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GROWTH AND HISTORICAL PERSPECTIVES OF CRYPTOCURRENCY: LEGAL ASPECTS OF BITCOIN IN INDIA

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ABSTRACT

Due to The New Technological and Internet Technologies, Our Many offline Activities Are Shifted to Online Platform; And Due to Cheaper Availability of Mobile Data, And Mobile Devices It Enables Massive Growth of Online Customer's. In this developing technological scenario innovations are happening in all the sectors. One of the sectors which is heavily changed due to internet and communication technologies is financial sector, in the world of financial sector, A network based New Currency Called Crypto Currency is arise. Basically, Crypto Currency Is Intangible but Valuable Object and Exist in Online Systems. It Is New Virtual Money Which Is Become Most Popular in Recent Times. In this paper, which is the outcome of A descriptive research, Investigates What Is Crypto Currency and how Bitcoin comes into existence, What Is cryptocurrency's Working Pattern? and How People Can Own It. This Paper Also Investigates need behind Crypto Currency and what are Indian government's concern about cryptocurrencies and bitcoin. This paper also analyses recent Indian Government steps regarding Crypto Currency, and why government are seeking opportunities in own blockchain technology.

Keywords: Crypto-currencies, Bitcoin, VC (Virtual Currency), Blockchain Technology.

Introduction

This is the new era of digital technologies; this technological revolution brings changes in many sectors. one of the important sectors, in which digital technologies contribute most is financial sector. due to new innovative ideas, some complications of fiat currency, there is a new concept called cryptocurrency arise. Basically, in easy words cryptography is the art of writing or solving codes, and currency is a medium for any transaction in which persons can exchange their consideration in monetary term's. so, cryptocurrency is a new type of currency which uses a system of cryptography (also known as encryption) to verify transactions and to do exchange transactions.

In the same way that we deal with our trades in traditional printed currencies, we can also deal with it in crypto – currencies but There are some fundamental differences between crypto - currencies and traditional printed currencies that separate the two, such as - the central bank regulates traditional printed currencies, but cryptocurrency is not regulated by any institution. Price levels in traditional printed currencies are also determined on the basis of a centralized system, but due to the lack of centralization in cryptocurrency, its price volatility remains and the key difference between both Is that traditional printed currencies is tangible but cryptocurrency is virtual and online network base currency.

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Because cryptocurrency is a new concept in financial sector it is important to understand about it, in this paper we will investigates the working pattern and other features of cryptocurrency. We also discuss about bitcoin and its legal aspects in India.

Objectives of the Study

This paper analyses the following:

- What is crypto currencies?
- How crypto currencies work?
- History of bitcoin and the need behind bitcoin.
- What are the advantages and complications of bitcoins (crypto currencies)
- Bitcoin and India; Recent Indian government and RBI steps towards crypto currencies.
- legal aspects and regulation of cryptocurrency in India.
- Growth opportunities of cryptocurrencies in India.

Research Methodology

This research paper is based on secondary data referring to various sources such as journals, newspaper articles, websites and statutory reports.

What are Crypto – Currencies

Cryptocurrency is a currency that exists in a virtual online system, in which transactions are secured by cryptography and all transactions are recorded in a public ledger, whose verification is done by decrypting the cryptographic algorithms of respected transaction. The process of verifying the transaction done in a decentralized manner, where a person can verify the transaction by applying the respected cryptocurrency software on their C.P.U.

"Cryptocurrency is the completely decentralized payment system using a well-defined network (not only internet). It is a pool of technical concepts that form the basis of digital payment ecosystem. This pool of technology mainly includes cryptography, public key, private key, the blockchain, mathematical function. The cryptocurrency (like Bitcoin, Ethereum, Ripple, EOS, Litecoin etc.) used to transfer value among its users primarily via the internet, however other transference networks can also be used. The whole ecosystem of cryptocurrency is developed in the open-source environment. These open-source programs can be run and maintained on a wide variety of computer and mobile devices" (DrAfzalur Rahman, 2018)

"Cryptocurrencies are systems that allow for secure payments online which are denominated in terms of virtual "tokens," which are represented by ledger entries internal to the system. "Crypto" refers to the various encryption algorithms and cryptographic techniques that safeguard these entries, such as elliptical curve encryption, public-private key pairs, and hashing functions."(FRANKENFIELD, n.d.)

How Crypto – Currencies are Work

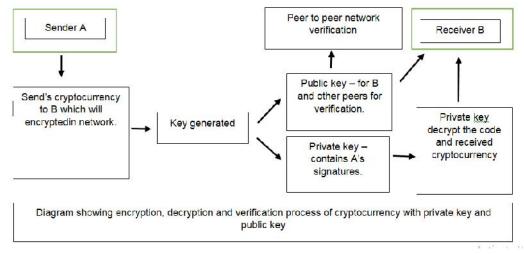
crypto – currencies are works on the peer-to-peer verification modus operandi technology, in this process anyone can participate and become a peer member of the system. In cryptocurrency, the data record of each transaction is connected to each other and combined in the form of blocks, these blocks are interconnected to each other, which we know by the name of block chains.

"Blockchains leverage techniques from a field of mathematics and computer science, known as cryptography, to sign every transaction (e.g., the transfer of assets from one person to another) with a unique digital signature belonging to the user who initiated the transaction. These signatures are held privately but are verifiable publicly. This means that if a user with identity A sends an asset to identity B, anybody can verify that the asset was sent by A, but cannot use A's signature for their own transactions. This cryptographic system creates accountability while preventing identity fraud: if you send assets or update information on a blockchain, you later cannot claim otherwise or shift the responsibility for the action." (aayog, 2020)

When a person is sends cryptocurrency to other person it will encrypt in network and create a public key and a private key, basically generated public key is for receiver and for peer-to-peer verification in public ledger and private key contains digital signature of sender, on the other hand receivers private key decrypt the cryptocurrency and finally received it.

In this transaction which is record in public ledger any peer member of cryptocurrency network can verify it by using respected public key of transaction.

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Historical Perspective of Bitcoin and the Need behind Bitcoin

in 2008, a man named satoshi nakamoto posted a research paper "Bitcoin: A Peer-to-Peer Electronic Cash System" describing his design for a new digital currency that he called bitcoin.

Bitcoin came to life when Nakamoto published his famous white paper on a cryptography mailing list describing a digital currency that would allow secure, peer-to-peer transactions without the involvement of any middleman, whether that be the government, financial system or a company. These transactions would be tracked through a blockchain, a ledger like those used by any financial institution, except that this ledger would be distributed across an entire network, with exact duplicates held by all participants and visible to all, secured by cryptographic means. There would never be more than 21 million Bitcoin.

"Nakamoto created his cryptocurrency with the goal of wresting control of currency from financial elites and putting it in the hands of the common man. The first Bitcoin transaction occurred when Nakamoto sent 10 Bitcoins to Hal Finney, a well-known developer who had downloaded the Bitcoin software on its release date. The first commercial transaction came in 2010, when a programmer named Laszlo Hanyecz bought himself two Papa John's pizzas for 10,000 Bitcoin." (BALDRIDGE, 2021)

Bitcoin is a type of cryptocurrency that is not tied to a bank or government it is a decentralised currency that allows user to spend money anonymously. There are also some other cryptocurrency's like – Ethereum, ripple, Litecoin, monero, neo etc.

No single institution controls the bitcoin network, it is like an online version of cash. You can use it to buy products and services, but India bitcoin accepted shops are rare. Some other benefits of crypto - currencies are like – they are executed in low cost, privacy maintenance, removal of mediator expenses etc.

Need behind Bitcoin

Traditional printed currencies are mainly transacted through the bank, as a result of which the cost of doing the transaction increases and at times there is a difference in the functioning of the different banking system, which affects our transactions. When we transact in traditional currencies, we have to give more information to the bank, which at times raises a question mark about the safety of the customers. To overcome all these problems, a cryptocurrency like bitcoin was needed, in which the transaction costs were reduced due to non-intermediaries, due to the technology of cryptography transactions were secured. Information given to do transactions are also keep secret, and due to peer-to-peer verification, the chances of fraud were reduced. Due to decentralization in Bitcoin, the procedure is also similar between those who transact in it, as a result, it became easier to transact in it.

Working Pattern of Bitcoin

like other crypto – currencies, bitcoin records all transactions in a public ledger. all the transaction between any partyis encrypted in nature and in the process of decryption (by peer-to-peer verification on network), it is verifying in public ledger. Public ledgers are forms blocks and blocks are connection in a sequence which is called blockchain.

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"The blocks of recorded data build upon each other to form the blockchain which dates all the way back to the first Bitcoin transaction. The transparency established by the blockchain is essential in securing the validation process as it allows the community to monitor and self-police transaction activity. It also allows for verification of both the spender and the recipient and ensures that double-spending a Bitcoin is impossible

When one creates a Bitcoin wallet to store Bitcoin, the person will receive a public key and a private key. Public keys and private keys are a set of long numbers and letters; they are like his/her username and password. People need their public key of if they want to send money to the them. Because it is just a set of numbers and digits, nobody needs to know their name or email address etc. This makes Bitcoin's users anonymous. But the private key is not disclosed. On the blockchain, private key is one's identity. Private key is used to access the Bitcoin. If someone sees it, they can steal all the Bitcoins in the account or wallet."(P, 2019)

- **Bitcoin Wallet** bitcoin wallet is like a digital purse in which person can store, receive and send bitcoins. It is a must to have a wallet in order to transact in cryptocurrency.
- **Bitcoin Public Ledger** all confirmed transactions from the start of bitcoin's creation are stored in a public ledger. The complete records of transaction are kept in the block chain's, which is a sequence of records called blocks. These sequences of blocks called blockchains.

The bitcoin blockchain size was 614 MB in size in 2012. But now, the bitcoin blockchain size has grown tremendously to 250K MB. That's approximately 250 GB of data that each peer/node carries with them.

In the last two years, the bitcoin blockchain ledger size has grown from 150 GB to 250 GB. That's almost 50 GB per year. By 2030, we can see the blockchain ledger size cross more than 1 TB easily.(Blockchains, 2019)

Mining – mining is process in which miners (who do the work of mining) install central processing units to let perform the bitcoin software to solve mathematical operation's for verifying transactions in public ledger, in this whole process miners are rewarded some bitcoins. so, in technical terms bitcoin mining is a process to mine bitcoin by solving mathematical operation's for verifying public ledgers transaction.

"Mining is a distributed consensus system that is used to confirm pending transactions by including them in the block chain. It enforces a chronological order in the block chain, protects the neutrality of the network, and allows different computers to agree on the state of the system. To be confirmed, transactions must be packed in a block that fits very strict cryptographic rules that will be verified by the network. These rules prevent previous blocks from being modified because doing so would invalidate all the subsequent blocks" (bitcoin.org, n.d.)

How People can get Bitcoin's

there are some ways anyone can get bitcoin's:

- by using real money (as on 31 October 2021 1 bitcoin = 45,40,085.69INR.)
- you can get bitcoins by mining.
- you can sell product's and receive bitcoins as a consideration.
- there are some online games which providing bitcoin as a payment option. (e.g., Pearl of the Orient. Street Magic)

Advantages of Bitcoin (Cryptocurrency)

- **No mediator cost** in bitcoins there in not any bank or authority involved in transaction, that's why the mediator cost is absence in bitcoins transaction.
- **Decentralisation** bitcoin is operating in decentralised network that's why it is not associated with any rules and circulars of central authority.
- **Transparency** bitcoin transaction is transparent and any one can see it in public ledgers. Bitcoin ledgers contains record from the first bitcoin transaction to latest transactions.
- **Security** all transactions in bitcoins are secured by cryptographic method with security keys thus they are more secure. Due to its security features double spending is impossible.
- **Speed** Where the bank takes 2-3 days to clear the international transaction, the same work is done in faster time as compare to banks through bitcoins.

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Peer to peer verification – in bitcoins transaction there are Peer to peer verification process. In this method there is not any master server exists so there is not any risk of shutdown associated with master server failure.

Complication of Bitcoin (Cryptocurrency)

- Not very easy to use for everyone like transaction in cash or by banks there are manual procedure for layman, but for doing transaction in bitcoin it requires some basic knowledge about computer and bitcoin wallet so for the people who is not computer friendly, it is difficult for them to uses bitcoin or other cryptocurrency.
- **Decentralised** due to decentralised system where, there is not any regulatory body is in system, caused some illegal activities and huge price variations in currency.
- **Can use for illegal activities** when we do transaction by bank it keeps our information and identifying documents but in bitcoins or other cryptocurrencies network there is not any personal of identifying documents are available there that's why it can cause frauds. For example, when cyber attackers are call for ransom, they ask money in cryptocurrency because there is not any personal evidence is visible of them.
- **Irreversibility** If any bitcoin transaction is done it can't be reversible, means like tradition system in which transaction can reverse from receiver to sender in bitcoins it is not possible because bitcoins are irreversible.
- **Energy consuming** the process of bitcoin mining requires heavy CPU's which n performs verification process of transactions by solving mathematical calculation, this process consumes huge electricity power.

Bitcoin and India; Recent Indian Government and RBI Steps towards Crypto – Currencies

in India, RBI is the apex body who regulates the monetary system. Indian banking system is a centralised system where RBI decides the various norms about currency and monetary policies.

Cryptocurrencies (also bitcoin) which become popular in last decade, became a concern for RBI. RBI have some concerns about bitcoins and other cryptocurrencies, because of their decentralised process, no regulatory authorization, price volatility and possible usage of illegal activities and tax evasion. RBI assumes cryptocurrencies as a threat for financial stability.

In India in early 2012 some small-scale bitcoin transactions were taking place in country but there is only crypto hobbyist were interested in these transactions.

Due to the concerns about cryptocurrencies RBI issue a circular on 24 December 2013, which cautioned the customers, it states Virtual currencies are not backed by a central bank, their value isn't underpinned by an asset and thus a matter of speculation, RBI is in the process of reviewing the proposed regulatory structure for cryptocurrencies in India and will give further directions based on their review.

In November 2016 when prime minister Shri Narendra Modi demonetizes 500 Rs. And 1000 Rs. Notes. People who were having huge amount of money, search's any alternate source to hold their money without incurring significant tax burdens, it became a common practice to buy bitcoins and other crypto - currencies and later sell them at future date. This demonetization process also shows the loopholes of mainstream financial system.

"It's thus safe to assume that the crypto boom that followed 2016's demonetisation was an unintended consequence of that particular experiment. The emphasis on digital payments led to a search for alternatives to traditional online banking and drove tech-savvy customers to cryptocurrency exchanges." (The Economic Times, 2021)

In 2017 RBI and finance ministry release a circular for general public related to threats and complications about cryptocurrency. Finance ministry compares it with ponzi scheme.

In November 2017, government forms a committee to study the issues regarding cryptocurrencies and research for proposed action.

In 2018's union budget statement, finance minister shri arun Jaitley said that cryptocurrency is not a legal tender in India, and the government will take steps towards eliminate the usage of cryptocurrency in financial and from payment system. although he said that government will explore his underlying blockchain technology.

"In all over the world, As of March 182018, there are 1564 Cryptocurrencies available & traded in about 9422 exchanges. The market capitalization of all the cryptocurrencies is \$275,797,435,861 i.e., \$275 Billions. & 24-hour volume was \$18,207,953,654 i.e., \$18 Billions.

The Bitcoin has maximum dominance in the cryptocurrency market with around 45% of market share & market capitalization of \$142.2 Billion (Rs 9.25 Trillion). Its market price is \$ 8254.8 i.e., Rs 5,35,767"(jani, april; 2018)

On 6 April 2018, RBI issue a circular in which the RBI prohibited commercial and cooperative banks, payment institutions, small financial institutions, NBFCs and payment system providers from not only trading with virtual currencies themselves but also ordering them to avoid offering services to all organizations dealing with virtual currencies.

Due to this, "Crypto exchanges, unable to access banking services in India, find their businesses crippled overnight. Trading volumes fall by 99% and by August 2018 about 95% of jobs vanish."(THE ECONOMIC TIMES, 2021)

RBI said that this is an appropriate action for ring fencing the financial system. Against this circular of RBI some exchanges filled writ petition in honourable supreme court.

In July 2019, the committee which was setup earlier in November 2017 recommended ban on private cryptocurrencies in India by submitting their report.

"On 4 March 2020, the Supreme Court lifted the ban imposed on 6 April 2018 by the RBI in the case entitled "Internet and Mobile Association of India (IAMAI) Vs Reserve Bank of India which prohibited its regulated entities, such as banks, from trading in or facilitating banking transactions in virtual currency (VC). Subsequently, the RBI published IAMAI 's circular request, shareholders/founders of crypto-asset trading platforms, and real crypto-asset traders who were the petitioners submitted before the SC. A three-judge Bench of the Supreme Court of India drafted a Reserve Bank of India curricular,2018 which sought to prohibit banks and institutions from trading in 'virtual currencies' - often referred to as cryptocurrencies, such as Bitcoin - and to provide services to those engaged in trading in such currencies. The court order comes seven months after an inter-ministerial committee has proposed banning cryptocurrencies, recommending instead to introduce an official digital currency in the region." (basant, 2020)

In 2021 government is introduce a bill "The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021", in this bill ban of private cryptocurrency and a new official currency launch is proposed, and government will also form a committee got research and study about cryptocurrency.

Legal Aspects and Regulation

cryptocurrencies are not accepted as a currency by RBI, and there is not any specific law or act has been introduced regarding cryptocurrency in India.

Due to the lack of clear legal provisions regarding cryptocurrency, the cryptocurrency is currently being regulated through various provisions of the applicable laws.

"VCs can fall under the definition of a 'computer programme', which has been defined under the Indian Copyright Act, 1957, as 'a set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result.' Further, VCs can arguably be classified as 'Goods' of intangible nature (akin to a computer programme or software) under Sale of Goods Act, 1930. Being classified as 'Goods' may also give rise to certain direct and indirect tax related implications, such as applicability of sales tax on transfer of VCs, applicability of services tax (if mining of VCs is viewed as an act of providing service) and applicability of income tax on income arising on sale of VCs. However, the taxability of VCs still remains a grey area, rendering the regulatory environment governing VCs even more uncertain.

From the perspective of foreign exchange control laws, purchase of VCs by an Indian resident, can be viewed as import of a software/computer programme into India, requiring compliance with applicable foreign exchange control laws including RBI's Master Direction on import of goods and services into India, with respect to imports being made in non-physical form.

RBI also regulates 'payment systems' and 'prepaid instruments', which require prior authorization of RBI and compliance with the regulations/directions issued by RBI in relation thereto. However, given that VCs are not recognized payment systems that enables settlement of payments between the payer and beneficiary, and in view of the continuous fluctuation in the value of VCs, VCs are unlikely to be classified as either a payment system or a pre-paid instrument.

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Use and trading of VCs, may however, raise privacy concerns, including of protection of information/sensitive personal data and information of every individual dealing with such VCs requiring the use of VCs, to adhere to the rules and regulation prescribed under the data protection laws of India, primarily the Information Technology Act, 2000 read with the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011". (Seema Jhingan, 2017)

"In India, the use of cryptocurrency is a violation of foreign-exchange rules and the income tax department has sent tax notices to thousands of people dealing in cryptocurrency after a nationwide survey showed more than \$3.5 billion worth of transactions have been conducted over a 17-month period." (mathur, 2018)

"The entry of 36 and 46 of 7th schedule of the Constitution of India empower the Central Government to legislate Indian currency including foreign exchange legal tender etc. Therefore, following laws need to be checked before deciding the status of cryptocurrency.

- The Foreign Exchange Management Act, 1999 ("FEMA")
- The Reserve Bank of India Act, 1934 ("RBI Act")
- The Coinage Act, 1906 ("Coinage Act")
- Indian Contract Act, 1872
- The Payment and Settlement Systems Act, 2007 and
- The Securities Contracts (Regulation) Act, 1956 ("SCRA")
- The Sale of Goods Act, 1930." (DrAfzalur Rahman, 2018)

Growth Opportunities of Cryptocurrencies in India

The Government of India has recently talked about banning private cryptocurrency in its new bill 'The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021', if this bill is implemented then all private cryptocurrency including bitcoin will be banned in India. In the said bill, the Indian government has talked about developing its own cryptocurrency. If India develops its own system based on blockchain, then India will have many benefits, for example transactions will become more secure, since India has its own control over its own cryptocurrency, there will be no more volatility in the value of cryptocurrency. India will implement its own laws on its own cryptocurrency, which will have clear legal provisions for misuse of the working of cryptocurrency. Since the cryptocurrency is implemented through blockchains, the process of its verification will also become transparent.

But India will also face some challenges in relation to cryptocurrency such as how illegal transactions will be identified, because in other cryptocurrencies like bitcoin, this information remains very confidential.

Currently, the number of transactions done through cryptocurrency is increasing, and it is increasing in popularity in India too, so we can say that in a better legal environment and regulation, cryptocurrency will bring many benefits to India. Some examples of benefits are as follows - A new business environment will be created for Indian entrepreneurs by dealing with cryptocurrency, engineers of India will get an opportunity to work on new technology which will create new jobs, new way to pay customers. The method will be found, the intermediary cost will be less, which will make the transaction transactions relatively cheap.

Conclusion

The implementation process of cryptocurrency is yet to be examine. The government need to make proper working design of its own blockchain technology, because of increasing popularity of crypto - currencies and its positive favour in some countries like U.S.A., Canada, Australia, Britain.India needs to think about it and for this government of India need to formulate regulations about it. The main concerns about cryptocurrencies like – lack of regulation, irreversibility, price volatility, tax evasion and use of illegal activity need more study and researches. The future is based on how we dealing present situation so for in my opinion with limited study material I have while writing this research paper, is government need to promote digital literacy tolayman about cryptocurrency. India is a developing nation and with 135 crore (approx.) people's population need a strong framework of exchange system as they can do their transaction securely. If government can successfully create the own cryptocurrency system, it will become a great achievement and helps in India's growing GDP because cryptocurrency is attracting FDI, increases job opportunity, provides immunity from theft.

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