
FINANCIAL LANDSCAPE OF CRYPTOCURRENCY IN INDIA

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ABSTRACT

For a young economy like India, the revelation that alleges the cryptocurrency is nothing more than sophisticated and convoluted pyramid schemes that would eventually lead to economic pain is not merely a revelation but a bitter pill of truth for cryptocurrency enthusiasts, bound by permissions of government and central banks. This has led to change in the stance of various countries on the subject of cryptocurrency as it often curtails the pressures and heavy consideration that it places on its consumers behind the fancy idea of earning financial profits. At this juncture looking at the current state of fluctuations concerning colloquial crypto , leading to a fiscal impermanence of the crypto individuals or entities there-by having an adverse consequences that may be prevalent for investors especially in an economy that takes pride in its novelty.

The Indian economy that initially started-off as a socialist economy has been transpiring the spirit of capitalism trying to adapt to the western financial norms since the 1992 LPG Policy. The changing economy has resulted in a more capitalist approach creating large multinational corporations and an oligarchy market. However, with the growing differentiation in the diaspora of income gap between the rich and the poor at this juncture it can be said that, '*Nothing in this economy shall be denied to the oligarchs and their little princes and princess*'.

Cashless transactions in India have been promoted at a rapid pace especially after a large growth of foreign direct investment in the country through the medium of Cards and U.P.I transactions with the initiative of the government of India after demonetisation of the rupee took place in the Indian Subcontinent. Cryptocurrency having escalated popularity in the year 2009 by pseudonymous developer Satoshi Nakamoto, right after he published a white-paper and made a wave in India too, which was soon banned due to R.B.I's hiccup to not regulate the cryptocurrency.

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The bill pertaining to cryptocurrency not having passed in the Indian parliament has led to a backlash from the community of industry body of companies that are readily depicting the wants industries involved in the online and digital service industries. The objective pertaining to the present chapter in this book is to understand the existence and forward path-way of the future of cryptocurrency in India keeping-in view the financial landscape of Indian Economy since its inception since 1947.

Keywords: Indian Economy, Socialism, Capitalism, Cashless transactions, Multi- national companies, Demonetisation, Financial Landscape, Income-Gap, Financial Irregularity, Cryptocurrency, Bitcoin and LPG Policy.

INTRODUCTION:

Conceptualisation of Crypto-currency is synonymous corroborated to the exchange of money in the 21st century.² It is the ideal example of new-age technology in the Digital World.

As per the Cambridge English Dictionary, cryptocurrency is defined as, “*a digital currency produced by a public network, rather than any government, that uses cryptography to make sure payments are sent and received safely.*³”

The term Cryptocurrency was first coined in the year 2009 by a programmer or group of programmers held to be anonymous but had an acronym name as Satoshi Nakamoto⁴. Since, it's inception in the year 2009 the term has been categorically discussed for more than a decade with new laws beings enacted to curb its adverse usage stretching to the beneficiaries taking interest in conglomeration of its usage on the go in day-to-day life whilst relying upon banks, insurance companies, share market ventures etc. that are actively involved as being represented

² Available at:- <https://www.geeksforgeeks.org/what-is-a-cryptocurrency/> (last visited 24 April,2025)

³ Available at:- <https://dictionary.cambridge.org/dictionary/english/cryptocurrency> (last visited April 1,2025)

⁴ Nakamoto is the anonymous individual who claims to have created Bitcoin (BTC), the world's first cryptocurrency. While there is little doubt that the person or persons who operated under the name Satoshi Nakamoto created Bitcoin, nobody knows who he, she or they might be. Nakamoto created Bitcoin. This fact is based on the famous Bitcoin white paper, “Bitcoin: A Peer-to-Peer Electronic Cash System,” published online in October 2008. Nakamoto was the author of the white paper, laying out the theory and operating structure of the Bitcoin payment system. In February 2009, Nakamoto created the first ever online message board post dedicated to cryptocurrency, on the P2P Foundation forum. In this post, Nakamoto stated, “*I've developed a new open source P2P e-cash system called Bitcoin. It's completely decentralised, with no central server or trusted parties, because everything is based on crypto proof instead of trust. Give it a try, or take a look at the screenshots and design paper.*”

Available at:- <https://www.forbes.com/advisor/investing/cryptocurrency/who-is-satoshi-nakamoto/> (last visited April 1, 2025)

as a reliant third party to process *electronic transactions*⁵ creating a trust based model between the payee and the payer.

In common parlance, a cryptocurrency is a virtual coinage system that functions much like a standard currency, enabling users to provide *virtual payment for goods and services*⁶ free of a central trusted authority (as in the R.B.I in the case of Indian Economy).

Cryptocurrencies rely on the transmission of digital information, utilising cryptographic methods to ensure legitimate, unique transactions. *Bitcoin took the digital coin market one step further, decentralising the currency and freeing it from hierarchical power structures.*⁷

Having rapidly captured the imaginary of the larger portion of investors, consisting of jaded financiers, technologically millennials that are classified as sophisticated, which are in search of the upcoming bugs were keen to explore this financial boom.

Putting it in simple words for any layman to understand, the bitcoin is designed as a payment system that is incapable of being centralised, implying that it ought to have effects of a decentralised authority which ideally does not come under the governance of a government agency or a designated financial institution. The Bitcoin is there-forth considered as a technological wizardry, which has the combinations of alluring to make an investor run around in circles after the governments and nationalised as well as private banks, which perfectly capturing the zeitgeist of years which led to the 2008 financial crisis.

However, looking at the main concern before an economy or any economy's of the world is that trust in payment system oughts to be imperative for the smooth functioning of a modern

⁵ Secure Electronic Transaction or SET is a security protocol designed to ensure the security and integrity of electronic transactions conducted using credit cards. Unlike a payment system, SET operates as a security protocol applied to those payments. It uses different encryption and hashing techniques to secure payments over the internet done through credit cards. The SET protocol was supported in development by major organizations like Visa, Mastercard, and Microsoft which provided its Secure Transaction Technology (STT), and Netscape which provided the technology of Secure Socket Layer (SSL).

Available at:- Secure Electronic Transaction (SET) Protocol (last visited 24 April,2025).

⁶ During the last three years, digital payment transactions have registered unprecedented growth in India. Easy and convenient modes of digital payment, such as Bharat Interface for Money-Unified Payments Interface (BHIM-UPI), Immediate Payment Service (IMPS), pre-paid payment instruments (PPIs) and National Electronic Toll Collection (NETC) system have registered substantial growth and have transformed digital payment ecosystem by increasing person-to-person (P2P) as well as person-to-merchant (P2M) payments. At the same time pre-existing payment modes such as debit cards, credit cards, National Electronic Funds Transfer (NEFT) and Real-Time Gross Settlement (RTGS) have also grown at a fast pace.

Available at:- <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1847838> (last visited 24 April,2025)

⁷ Ryan Farell, An analysis of the Cryptocurrency Industry

economy ensuring a safe, easy and reliant transaction system happens to be one of the strengths of a stable financial economy, with truly innovative changes that have the potential to change the dynamics of modern finance.

The art and science of cryptography showed no major changes or advancements until the Middle Ages. By that time, all of the western European governments were utilising cryptography in one form or another. Keeping in touch with ambassadors was the major use of cryptography.⁸

One **Leon Battista Alberti**⁹ was known as “*The Father of Western Cryptology*,” most notably due to his development of polyalphabetic substitution.¹⁰

As per the Cambridge English Dictionary Cryptography is, “*the practice of creating and understanding codes that keep information secret*.”¹¹

REGULATORY FRAMEWORK:

A central Bank is the highest institution of the banking system in any country around the world. It is commonly referred to as the Banker’s Bank because of the authority it holds to act as a guardian to all the banks in its subcontinents be it a *private banks*¹² or *public banks*¹³ by creating certain guidelines to be followed nationwide and under the aegis of the International Monetary

⁸ Available at:- <http://www.inquiriesjournal.com/articles/1698/a-brief-history-of-cryptography> (last visited 24 April,2024)

⁹ Leon Battista Alberti - an Italian author, artist, architect, poet, priest, linguist, philosopher, cryptographer and general Renaissance humanist polymath Leon Battista Alberti wrote *De Cifris* describing the first polyalphabetic substitution with mixed alphabets and variable period. Compared to previous ciphers of the period, the Alberti Cipher was impossible to break without knowledge of the method. This was because the frequency distribution of the letters was masked and frequency analysis - the only known technique for attacking ciphers at that time - was no help. To facilitate the encryption process employed the first mechanical device, known as the Alberti cipher disk, also called formula. Available at:- <https://www.historyofinformation.com/detail.php?id=3161> (last visited 1 July,2024)

¹⁰ Cohen, F (1990). A short history of cryptography., pp.32-33

Available at:- <http://www.all.net/books/ip/Chap2-1.html> New World Encyclopaedia (2007) (last visited 23 June,2024)

¹¹ Available at:- <https://dictionary.cambridge.org/dictionary/english/cryptography#> (last visited 21 June,2024)

¹² A “*private bank*” is at the other end of the spectrum. A real private bank is where you should have a one-on-one relationship with an unbiased banker who can help you organise, manage and enhance your financial affairs. A private bank should offer you special access to all the classic services offered by banks and financial planners—planning, investing, borrowing and banking—all in one place.

Available at:- <https://corporatefinanceinstitute.com/resources/career/private-banking/> (last visited 2 July,2024)

¹³ A “*public bank*” is a financial institution owned and operated by the government or a public entity. Public banks differ from private banks, which are owned and operated by private individuals or entities. The Bank of North Dakota is the only public bank in the United States.

Available at:- <https://www.investopedia.com/what-is-a-public-bank-7564078> (last visited 2 July,2024)

System.¹⁴

The developing economies through decades of the development of the banking system have felt an impact related to the financial rules of the regulations which are sternly in favour of the advanced economies around the world, and there-by treating the international financial rule-making bodies as major multilateral institutions as their own fiefdoms.

In India, the Reserve Bank of India¹⁵ Bank's since 1935 has been actively rendering as the Banker of the Banks.

The Central Banks has the authority to issue the present currency notes and metallic coins that are not backed by any reserve and do not have a notable intrinsic value (except for coins that manufactured through metal), at this juncture it is safe to say that the central banks have overpassed the role of Private Monopolies. At the time of the aftermath of the 1944 Conference, Dollar had a cash reserve ration in the form of gold, whereas major currency exchange rates of majoritarian currencies were held to be fixed of a certain value in comparison to that of the U.S. Dollar.

Due to economic circumstances, during market crashes the economy become shaky, and the system known as the Bretton Woods System¹⁶ collapsed . The Fiat currency which was not backed by gold reserves was forced to become the rule all over the world- the first world economies around the world , became the free-flowing authority to allow their currencies to

¹⁴ The *International Monetary Fund "IMF"* is a global organisation that works to achieve sustainable growth and prosperity for all of its 190 member countries. It does so by supporting economic policies that promote financial stability and monetary cooperation, which are essential to increase productivity, job creation, and economic well-being. The IMF is governed by and accountable to its member countries. Available at:- <https://www.imf.org/en/About> (last visited 2 July,2024)

¹⁵ The *Reserve Bank of India (RBI)* is the central bank of India whose primary function is to manage and govern the financial system of the country. It is a statutory body established in the year 1935 under the Reserve Bank of India Act, 1934. The central bank regulates the issue and supply of the Indian rupee. It also looks after the central government's money. The central bank plays the role of the bankers' bank and regulates the banking sector. It also plays an important role in India's development story by supporting the government in its developmental projects and policies.

Available at:- <https://www.business-standard.com/about/what-is-reserve-bank-of-india> (last visited 2 July,2024)

¹⁶ On July 1, 1944, as the battles of the Second World War raged in Europe and the Pacific, delegates from forty-four nations met at the secluded Mount Washington Hotel in Bretton Woods, New Hampshire to participate in what became known as the Bretton Woods Conference. Their purpose was to agree on a system of economic order and international cooperation that would help countries recover from the devastation of the war and foster long-term global growth. At its conclusion, the conference attendees produced the Articles of Agreement for the International Bank for Reconstruction and Development (IBRD) and the International Monetary Fund (IMF).

Available at:- <https://www.worldbank.org/en/archive/history/exhibits/Bretton-Woods-and-the-Birth-of-the-World-Bank> (last visited 2 July,2024)

float solely on a value against each other.

Primary role of the central bank is to emphasise on managing and keeping the inflation rates at the low and simply stable while keeping into accord the excellent growth rates and low unemployment rates in the economy.. In any economy where the central bank is considered to have a longer interest rater persistently prevalent over a period of time, the central banks is also ought to have short-term rates during the future course of time and the central bank is said to abide by it based on its objectives. So to say, a fragile position of the central bank is witnessed to not have the tendency to take precautionary measures to control inflation in accordance to the rising inflation rates.

In a nutshell, the interest rates, inflation, and economic activities are all endogenous.¹⁷

While evolution of man it is evident that money is rare, which has always taken various forms—cattle, cowrie shells, beads, metal tokens.¹⁸ Such creations of money ought to have an intrinsic value, possessing bulks of commodities as well as precious metals owned by monarchs , renowned merchants having a reputations aiding in the confidence related to exchange of money as a medium in the early evolution of money.

During the 2008 recession the having apex banks were considered to take into account the buying of the long-term movement of the bonds which were to have a direct long-term affect on rates of interest , that had been associated with the value of capitalisation of the existing debt securities. The “unconventional”¹⁹, recourse the central banks functions is only restricted to being able to control real interest rates is actually diabolic in nature.

The Banks of the highest position having implemented an adverse nominal interest rates simply by mentioning the requisite balance in the central bank accounts ought to decrease and ultimately diminish at a particular rate of interest.

Commercial banks, do not have a fear to loose the deposits on the account of people reverting to the use of cash, this change might lead to a proposal of negative nominal interest rates on the

¹⁷ Alexander Del Mar's 1885: A history of Money in Ancient Countries:From the earliest Times to the Present.Palala Press p. 345.

¹⁸ Available at: https://www.biknotes.com/_files/ugd/b8b6dc_928867842963443bad7e81df6ccab618.pdf (last visited 25 April,2025)

¹⁹ Ernest & Young, Reducing the Shadow through Electronic Payments, 2017.

Available at: http://assets.ey.com/contnent/dam/ey-sites/ey-com/en_pl/topocs/eat/pdf/ey-report-2016-reducing-the-shadoweconomy-through-electronic-payments.pdf. (Last visited 2 July,2024)

deposit accounts of central banks. In principality, by giving the financial institutions the wise choice to withdraw the money from their bank accounts instead of lending-it off to households.²⁰

When the economic uncertainties were at their prime, certain small households were to reluctant to spend huge expenditures on businesses in return of the compensation that was awarded in return of a heavy reward for borrowing money from such financial institutions. At one point in time the primary averment was to curb the increasing rates of inflation. So as to fulfil the task , Banks had the responsibility apprehending consumers and businesses owners that it had to take precautionary measures to stabilise the economy.

In return they were to accelerate the cost of schier products, which led to a creation in higher inflation in the first place while validating the concept of Hyperinflation²¹. So, curbing inflation was said to be a key-challenge for central banks, with the use of appropriate and adequate they could put an end to the inflation and contribute towards making it end, and the lesser inflation their was the easier it become for the citizens.

LEGAL FRAMEWORK:

India's parliamentary form of government stems from a bi-cameral²² legislative system consisting of an upper-house (Lok Sabha) and a lower house (Rajya Sabha). Whilst legislation is discussed and passed in the Lok Sabha first, it ought to have assertion by voting from the members of the Rajya Sabha and then have the president's assent for the legislation tabled in

²⁰ Available at:- https://www.biknotes.com/_files/ugd/b8b6dc_928867842963443bad7e81df6ccab618.pdf (last visited 25 April,2025)

²¹ Hyperinflation is a term to describe rapid, excessive, and out-of-control general price increases in an economy. While inflation measures the pace of rising prices for goods and services, hyperinflation is rapidly rising inflation, typically measuring more than 50% per month. Although hyperinflation is a rare event for developed economies, it has occurred many times throughout history in countries such as China, Germany, Russia, Hungary, and Georgia. Inflation is measured by the Bureau of Labor Statistics using the Consumer Price Index (CPI) to measure the dollar's purchasing power. The CPI is an index of the prices for about 94,000 commodities and services; around 8,000 rental housing unit quotes; and prices for airline fares, apparel, household goods, prescription drugs, used automobiles, and postage. Generally speaking, the Federal Reserve strives to maintain what it calls a healthy inflation rate of around 2% over the long term. Hyperinflation is an extreme case of inflation, not just a high case. Inflation higher than 5% is considered high inflation.

Inflation of 50% or more per month is considered hyperinflation.

Available at:- <https://www.investopedia.com/terms/h/hyperinflation.asp> (last visited 2 July, 2024)

²² Bicameralism is the practice of having two Houses of Parliament. At the State level, the equivalent of the Lok Sabha is the Vidhan Sabha (Legislative Assembly), and that of the Rajya Sabha is the Vidhan Parishad (Legislative Council). A socalled Upper House is considered important in the parliamentary system, as only a third of the seats are filled every two years and it therefore acts as a check against potential impetuousness of electoral majorities in the Lower House. Available at:- <https://www.thehindu.com/opinion/op-ed/what-is-bicameral-legislature/article26763394.ece> (last visited 2 July,2024)

the Lok Sabha to become a law being applicable in the entire Subcontinent of India.

The legislation pertaining to cryptocurrency is considered a tad bit challenging in India which we shall discuss in the present chapter.

The Money Laundering law in India is a scoop spoonful of law under "***the Prevention of Money Laundering Act,2002.***"²³ Prime motive leading to legislation were governed under prescribed standards of Financial Intelligence Unit-India (FIU-IND). The offences under the aforementioned Act are governed by the Enforcement Directorate²⁴ in India.

Since the question of Cryptocurrency is that of the value of the payment system it is governed by the ***Reserve Bank of India (R.B.I)***²⁵. In the year 2019- *the Union of India introduced a bill into the parliament banning Cryptocurrency through the Draft Banning of Cryptocurrency and Regulation of Official Digital Currency Bill,2019. The bill sought to recommend that all cryptocurrencies, except those issued by the government, were to be banned in India and instead have an official digital currency.*²⁶

²³ The Prevention of the Money-Laundering Act sought to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto. The act is divided into seventy-five sections as a whole and extends to all parts of India. The act came in effect on 1st July, 2005. Available at:-<https://enforcementdirectorate.gov.in/sites/default/files/Act&rules/THE%20PREVENTION%20OF%20MONEY%20LAUNDERING%20ACT,%202002.pdf> (Last visited 24 April,2025)

²⁴ The Directorate of Enforcement or the E.D. has its origin that dates back to 1st May, 1956, when an "Enforcement Unit" was formed in the Department of Economic Affairs for handling Exchange Control laws violations under the Foreign Exchange Regulations Act, 1947(FERA'47) followed later under the Foreign Exchange Management Act (FEMA) , The Prevention of Money Laundering Act, 2002(PMLA) and the newly incorporated Fugitive Economic Offenders Act, 2018(FEOA) that this regulatory body, was entrusted with effect from 21st April, 2018.

²⁵ The Reserve Bank of India was established on April 1, 1935 in accordance with the provisions of the Reserve Bank of India Act, 1934. The Central Office of the Reserve Bank was initially established in Kolkata but was permanently moved to Mumbai in 1937. The Central Office is where the Governor sits and where policies are formulated. Though originally privately owned, since nationalisation in 1949, the Reserve Bank is fully owned by the Government of India. Available at:- <https://www.rbi.org.in/Scripts/AboutusDisplay.aspx#EP> (last visited 24 April,2025)

²⁶ Available at:- https://prsindia.org/files/bills Acts/bills_parliament/1970/Legislative%20Brief%20-The%20Draft%20Banning%20of%20Cryptocurrency%20and%20Regulation%20of%20Official%20Digital%20Currency%20Bill.pdf (last visited 24 April,2025).

Figure 1.1 :- Penal Liabilities under various economic offences in India.

Nature of Offence	Imprisonment (IN YEARS)
Offence the cryptocurrency Draft Bill.	Imprisonment for maximum of ten years.
Offence of Proceeds under the Prevention of Money Laundering Act.	Imprisonment for maximum of ten years.
Involvement in the Prevention of Money Laundering Act.	Imprisonment for maximum of seven years.
Holdings under the Foreign Exchange Management Act,1999.	Imprisonment for maximum of five years.

Sources: Draft Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019; Prevention of Money Laundering Act (PMLA), 2002; Foreign Exchange Management Act (FEMA), 1999; PRS²⁷.

RISK OF TECHNOLOGY

The extensive use of cash for many many years has led to attributed factors which are demographic pertaining to a rise in population of the elderly citizens, which has had the strong inclination for privacy, leading to frequent rate in crimes, a higher increase in the population density, higher opening of A.T.M.'s that favours the use of cashless transactions for everyday transactions.

Technology for cashless transactions in the 21st century is both a boon and a bane.

The use of Smartphones has become the gateway into evading the privacy of an individual as it had become an integral part of everyday life. Technological gadgets teach each and every financial move of an individual even the financial transactions. The vulnerability of such financial transactions is such that it leads to a plethora of our everyday communications and interactions but socially as well as financially and are there-by exposed to cyber-junkies and

²⁷ Available at: https://prsindia.org/billtrack/draft-banning-of-cryptocurrency-regulation-of-official-digital-currencybill-2019#_ednref7 (last visited 27 June, 2024)

even movements that are monitoring and might be even exposing our confidential data.

The loss of privacy²⁸ Commercial transactions are a big risk, crimes such as phishing²⁹ have recently evolved due to higher cashless transactions and are cumbersome to contain. Notably, a huge cause as to why the central banks provide an anonymous payment mechanism is to safeguard the identity of an individual and their right to privacy.

In India, during the past few years, judgments like Puttaswamy³⁰ have highlighted the cases pertaining to Privacy and stern legislations related to Cyber Crimes have played a vital part in trying to keep-in check any illegal transaction that occurs due to cashless transactions on a daily basis.

At the beginning of the early 2000's the legal issue before central banks around the world was whether or not the digital bank transaction money ought to have the same undertaking as cash. Ideally, looking at the legal status of the type of money it is but important to determine as to how widely accepted cashless transaction is prevalent, it is and the purpose for which it is used.

Under more older democracies of the world like the United States, for instance, law states that: *"All coins and currencies of the United States (including Federal Reserve notes and circulating notes of Federal Reserve banks and National Banking association), regardless of when coined or issued, are treated to be legal tender for all debts, public and private, public charges, taxes,*

²⁸ Since the 2017 judgment, the fundamental right to privacy enshrined under Article 21 has been cited as precedent in various landmark judgments, such as the *Navtej Johar* and *Joseph Shine* judgments.

²⁹ 'Phishing' is a common form of Internet piracy. It is deployed to steal confidential financial information like bank account numbers, net banking passwords, credit card numbers, personal identity details etc. Later the perpetrators may use the information for siphoning money from the victim's account or run up bills on victim's credit cards. In the worst case, one could also become the victim of identity theft. A few customers of some other Indian banks have been affected by the attempt of phishing in early 2006.

Available at:- https://corp.onlinesbi.sbi/corporate/sbi/corp_aboutphishing.html (last visited 2 July,2024)

³⁰ On August 11th 2015, a Bench of three judges comprising Justices Chelameswar, Bobde, and C. Nagappan passed an order that a Bench of appropriate strength must examine the correctness of the decisions in *M P Sharma v Satish Chandra, District Magistrate, Delhi*, 1954 (Eight Judge Bench) and *Kharak Singh v State of Uttar Pradesh*, 1964 (Six Judge Bench). In particular it ordered that the Court must decide whether we have a fundamental right to privacy. This matter was first placed before a Five Judge Bench headed by the then Chief Justice Khehar. Subsequently, the matter was referred to a Nine Judge Bench on July 18th 2017. The Bench comprised Chief Justice Khehar and Justices Jasti Chelameswar, S.A. Bobde, D.Y Chandrachud, Abdul Nazeer, Nariman, R.K. Agarwal, Abhay Manohar Sapre, and Sanjay Kishan Kaul. Arguments began on July 19th 2017 and concluded on August 2nd 2017. In a historic decision delivered on August 24th 2017, the Bench unanimously recognised a fundamental right to privacy of every individual guaranteed by the Constitution, within Article 21 in particular and Part III on the whole. The decisions in *M.P. Sharma* and *Kharak Singh* were overruled. Available at:-<https://www.scobserver.in/cases/puttaswamy-v-union-of-india-fundamental-right-to-privacy-casebackground/> (last visited 29 June,2024)

duties and dues. ”³¹

Various financial institutions at the centre juncture keeps being associated with the practicality and attractiveness related to the issuance of the digital currency’s. India has taken many such initiatives to embark on the journey of cashless transactions by using portable mobile applications like Paytm, Google-Pay, Phone-Pay etc. which in the recent times have been accessible by the illiterate population of the country as well be it auto-rickshaw drivers, street-vendors ,vegetable sellers or departmental stores etc. Technology in recent years might have been associated to the solution related to the system concerning to a footing of mutual understanding amongst its customers.

The financial institutions at the centre are in actuality trusted with their own financial systems which are willingly to be put into an appropriate place quite naturally, because that had to out their own economic interests on top of the cross-national interests that are there is said to not be an alignment.³²

However, a major pitfall is that central bank’s are said to swindle over the sway over prices pertaining to that of the deposits and the loans in relation to the existing commercial banks which is to decline with time, the weakening of an important channel for a financial transmission.

The ideal objective of any regulation relating to financial regulation should be to enhance the finance works that is supportive of economic transactions to attain the other objectives for which they are designed and more importantly are to become a source of instability by its own self.

Smaller economies with weak institutions should start in view of the financial institution that ought to be carried in flow at a minimum level.³³

In the future, in the modern world the societies ought to bawl so as to check the supremacy of a particular governments and its power, as an individual citizens liberty face a greater peril. New developments such as Cryptocurrency lead to the promise of democratising the revenues

³¹ In more older democracies of the world like the United States, for instance, law states that: “All coins and currencies of the United States (including Federal Reserve notes and circulating notes of Federal Reserve banks and National Banking association), regardless of when coined or issued, are treated to be legal tender for all debts, public and private, public charges, taxes, duties and dues.”

³² Patrick Jenkins, ‘*We don’t take Cash’: Is this the future of Money?* Financial Times Available at:- (<https://www.ft.com/contnet/9fc55dda-5316-11e8-b24e-cad6aa67e23e>).(last visited 2 July,2024)

³³ *Id* at 60.

and widening the hold to a particular financial embodiments which lead to the dream of decentralising revenue at a lesser-salary cost through which the household can gain access

Technological innovations concerning finances should consists of double-edged implications for income and wealth inequality through getting a glimpse through a rose-tinted glass pertaining to a much needed transformation in the field of technology.

JUDICIAL ANALYSIS AND INTERPRETATION OF CRYPTOCURRENCY:

Startled by the Reserve Bank of India's guideline and the Draft Banning of Cryptocurrency and Regulation of Official Digital Currency Bill,2019³⁴ a group concerning stakeholders having large investment in online and digital services industry moved to the Supreme Court of India and filed a writ petition in the Supreme Court of India challenging the Ban. The court, in the judgment titled *Internet and Mobile Association of India v. Reserve Bank of India*³⁵, upheld the ban to be unconstitutional and there-forth struck it down.

The bank wasn't stricken-out on the ground that cryptocurrency were not money or that R.B.I did not have any power to regulate it but on the contrary that, the court found several attributes of cryptocurrency to be the same as that of actual money when being understood by any layman. "*VC's do not qualify as money, as they do not fulfil the four characteristics of money namely medium of exchange, unit of account, store of value and constituting a final discharge of debt and since RBI has accepted this position, they have no power to regulate it.*"³⁶ Defence that the R.B.I portrayed to intervene in the matter of cryptocurrency was that the Reserve Bank of India was entitled to regulate cryptocurrency since the macroeconomic stability³⁷ of the country would be affected. In the context of the banning of cryptocurrency- the rationale of the Reserve Bank of India's ban to justify the extreme act of banning cryptocurrencies was not sufficient.

³⁴ Available at:- https://prsindia.org/files/bills Acts/bills_parliament/1970/Legislative%20Brief%20-%20The%20Draft%20Banning%20of%20Cryptocurrency%20and%20Regulation%20of%20Official%20Digital%20Currency%20Bill.pdf (Last visited 24 April,2025)

³⁵ C.W.P No. 373 of 2018 Available at:- https://main.sci.gov.in/supremecourt/2018/19230/19230_2018_4_1501_21151_Judgement_04Mar-2020.pdf (last visited 28 June,2024)

³⁶ Ibid pp. 38

³⁷ Macroeconomic stability exists when key economic relationships are in balance-for example, between domestic demand and output, the balance of payments, fiscal revenues and expenditure, and savings and investment. These relationships, however, need not necessarily be in exact balances.

Available at:-<https://www.imf.org/external/pubs/ft/exerp/macropal/eng/>. (Last visited 28 June,2024)

Hon'ble apex court in this case used the well-entrenched *legal test of proportionality*³⁸ to determine the constitutionality of a relatively emergent concept.

The prime motive / reason behind the Reserve Bank of India not validating cryptocurrency as money also has a root-cause because the central bank adopted the concept of “fiat money” not having any underlying asset. The legislation in the country, which declared that money was worth a certain value was due to this concept.

For example:- It is but a common sight to spot on currency notes written, “*I promise to pay the bearer a sum of Rs X*”,³⁹ duly signed by the Governor of R.B.I which commonly means that there is no underlying asset/commodity but a promise by the bank that the value of the money is worth what it says on the currency note.

In the instant matter titled *Internet and Mobile Association of India v. Reserve Bank of India*⁴⁰, the bench headed by Hon'ble Justice Mr. Rohinton Fali Nariman ,Justice Mr. V. Ramasubramanian and Justice Mr. Aniruddha Bose directed to not restrict or restrain banks and financial institutions regulated by R.B.I for matters concerning to Virtual Currencies.⁴¹

While pondering upon the inherent powers of the RBI the court stated that, ‘One of the facets of the central bank is that it has autonomy over the printing and distribution of currency notes around the Indian subcontinent.’

In fact, according to the courts R.B.I has a designated space in the financial system in a country which perpetuates it to exercise the functions that are in actuality legislative in nature.⁴² However, if R.B.I were to have wide powers to regulate the financial system, that power were to be used to regulate cryptocurrencies if they happened to be mere commodities—ordinary articles of commerce.

Keeping in view the aforementioned points the court ruled that the powers of R.B.I were

³⁸ Legal test for the doctrine of proportionality was pondered upon in the case of *Modern Dental College v. State of M.P.* (2016) 7 SCC 353.

³⁹ Available at:- <https://socialwelfare.vikaspedia.in/viewcontent/social-welfare/financial-inclusion/know-about-indian-currency/basics-of-indian-currency?lgn=en#> (last visited 24 April,2025)

⁴⁰ C.W.P No. 528 of 2018 Available at:-

https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/documents/aor_notice_circular/62.pdf (last visited 24 April,2025)

⁴¹ Available at:- <https://www.legalauthority.in/judgement/internet-and-mobile-association-of-india-vs-reserve-bank-of-india-41853> (last visited 25 April,2025)

⁴² Para 147 and 192 of the Cryptocurrency Judgment.

extremely wide and cryptocurrencies were something very similar to money.

“When the consistent stand of R.B.I is that they have not banned VCs and when the government of India is unable to take a call despite several committees coming-up with several proposals including two draft bills, both of which advocated exactly opposite positions, it is not possible for us to hold the impugned measure is proportionate.”⁴³

In the closing remarks of the judgment- the apex court mentioned the ld. Counsel repressing the Reserve Bank of India but called his defence to defend the circular banning cryptocurrency in the Indian Subcontinent a “nail-biting finish”. In view of arguments made, the aggrieved party we were entitled to be successful as per the impugned Circular dated 06-04-2018 was set aside on the ground of proportionality by the apex court.

In the end for the petitioner in support of cryptocurrency it was a battle lost as well as won since the bill in 2021 titled as Official Digital Currency Bill,2021 was never introduced into the parliament.

CONCLUSION AND SUGGESTION:

A ban may not be adhered to as an option, but a failure to regulate it is an abdication of the accountability. Some of the suggestions that can ascertain equitable usage of cryptocurrency lawfully in the Indian Sub-continent are as follows:

1. Since no immunity is readily accessible to those consumers using and trading the in crypto. The previous Finance Minister of the Union Cabinet Shri Arun Jaitley was interrogated by leading journalists on the opinion of the government about the cryptocurrency, to which the government stated that cryptocurrency is widely being used for illicit unlawful activities related to funding terrorism, money-laundering and stock market manipulation. As per the Indian government citizens dealing in digital currency shalt take cautionary steps because there is no lawful protection to the citizens against cryptocurrency. So, no immunity can be provided by the government to safeguard its own citizens.⁴⁴
2. As per the Financial Services and Market Act, 2023 that was recently updated in the United

⁴³ Paragraph 224 of the judgment.

⁴⁴ Available at:- <https://pdfcoffee.com/cryptocurrency-15-pdf-free.html> (last visited 25 April,2025)

Kingdom to guide regulating digital assets.⁴⁵ The act grants the governments, ability to designate crypto asset activities and regulate the same, the government through this act regulates crypto- assets in the form of exchange tokens (cryptocurrencies), asset-referenced tokens, commodity- linked tokens, crypto-based tokens, algorithmic tokens, governance tokens, fan tokens (sports- related cryptocurrencies),non-fungible tokens and faith-based stable coins.⁴⁶

3. Underlying and major problem relating to cryptocurrency is that of financial transactions which cannot be curbed until authenticity and verified pathway for transactions is provided. Furthermore, the common plebs and businessman ought to conduct transactions only when they have the surety that their monetary transactions are being conducted genuinely and can be verified through an authentic source.
4. Government of India needs to authorise and recognise bitcon as an authentic form of currency to regulate and curb the misusage of the currency. In fact, such is the irony that India's own Blockchain technology that innovated cryptocurrency is named as "Lakshmi" however this technology is without any government authorisation and not ready for usage by the citizens.
5. India needs to enhance its KYC norms⁴⁷ as well, they are archaic and unreasonable compared to other monetary systems that are followed around the world.

⁴⁵ Available at: <https://www.legislation.gov.uk/ukpga/2023/29/contents/enacted> (last visited 29 June,2024)

⁴⁶ Available at <https://www.pwc.com/gx/en/industries/financial-services/assets/navigating-the-global-crypto-landscape-with-PwC-2024.pdf> (last visited 29 June,2024)

⁴⁷ Available at: <https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=866> (last visited 25 April,2025)

REFERENCES:**Articles:**

1. Prableen Bajpai, *Countries Where Bitcoin is Legal and Illegal*, Investopedia, March 24, 2004.
2. Scott Nadal and Sunny King, *PPCoin: Peer-to-Peer Crypto-Currency with Proof-of Stake*, August, 2012.
3. David Mazières, *The Stellar Consensus Protocol: A Federated Model for Internet-level Consensus*, April, 2015
4. Leslie Lamport, Robert Shostak, and Marshall Pease, "The Byzantine Generals Problem," ACM, Transactions on Programming Languages and Systems, pp. 382-401, December 1982.
5. Sophie Song, "The Rise And Fall Of Bitcoin In China: Central Bank Shuts Down All Chinese Bitcoin Exchanges", March, 2014.
6. Noah Youngs, Arthur Britto David Schwartz, "The Ripple Protocol Consensus Algorithm", 2014.
7. Marcin Szczepański, "Bitcoin: Market, economics and regulation" , European Parliamentary Research Service , 2014.
8. Leon Pick, "Finance Magnates", March, 2015.
9. Virtual Currency Today, "Regulation of Virtual Currencies: A Global Overview," Virtual Currency Today, 2015.
10. Ian Shine, "Cryptocurrency regulations are changing across the globe the. Here's what you need to know", May 2, 2024.
11. Nikolaus R. Fahrer and Anne M. Coughlan, "The (somewhat lively) state of crypto regulation", June 1, 2023.
12. Marcela Ayres, "Brazil's central bank seeks tighter cryptocurrency regulation,

brokerage oversight”, September 27,2023.

13. Huw Jones, “*Britain to push ahead with rules for crypto assets*”, October 30,2023 14. .
Satoshi Nakamoto, “*Bitcoin: A Peer-to-Peer Electronic Cash System*”, October,2009.
15. Musaddik Ahmed, “*Blockchain as a force for good*”, April 22,2022.
16. Ryan Farell, “*An analysis of the Cryptocurrency Industry*”, Wharton Research Scholars, 2015.
17. What is cryptography, The Economic Times, 21 June,2024. (Available at:- <https://economictimes.indiatimes.com/definition/cryptography>).

Journals:

18. Oonagh McDonal, “*Cryptocurrencies: Money, Trust and Regulation*”, Agenda Publishing, Cambridge University Press, 2nd Edition, 22 March,2023.
19. Aleksi Grym, “*Cryptocurrencies: The Dragons of the Financial World, Management and Organisation Review*” , Cambridge University Press,Volume 16,Issue 1, February,2020.
20. Sarah Durrant and Mangai Natarajan, “*Cryptocurrencies and Money Laundering Opportunities*”, Cambridge University Press, 20 June,2019.
21. Anush Kapadia, “*Proof of Institutions: Cryptocurrencies as Digital Fiat System*”, Cambridge University Press, 14 September, 2023.
22. Debarati Halder and Akil Ali Saiyed, “*Legal Challenges to Cryptocurrency and its Guardian- Less Victims in India: A critical Victimological Analysis*” , Cambridge University Press, 2 June,2022.
23. Paul Gerrans, Sherin Banu Abhisekaraj and Zhangxin (Frank) Liu, “*The fear of missing out on cryptocurrency and stock investments: Direct and Indirect effects of financial literacy and risk tolerance*”, Cambridge University Press, 28 April,2023.
24. Sarah Durrant and Mangai Natranjan, “*Cryptocurrencies and Money Laundering*

Opportunities " Cambridge University Press,20 June,2019.

25. Abhishek Thommandru, "Surfing in Electronic Banking: A legal Investigation of the Potential for Transitional Money Laundering", Cambridge University Press, 7 November, 2023.
26. Tobias F. Rotheli, "The history of Financial Technology and Regulation : From American Incorporation to Cryptocurrency and Crowdfunding", Cambridge University Press, Vol. 96, Issue 4,8 February, 2023, pp. 918-920.
27. Alexis Henshaw, "Women, Consider Crypto: Gender in the Virtual Economy of Decentralised Finance" , Cambridge University Press , Volume 19, Issue 2, 30 August, 2022 ,pp. 560-584.

Websites:

28. Available at:- <http://www.flipgorilla.com/p/23023990364728535/show>
29. Available at:- <http://blackcoin.co/blackcoin-pos-protocol-v2-whitepaper.pdf>
30. Available at:- <http://bitwebmagazine.com/australia-to-introduce-bitcoin-tax/>
31. Available at:- <http://cointelegraph.com/news/113766/russian-ministry-of-finance-anti-bitcoin-law-will-finally-be-passed-this-year>
32. Available at:- <https://www.cryptocoinsnews.com/russia-blockedseveral-bitcoin-sites-preperation-russian-bitcoin-ban/>
33. Available at:- <http://www.bloomberg.com/news/articles/2013-12-05/china-s-pboc-bans-financial-companies-frombitcoin-transactions>
34. Available at:- <https://coincenter.org/survey/>
35. Available at:- <https://litecoin.org/>
36. Available at:- <http://docs.bitshares.org/content/index.html>
37. Available at:- <http://dealbook.nytimes.com/2014/01/21/why-bitcoin-matters/>

38. Available at:-https://nubits.com/sites/default/files/assets/nu-whitepaper-23_sept_2014-en.pdf
39. Available at:- <http://www.coindesk.com/mt-gox-loses-340-million-bitcoin-rumoured-insolvent/>
40. Available at:- <https://www.eskimi.com/privacy-policy>
41. Available at:-<https://www.reuters.com/markets/currencies/indias-finmin-sayscentral-bank-launch-digital-cryptocurrency-2022-02-01/>