Monetary Fund, *Global Financial Stability Report* (crypto-assets sections).

⁶ World Econ. Forum, *Global Blockchain Policy Series*.

⁷ Financial Action Task Force, *Guidance for a Risk-Based Approach to Virtual Assets and VASPs* (2019).

crucial role in shaping the legal discourse, particularly in balancing regulatory caution with constitutional freedoms such as the right to trade and profession.⁸ The absence of a comprehensive legislative framework has led to a fragmented regulatory environment, where different authorities approach virtual currencies from divergent perspectives. This has created uncertainty not only for investors and consumers but also for businesses and innovators operating in the digital asset ecosystem.⁹

Rationale and Significance of the Study

The growing relevance of virtual currencies in India makes it imperative to examine the legal ambiguities and regulatory challenges surrounding them. While virtual currencies present opportunities for innovation, financial inclusion, and technological advancement, they simultaneously pose risks that demand careful regulatory attention. The lack of legal clarity has resulted in inconsistent policy signals, enforcement challenges, and a climate of uncertainty that may hinder sustainable growth in the digital economy.

This study is significant as it seeks to critically analyse India's evolving approach to virtual currencies within the broader framework of financial regulation, constitutional principles, and public interest.¹⁰ By examining regulatory actions, judicial decisions, and comparative international practices, the paper aims to contribute to the ongoing debate on whether India should prohibit, regulate, or formally recognise virtual currencies.¹¹

Research Objectives and Questions

The primary objectives of this research are:

1. To examine the conceptual and legal nature of virtual currencies in the Indian context.
2. To analyse the evolution of cryptocurrency regulation in India through regulatory and judicial developments.
3. To identify key legal ambiguities and regulatory challenges associated with virtual

⁸ Reserve Bank of India Act, No. 2 of 1934, INDIA CODE (1934).

⁹ Finance Act, No. 6 of 2022, INDIA CODE (2022).

¹⁰ Reserve Bank of India, Press Release: RBI cautions users of Virtual Currencies (Dec. 24, 2013).

¹¹ Ministry of Fin., Gov't of India, Report of the Inter-Ministerial Committee on Virtual Currencies (2019).

currencies.

4. To assess the impact of regulatory uncertainty on innovation, investor confidence, and the digital economy.
5. To propose recommendations for a balanced and coherent regulatory framework in India.

Based on these objectives, the study seeks to address the following research questions:

1. What is the legal status of virtual currencies under existing Indian laws?
2. What regulatory challenges and ambiguities arise from the absence of a comprehensive legal framework?
3. How have Indian regulators and courts responded to the growth of virtual currencies?
4. What lessons can India draw from international regulatory approaches?
5. How can India balance innovation with financial stability and consumer protection?

Research Methodology and Sources

This paper adopts a doctrinal and analytical research methodology. Primary sources include statutes, regulatory circulars, policy documents, and judicial decisions relevant to virtual currencies and financial regulation in India. Secondary sources consist of academic literature, journal articles, reports by international organisations, and comparative legal materials from select jurisdictions. The study also draws upon policy papers and expert analyses to understand the technological and economic dimensions of virtual currencies, ensuring an interdisciplinary approach that complements legal analysis.

Scope and Limitations of the Study

The scope of this research is limited to examining virtual currencies and related regulatory challenges within the Indian legal framework, with comparative references to select international jurisdictions where relevant. The paper does not engage in technical analysis of blockchain architecture or cryptocurrency mining beyond what is necessary for legal understanding. Given the rapidly evolving nature of cryptocurrency regulation, the study is

limited by ongoing policy developments and proposed legislation that may alter the legal position in the future. Nevertheless, the analysis aims to provide a principled and adaptable framework for understanding and regulating virtual currencies in India.

Conceptual and Technological Foundations of Virtual Currencies

Meaning and Nature of Virtual Currencies

Virtual currencies represent a new form of value exchange that exists exclusively in digital form and operates independently of traditional banking and monetary systems.¹² Unlike fiat currency issued and backed by sovereign states, virtual currencies are typically created through cryptographic processes and function on decentralised digital networks.¹³ They rely on distributed ledger technology to record transactions, eliminating the need for central intermediaries such as banks or payment authorities.¹⁴

From a legal perspective, defining virtual currencies poses significant challenges. They simultaneously exhibit characteristics of money, property, and digital assets, yet do not fully conform to any single category. While users may employ virtual currencies as a medium of exchange, a store of value, or an investment instrument, their acceptance remains voluntary and market-driven rather than state-mandated. This hybrid nature lies at the heart of the regulatory uncertainty surrounding virtual currencies in India and elsewhere.¹⁵

Blockchain Technology and Decentralisation

At the core of most virtual currencies lies blockchain technology—a decentralised and immutable digital ledger that records transactions across a network of computers.¹⁶ Each transaction is grouped into a “block” and linked to previous blocks through cryptographic hashes, creating a transparent and tamper-resistant chain of records.¹⁷

Decentralisation is a defining feature of blockchain-based virtual currencies. Control over the network is distributed among participants rather than vested in a single authority.¹⁸ This

¹² Shubho Ghosh, *Cryptocurrency Regulation in India: A Legal Analysis*, INDIAN J.L. & TECH. (2018).

¹³ NITI Aayog, *Blockchain: The India Strategy*.

¹⁴ Bank for Int'l Settlements, *Annual Economic Report* (digital money sections).

¹⁵ World Bank, *Distributed Ledger Technology and Financial Inclusion*.

¹⁶ Dirk A. Zetsche et al., *The ICO Gold Rush*, 60 HARV. INT'L L.J. 267 (2019).

¹⁷ Primavera De Filippi & Aaron Wright, *Blockchain and the Law* (Harv. Univ. Press 2018).

¹⁸ Reserve Bank of India, Circular on Prohibition on Dealing in Virtual Currencies (Apr. 6, 2018).

structure enhances transparency and reduces reliance on intermediaries but simultaneously complicates regulatory oversight and enforcement.¹⁹ Traditional regulatory models, which depend on identifiable intermediaries and centralised control, struggle to accommodate systems that operate across borders and beyond direct governmental supervision.²⁰

Types of Virtual Currencies and Virtual Digital Assets

Virtual currencies are not a homogenous category. They encompass a wide range of digital assets with varying purposes, technological designs, and risk profiles. Broadly, they may be classified into cryptocurrencies such as Bitcoin and Ethereum, which operate on public blockchains, and tokens issued on existing platforms for specific functions, including utility tokens and security tokens.²¹

In recent years, the broader term “virtual digital assets” has gained prominence, particularly in regulatory and taxation discourse in India. This category includes not only cryptocurrencies but also non-fungible tokens (NFTs) and other blockchain-based digital representations of value.²² The expanding scope of virtual digital assets further complicates regulatory efforts, as each type may warrant a distinct legal treatment depending on its functionality and use.²³

Distinction Between Virtual Currencies, Legal Tender, and Digital Payment Systems

A crucial conceptual distinction must be drawn between virtual currencies and legal tender. Legal tender refers to currency that is recognised by law as a valid means of payment and must be accepted for the discharge of debts.²⁴ In India, the Indian Rupee enjoys this status by virtue of statutory backing and sovereign authority. Virtual currencies, by contrast, lack legal tender status and are not backed by the state.²⁵

Virtual currencies must also be distinguished from digital payment systems such as mobile wallets and electronic fund transfers. While digital payment systems facilitate electronic transactions, they ultimately operate within the traditional banking framework and involve fiat currency. Virtual currencies, on the other hand, represent value in themselves and exist

¹⁹ Prevention of Money Laundering Act, No. 15 of 2003, INDIA CODE (2003).

²⁰ Arner et al., *supra* note 3.

²¹ World Econ. Forum, *supra* note 6.

²² Reserve Bank of India Act, *supra* note 8.

²³ Inter-Ministerial Committee Report, *supra* note 12.

²⁴ Regulation (EU) 2023/1114 (MiCA).

²⁵ U.K. Fin. Conduct Auth., *Guidance on Cryptoassets*.

independently of the conventional financial system.²⁶ This distinction is essential to understanding why existing payment and banking regulations often fail to adequately address cryptocurrency-related activities.

Anonymity, Pseudonymity, and Transparency

One of the most debated features of virtual currencies is the degree of anonymity they provide. While blockchain transactions are publicly recorded and traceable, the identities of users are often concealed behind cryptographic addresses. This pseudonymous nature presents both advantages and risks. On the one hand, it enhances user privacy and autonomy.²⁷ On the other hand, it raises concerns regarding misuse for illegal activities such as money laundering, tax evasion, and financing of unlawful enterprises. These concerns have significantly influenced regulatory attitudes toward virtual currencies in India, contributing to a cautious and risk-averse approach.

Economic and Legal Implications of Virtual Currencies

The conceptual and technological features of virtual currencies carry profound economic and legal implications.²⁸ Economically, they challenge the monopoly of states over currency issuance and monetary policy. Legally, they disrupt established notions of jurisdiction, ownership, and regulatory accountability. For regulators, the primary challenge lies in reconciling innovation with risk mitigation. Virtual currencies operate in a space where technology evolves faster than law, creating gaps that traditional legal frameworks are ill-equipped to fill. Understanding the foundational concepts and technological underpinnings of virtual currencies is therefore essential to evaluating the regulatory challenges explored in subsequent chapters.²⁹

Global Evolution of Cryptocurrency Regulation: A Comparative and Policy Perspective

Early International Responses to Cryptocurrencies

The emergence of cryptocurrencies initially caught regulators across jurisdictions off guard.

²⁶ H.W.R. Wade & C.F. Forsyth, *Administrative Law* (11th ed.).

²⁷ IMF, *supra* note 5.

²⁸ BIS, *supra* note 14.

²⁹ Comparative law sources cited *supra* notes 27–28.

Early responses were largely cautious, reactive, and fragmented, shaped by concerns over volatility, consumer protection, and illicit financial activity. In the absence of clear international consensus, states adopted divergent approaches ranging from outright bans to regulatory experimentation.³⁰

In the early phase, many governments viewed cryptocurrencies primarily through the lens of risk rather than innovation. Regulatory warnings were issued highlighting the absence of intrinsic value, price instability, lack of investor safeguards, and potential misuse for money laundering and terrorism financing. Rather than recognising cryptocurrencies as currency, most jurisdictions chose to treat them as assets, commodities, or speculative instruments, thereby avoiding interference with sovereign monetary systems. This initial phase established a foundational policy assumption that cryptocurrencies should not replace fiat currency but could be tolerated or regulated as alternative financial instruments.³¹

Role of International Financial Institutions and Soft Law Standards

Given the cross-border and decentralised nature of cryptocurrencies, international financial institutions have played a crucial role in shaping regulatory discourse. Organisations such as the International Monetary Fund (IMF), the World Bank, and the Financial Action Task Force (FATF) have consistently emphasised the need for coordinated global responses.

Among these, FATF has been particularly influential through its anti-money laundering and counter-terror financing standards.³² By extending AML/CTF obligations to virtual asset service providers (VASPs), FATF reframed cryptocurrency regulation as a compliance issue rather than a monetary one. The introduction of the “travel rule” for crypto transactions marked a significant step toward integrating cryptocurrencies into the global financial surveillance framework.

These soft law standards, while not legally binding, have significantly shaped domestic regulatory choices by encouraging states to prioritise risk mitigation, transparency, and accountability without mandating prohibition.³³

³⁰ Böhme et al., *supra* note 1.

³¹ Nakamoto, *supra* note 2.

³² Narayanan et al., *Bitcoin and Cryptocurrency Technologies* (Princeton Univ. Press 2016).

³³ De Filippi & Wright, *supra* note 17.

Regulatory Approaches in the United States

The United States has adopted a sectoral and agency-driven approach to cryptocurrency regulation. Rather than enacting a single comprehensive statute, regulatory oversight is distributed among multiple authorities, including securities, commodities, and financial crime regulators. Cryptocurrencies are not recognised as legal tender but are regulated based on their functional characteristics.

This fragmented approach has resulted in regulatory uncertainty but also flexibility. Certain tokens may be treated as securities, while others are classified as commodities or digital assets. From a policy perspective, the U.S. model reflects a preference for market innovation tempered by enforcement-driven regulation. While this has enabled rapid growth of crypto markets, critics argue that inconsistent classifications and overlapping jurisdictions create compliance burdens and legal unpredictability.³⁴

European Union: Harmonisation Through Comprehensive Regulation

In contrast to the U.S. model, the European Union has pursued regulatory harmonisation through a unified legislative framework. The adoption of the Markets in Crypto-Assets (MiCA) Regulation represents one of the most comprehensive attempts to regulate cryptocurrencies at a supranational level.

The EU approach is grounded in legal certainty, consumer protection, and market stability. Cryptocurrencies are treated as crypto-assets rather than currency, and service providers are subject to licensing, disclosure, and prudential requirements. Importantly, MiCA balances innovation with risk management by creating clear compliance obligations while allowing legitimate crypto businesses to operate across member states.³⁵

From a policy standpoint, the EU model demonstrates the advantages of clarity and predictability in fostering responsible innovation, offering valuable lessons for jurisdictions like India that are considering comprehensive legislation.³⁶

³⁴ Id.

³⁵ Ghosh, *supra* note 12.

³⁶ Narayanan et al., *supra* note 3.

United Kingdom: Risk-Based and Principles-Oriented Regulation

The United Kingdom has adopted a risk-based regulatory approach, focusing on financial crime prevention and consumer protection rather than formal recognition of cryptocurrencies as money. Crypto-assets are not legal tender, but crypto businesses are required to comply with AML/CTF regulations and register with financial authorities.³⁷

The UK's principles-oriented model emphasises regulatory proportionality and flexibility. Instead of rigid classification, regulators assess risks posed by different crypto activities and tailor oversight accordingly.³⁸ This approach allows adaptation to technological developments while maintaining regulatory control.³⁹ For India, the UK model highlights how existing financial regulation principles can be extended to cryptocurrencies without creating entirely new legal categories.

Regulatory Responses in Emerging Economies

Emerging economies have generally approached cryptocurrency regulation with greater caution, driven by concerns over capital flight, currency stability, and financial inclusion. Some jurisdictions initially imposed bans or severe restrictions, while others opted for regulatory sandboxes and pilot frameworks.⁴⁰ These responses reflect the tension between protecting fragile financial systems and embracing technological innovation.⁴¹ Over time, many emerging economies have shifted from prohibition toward regulation, recognising that outright bans are difficult to enforce and may drive activity underground.⁴² This trend underscores an important policy insight: regulatory engagement is often more effective than prohibition in managing cryptocurrency-related risks.⁴³

Comparative Analysis and Lessons for India

A comparative examination of global regulatory approaches reveals several common themes. First, cryptocurrencies are rarely recognised as legal tender; instead, they are treated as assets or financial instruments. Second, regulatory focus has shifted toward consumer protection,

³⁷ Nakamoto, *supra* note 2.

³⁸ De Filippi & Wright, *supra* note 17.

³⁹ BIS, *supra* note 15.

⁴⁰ IMF, *supra* note 5.

⁴¹ Zetzsche et al., *supra* note 16.

⁴² *Id.*

⁴³ Finance Act, *supra* note 9.

AML/CTF compliance, and market integrity rather than monetary substitution. Third, legal clarity and institutional coordination are critical for effective regulation.⁴⁴

For India, these global experiences suggest that prolonged ambiguity may be more harmful than carefully designed regulation. A coherent framework that aligns with international standards while addressing domestic priorities—such as financial stability and constitutional freedoms—would place India on firmer regulatory footing.⁴⁵

Policy Grounding: Innovation Versus Risk Regulation

At the policy level, cryptocurrency regulation globally reflects a balancing act between encouraging innovation and mitigating systemic risk. Excessive regulation may stifle technological progress and drive businesses offshore, while regulatory vacuum invites misuse and market instability.⁴⁶

This balance is particularly relevant for India, where digital innovation is a key economic driver but regulatory caution remains strong. Global practice demonstrates that technology-neutral, risk-based, and principle-driven regulation offers a sustainable path forward. The lessons drawn from international experiences provide a crucial foundation for analysing India's regulatory evolution in the next chapter.⁴⁷

Evolution of Cryptocurrency Regulation in India

Early Policy Concerns and Government Responses

Cryptocurrency regulation in India has evolved in a cautious and fragmented manner, reflecting concerns over financial stability, consumer protection, and monetary sovereignty. In the initial phase, the Indian government and regulatory authorities refrained from adopting a definitive stance, opting instead for advisories and monitoring mechanisms. Early public statements focused on risks associated with price volatility, lack of intrinsic value, and potential misuse for illegal activities.⁴⁸

⁴⁴ Id.

⁴⁵ Ghosh, *supra* note 12.

⁴⁶ RBI Act, *supra* note 8.

⁴⁷ Coinage Act, No. 11 of 2011, INDIA CODE (2011).

⁴⁸ RBI Press Release, *supra* note 10

Inter-ministerial committees were constituted to examine the implications of virtual currencies, particularly in relation to money laundering, tax evasion, and capital controls. These early responses indicated a preference for restraint and observation rather than immediate legislative action, resulting in a prolonged period of regulatory uncertainty.⁴⁹

Role of the Reserve Bank of India

The Reserve Bank of India (RBI) has played a central role in shaping India's approach to cryptocurrency regulation. As the country's monetary authority, RBI consistently expressed apprehension regarding the impact of cryptocurrencies on financial stability and payment systems. It maintained that virtual currencies lack the essential attributes of currency and pose risks to consumers and the banking ecosystem.⁵⁰

In 2018, RBI issued a circular directing regulated entities to refrain from providing services to individuals or businesses dealing in virtual currencies. This measure effectively restricted access to banking facilities for cryptocurrency exchanges and traders, significantly curtailing formal crypto activity in India. RBI justified the circular on grounds of systemic risk, consumer protection, and compliance with anti-money laundering norms.⁵¹

However, RBI's approach also attracted criticism for being disproportionate and lacking empirical justification. The absence of a legislative ban meant that the circular operated as a de facto prohibition without parliamentary approval, raising constitutional and administrative law concerns.

Judicial Intervention and Constitutional Scrutiny

The regulatory trajectory shifted significantly following judicial intervention. In *Internet and Mobile Association of India v. Reserve Bank of India* (2020),⁵² the Supreme Court examined the validity of the RBI circular under constitutional and administrative law principles. The Court recognised cryptocurrency trading as a legitimate business activity protected under Article 19(1)(g) of the Constitution.

⁴⁹ Payment & Settlement Systems Act, supra note 12.

⁵⁰ Id.

⁵¹ BIS, supra note 14.

⁵² FATF, supra note 7.

Applying the doctrine of proportionality, the Court held that while RBI possessed the authority to regulate activities affecting the financial system, the impugned circular failed to demonstrate adequate justification for imposing such sweeping restrictions. In the absence of evidence showing harm caused by cryptocurrency trading to regulated entities, the circular was struck down.

This judgment marked a pivotal moment in India's cryptocurrency discourse. It affirmed the need for regulatory restraint and emphasised that executive action must be supported by legislative backing and empirical reasoning. At the same time, the Court acknowledged the state's power to regulate or even prohibit cryptocurrencies through appropriate legislation, thereby preserving regulatory space for future policy intervention.⁵³

Role of the Securities and Exchange Board of India

The Securities and Exchange Board of India (SEBI) has approached cryptocurrency regulation from the perspective of investor protection and market integrity. While SEBI has not formally classified cryptocurrencies as securities, it has acknowledged that certain crypto-assets and token offerings may fall within the regulatory ambit of securities law depending on their structure and function.⁵⁴

SEBI's cautious stance reflects the complexity of applying existing securities regulations to decentralised and borderless digital assets. The lack of clarity regarding classification has resulted in regulatory gaps, particularly in relation to initial coin offerings (ICOs), crypto-derivatives, and investment products linked to virtual currencies. Nevertheless, SEBI's focus on disclosure, transparency, and investor safeguards has influenced policy debates on cryptocurrency regulation in India.

Legislative and Policy Developments

Despite strong regulatory signals, India has yet to enact comprehensive cryptocurrency legislation. Draft bills proposing prohibition or strict regulation have been discussed but not formally introduced or enacted. This legislative inertia has contributed to uncertainty and inconsistent enforcement.⁵⁵ A significant policy shift occurred with the introduction of taxation

⁵³ Id.

⁵⁴ RBI Press Release, *supra* note 10

⁵⁵ IMF, *supra* note 5

measures on virtual digital assets. By imposing a specific tax regime on cryptocurrency transactions, the government implicitly acknowledged their existence and economic relevance without granting formal legal recognition. This approach reflects a pragmatic policy stance—regulating through taxation while postponing definitive legal classification.⁵⁶

Additionally, discussions around central bank digital currency (CBDC) have highlighted the state's interest in leveraging blockchain technology while maintaining sovereign control over money issuance. The contrast between regulatory scepticism toward private cryptocurrencies and enthusiasm for state-backed digital currency underscores the policy tension between innovation and control.⁵⁷

Institutional Overlaps and Regulatory Fragmentation

One of the defining features of India's cryptocurrency regulation is institutional fragmentation. RBI, SEBI, tax authorities, and law enforcement agencies each approach virtual currencies through distinct regulatory lenses. This multiplicity of authorities has resulted in overlapping jurisdictions and inconsistent policy signals.⁵⁸ The absence of a coordinating regulatory framework has complicated compliance for businesses and investors alike. Without clear legislative guidance, regulators rely on existing statutes that were not designed to address decentralised digital assets, leading to interpretative uncertainty and enforcement challenges.

Policy Shifts: From Prohibition to Regulation

Over time, India's regulatory posture appears to have shifted from implicit prohibition toward cautious engagement. Judicial intervention, market realities, and international developments have collectively influenced this transition. Rather than banning cryptocurrencies outright, policymakers increasingly recognise the need to regulate risks while accommodating technological innovation.

This gradual shift reflects a broader policy realisation: prohibition may be ineffective in a decentralised digital environment, whereas regulation offers greater scope for oversight,

⁵⁶ Arner et al., *supra* note 3.

⁵⁷ *Id.*

⁵⁸ IMF, *supra* note 5.

consumer protection, and alignment with global standards. However, the absence of comprehensive legislation continues to limit the effectiveness of this evolving approach.⁵⁹

Assessment of India's Regulatory Evolution

India's regulatory journey in relation to cryptocurrencies reveals a tension between caution and innovation, control and openness. While regulatory authorities have valid concerns regarding financial stability and illicit use, prolonged ambiguity has imposed costs in terms of legal uncertainty, market disruption, and lost innovation opportunities.

This chapter demonstrates that India's approach has been shaped more by regulatory and judicial developments than by legislative clarity. The need for a coherent, principle-based regulatory framework becomes evident, setting the stage for examining legal ambiguities and regulatory challenges in the subsequent chapter.⁶⁰

Legal Status of Virtual Currencies under Indian Law

Absence of Statutory Recognition

At present, Indian law does not expressly recognise virtual currencies as legal tender, currency, or money. No statute confers upon cryptocurrencies the status enjoyed by sovereign currency issued by the state. This absence of legislative recognition places virtual currencies in a legal grey area, where their existence is acknowledged in practice but not clearly defined in law.⁶¹

The Reserve Bank of India has consistently maintained that virtual currencies do not qualify as "currency" under existing legal frameworks. Consequently, cryptocurrencies cannot be used as a legally enforceable means of payment or settlement of debts in India. However, the absence of express prohibition also means that possession, trading, or holding of cryptocurrencies is not *per se* illegal.⁶²

Virtual Currencies as "Currency" under Indian Law

Under the Reserve Bank of India Act, 1934, the term "currency" refers to banknotes and coins

⁵⁹Id

⁶⁰Id

⁶¹ U.S. Sec. & Exch. Comm'n, Framework for "Investment Contract" Analysis of Digital Assets.

⁶²Id.

issued under the authority of the RBI and the Government of India. Virtual currencies, which are privately generated and decentralised, do not fall within this definition. Similarly, under the Coinage Act, 2011, legal tender is limited to metallic coins issued by the state.⁶³

Judicial interpretation reinforces this statutory position. Indian courts have not treated cryptocurrencies as money or legal tender, recognising instead that currency issuance is a sovereign function. Allowing private digital currencies to assume the status of money without legislative sanction would undermine monetary policy and state control over the financial system.⁶⁴

Virtual Currencies as Property or Goods

Given their exclusion from the category of currency, virtual currencies may be examined through the lens of property or goods. Indian courts have adopted an expansive interpretation of “property,” recognising that it includes both tangible and intangible assets with economic value. Cryptocurrencies, which can be owned, transferred, and exchanged for value, arguably satisfy these criteria.⁶⁵

From a contractual perspective, cryptocurrency transactions may constitute valid agreements under the Indian Contract Act, 1872, provided they satisfy essential elements such as lawful consideration and object.⁶⁶ However, enforceability may be affected by regulatory uncertainty, especially where transactions involve exchanges or intermediaries operating without clear legal authorisation.

Treating virtual currencies as property rather than currency allows the law to regulate ownership, transfer, and taxation without conferring monetary legitimacy. This approach aligns with India’s cautious regulatory stance and comparative international practice.⁶⁷

Applicability of Financial and Regulatory Laws

Several existing financial statutes may indirectly apply to virtual currencies, despite their absence from explicit definitions. The Foreign Exchange Management Act, 1999 (FEMA)

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Ministry of Finance, Gov’t of India, Report of the Inter-Ministerial Committee on Virtual Currencies (2019).

becomes relevant where cryptocurrency transactions involve cross-border transfers or foreign exchanges. The decentralised and borderless nature of virtual currencies complicates the application of FEMA's regulatory framework, particularly with respect to capital account transactions.⁶⁸

Similarly, the Payment and Settlement Systems Act, 2007 regulates payment systems involving fiat currency and authorised intermediaries. Virtual currencies, which operate outside traditional payment channels, fall largely beyond its direct scope. This statutory gap underscores the inadequacy of existing financial laws in addressing decentralised digital assets.

Anti-Money Laundering and Criminal Law Implications

Virtual currencies raise significant concerns under India's anti-money laundering framework. The Prevention of Money Laundering Act, 2002 (PMLA) applies to proceeds of crime and imposes obligations on reporting entities to maintain records and conduct customer due diligence. While cryptocurrency exchanges have increasingly been brought under AML scrutiny, the absence of explicit statutory classification creates enforcement challenges.⁶⁹

From a criminal law perspective, the Indian Penal Code, 1860 and the Information Technology Act, 2000 may apply where virtual currencies are used for fraud, hacking, or cybercrime. However, these laws address the manner of misuse rather than the legality of virtual currencies themselves, reinforcing the need for specialised regulation.⁷⁰

Taxation and Implied Legal Recognition

One of the most significant developments affecting the legal status of virtual currencies in India is their taxation. By introducing a specific tax regime for virtual digital assets, the legislature has implicitly acknowledged their economic existence. Taxation does not equate to legal recognition as currency, but it does indicate acceptance of cryptocurrencies as taxable assets.

This approach reflects a pragmatic compromise: while the state refrains from granting legal tender status, it exercises regulatory control through taxation and reporting requirements. The

⁶⁸ Indian Contract Act, No. 9 of 1872.

⁶⁹ FEMA, No. 42 of 1999.

⁷⁰ Payment & Settlement Systems Act, No. 51 of 2007.

resulting legal position is one of partial recognition without formal classification, contributing to ongoing ambiguity.⁷¹

Constitutional Dimensions of Legal Status

The legal status of virtual currencies also engages constitutional considerations, particularly the right to trade and profession under Article 19(1)(g) of the Constitution. Judicial recognition of cryptocurrency trading as a legitimate business activity suggests that regulatory measures affecting such activities must satisfy the test of reasonableness and proportionality.

At the same time, the state retains authority to impose restrictions in the interest of public order, financial stability, and economic sovereignty. The absence of clear legislative guidance places courts in a difficult position, often requiring them to balance competing interests in an evolving technological context.⁷²

Assessment of Legal Status

The analysis reveals that virtual currencies occupy an uncertain legal position under Indian law. They are neither illegal nor fully recognised; neither currency nor entirely outside the legal system. This ambiguous status creates challenges for regulators, courts, businesses, and investors alike.

By treating virtual currencies as digital assets or property rather than money, Indian law has adopted an indirect regulatory approach. However, without explicit statutory classification, this approach remains fragmented and reactive. The unresolved legal status of virtual currencies forms the foundation for the regulatory challenges examined in the next chapter.⁷³

Key Legal Ambiguities and Regulatory Challenges

Absence of a Comprehensive Regulatory Framework

The most fundamental challenge in the regulation of virtual currencies in India is the absence of a dedicated and comprehensive legal framework. Despite sustained growth in cryptocurrency usage, no single statute governs their issuance, trading, or regulation. Existing

⁷¹ PMLA, No. 15 of 2003.

⁷² IT Act, No. 21 of 2000.

⁷³ *Id.*

laws were designed for traditional financial instruments and are ill-equipped to address decentralised digital assets.

This legislative vacuum has resulted in piecemeal regulation through executive actions, judicial interventions, and taxation measures. While such an approach allows flexibility, it also leads to uncertainty and inconsistent enforcement. Market participants are left to operate in an environment where legality is implied rather than clearly defined, undermining long-term stability and investor confidence.⁷⁴

Ambiguity in Legal Classification

One of the central legal ambiguities surrounding virtual currencies is their classification. Indian law does not clearly categorise cryptocurrencies as currency, securities, commodities, or property. Each possible classification carries distinct regulatory implications, yet none has been conclusively adopted.⁷⁵

This uncertainty complicates the application of existing statutes. If treated as currency, virtual currencies would fall under the exclusive regulatory authority of the central bank. If considered securities, they would attract capital market regulation. As property or digital assets, they raise questions concerning ownership rights, transferability, and insolvency treatment. The absence of classification prevents coherent regulation and creates interpretative conflicts across legal domains.

Institutional Overlaps and Regulatory Fragmentation

Cryptocurrency regulation in India is characterised by institutional fragmentation. Multiple authorities—including monetary regulators, market regulators, tax authorities, and law enforcement agencies—exercise partial oversight based on their respective mandates. This fragmented approach results in overlapping jurisdictions and inconsistent policy signals.⁷⁶

For instance, while monetary authorities emphasise systemic risk and financial stability, market regulators focus on investor protection, and tax authorities treat cryptocurrencies as taxable assets. The lack of coordination among regulators complicates compliance, increases

⁷⁴ Wade & Forsyth, *Administrative Law* (11th ed.).

⁷⁵ Reserve Bank of India Act, No. 2 of 1934, INDIA CODE (1934).

⁷⁶ *Id.*

regulatory costs, and creates uncertainty for businesses and investors operating in the crypto ecosystem.

Consumer and Investor Protection Challenges

Protecting consumers and investors presents a significant regulatory challenge. Cryptocurrency markets are highly volatile, largely unregulated, and susceptible to fraud, manipulation, and misinformation. Retail investors often lack adequate understanding of risks associated with digital assets, making them vulnerable to financial loss.⁷⁷

In the absence of specific disclosure requirements, licensing norms, or grievance redress mechanisms, investors have limited legal remedies. Traditional consumer protection frameworks offer only partial relief, as they were not designed to address decentralised platforms and cross-border transactions. This gap highlights the urgent need for investor-centric regulatory safeguards.

Money Laundering, Terror Financing, and Illicit Use

The pseudonymous nature of virtual currency transactions raises serious concerns regarding money laundering, terror financing, and other illicit activities. Although blockchain transactions are traceable, identifying real-world actors behind digital addresses remains challenging without robust regulatory oversight.⁷⁸

India's anti-money laundering framework imposes obligations on reporting entities, but the decentralised and borderless character of cryptocurrencies complicates enforcement. Unregulated exchanges, peer-to-peer transactions, and offshore platforms limit the effectiveness of domestic compliance mechanisms. Balancing financial surveillance with privacy rights remains a critical regulatory dilemma.

Taxation and Compliance Uncertainty

While the introduction of a specific tax regime for virtual digital assets signals regulatory engagement, it has also introduced new ambiguities. Taxation without clear legal classification raises questions about valuation, reporting obligations, and treatment of losses. The absence of

⁷⁷ Id.

⁷⁸ Id.

harmonisation between tax law and financial regulation creates compliance challenges for both taxpayers and authorities.⁷⁹

Moreover, the imposition of high tax rates and transaction-level deductions may discourage formal participation, pushing activity toward informal or offshore channels. This outcome undermines regulatory objectives and highlights the need for a coherent, integrated approach to taxation and regulation.⁸⁰

Cross-Border Jurisdiction and Enforcement Issues

Virtual currencies operate across national borders, often beyond the reach of domestic regulators. Determining jurisdiction over cross-border transactions, foreign exchanges, and decentralised platforms poses significant legal challenges. Traditional principles of territorial jurisdiction struggle to accommodate decentralised networks that lack a physical presence.⁸¹

Enforcement actions against offshore entities or decentralised protocols require international cooperation and harmonised standards, which remain limited. Without clear jurisdictional rules, regulatory efforts risk being ineffective or selectively applied.

Technological Evolution and Regulatory Lag

A persistent challenge in cryptocurrency regulation is the rapid pace of technological innovation. New forms of digital assets, decentralised finance platforms, and blockchain applications emerge faster than legal frameworks can adapt. This regulatory lag creates gaps that can be exploited and increases uncertainty for regulators and market participants alike.⁸²

Rigid or outdated regulation risks stifling innovation, while regulatory inaction invites misuse. Achieving a balance between adaptability and legal certainty is therefore a key challenge for Indian policymakers.

Balancing Innovation and Public Interest

At the heart of cryptocurrency regulation lies the challenge of balancing innovation with public

⁷⁹ Id.

⁸⁰ Id.

⁸¹ OECD, *Regulatory Policy and Innovation*.

⁸² Primavera De Filippi & Aaron Wright, *Blockchain and the Law* (2018).

interest. Virtual currencies offer potential benefits in terms of financial inclusion, efficiency, and technological advancement.⁸³ At the same time, they pose risks to financial stability, consumer welfare, and economic sovereignty.

India's cautious approach reflects this tension, but prolonged ambiguity may hinder both innovation and effective regulation. A principled, risk-based framework that addresses legitimate concerns without suppressing innovation is essential for sustainable governance of virtual currencies.

Constitutional and Policy Concerns

Constitutional Context of Cryptocurrency Regulation

The regulation of virtual currencies in India raises important constitutional questions that go beyond financial regulation and enter the domain of fundamental rights, state power, and economic governance. As cryptocurrencies operate at the intersection of technology, commerce, and individual autonomy, any regulatory response must conform to constitutional principles enshrined in the Constitution of India. In the absence of specific legislation, regulatory actions affecting cryptocurrency-related activities are increasingly scrutinised through constitutional doctrines such as reasonableness, proportionality, and due process. The constitutional challenge lies in reconciling the state's duty to protect public interest with individual freedoms in an evolving digital economy.

Freedom of Trade and Occupation (Article 19(1)(g))

One of the most significant constitutional concerns relates to the right to practise any profession or to carry on any occupation, trade, or business guaranteed under Article 19(1)(g). Cryptocurrency trading, exchange services, and related fintech activities fall within the ambit of lawful economic activity, provided they are not expressly prohibited by law. Judicial recognition of cryptocurrency trading as a legitimate business activity has reinforced the applicability of Article 19(1)(g). Any regulatory restriction imposed on such activities must therefore satisfy the test of reasonable restrictions under Article 19(6). This includes demonstrating that restrictions are imposed by law, pursue a legitimate state objective, and are proportionate to the harm sought to be prevented. Overbroad or indirect restrictions—such as

⁸³ World Econ. Forum, Decentralized Finance Policy Toolkit.

denying access to banking services without legislative backing—raise constitutional concerns, as they may amount to an effective prohibition without parliamentary sanction.

Doctrine of Proportionality and Regulatory Restraint

The doctrine of proportionality has emerged as a central constitutional standard in evaluating state action affecting economic freedoms. Under this doctrine, regulatory measures must be suitable, necessary, and balanced in relation to the objective pursued. In the context of cryptocurrency regulation, proportionality requires that risks such as financial instability or illicit use be addressed through targeted and evidence-based measures rather than blanket restrictions. Proportionality also demands regulatory restraint in the face of uncertainty. Where empirical evidence of harm is limited or evolving, the state is expected to adopt adaptive and incremental regulation rather than coercive or prohibitive measures. This constitutional requirement has significant implications for executive-led regulation of emerging technologies.

Right to Privacy and Financial Surveillance (Article 21)

Cryptocurrency regulation also implicates the right to privacy under Article 21, particularly in relation to financial surveillance, data collection, and user profiling. Enhanced monitoring of cryptocurrency transactions, mandatory disclosure requirements, and identity verification obligations may intrude upon informational privacy. While the state has a legitimate interest in preventing money laundering and terror financing, privacy jurisprudence requires that such intrusions be backed by law, pursue a legitimate aim, and satisfy proportionality. Excessive or indiscriminate surveillance of digital transactions risks violating constitutional safeguards, especially in the absence of a comprehensive data protection framework. Balancing transparency with privacy remains a key constitutional challenge in designing cryptocurrency regulation.

Equality and Non-Arbitrariness (Article 14)

Article 14 mandates that state action must not be arbitrary, unreasonable, or discriminatory. Inconsistent regulatory treatment of cryptocurrencies—such as recognising them for taxation purposes while withholding legal clarity for other regulatory aspects—raises concerns of arbitrariness. Unequal treatment of similarly situated digital assets or selective enforcement against certain market participants may also attract constitutional scrutiny. A coherent

regulatory framework grounded in clear classification and rational differentiation is essential to satisfy equality principles.

Monetary Sovereignty and State Power

From a policy perspective, one of the state's primary concerns is preserving monetary sovereignty. Currency issuance and control over monetary policy are core sovereign functions, and private virtual currencies are often perceived as potential threats to this authority. However, most cryptocurrencies currently function as speculative assets rather than substitutes for fiat currency. Policy responses premised on perceived threats to sovereignty must therefore be proportionate to actual economic impact.⁸⁴ Overstating risks may lead to unnecessarily restrictive regulation, while underestimating them may undermine financial stability. The challenge for policymakers lies in regulating private digital assets without conflating them with sovereign currency.

Financial Stability and Public Interest

Financial stability is a legitimate state objective that justifies regulatory intervention. Volatility in cryptocurrency markets, leverage-based trading, and exposure of retail investors raise concerns about systemic risk and consumer harm. However, the extent to which cryptocurrency markets pose systemic threats in India remains contested.⁸⁵ Public interest regulation must be grounded in empirical assessment rather than speculative risk. Policy frameworks that rely on disclosure, risk warnings, and targeted supervision may better serve public interest objectives than broad restrictions that suppress legitimate economic activity.

Innovation, Economic Policy, and Regulatory Design

India's broader economic policy emphasises digital innovation, fintech development, and technological self-reliance. Cryptocurrency and blockchain technologies form part of this innovation ecosystem. Regulatory approaches that are overly restrictive may drive innovation offshore, resulting in loss of talent, investment, and competitiveness.⁸⁶

From a policy standpoint, regulatory clarity is as important as regulatory control. A technology-

⁸⁴ Bank for International Settlements, *Annual Economic Reports*, sections on digital money and crypto-assets.

⁸⁵ *Id.*

⁸⁶ *Id.*

neutral, principle-based framework can encourage responsible innovation while safeguarding public interest. Regulatory sandboxes, phased compliance, and stakeholder consultation are policy tools that align constitutional values with economic objectives.

Need for Constitutional Alignment in Policy Making

The analysis reveals that cryptocurrency regulation cannot be addressed solely as a financial or technological issue. It requires constitutional alignment to ensure that regulatory objectives are pursued within the bounds of fundamental rights, rule of law, and democratic accountability. Policy uncertainty and executive-led regulation, in the absence of legislation, increase the risk of constitutional infirmities.⁸⁷ A clear statutory framework enacted through parliamentary process would provide democratic legitimacy, legal certainty, and constitutional compliance.

Impact on Innovation, Fintech, and the Digital Economy

Cryptocurrencies and the Digital Economy

Virtual currencies and blockchain technology form an integral part of the broader digital economy, which is characterised by innovation-driven growth, platform-based services, and data-intensive transactions.⁸⁸ Cryptocurrencies are not merely speculative instruments; they are embedded within a wider ecosystem of decentralised finance, digital payments, smart contracts, and tokenised assets. In India, the digital economy has expanded rapidly through initiatives promoting digital payments, fintech innovation, and financial inclusion.⁸⁹ Cryptocurrencies and related technologies have emerged alongside this transformation, offering alternative models of value transfer, fundraising, and decentralised financial services. However, regulatory uncertainty has significantly influenced how these technologies develop and integrate into the Indian market.⁹⁰

Impact of Regulatory Uncertainty on Innovation

Regulatory clarity is a critical determinant of innovation. In the absence of clear legal rules,

⁸⁷ Id.

⁸⁸ Id.

⁸⁹ Id.

⁹⁰ Id.

entrepreneurs and innovators face uncertainty regarding compliance obligations, operational risks, and future legality of their activities. India's prolonged ambiguity in cryptocurrency regulation has created a cautious environment for innovation, discouraging long-term investment and experimentation.⁹¹ Start-ups operating in blockchain and crypto-related fields often encounter difficulties in accessing banking services, raising capital, and entering partnerships due to unclear regulatory signals. This uncertainty increases compliance costs and legal risk, diverting resources away from innovation toward risk management and legal navigation.

Fintech Ecosystem and Entrepreneurial Challenges

The fintech sector thrives on regulatory predictability and institutional support. While India has emerged as a global fintech hub, crypto-based fintech ventures face distinct challenges. Unlike traditional fintech services that operate within established banking and payment frameworks, crypto start-ups operate in a regulatory grey zone, making them vulnerable to sudden policy shifts. This environment has prompted several Indian crypto entrepreneurs and developers to relocate operations to jurisdictions with clearer regulatory frameworks. Such migration results in loss of domestic innovation, employment opportunities, and technological leadership, undermining India's ambition to be a global digital economy leader.

Innovation Versus Risk Perception

A recurring theme in cryptocurrency regulation is the tension between innovation and perceived risk. Policymakers often prioritise risk mitigation over innovation promotion, particularly in areas involving financial stability and consumer protection.⁹² While these concerns are legitimate, an overly risk-averse approach may stifle technological progress. International experience suggests that innovation-friendly regulation does not imply regulatory laxity. Instead, frameworks that focus on disclosure, licensing, and accountability can manage risks without suppressing innovation. India's cautious stance, if not recalibrated, risks placing the country at a competitive disadvantage in emerging financial technologies.

Financial Inclusion and Access to Digital Finance

Cryptocurrencies and decentralised financial platforms are often promoted as tools for financial

⁹¹ Ministry of Finance, Government of India, Inter-Ministerial Committee Report on Virtual Currencies, 2019.

⁹² Id.

inclusion, particularly for individuals lacking access to traditional banking services. In theory, blockchain-based systems can lower transaction costs, enable cross-border remittances, and provide alternative financial services.⁹³ However, in practice, regulatory uncertainty limits the realisation of these benefits in India. Without clear legal pathways, crypto-based financial inclusion initiatives struggle to scale responsibly. Moreover, lack of regulation exposes vulnerable users to risks, potentially undermining trust in digital finance more broadly.

Market Confidence and Investor Behaviour

Investor confidence is closely tied to regulatory certainty. Ambiguous legal status and inconsistent policy signals contribute to market volatility and speculative behaviour. Retail investors, in particular, may enter cryptocurrency markets without adequate understanding of risks, driven by hype rather than informed decision-making.⁹⁴ Clear regulation can enhance market discipline by establishing disclosure norms, accountability mechanisms, and investor safeguards. In the absence of such measures, markets remain prone to instability, undermining both investor trust and the credibility of the digital asset ecosystem.

Role of State-Supported Digital Innovation

India's promotion of state-backed digital initiatives, including discussions around central bank digital currency, reflects recognition of the transformative potential of digital finance. However, the contrast between support for state-controlled digital innovation and scepticism toward private cryptocurrencies highlights a policy inconsistency.⁹⁵ A balanced approach would recognise that private innovation and public regulation need not be mutually exclusive. Encouraging responsible private sector innovation alongside state-led initiatives can foster a more resilient and competitive digital economy.

Long-Term Implications for India's Digital Growth

In the long term, the manner in which India regulates cryptocurrencies will shape its position in the global digital economy. Regulatory frameworks that are unclear or overly restrictive risk marginalising domestic innovators and ceding leadership to other jurisdictions. Conversely, thoughtful and adaptive regulation can harness technological potential while safeguarding

⁹³ Id.

⁹⁴ Reserve Bank of India, Press Release on Virtual Currencies, RBI/2013-14/126.

⁹⁵ Reserve Bank of India, Statement on Developmental and Regulatory Policies, various years.

public interest.⁹⁶ This chapter underscores that cryptocurrency regulation is not merely a financial issue but a strategic economic choice. Its impact extends beyond markets to innovation ecosystems, entrepreneurial culture, and India's digital future.

Way Forward: Towards a Balanced Regulatory Framework

Need for Regulatory Clarity and Legislative Action

The analysis across preceding chapters demonstrates that the principal challenge in regulating virtual currencies in India lies not in their technological complexity but in the absence of clear and coherent legislation. Prolonged regulatory ambiguity has created uncertainty for regulators, market participants, and courts alike.⁹⁷ A definitive legislative framework enacted through Parliament is therefore essential to provide legal certainty, democratic legitimacy, and constitutional compliance. Legislation would enable the state to clearly define the legal status of virtual currencies, delineate regulatory jurisdiction, and establish enforceable standards. Relying on executive circulars and ad hoc policy measures is neither sustainable nor consistent with the rule of law, particularly in a rapidly evolving digital economy.⁹⁸

Clear Legal Classification of Virtual Currencies

A foundational step toward effective regulation is the clear classification of virtual currencies. Rather than treating cryptocurrencies as currency or legal tender, Indian law should classify them as digital assets or financial instruments, depending on their function. Functional classification—based on use, risk profile, and economic impact—would allow tailored regulation without undermining monetary sovereignty.⁹⁹ Such classification should distinguish between payment tokens, investment tokens, and utility tokens, enabling regulators to apply appropriate safeguards to each category. Clear classification would also reduce interpretative uncertainty across contract law, taxation, and insolvency proceedings.¹⁰⁰

Institutional Coordination and Regulatory Architecture

A balanced regulatory framework requires coordination among regulatory institutions. The

⁹⁶ Reserve Bank of India Circular, Prohibition on dealing in Virtual Currencies, 6 April 2018.

⁹⁷ IOSCO, Crypto-Asset Trading Platforms.

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Id.

existing fragmented approach—where different authorities exercise overlapping jurisdiction—must be replaced by a harmonised regulatory architecture. This may be achieved through the designation of a lead regulator supported by inter-agency coordination mechanisms.¹⁰¹ Clear allocation of regulatory responsibility would improve compliance, reduce duplication, and ensure consistent policy implementation. It would also facilitate information-sharing among regulators, enhancing oversight and enforcement capabilities.¹⁰²

Risk-Based and Technology-Neutral Regulation

Regulation of virtual currencies should be guided by a risk-based and technology-neutral approach. Rather than targeting technology itself, regulation should focus on activities that pose risks to consumers, markets, or financial stability.¹⁰³ This approach allows law to adapt to technological evolution without frequent statutory amendments. Risk-based regulation prioritises areas such as custody of assets, market integrity, consumer disclosures, and systemic exposure. Technology-neutral rules ensure that innovation is not stifled by premature or overly prescriptive regulation.¹⁰⁴

Consumer and Investor Protection Measures

Strengthening consumer and investor protection is central to a balanced regulatory framework. Licensing requirements for exchanges, mandatory disclosures, segregation of client assets, and grievance redress mechanisms would enhance market integrity and investor confidence.¹⁰⁵ Investor education initiatives should complement regulatory measures, equipping individuals with knowledge about risks associated with virtual currencies. Effective protection does not require prohibition but structured oversight that promotes transparency and accountability.¹⁰⁶

Anti-Money Laundering Compliance and Privacy Safeguards

India must align cryptocurrency regulation with international anti-money laundering standards while respecting constitutional privacy guarantees. Extending AML and KYC obligations to crypto service providers can reduce illicit use, provided such measures are backed by law and

¹⁰¹ Id.

¹⁰² Id.

¹⁰³ Arvind Narayanan et al., *Bitcoin and Cryptocurrency Technologies* (Princeton Univ. Press 2016).

¹⁰⁴ Rainer Böhme et al., *Bitcoin: Economics, Technology, and Governance*, 29 J. ECON. PERSP. 213 (2015).

¹⁰⁵ NITI Aayog, *Blockchain: The India Strategy*.

¹⁰⁶ Regulation (EU) 2023/1114 (Markets in Crypto-Assets).

implemented proportionately.¹⁰⁷ Privacy safeguards should be incorporated to prevent excessive or arbitrary surveillance. Clear limits on data collection, storage, and sharing are necessary to maintain public trust and constitutional compliance.¹⁰⁸

Regulatory Sandboxes and Innovation Support

Regulatory sandboxes offer a pragmatic pathway to balancing innovation and oversight. By allowing controlled experimentation under regulatory supervision, sandboxes enable policymakers to assess risks and benefits before large-scale deployment. Supporting innovation through regulatory engagement, consultation with stakeholders, and phased compliance can foster a cooperative regulatory environment. Such measures encourage responsible innovation while maintaining regulatory vigilance.¹⁰⁹

Integration with India's Digital Economy Vision

Cryptocurrency regulation should align with India's broader digital economy and fintech policy objectives. Blockchain technology, tokenisation, and decentralised finance have applications beyond cryptocurrencies, including supply chain management, governance, and financial inclusion. A balanced framework should distinguish between speculative risks and technological potential, ensuring that regulation does not inadvertently hinder beneficial innovation. Integrating cryptocurrency regulation into a broader digital strategy can enhance coherence and policy effectiveness.¹¹⁰

Learning from International Best Practices

Comparative analysis reveals that jurisdictions adopting clear, principle-based regulation have achieved better outcomes in terms of market stability and innovation. India can draw on international best practices while tailoring regulation to domestic priorities. Global alignment enhances regulatory credibility, facilitates cross-border cooperation, and prevents regulatory arbitrage. However, international models should be adapted—not adopted wholesale—to reflect India's constitutional values and economic context.¹¹¹

¹⁰⁷ Bank for Int'l Settlements, *Annual Economic Report*.

¹⁰⁸ Int'l Monetary Fund, *Global Financial Stability Report*.

¹⁰⁹ Modern Dental College & Research Ctr. v. State of Madhya Pradesh, (2016) 7 S.C.C. 353 (India).

¹¹⁰ Financial Action Task Force, *Guidance for a Risk-Based Approach to Virtual Assets* (2019).

¹¹¹ Dirk A. Zetzsche et al., *The ICO Gold Rush*, 60 HARV. INT'L L.J. 267 (2019).

Towards a Sustainable Regulatory Future

A balanced regulatory framework must be forward-looking and adaptable. As technology evolves, regulation must remain responsive without sacrificing legal certainty. Periodic review mechanisms, stakeholder engagement, and evidence-based policymaking are essential to sustaining effective governance. Ultimately, the goal of cryptocurrency regulation should not be suppression or unchecked expansion, but responsible integration into the financial system. By embracing clarity, coordination, and constitutional principles, India can harness the benefits of virtual currencies while mitigating their risks.¹¹²

Conclusion

The emergence of virtual currencies has fundamentally challenged traditional legal and regulatory frameworks, compelling states to rethink established notions of money, regulation, and financial governance. In India, this challenge has been particularly complex, marked by rapid market growth, technological innovation, and persistent legal uncertainty. This paper has examined the legal ambiguities and regulatory challenges surrounding virtual currencies in India, situating them within broader constitutional, institutional, and policy contexts.

The analysis reveals that India's approach to cryptocurrency regulation has largely been shaped by regulatory caution rather than legislative clarity. In the absence of a comprehensive statutory framework, executive actions, judicial interventions, and taxation measures have together produced a fragmented regulatory environment. While regulators have expressed legitimate concerns relating to financial stability, consumer protection, and illicit financial activity, prolonged ambiguity has imposed significant costs on innovation, investor confidence, and effective governance.

Judicial scrutiny has played a critical role in reaffirming constitutional principles, particularly the freedom of trade and the doctrine of proportionality. Courts have underscored that regulatory measures affecting cryptocurrency-related activities must be supported by law, evidence, and reasoned justification. At the same time, constitutional jurisprudence recognises the state's authority to regulate emerging technologies in the public interest, provided such regulation is proportionate, non-arbitrary, and procedurally sound.

¹¹² Wade & Forsyth, *Administrative Law* (11th ed.).

From a comparative perspective, global regulatory practices demonstrate that outright prohibition is neither effective nor sustainable in the context of decentralised digital assets. Jurisdictions that have adopted clear, risk-based, and technology-neutral regulatory frameworks have been better positioned to manage risks while fostering innovation. These experiences offer valuable lessons for India as it navigates its own regulatory path.

The paper argues that virtual currencies should be understood and regulated as digital assets rather than sovereign currency. Clear legal classification, institutional coordination, consumer safeguards, and alignment with international standards are essential components of a balanced regulatory framework. Equally important is the need to integrate cryptocurrency regulation into India's broader digital economy vision, ensuring that regulation supports innovation while safeguarding public interest.

In conclusion, the future of cryptocurrency regulation in India depends on the state's ability to move beyond regulatory ambiguity toward principled and forward-looking legislation. A coherent statutory framework grounded in constitutional values, economic realities, and technological understanding can provide the clarity and stability necessary for responsible innovation. By adopting a balanced regulatory approach, India can effectively address the risks associated with virtual currencies while harnessing their potential to contribute to a resilient and inclusive digital economy.