



# ANALYSIS ON CRYPTO- CURRENCY BILL 2021 –

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*“The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 (the “Bill”) is an invoice being added to the Lok Sabha. According to the Lok Sabha bulletin dated November 23, 2021, the Bill seeks to create a facilitative framework for introduction of the authentic virtual foreign money to be issued with the aid of using the Reserve Bank of India. The Bill additionally seeks to limit all non-public cryptocurrencies in India; however, it lets in for positive exceptions to sell the underlying generation of cryptocurrency and its uses”.*

## I. ABSTRACT

*In this research paper the author has discussed the new bill on crypto currency which was introduced in the parliament on 29<sup>th</sup> November, 2021. On the first place the author gives the introduction about the bill. After that the author discusses the history of the crypto currency. The idea of crypto currency came in 1980 and it finally implemented in the year 2009. The author discusses the highlights of the bill of 2021. After that author has discussed the definitions of private cryptos, block chain and crypto currency. Then the authors discuss some points regarding introduction of bill in parliament. The authors thereafter discusses regulations and key issues of bill of crypto 2021. Then author gives a brief on who regulates the crypto, the impact of cryptocurrency. There were some expectations from 2021 bill such as considering crypto currencies as assets and make income from these investments. There were some reservations against non-CBCD. At the end of this article author tries to summarise the whole in seven points then authors discusses recommendations and finally finish the article by giving the road ahead of crypto currency.*

## II. INTRODUCTION

Currently, there is a lot of noise about whether the Indian government will ban cryptocurrencies. Details are unknown, but a bill regulating its use is expected to be introduced in Parliament in the winter of 2021.

India is currently set to introduce the Cryptocurrency and Official Digital Currency Regulatory Bill 2021 in its winter parliament. “The bill is primarily intended to create a favourable framework for the use of digital currencies in India issued by the central bank. India. The bill will ban all types of private cryptocurrencies in India.” However, there are certain exceptions to trading.

First of all, it's important to know that the 2019 bill and the 2021 bill have different names. The title of the 2019 bill implied a total ban. The 2019 Cryptocurrency Ban and Official Digital Currency Regulation Act states that no one may mine, create, hold, sell, trade, issue, transfer, dispose or use cryptocurrency.

Moving on to 2021, something has changed. The bill is entitled "Cryptocurrency and Official Digital Currency Regulation Act 2021". It was initially included in the budget session, but was put on hold for broad consultation. Since then, the industry has seen significant growth with widespread participation, and the government has consulted with crypto associations, exchanges, and other experts to determine the future direction, generating optimism among stakeholders.

The central government has finally announced that it will introduce a new bill on cryptocurrencies (Act on the Regulation of Cryptocurrency and Official Digital Currency of 2021) in the current National Assembly Budget. Finance Minister Nirmala Sitaraman said the Inter-Ministerial Commission (IMC) has proposed a ban on private cryptocurrencies like Bitcoin in India. The same committee also advocated for the introduction of an official digital currency that would be properly regulated by the Central Bank of India.

"The High-Level Inter-Ministerial Committee (IMC), chaired by the Minister (Economy), was established to study crypto-related issues and to propose specific actions to be taken on issues recommended by the report on all private cryptocurrencies. Cryptocurrency: Foreign Minister Shitaraman This was stated in Rajya Sabha on February 9th.

Recently, Finance Minister Anurag Thakur also introduced a bill on cryptocurrencies in Parliament because the government is inappropriate to deal with issues related to cryptocurrencies. said he would propose.

For reference, the Central Bank of India (RBI) banned banks from processing cryptocurrency-related transactions in 2018. However, on March 4, 2020, the ban was lifted by Supreme Court decision. Since then, cryptocurrency has been operating in country.

### III. HISTORY OF CRYPTOCURRENCY

Cryptocurrencies are a type of digital currency that is decentralized and not controlled by the government. The history of cryptocurrency was called cyber money in the 1980s. "The coin started gaining popularity in 2008 with the advent of Bitcoin, created by an anonymous programmer or group of programmers named Satoshi Nakamoto. Since the launch of Bitcoin in 2009, cryptocurrencies have been all over the place." It has grown in popularity over the past few years and more and more people are investing in it. But what are they? And where did they come from?

#### 1. *Idea of crypto currency (1980)*

Cryptocurrency become first noted in 1989, and some years later, in 1980, American cryptographer David Chaum invented a virtual forex that makes use of encryption to stable and affirm transactions. However, it become now no longer till the early Nineties that cryptographic protocols and software program have been evolved that might create really decentralized virtual currencies. In October 2008, Satoshi Nakamoto (pseudonym) wrote an editorial entitled "Bitcoin: The Peerto Peer Electronic Cash System" which defined a

virtual forex advent gadget that doesn't require consider in 0.33 parties. Nakamoto's article really marked the start of the cryptocurrency revolution.

## 2. *Launch of bitcoin (2009)*

Bitcoin is a cryptocurrency and a worldwide payment system. "Satoshi Nakamoto created the Bitcoin protocol in 2009 and released it as open-source software in the same year. Bitcoin is becoming increasingly popular with people who need to send money across borders without the intervention of banks or governments." However, the sharp rise in value has made it difficult for some people to figure out what they can do with their bitcoins. The first Bitcoin transaction took place on January 12, 2009 between Nakamoto and Halfini. It wasn't until the following February that someone realized how valuable this new technology was when one paid 10,000 bitcoins for two pizzas delivered by Father John's. Now this deal is worth millions of dollars.

## 3. *Crypto scam*

2017 was the year of cryptocurrency. "As the value of Bitcoin and other digital coins soared, the number of scams and scams targeting cryptocurrency investors also skyrocketed." From fake Initial Coin Offerings (ICOs) to phishing scams, thieves have stolen millions of dollars from innocent people trying to make money on the cryptocurrency craze. More scammers are likely to appear in 2022 as regulators target the cryptocurrency world.

## IV. HIGHLIGHTS OF THE BILL

Cryptocurrency originated as a peer-to-peer electronic money system that could send online payments directly from one party to another without the need for a financial institution. In traditional currency, a central authority issues a currency that all parties must legally accept as a method of payment. Converts the issued currency to fiat. Most cryptocurrencies are not considered fiat as they are not backed by government guarantees. For fiat currency, transaction data is typically stored centrally in a financial institution such as a bank. In contrast, cryptocurrency transactions are recorded and transmitted to all network users. Use cryptocurrency for payment when the recipient is ready to accept it. They also trade because they fluctuate in value against other currencies like the US Dollar. It is also used as a utility token to give owners access to the company's goods and services. As of October 2019, there are more than 3,000 cryptocurrencies in the world, with a global trading volume of approximately \$50 billion per day.<sup>1</sup>

Several risks associated with cryptocurrencies have emerged over the years, such as the possibility of using them for illegal activities and the lack of consumer protection. "Countries have adopted different frameworks to regulate cryptocurrencies." Some countries (e.g. Japan, Canada, Switzerland) regulate cryptocurrencies under anti-money laundering regulations. Some countries, like Japan, have adopted certain cryptocurrencies as a legal payment method. Other countries (eg China, Saudi Arabia) have banned the use of the currency.

<sup>1</sup> Draft Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019, PRS Legislative Research (2022), <https://prsindia.org/billtrack/draft-banning-of-cryptocurrency-regulation-of-official-digital-currency-bill-2019> (last visited Jan 21, 2022).

## V. MEANING OF PRIVATE CRYPTOS

As the bill has not yet been submitted, it is rather difficult to specify the actual interpretation of private cryptocurrencies with respect to the bill. Looking back on February 2021, private cryptocurrencies are defined as cryptocurrencies that are not issued or recognized by the central government. However, this definition has not yet been confirmed and it is still bewildering what the term “private cryptocurrency” means in the legislation. However, some experts have attempted to define the term “private cryptocurrency”. Let’s take a look at one of Expert Advisor’s comments.

According to Vikram Subburai, co-founder and CEO of Giottus Cryptocurrency Exchange, private cryptocurrencies are mostly cryptocurrencies that are not available for trading or are difficult to track in the public domain. Monero is a kind of private cryptocurrency. He also said that if the Indian government defines private cryptocurrencies as not issued by a central bank, many cryptocurrencies will fall under the radar of illegality. The private cryptocurrency is a cryptocurrency whose transaction history cannot be viewed on the public blockchain. It appears to be decentralized in a closed ecosystem.

## VI. WHAT IS CRYPTOCURRENCY?

Before discussing the need to regulate and/or ban cryptocurrencies or virtual currencies (“VCs”), it is important to understand the composition of VCs.

One have probably already heard of many cryptocurrencies. Bitcoin, Dogecoin, Litecoin, and Ethereum are all cryptocurrencies, and there are currently over 10,000 cryptocurrencies worldwide, according to business education portal Investopedia. Of course, not all are popular.

Cryptocurrency is a medium of exchange from a technical point of view and a monetary unit deployed in the blockchain ecosystem using cryptography. Unlike fiat currencies such as US Dollars or Indian Rupees, cryptocurrency trading is not regulated by a central bank. Unlike fiat currencies, cryptocurrencies are decentralized and most, if not all, mined. Cryptocurrency mining involves individuals, groups of individuals, or business units that use advanced computing systems to solve complex mathematical equations. One has to solve these mathematical and cryptographic equations, and if he successfully solve one of them, the person who finds the solution gets a block reward.<sup>2</sup>

The Act defines a cryptocurrency as a cryptographic means or information, code, number or token generated by, having a numerical representation of value, useful for business, or serving as a store of value or unit of account. We can say that this definition is too broad. does not represent a risk associated with cryptography as it may contain certain tokens that are not generated by any cryptographic means. Examples include online coupons, gift cards, and loyalty points like frequent flyer miles. These points provide a numerical representation of the value and act as a store of value. This measure allows the central government to remove certain activities from the list of prohibited activities, if necessary, in the public interest.

<sup>2</sup> What Is Cryptocurrency? Here’s What You Should Know - NerdWallet, NerdWallet (2022), <https://www.nerdwallet.com/article/investing/cryptocurrency-7-things-to-know> (last visited Jan 21, 2022).

## VII. WHAT IS A BLOCKCHAIN?

A blockchain is a digital ledger that records all cryptocurrency transactions. The advantage of blockchain is that it is decentralized, so all transactions are recorded on the ledger and stored on computers and hard drives around the world. Therefore, the blockchain is not stored in a single data center and no organization or entity has exclusive rights over it. Blockchain is immutable and the ledger cannot be manipulated. Because there are no intermediaries in blockchain transactions, cryptocurrency transactions on the blockchain are fast and cheap compared to traditional banking networks.

A person or organization solving a mathematical equation actually validates a block of transactions. This block of transactions is bound to the blockchain of the previous transaction. This is essentially what blockchains do.<sup>3</sup>

## VIII. BILL INTRODUCED

The government will present the long-awaited “Cryptocurrency and Official Digital Currency Regulation Act 2021” to Parliament this winter session. Bills may be introduced in the future. He is not on the Lok Sabha to-do list for November 30, 2021. Meanwhile, Finance Minister Nirmala Sitharaman said Tuesday (November 30) that a new cryptocurrency bill will be submitted to the House of Representatives after approval at Rajya Sabha. in the office.

The crypto industry awaits positive regulations that will allow cryptocurrency investment and trading with certain restrictions. The hype about cryptocurrency bills so far has been both positive and negative. The cryptocurrency bill is one of many on the list of bills to be presented to Congress during the winter session. The cryptocurrency market in India has been thrown into chaos and panic as the description of the cryptocurrency bill on the list last week was identical to last year. He reiterated the government’s intention to ban private cryptocurrencies. But so far, opinions are divided as to what the government’s use of the term ‘private cryptocurrency’ means. For complete clarity, we will have to wait for the 2021 cryptocurrency bill to become public.<sup>4</sup>

According to Edul Patel, CEO and co-founder of Mudrex cryptocurrency investment platform, there are currently over 11,000 cryptocurrencies traded on the exchange. It is not clear if government means private cryptocurrency. Cryptocurrencies such as Bitcoin, Ether and other cryptocurrencies are available on both centralized and decentralized exchanges. However, all these cryptocurrencies are created by developers or companies, not by governments.

<sup>3</sup> Blockchain Explained: What is blockchain? | Euromoney Learning, Euromoney.com (2022), <https://www.euromoney.com/learning/blockchain-explained/what-is-blockchain> (last visited Jan 21, 2022).

<sup>4</sup> Draft Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019, PRS Legislative Research (2022), <https://prsindia.org/billtrack/draft-banning-of-cryptocurrency-regulation-of-official-digital-currency-bill-2019> (last visited Jan 21, 2022).

## IX. REGULATIONS OF CRYPTO CURRENCY

- **Cryptocurrency Ban:** The bill prohibits the use of cryptocurrencies as fiat or currency. Also prohibits the mining, purchase, possession, sale, trading, issuance, disposal or use of cryptocurrencies. Mining is an activity aimed at creating cryptocurrency and/or verifying cryptocurrency transactions between buyers and sellers.
- The use of cryptocurrencies includes in particular
  - (i) their use as a medium of exchange, store of value or unit of account,
  - (ii) their use as a payment system,
  - (iii) registration, trade, sale or liquidation of cryptocurrencies to individuals;
  - (iv) issuance of related financial instruments;
- **Exception:** The central government may make exceptions for certain activities when necessary, in the public interest. Permission is granted to use the technology or process underlying cryptocurrencies for experimentation, research or education.
- **Digital Rupee:** The central government can, in consultation with the RBI Central Committee, accept the digital rupee as a fiat currency. RBI may also notify foreign currency digital currency in foreign currency. Foreign digital currency means digital currency recognized as fiat currency in foreign jurisdictions.

## X. KEY ISSUES IN THE DRAFT BILL

- “The bill bans all cryptocurrencies due to their associated risks, such as B. their potential use for money laundering, risks to consumers and threats to the financial stability of the country. However, cryptocurrencies also have potential advantages such as better record-keeping and more efficient cross-border payments.
- Several countries are attempting to mitigate some of these risks through regulation. The law defines cryptocurrencies as information, code or tokens that digitally represent value and are created through cryptographic means or otherwise. This definition may be too broad to include various forms of digital tokens that are not cryptographically generated. These tokens cannot represent the risks associated with cryptocurrencies.
- Penalties under the measure for certain crimes may be disproportionately higher than other similar economic crimes in the country.”

## XI. IMPACT OF BILL ON BITCOIN INVESTORS

Analysts speculate that the new cryptocurrency bill could affect some existing investors who are already investing in private digital currencies like Bitcoin in the country. This is because, if the center follows the recommendations of the Inter-ministerial Committee (IMC), private cryptocurrencies are banned in Korea, which could harm existing cryptocurrency investors. However, it is still unclear whether the new law will include Bitcoin or Ethereum on the list of banned private cryptocurrencies. There are also widespread

rumours that the proposed cryptocurrency legislation could allow holders of those currencies to exit their asset classes before the expected ban, but impose severe penalties for converting them into legal assets.<sup>5</sup>

## **XII. WHO WILL REGULATE THE CRYPTOCURRENCY?**

Now the question is when, not if. We will definitely have rules for crypto in India. It remains to be seen when and how it will be introduced. The most important topic of the Congress meeting was the question of who will regulate cryptocurrencies. Experts left the appointment of the organization entirely to the government. At the meeting, the RBI mentioned that cryptocurrencies could be traced, but previously stated that cryptocurrencies should be banned. So, time will tell whether a new cryptocurrency regulator will be created or whether the government will appoint an existing one to oversee it.

We have been hearing about possible cryptocurrency accounts for a long time. The government is said to have prepared it ahead of the labor union budget for 2021. The bill contains provisions banning cryptocurrencies. Of course, it has been withdrawn and a new bill appears to be in the works. The same bill was brought to the meeting on Monday. The government is reportedly considering introducing a new cryptocurrency bill in the first week of the winter capitol. Laws may aim to increase investor protection.

## **XIII. EXPECTATION FROM 2021 BILL**

Over the past few months, government sources have revealed that the government will consider regulating cryptocurrencies, treating them as assets rather than currencies, and taxing income from these investments.

One thing was clear. The thing is that cryptocurrencies are not accepted as currency in that country. Rashmi Deshpande, partner in the Indirect Tax Working Group at

Khaitan & Co, said, “This bill will have to be amended in 2019 due to the lack of understanding of the highly complex cryptocurrency business. Also, everyone should be able to invest in cryptocurrency and get around to it. In today’s scenario with a lot of business, this cannot be banned.”

According to CNN News18, citing government sources, there will be a regulatory mechanism, although not an outright ban:

## **XIV. SO, WHAT WILL CRYPTOCURRENCIES BE REGULATED?**

Deshpande disassembles it. First, cryptocurrency trading is allowed only through platforms and exchanges officially recognized by the government. There may be new regulators or cryptocurrencies may be acquired by the Central Bank of India (RBI).

Second, since cryptocurrencies involve cross-border transactions, a body similar to the Security and Exchange Board of India (SEBI) will be needed to monitor transactions.

<sup>5</sup> Note On The Cryptocurrency And Regulation Of Official Digital Currency Bill, 2021 - Technology - India, Mondaq.com (2022), <https://www.mondaq.com/india/fin-tech/1136602/note-on-the-cryptocurrency-and-regulation-of-official-digital-currency-bill-2021> (last visited Jan 21, 2022).

“Investor protection comes first. To avoid fraud, a system of checks and balances is required, and in the case of fraud targeting investors, there must be a penalty.” Jaideep Reddy, Technology Attorney at

Nishith Desai Associates, said, “I’ve recommended existing laws in the past: Consumer Protection Act, FEMA, IPC, Information Technology Act, PSS Act, PMLA, Gift Certificate Act, Deposit Act, Securities Act., and tax laws must be actively enforced in relation to the business activities of crypto assets.”

#### **XV. CONFUSING WORDS IN THE BILL**

The bill’s Bulletin states that it aims to provide a “facilitating framework for the creation of an official digital currency to be issued by the Central Bank of India”. More importantly, it states that the bill is “to ban all private cryptocurrencies in India.”

Private cryptocurrency in India refers to all cryptocurrencies that are not regulated or issued by the government, such as Bitcoin, Ethereum and Doge Coin. However, the official definition of a private cryptocurrency is not clear.

“There is unnecessary confusion with the use of the phrase ‘private cryptocurrency’. Nitin Sharma, a partner at venture capital firm Antler, said that because governments use the typical ‘public sector’ and ‘private sector’ lens, all products issued by non-sovereign private institutions are in private cryptocurrencies. said to be considered.

“This confuses crypto developers and investors because in this world a blockchain has to be a public ledger and there is no such thing as private crypto.”

Several news reports this morning citing government sources reassured the public that there would be no outright ban. So why use words like prohibition and leave? Many people think that this is simply a result of copying account descriptions from the previous listing.<sup>6</sup>

#### **XVI. RESERVATIONS AGAINST NON-CBCD**

According to a report by the Financial Action Task Force (FATF), virtual cryptocurrencies offer greater anonymity compared to mainstream digital payment methods that terrorist organizations and criminals can use to launder their profits or finance illegal activities.

Non-CBDCs may also interfere with the powers of central banks with respect to oversight and good governance of the economy. In an economy that widely uses and embraces non-CBDC, the will of central banks is unlikely to be significant. Moreover, cross-border transactions with cryptocurrencies can be carried out relatively easily without much control, which will further complicate the powers and powers of the central bank to control. “Most importantly, because cryptocurrencies are decentralized, central banks have no say in controlling the money supply in the economy, effectively depriving central banks of one of their most important functions.”

<sup>6</sup> Explained: All That We Know About The Upcoming Cryptocurrency Bill 2021, Moneycontrol (2022), <https://www.moneycontrol.com/news/business/cryptocurrency/explained-all-that-we-know-about-the-upcoming-cryptocurrency-bill-2021-7757111.html> (last visited Jan 21, 2022).



It has also made reservations for cryptocurrencies as many consumers are vulnerable to scams and scams. According to an interagency report, cryptocurrencies are inherently volatile and many investors have lost their hard-earned money. Consumers also lose their private keys, similar to the passwords in their cryptocurrency wallets, potentially losing their investments forever. Also, since transactions in cryptocurrencies are inherently irreversible, erroneous transactions cannot be corrected. Finally, balances in cryptocurrency wallets can be stolen by malware, some of which are resistant to antivirus software.

### **XVII. DEFER TO CRYPTO BILL**

According to those who know about the matter, it is unlikely that India's long-awaited cryptocurrency bill will currently be brought to Parliament as the government has not yet finalized the details of the bill.

Prime Minister Narendra Modi's administration wants broad consultations on the matter before finalizing the digital currency management regulations, and the current meeting ends on December 23rd, so there is not enough time, people said. Argument. It's private. Also, the cabinet did not approve the proposed law.<sup>7</sup>

On the agenda of the last week of Congress, the cryptocurrency bill was removed from the list of cases posted on its website. However, governments can make laws by decree even when Congress is not in session. Bill proposes to help central banks create an official digital currency, as explained on Congress's website last month. The law "bans all private cryptocurrencies in India, but allows certain exceptions to promote the underlying technology of cryptocurrencies and their use."<sup>8</sup>

### **XVIII. POINTS TO UNDERSTAND THE BILL OF 2021**

The government has dropped a bomb on crypto enthusiasts by releasing a list of bills to bring to the Winter Parliament. The list includes Cryptocurrencies and the Official Digital Currency Regulation Act of 2021, which seeks to ban of all private cryptocurrencies. The government introduced a similar bill last year, but paused it for discussion with industry experts and stakeholders. A committee has also been formed to provide further guidance in this regard. All signs suggest that governments may be trying to regulate cryptocurrencies rather than ban them.

However, the new legislation confirms that the position has not completely changed. The only possible remedy is the mention of certain exceptions to the promotion of the underlying technology of cryptocurrencies, namely blockchain. However, the bill's description does not define a private cryptocurrency and does not provide clarity on the exceptions mentioned. This has caused panic among investors, many of whom have sold their cryptocurrency investments in the last 48 hours.

- According to a white paper released by the government, the Cryptocurrency and Official Digital Currency Regulation Act 2021 will be introduced by the Winter Parliament and aims to ban all private

<sup>7</sup> Winter Parliament session: Government to introduce Cryptocurrency Regulation Bill, Telegraphindia.com (2022), <https://www.telegraphindia.com/business/winter-parliament-session-government-to-introduce-cryptocurrency-regulation-bill/cid/1847922> (last visited Jan 21, 2022).

<sup>8</sup> Business News & Cryptocurrency News, parliament: Govt set to defer introduction of crypto bill in Parliament - Times of India The Times of India (2022), <https://timesofindia.indiatimes.com/business/cryptocurrency/bitcoin/govt-set-to-defer-introduction-of-crypto-bill-in-parliament/articleshow/88387064.cms> (last visited Jan 21, 2022).

cryptocurrencies with “a few exceptions”. Earlier this year, the Indian government took a hardline stance on cryptocurrencies, suggesting that it could impose an outright ban. Since then, the finance minister has shown his intention to regulate cryptocurrencies and classify them as digital assets. However, the description of the new legislation is very similar to last year’s legislation.

- However, investors should understand that this is only a suggestion. The bill will be introduced after it is submitted to Congress, and the final version could be completely different. Don’t be surprised if your current project is completely cancelled.
- There is serious confusion in the definition of a private cryptocurrency. The government has not classified them yet. “By a simple technical definition, most cryptocurrencies can be tracked or linked to a wallet address to make them public cryptocurrencies. There are also cryptocurrencies that offer anonymous transactions on the blockchain. These coins hide the user’s actual balance and wallet address, and sometimes even mix multiple transactions with each other to avoid chain analysis. It is called private cryptocurrency.”

“There are currently over 11,000 cryptocurrencies on the market. The classification of private cryptocurrencies is not yet clear. More than 99.9% of all cryptocurrencies are created by developers, companies or individuals, not by governments. So, they essentially owe everything to private cryptocurrencies. However, cryptocurrencies such as Bitcoin, Ethereum, etc. are not owned by any team or company. Therefore, it cannot be directly called a private cryptocurrency. However, the right to change Bitcoin or Ether rests with developers and miners. Neither Bitcoin nor Ethereum are fully public cryptocurrencies when one considers this aspect,” explained Edul Patel, Mudrex CEO and Co-Founder.

- The only problem here is when governments classify cryptocurrencies based on ownership. In this case, all cryptocurrencies not issued by the state are recognized as private cryptocurrencies. This means that Bitcoin, Ethereum, and other cryptocurrencies may also be banned.

“Bitcoin, Ethereum and other popular cryptocurrencies are not controlled or managed by private institutions, transactions are on a public ledger and are recognized as public cryptocurrencies in all major economies. However, on the other hand, there are currently many cryptocurrencies promoted by MLM companies, private companies in the country, and these kinds of cryptocurrencies have been subjected to several major scams in the past. So if the government wants to ban these private cryptocurrencies, this is a good move.”

- This bill confirms one thing. Cryptocurrency is probably not going to become a fiat currency in India. The original idea of cryptocurrencies was to provide an alternative to traditional fiat currencies. Cryptocurrency enthusiasts have always been talking about the openness of cryptocurrencies and believe that decentralized trading is the way forward. El Salvador has already accepted Bitcoin as its fiat currency. However, in an economy like India, Bitcoin or other cryptocurrencies cannot replace fiat currencies.
- The Reserve Bank of India is definitely introducing its own digital currency. RBI manager Shaktikanta Das is also very critical of cryptocurrencies. Just a few weeks ago, he emphasized that

cryptocurrencies pose a huge threat to any economy. In the past, the central bank (RBI) also expressed its intention to introduce digital currency. However, further details on this have not been reported yet. However, the 2021 Cryptocurrency and Official Digital Currency Regulation Act further underlines that RBI-backed digital currencies may soon be introduced.

- The proposed ban on private cryptocurrencies is also to promote RBI-backed cryptocurrencies. Some experts believe that cryptocurrency exchanges can only be allowed through platforms and exchanges officially recognized by the government. There may be new regulators or cryptocurrencies may be acquired by the Central Bank of India (RBI).

In the last 24 hours, several reports have been received stating that the government may not and intend to ban cryptocurrencies despite the introduction of the legislation. At this point, investors should keep their composure, wait for further clarification on the bill, and then decide what action to take for their investment.

### **XIX. RECOMMENDATIONS**

- There should be a legislative framework regulating crypto in India.
- The traditional monetary system is irreplaceable.
- Private cryptocurrencies, i.e., cryptocurrencies not issued by the central government, should be banned. The implementation of
- digital currency requires significant infrastructure.
- An ad hoc committee should be established to research, research and develop an appropriate digital currency system.

The committee also prepared a draft bill in 2018 entitled “Cryptocurrency and Crypto Assets (Banning, Controlling, and Regulating)” but the prison significance of the bill has not yet been addressed.

In April 2018, RBI issued a decree strictly prohibiting the use of cryptocurrencies on corporate exchanges or proposals by Indian economic institutions. This has had a surprising impact on the Indian crypto market. Regarding this round, a petition was submitted to the court through the Internet and Mobile Association of India. Internet and Mobile Association of India v. Petition changed to submission by Reserve Bank of India (2018) for violation of Article 19(1)(g)<sup>9</sup> of Indian Constitution. Trade, business or profession. In regard up to now of law, the Supreme Court divided human beings into 3 categories: -

- Individuals who purchase cryptocurrencies as a hobby cannot file this petition under section 19(1)(g).
- Anyone who trades crypto based on the crypto can still have a job, so he’s not even eligible for a given article.
- Persons whose sole transaction is a bank and those who have suffered losses as a result of this circulation may make a sole claim in accordance with its provisions.

<sup>9</sup> INDIAN CONST. art. 19, cl. 1(g).

The Supreme Court also ruled that the RBI had the right to issue this circular because it was issued to protect the public interest, the interests of depositors and banks. However, the Supreme Court ruled that the circular issued by the central bank did not meet the requirement of proportionality. This is because the order issued in the circular was an excessive exercise of the powers of the RBI. Therefore, the newsletter has been cancelled.

The committee, in its report titled “Report of the Committee to propose specific actions to be taken in relation to Virtual Currencies”, had proposed banning cryptocurrencies. The committee had noted with concern the mushrooming of cryptocurrencies almost invariably issued abroad and numerous people in India investing in them. The report had categorically said, “All these cryptocurrencies have been created by nonsovereigns and are in this sense entirely private enterprises and there is no underlying intrinsic value of these private cryptocurrencies due to which they lack all the attributes of a currency.” According to the panel’s report, cryptocurrencies cannot serve the purpose of a currency as private cryptocurrencies are incompatible with the essential functions of money/currency. The committee’s other key recommendation was that the government should remain open-minded towards an official digital currency.

He proposed that the Ministry of Economy form a group with the participation of representatives of RBI, MeitY and DFS to research and develop an appropriate digital currency model in India. The new legislation, which expires before the Winter Parliament and takes effect on November 29, 2021, removes the word “ban” from legislation introduced in 2019. Sabha Bulletin claims to “ban all private cryptocurrencies in India” and still offer “certain exceptions for promoting and using the underlying technology”.

## **XX. THE WAY AHEAD**

The proposed legislation could ideally help introduce uniformity of interest and reach consensus among various government agencies, as well as provide security, regulate unregulated markets and prevent misuse. However, at first glance, the legislation appears to be very restrictive as it aims to ban all private cryptocurrencies, including mining and trading. The bill also aims to promote an official digital currency to be issued by the central government and the RBI. In addition, the penalties provided for in the draft law appear too severe compared to similar white-collar crimes. However, the content of the bill has not yet been disclosed, so it could be significantly different from the provisions of the existing bill, which bans cryptocurrencies from 2019 and regulates official digital currencies.

The question now is whether the ban on all private venture capitalists and the existence of a single regulated “official digital currency” goes against the goals of venture capital in general, or is it justified given the potential for misuse and volatility.<sup>10</sup>

<sup>10</sup> Cryptocurrency Bill 2021: The Road Ahead - Technology - India, Mondaq.com (2022), <https://www.mondaq.com/india/fin-tech/1145012/cryptocurrency-bill-2021-the-road-ahead#:~:text=The%20Cryptocurrency%20and%20Regulation%20of,introduced%20to%20the%20Lok%20Sabha.&text=The%20Bill%20also%20seeks%20to,of%20cryptocurrency%20and%20its%20uses>. (last visited Jan 21, 2022).

The point is that, like all systems, there are inherent risks. Given the merits of venture capitalists, regulation rather than banning would be a better approach. Countries such as Canada regulate VC under money laundering laws and VC can be traded on public exchanges, and the income generated is taxed under income tax laws. VC is also used to provide goods and services. Japan also allows venture capital to be used as a payment system.

Trading volume on Crypto trading platforms in India is growing significantly. According to a recent report, WazirX, India's largest cryptocurrency exchange, has seen over \$43 billion in annual trading volume. With proper regulation, governments can tax the income they generate, which can be a win-win situation for both government and investors.

While there are serious concerns about the use of venture capital, regulation rather than ban may be a more viable option in India and the use of venture capitalists may be how India paves the way for the future.

