

Legal Acceptance of Bitcoin in India: A Review

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Abstract:

Cryptocurrency is the digital or virtual currency, which uses encryption techniques to regulate the generation of units of currency. In numerous type of cryptocurrency, Bitcoin is the most popular one and is also known as first decentralized virtual currency. It provides a solution to double spending problem without interference of third party. Still the increasing trend of bitcoin has come under government's eyes and according to our current finance minister it is more like any other Ponzi scheme, which is presumed to cause real and heightened risk of investment bubble and is thought to give rise to sudden and prolonged crash exposing investor. And hence, is constrained of use in India.

Legal status of bitcoins vary from country to country. Some countries like Australia, Canada and Germany, have legalized its use as earned income as per rule of bitcoin but in other countries, it is used illegally or in non-uniformity in the legalization. In this review paper, we focus on legality and regulatory framework of bitcoin in India.

Keywords: Cryptocurrency, Bitcoin, Decentralized, Legalized

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Introduction

Cryptocurrency is a digital currency that is designed to be secure and aids for increasing the rates of payment system (Mohod, Mannarwar and Badukale, 2018; Andrianto and Diputra, 2018). Commonly known as virtual currency or digital currency which is associated with internet that uses the cryptography process. Cryptocurrency secures the information, communications and money online (Mohod, Mannarwar and Badukale, 2018). It depends on the Blockchain which is a digital bookkeeping system. Cryptocurrency contains several kinds of currency in which most common are Bitcoin, Litecoin, Ripple, Ethereum, New Economy Movement (NEM) and many more. Below is the table showing different kinds of cryptocurrency with its symbol: (Andrianto and Diputra, 2018).

Table 1 – Different kinds of Cryptocurrency with its Symbol

Name	Symbol
Bitcoin	BTC
Ethereum	ETH
Ripple	XRP
Litecoin	LTC
New Economy Movement	NEM
Bitcoin Cash	BCH
Stellar	XLM

In numerous type of currencies, Bitcoin is most popular currency that contains worldwide payment system. It is commonly known as digital currency or decentralized digital currency that is introduced by Santoshi Nakamoto in 2009 (Mohod, Mannarwar and Badukale, 2018). For managing the creation or flow of money, it does not depend on any central services (Kumar, 2018).

There are three primary ways to obtain bitcoin:

- i. Mining new ones
- ii. Buying on an exchange
- iii. Accepting them for goods and services (Tamradaman and Nagpure, 2017)

Balance is kept only into the public wallet in the cloud because bitcoin are not physically present. By using the massive amount of computing power, all bitcoin

transaction is verified. A personal database that is stored into the computer drive, smartphone, and tablet or somewhere in the cloud called wallet and it can be transfer form one personal wallet to another wallet (Mohod, Mannarwar and Badukale, 2018).

Bitcoin in India

Day by day, bitcoin demand is increase in India and people understand the power or advantages that these decentralized virtual currency can offer. Indian currency possess some rules and regulation so if bitcoin is consider in India then all those rules and regulation are applicable to bitcoin also. RBI control all the rules and regulation in India.

According to Article 246 as per Indian constitution, list of all activities that are legislate by central and state government. According to entry 36 and 46 of list I of the seventh schedule of Constitution states the “*Central Government is allowed to legislate in respect of currency, coinage, legal tender, foreign exchange and bills of exchange, cheques, promissory notes and other like instruments respectively*”. Central Government would have exclusive power to legislate if bitcoin fall any of this categories.

The principle laws concerning India currency are:

- I. The Constitution of India, 1950;
- II. The Foreign Exchange Management Act, 1999 (“FEMA”);
- III. The Reserve Bank of India Act, 1934 (“RBI Act”);
- IV. The Coinage Act, 1906 (“Coinage Act”);
- V. The Securities Contracts (Regulation) Act, 1956 (“SCRA”);
- VI. The Sale of Goods Act, 1930 (“Sale of Goods Act”);
- VII. The Payment and Settlement Systems Act, 2007 (“Payment Act”).
- VIII. Indian Contract Act, 1872 (“Contract Act”)

If RBI treats to bitcoin as a currency, these laws will be applicable to bitcoin. By using bitcoin, payment system may create following issues:

1. Digital wallets stored the bitcoins, if they are responsible to suffer from hacking, loss of password, malware attack etc. and they are not created or traded through any authorized central agency. If in case of loss of e-wallet then loss of bitcoins held in them.

2. As there is no system for customer problems/disputes/charge back etc. because Bitcoin transactions are peer-to-peer without central authority which monitors the payment.
3. No one is responsible for malfunctioning.
4. Anonymous currency system leads to unintentional breaches of money laundering and combating the financing of terrorism laws (Tamradaman and Nagpure, 2017).

Legalization of Bitcoin in India

The main problem with determining the legal status of how should be handled the Bitcoins is whether they are currency, security, commodity or something different. According to the legal definition, currencies must be issued, used and accepted by country but it is not applicable in case of bitcoin. All countries are illegally used of it is another problem. Bitcoins are used legally and are applied normally in earned income rules in some countries like Australia, Canada, Finland and Germany but in many countries, do not made a clear statement with legalization and use of bitcoin. In Thailand country, bitcoins are used illegally but in different countries, non-uniformity in the legalization of bitcoin is a major issue. As per the Foreign Exchange Management Act, 1999, currency is defined as "*all currency notes, postal notes, postal orders, money orders, cheques, drafts, travelers cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank*". According to reiterated Finance Minister Arun Jaitley, the cryptocurrencies are not recognized as legal tender in the Union Budget February 2018. During his speech, Minister said "*The Government does not consider crypto-currencies legal tender or coin and will take all measures to eliminate use of these crypto-assets in financing illegitimate activities or as part of the payment system*" (Kumar, 2018).

KYC norms

Know Your Customer (KYC) norms are setup by RBI in India that bank requires the customer's transactions, keep up-to-date record of customer's identity but it is not required in case of bitcoin transactions. Bitcoins bringing come under the current India laws, it is difficult.

Cross border transfer of Bitcoin

All inbound and outbound foreign exchange are regulated by Foreign Exchange Management Act (FEMA) that is related to transactions. According to section 3 of FEMA states that no person shall "*deal in*

or transfer any foreign exchange or foreign security to any person not being an authorized person".

- Payment should be done by using the credit card of any person who's outside India in any manner.
- Receive otherwise through an authorized person, payment should be done on the behalf of any person, resident outside in India in any manner.
- Financial transaction in India as creation or transfer of a right acquire, any asset outside in India by any person.

According to these points, there will not be any violation of FEMA, if bitcoin is purchased by resident Indian from the non-resident through a legitimate banking channels. There will be a violation of FEMA, if the sale of bitcoin by resident Indian to the non-resident.

Taxation

Taxation in most difficult thing in India and it may be applicable to income or expenditure. In case of applying the tax on bitcoin, check differentiate between income and expenditure that is related to bitcoin (Tamradaman and Nagpure, 2017).

Future of Cryptocurrency

In future, Cryptocurrencies like bitcoins will give a healthy competition to different currencies because it are rapidly transforming into real money issued by centralized governing bodies. Current price of bitcoin is increased, reflects that bitcoin will have a bright future. There will be no need to be a specific currency for every individual country all time because bitcoins have potential to be world's currency in the future. (Mohod, Mannarwar and Badukale, 2018).

Advantages and Disadvantages

Digital currency has very large advantage. These are as follows:

- Cryptocurrency does not have any limit in the transaction and readily available for the general public.
- Cryptocurrency made an easy mode of payment.
- The transfer of fund between two parties is also done by cryptocurrency in an easier way. For security purpose, public and private keys are used for transfers that take place with minimal processing fees.

- Extra or steep fees are avoided by the cryptocurrency transaction, charged by the bank for wire transfers.
- Inter-country transaction is done by the cryptocurrency in an easier way as its function is not under central bank.

Here, discuss the drawbacks of cryptocurrencies that is

- Many people are unaware of the use of cryptocurrencies and hacked themselves by hacker.
- Many people invest in cryptocurrencies without knowledge and lose money.
- Cryptocurrency is not accepted by many website and companies because it does not use in legalized term in many countries.
- Mistakenly pay to someone by using cryptocurrency is not refundable (Mohod, Mannarwar and Badukale, 2018).

Review of Literature

Nayak, Kotak and D'mello (2014) stated that bitcoin is the extremely blooming field and definitely the big thing for online payment systems. Bitcoins has definitely some drawbacks but in many cases, positive outweigh the negatives. Cryptocurrencies have been developed more currencies such as Litecoin, Peercoin, and Ripple etc. after the success of Bitcoin.

Dhanda (2017) discussed about the bitcoin that are not replace the "fiat currency" in future but there growth has been increase in acceptance of cryptocurrency. Bitcoins regulatory will not be fully aligned with the goal of regulatory its exchange, transfer and trading and protection of individuals. Every Indian individuals are hesitate to invest in bitcoin at a high risks but still the demand of bitcoin is increase.

Seetharaman, et al. (2017) bitcoin is facing, growth is not increase but the way it have to be increased if it had regulatory support. It is the limited supply because it has limited units such as 21 million. In this paper, said that people are ready to explore the technology and give the different format of virtual currency they get some reasonable assurance that the underlying virtual currency has a regulatory backing.

Tamradaman and Nagpure (2017) discussed about the problem is that pace of change in regulations; change in regulation is that takes a route of develop,

propose and adopt which generally takes a period. Regulatory changes normally evolve at a slower pace than innovation thereby killing it by declaring it unlawful. Bitcoin tends to fluctuate widely and used as a globally that is volatile over time.

Mohod, Mannarwar and Badukale (2018) stated that bitcoin is one of the greatest invention of individual. Now a days, banks are trying to use the blockchain but it is not authorized by government. Bitcoins are introduce by government that contain own cryptocurrency named "Lakshmi", this information is revealed by RBI's.

Kumar (Februray 2018) bitcoin is not a formal authorized currency but it is a decentralized digital currency. In world, every currency has legalized by government but bitcoins are not. The value of bitcoin is volatile over time that is decrease from \$20000 approximately to \$6000. During the budget speech on February 2018 declared that the cryptocurrencies are not recognized as legal tender in India. To give warning to the people by various government with the help of tax notice that they are aware from investment of digital currencies.

Andrianto and Diputra (2018) dictated the increasing the high risk of cryptocurrencies which is indicated by the standard deviation rate that can reached more than 100%. This risk is seen from the two things, first one is decrease the standard deviation rate from same rate of return and second is the increase in allocation options to produce higher returns, that is more attractive to some investors which is high risk tolerance.

Conclusion

Bitcoins play an important role in India to increasing the growth rate of country but it is not possible because bitcoins are not government authorized currency as compared to other countries. Nowadays, bitcoins value is highly volatile over time that has been decrease from \$ 20,000 to \$ 6000. During budget speech that was held on February 01, 2018, Finance Minister has declared that the cryptocurrencies (bitcoins) are not recognized as legal tender in India. Various government has issued tax notices to the users for warned to investments of cryptocurrencies in digital currencies. Finally, bitcoins do not have legal tender in India till today.

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