

Legal Acceptance of Bitcoin in India

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Abstract:

Cryptocurrency is a kind of digital or virtual coinage that uses an encryption technique in order to standardize the generation set of currency unit. In numerous types of cryptocurrency, Bitcoin is one of the most renowned one and is also termed 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.

Lawful position of bitcoins vary from nation to nation. Some states 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 Satoshi 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 generally three very principal means to obtain bitcoin:

- i. Excavating new ones
- ii. Purchasing new ones 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 on an increase in India and people understand the authority or benefits that these decentralized virtual or digital currency can provide. Indian currency possess some rules and regulation so if bitcoin is considered in India then, all those listed rules and regulations are applied on to bitcoin also. RBI controls all the rules and regulations in India.

According to Article 246 as per the Indian constitution, a record of all the activities that are legislated by the central and the state government. According to entry 36 and 46 of list I of the seventh schedule of the Constitution states that “*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 special powers to enact if bitcoin falls in any of these categories.

The primary laws regarding Indian currency are listed below:

- 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 bitcoin as a currency, these laws will be applicable to bitcoins as well. By using bitcoin, payment system may lead to the following issues:

1. Digital wallets stockpiled the bitcoins, if they are responsible to endure hacking, loss of passwords, malware attacks etc. and they are neither created nor traded through any approved fundamental organization. In case of any loss of e-wallet, then loss of bitcoins are held in them.
2. There is no process for customer problems/disputes/issues etc. because Bitcoin dealings are peer-to-peer without involvement of any central consultant that keeps a close check on the payment.
3. No one is accountable for faulty functioning.
4. Unidentified coinage method leads to accidental ruptures of money laundering and contending the funding 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*". As per the reiterated Finance Minister Arun Jaitley, the cryptocurrencies cannot be considered as a lawful 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) standards are an arrangement done by RBI in India, according to which a bank requires the customer's dealings, in order to keep an updated record of customer's individuality but it is not a mandate for bitcoin transactions. Bitcoins bringing are listed under the present India laws.

Cross border transfer of Bitcoin

All the inbound and outbound foreign exchanges are regulated by Foreign Exchange Management Act (FEMA) that is related to transactions. The section 3 of FEMA states that no individual shall "*deal in or transfer any foreign exchange or foreign security to any person not being an authorized person*".

- Payment of any amount should be done by using the credit card of any individual, who is outside India in any manner.
- Obtain otherwise through an accredited party, amount payment should be done on the behalf of any individual, resident outside India, in any manner.
- Monetary deal in India as conception or allocation of a right attain, any asset outside India by any individual.

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 valid banking channel. There can possibly be a defilement 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 they 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 leap of alteration in protocols; change in guideline is that what takes a path of progress, recommend and approve which usually takes an era. Supervisory variations normally advance at a gentler speed than revolution thereby killing it by announcing it unlawful. Bitcoin generally alter extensively and used as a universal mode, 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 considered as a legitimate deal 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 that the increasing high risk of cryptocurrencies are specified by the average aberration rate that can reach more than 100%. This risk is normally 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 a very pivotal part in India to aggregating the growth percentage of the nation 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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