



FUTURE OF CRYPTOCURRENCY IN INDIA: ECONOMIC POWER VS REGULATION

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ABSTRACT

“Necessity is the mother of invention” and the incredible came with innovation. The need to regulate the thing and test the same on the benchmark of national integration and economic feasibility arose with the emergence of an innovation. One of the world's biggest incredible innovations has been the birth of Crypto-Currencies. Crypto-Currencies are kind of digital money, that depends on distributed networks plus public ledger to integrate the key concepts of cryptography with the monetary network to build a Virtual Currency that is private, identifiable, reliable and potentially secure. In India Crypto-Currencies perhaps not be much of a peril to fiat Currency, but regarding the Crypto-Currencies, India cannot be ignored, one of the impediments confronted by the Indian economy is the perceived risk regarding legitimacy of Crypto-Currencies. The paper aims to understand the status of Crypto-Currencies in India and to analyse present Indian laws applicable on Crypto-Currencies.

Key Words: *Crypto-Currencies, Money, Network, Virtual, Regulation*

1. INTRODUCTION

On 31 October 2008, a paper titled “Bitcoin: A Peer-to-Peer Electronic Cash System” was presented by Satoshi Nakamoto, a presumed pseudonym!¹ the intent was to build a decentralized digital Currency that would execute devoid of a central bank, using cryptography to verify and validate transactions through an open-sourced network. Under this model no intermediaries would be needed, and each transaction would be recorded on a public ledger called a block-chain. Last since 1983, when an American cryptographer David Chaum presented “ecash” anonymous digital cryptographic money, many people had attempted to develop an alternative to paper currencies that get their value by the Government regulation. But Bitcoin’s invention was the first time that the idea actually saw the light of the day.

Since then, several other Crypto-Currencies have arisen, all using block-chain technology to witness the transactions, In June 2019 the Facebook declared that it proposed to launch its open form of Crypto-Currency, “Libra”. In India, several Crypto-Currency exchanges began operating after the launch of Bitcoin. Although they all were functioning in what was really a regulatory space.

2. WHAT ARE CRYPTO-CURRENCIES?

Crypto-Currencies are a special form of digital Virtual Currency that can be exchanged as an asset or else used as a Currency via a public ledger online, usually acknowledged as block-chain, that maintains a record of all the Crypto-related transactions that have ever been made and the entire network of the individual node/ user or computer keeping a copy of the ledger is shared and agreed upon. Crypto-Currencies" transactions through block-chain are decentralized and secured by a method of cryptographic encryption. Usually, each newly generated block in the block-chain is verified in a transaction involving Crypto-Currencies and is permitted by

¹ Satoshi Nakamoto, Bitcoin: A Peer-to-Peer Electronic Cash System Oct, 31, 2008, <https://bitcoin.org/bitcoin.pdf>

each node/user upon being verified, which helps to make it approximately highly impossible to forge entries made in every transaction.

3. DEVELOPMENTS OF CRYPTO CURRENCIES

The Crypto Currencies have got tremendous popularity throughout the world to provide expeditious, decentralized and anonymous transactions and have been one of digital Currency / asset's most widely used, accepted and intriguing. Decentralization would assume there's no central authority where transaction records are kept and on the contrary, transaction data will be recorded and shared via a distributed ledger technology ("commonly known as the block chain") across multiple distribution networks.

3.1. HANDLING OF CRYPTO CURRENCIES IN DIFFERENT JURISDICTIONS

Countries have given virtual currency different legal status worldwide. The New York provides crypto-assets to be used as payment methods subject to the superintendent's registration and licensing requirements in accordance with federal legislation, and as investment alternatives pursuant to the Securities and Exchange Commission regulation and supervision, that has stated that it recognizes Crypto-Currencies as securities. Further, Commodity Futures Trading Commission has regulated virtual currencies and will continue to regulate it in the USA.

Conversely, China² forbids all sorts of transaction in such Crypto Currencies. Notably though. China enacted a law on cryptography to address emerging regulatory and legal challenges in the use-cases of commercial cryptography. Broadly, the said legislation requires that all state secrets be secured and transferred utilizing "core and common" encryption, and that organizations operating on cryptography have to set up "management systems" that warranty the safety of that encryption.

According to the International Monetary Fund, the definition of money is (i) a medium of exchange and/or (ii) a unit of account and/or (iii) a store of value. It is to be noted that as of a date no country across the world treats Virtual Currencies as "legal tender" except El Salvador which became the first country in the world to adopt bitcoin as legal tender in June 2021, enacting legislation that will be effective September onwards. Despite non acceptance there is a harmony of opinion amid all the regulators and the governments of different Countries that although Virtual Currencies haven't obtained the status of a legal tender, they however constitute digital representations of value and that they are competent of carrying out as (i) a medium of exchange and/or (ii) a unit of account and/or (iii) a store of value.

4. OVERVIEW OF INTERNATIONAL SCENARIO

4.1. HOW CRYPTO-CURRENCY IS DISRUPTIVE TO GLOBAL ECONOMY

4.1.1. FEWER BARRICADES TO ENTRY

There are hardly any impediments to Crypto-Currency investment or trading. As more and more individuals get engaged in the crypto-world, more tools and software are available to lend a helping hand, one of the several tools, for example, is the Bitcoin Code System, a Crypto-Currency trading system which can deliver a remarkable return on the investment, it can help you get started from Zero, with its help option and give you information and tips where required, with its assistance option.

4.1.2. NO MIDDLEMAN

The best aspects of using Crypto-Currency as a comparison to the traditional banking system, when you transfer your Crypto-Currency coins, authorization or authentication are no longer required. And the transfer fees are subsequently marginal, this is where bunks fall short and have a trouble competing.

² Jon Fingas, China passes law regulating data encryption, Engadget, Oct. 27, 2019,

4.1.3. REPLACING CASH

One of Crypto-Currency's by-products is completely substituting cash. As a consequence, we are inching closer to an absolutely cashless society. People are moving from cash (o debit cards to Crypto-Currency towards a more efficient payment method.

4.1.4. A NEW AGE OF CROWD FUNDING

The crowd funding process has been cut down with the Crypto-Currencies and block-chain technologies. As of 2017, ICOs have been the leading crowd funding tools. ICO represents Initial Coin Offering. Nowadays, entrepreneurs don't need business saints to finance their projects or venture capitalists, angel investors. They

4.1.5. CHALLENGING THE USD

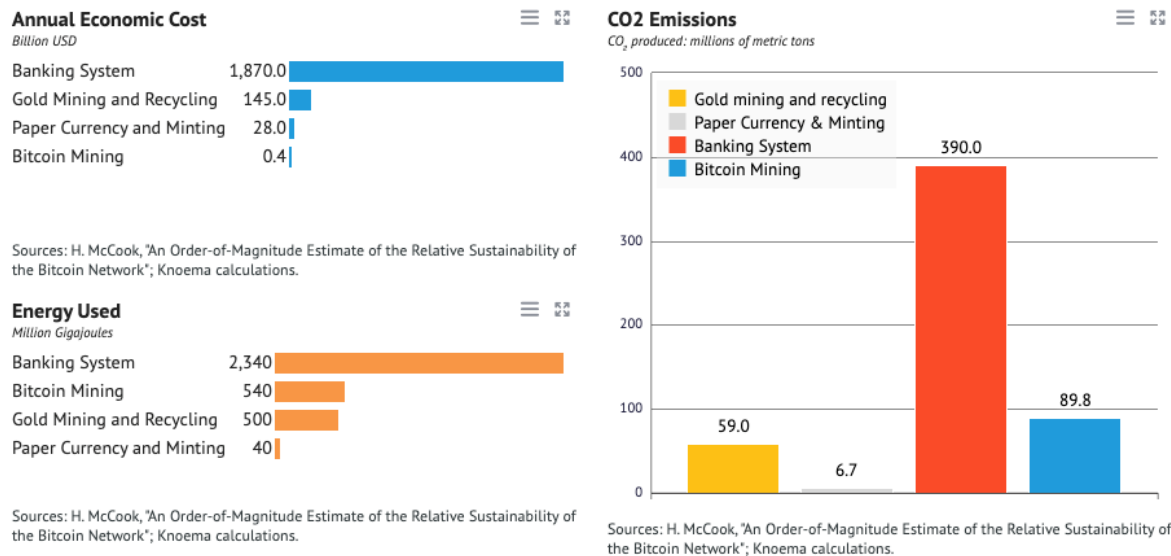
The global economy depends on the USD. It's a reserve Currency of the world economy. The USD is up to a big challenge with Bitcoin on the road. With most of the transactions, Crypto-Currencies keep the high ground and the US dollar is losing in this battle. Crypto-Currencies seem to deal with the de-dollarization process, shifting the global economy.

4.2. IMPACT OF CRYPTO-CURRENCY ON INTERNATIONAL TRADE LAW

Crypto-Currencies have both positive and negative impacts on the international trade.

4.2.1, The positive impact Virtual Currencies on international trade are following-

- As Crypto-Currencies & block-chain don't need any an actual brick-and-mortar structure to operate, there was a very significant cost of international transactions prior to implementing Crypto-Currency, but today because this Currency is available to the global economy in a Virtual mode; the transaction fee persists very marginal. Additionally, it's a peer-to-peer transaction and thus no taxes subsist
- **Secure Payment-** There is a regulated payment platform which regulates all outs as well as in-payment. Parties conducting the money transfer via Crypto-Currencies are mandated to have cash available in advance to avoid the possibility of transaction bouncing concerns,
- **Amplified Transparency of Transactions-** As all transactions in block-chain technologies are encrypted and digitized, they all are recorded in a distributed ledger. The best thing about distributed ledger is that neither individuals nor corporations can exploit it. That indicates underdeveloped Countries are also more likely to enter the financial gam
- **Great Opportunities for Poorly Banked Countries-** More than a quarter of the world's population has no access to adequate banking facilities that can bail them out in the event of personal financial crisis-loans, etc. Such individuals who are already financially vulnerable in most situations usually have access to risky and harmful lending activities, The interest rate of all these activities is anything but equal, which contributes to greater uncertainty among the people who asked for the loan. That's where Crypto-Currencies and its high volatility and ease of use come in.



- **A Beneficial Rise in Economic Activities**-There's already a whole industry construct around Crypto-Currencies also it is held by institutes enthusiastic to manage all the Virtual Coin exchanges taking place all through the globe. The speed with which the Crypto-Currency is rising is earth shattering, and early adopters who became wealthy rapidly and found opportunities to grow financially will confirm this. Bitcoin, the most prominent of such Crypto-Currencies, has already allowed for the growth and flourishing of many people and businesses, although many depend also on trading as their income source. The economy is gradually evolving to accommodate those needs, and Crypto-Currencies have great potential to meet them,

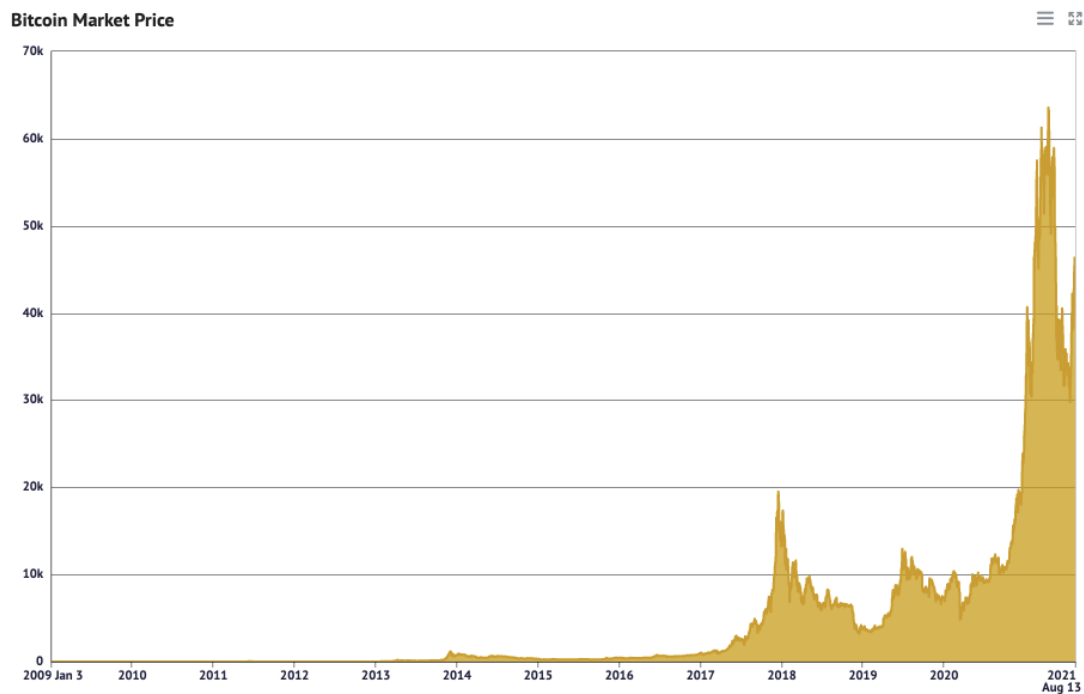
During an international trade transaction, an individual has had to deal with suppliers and buyers from various Countries, which is why the exchange rate is problematic, The Currency of each nation has different values and different exchange rates compared to the Currency of another nation. In such a controversial circumstance, Crypto-Currency provides a basic rate that is recognised by approximately all the trader in international transfers, Individuals use same Currency so there is no question of the exchange rate,

It takes barely 10 minutes to verify payment in the block-chain, and therefore money moves quite speedily from suppliers to customers.

As explained above, all transactions made by using Virtual Currency as a payment method are kept in the record. These records may be inspected and rechecked by parties at whatever time.

The negative impact Virtual Currencies on international trade are following-

- Some Crypto-Currencies are not valid as well as legitimate in certain Countries. This causes a problem while dealing with any person in those Countries. If a person accepts these Currencies, he or she will be responsible for illegal trade transactions.
- Crypto-Currency isn't a physical object, and the value of the same thing remained unclear. However, such Currencies may be even more beneficial than a gold coin, as well as situations may be just unfavourable and therefore suggest that there is ambiguity about the value of same. People aren't fully aware of the notion of crypto Currency. The volatility in value can be observed in the following chart-



Last updated: Monday, 29 March 2021

Source- <https://knoema.com/nmyfsf/bitcoin-price-from-2009-to-2021>

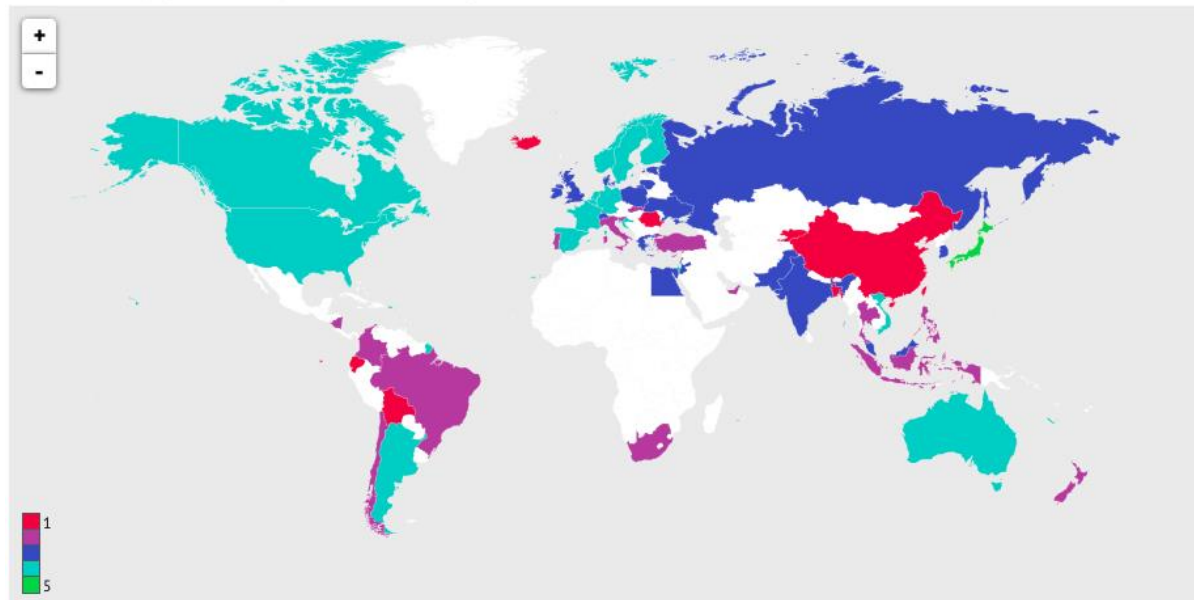
- The Anonymity of cryptocurrencies make it a potent tool for illegal activities like drug trade, weapon deals and Terrorism. The online drug racket Silk Road that was shut down by US government in 2013 can be the case in question. It was an online black market selling every possible illegal stuff, right from drugs to stolen credit cards even murderers-for-hire. Linked to the Silk Road website more than \$1bn in Bitcoin was seized by the US Department.

4.2.2. IMPACT OF CRYPTO CURRENCY ON INTERNATIONAL TRADE LAW

Many of the Countries are involved in an international transaction. The main concern relating to Cryptocurrency in international transfers is taxation. Every nation has different tax codes, and it is common to verify whether a transaction is eligible for tax. Through use of Crypto-Currency is challenging these international laws. Security legislation is another area of concern.

Recognition Level of Cryptocurrencies

1 = Prohibited, 2 = Mostly Unfavorable, 3 = Mostly Favorable, 4 = Favorable, 5 = Legalized



Source- <https://knoema.com/zstozl/legal-status-of-cryptocurrencies>

5. Indian scenario

The Crypto Currencies are controversial and speculative and have been recognised with a subatomic eye by government bodies of different jurisdictions, India was no exception to this steer, in November 2017, the Inter-Ministerial Committee was established under the chairmanship of Shubash Chandra Garg (Secretary, Department of Economic Affairs) to study Virtual Currency issues and propose specifications. The Inter-Ministerial Committee report analysed the impact of Crypto-assets / Currencies on multiple variables such as regulation, legal tender or mode of payment, as an exchange token, enforceability and investment preferences in different jurisdictions. It recommends every Private Crypto-Currency, except any Crypto-Currency approved by the state government, shall be prohibited in India because of its high volatility and also as there is no fundamental intrinsic value thereof, Perhaps there was an obvious inconsistency in government directives, The Inter-Ministerial Committee, primarily recommended a specific framework³ namely, "Crypto-token Regulation Bill 2018" moreover was of the view that a forbid may be an intense tool also that the same purposes may be accomplished by regulatory measures, on the contrary in July 2019, the Inter-Ministerial Committee released its report and proposed a "Banning of crypto-Currency and Regulation of Official Digital Currency Bill, 2019" and criminalized carrying out any activity associated with Crypto Currencies in India, including mining. buying, selling or storing Crypto Currencies, and their use as a means of raising funds or for investments.

5.1 INDIAN SCENARIO – A TWIST IN THE TALE

The Supreme Court came to the rescue of investors investing in crypto in the landmark case of Internet and Mobile Association of India Vs Reserve Bank of India through its judgment dated 4 March 2020 and lifted the ban on virtual currency in India. So the crux of the matter is that government has some reservations against cryptocurrencies but at the same time is working upon it in a sense to regulate it, the matter of fact is that the government does not want to be left behind the tec revolution that is taking place in financial market as we call it fin-tec, as the RBI Governor Shaktikanta Das rightly observed in February 2021 "the time has come to leverage its applications while at the same time strengthen the digital infrastructure". Thus the approach of the government seeks to strike a balance between hassle free trading in crypto as well as proper regulation of it.

6. CONCLUSION & SUGGESTIONS

There is no denying the fact that cryptocurrencies are making their presence felt globally. Although majority of countries stand in the uncertain zone with respect to recognition of cryptocurrencies still through various media outlets, discussion forums and social media influencers it has achieved a certain level of acceptance in all parts

³ Subhash Chandra Garg, Report of the Committee to propose specific actions to be taken in relation to Virtual Currencies, <https://dea.gov.in/sites/default/files/Approved%20and%20Signed%20Report%20and%20Bill%20of%20IMC%20on%20VC%2028%20Feb%202019.pdf>

of the world. Since now we could see that crypto currency is being openly traded and advertised , now the key issue that looms large is that of its regulation. Tackling certain specific issues and uncertainties will be instrumental in terms of bringing it under regulation.

- Outlining the regulatory body under which the cryptocurrency market should fall will be the starting point. Should it be treated as a currency, as a commodity or as a property? Should it be a matter of central or state government. Given its boundless character the possibility of an International Regulation with common consensus should also be explored
- Ratification in terms of Accounting and taxation in case of wider acceptance also need to be looked into. The licensing requirements and marking of territory should be clearly defined.
- Capital Requirement and more importantly disclosure requirements need to be deliberated upon to ensure transparency, avoid illegal transactions and increase credibility.

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