

Bitcoins in India: A Study of Legal and Economic Aspects

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Abstract: Bitcoin is a decentralized virtual cryptocurrency which provide a solution to the double spending problem without involving any trusted third-party intermediary. The rising craze for bitcoin has come under the government's lens. Bitcoin can be an easy way to evade tax or snare unsuspecting small investors in ponzi schemes. The government has begun a crackdown on illegal uses of this unregulated virtual currency. The present paper aims to study the legal and economic aspects related to Bitcoins in India using secondary data for the study. The problem with bitcoins is that not all the countries have legalized its use. For consumers, some countries like Australia, Canada, Finland and Germany have legalized its use and have made it clear to apply normal earned income rules on Bitcoin, while many countries have yet not made a clear statement with the legalization and use of bitcoin. ountries like China, Japan etc. have adopted a restrictive approach .On the hand Thailand has made the use of bitcoins illegal. The non-uniformity in the legalization of bitcoin in different countries is a major issue. In india the finance minister during his budget speech on February 01, 2018 has cleared that the cryptocurrencies are not recognized as legal tender in India. Moreover the various government has issued tax notices to the investors of the cryptocurrencies and has also warned its people to be aware while investments in digital currencies.

Keywords: Bitcoins, Cryptocurrency, Legal

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I. Introduction

Bitcoin is a decentralized virtual cryptocurrency, launched in 2009 by an unidentified person known as Satoshi Nakamoto. It does not rely on any central services for managing the creation or flow of money. It relies on cryptographic algorithms in order to prevent abuse of the system. It is abbreviated as BTC and is powered by a peer-to-peer network in the public domain both in terms of issuing and valuation.

Bitcoins provide a solution to the double spending problem without involving any trusted third-party intermediary. It does this by distributing the transaction information among all the users on the network. Every transaction in a bitcoin economy is contained in a block which also contains the information about the previous block, forming a block chain. This block chain is available over the bitcoin network for users to verify that whether the bitcoin being transacted has been previously spent or not. The thousands of users present over the network act as the intermediary and each user of bitcoin owns a set of private and public key. Generally used terms related to bitcoins are Address, Transactions, Block, Wallet, Miner and Block-chain etc. ("Effect of Bitcoin," 2017)

The rising craze for bitcoin has come under the government's lens. Bitcoin can be an easy way to evade tax or snare unsuspecting small investors in ponzi schemes. The government has begun a crackdown on illegal uses of this unregulated virtual currency. There is a suspicion that some so-called cryptocurrencies and bitcoin investments may actually have nothing to do with any blockchain-developed virtual currency and are just new ways devised by scamsters to ride the wave and what they may be offering could be 'e-ponzi' schemes ("Here's Why India," 2017).

II. Objectives Of The Paper

This research paper has the following objectives:

1. To study the legal and economic aspects related to Bitcoins in India.
2. To know about the legal position of Bitcoins in various countries.

III. Research Methodology

The main objective of the study is to know about the working of bitcoins and various provisions related to the bitcoin in India and other countries. The secondary data has been used for the present paper.

How to Invest in Bitcoins

In India, you can purchase Bitcoin from Zebpay exchange. Zebpay has Android and iPhone app which lets you link your bank account for quick transfers. You can buy bitcoins by making a payment to Zebpay's bank account. You can also withdraw the money to your bank account, and track data on Bitcoin valuation in the country. Sandeep Goenka, CEO of Zebpay, one of the largest bitcoin exchanges in the country had said, "Indians are enquiring about bitcoins as an alternative and safe investment option. They are downloading Zebpay as they want to experiment with digital currencies. There has been a 50% increase in Zebpay downloads (Dhar, 2017)."

Officials at Zebpay, India's leading bitcoin exchange said the industry was adding near 200,000 users every month with an estimated trade volume of about 20 billion Indian rupees (\$315 million). Aman Kalra, marketing head of Coinsecure, a bitcoin exchange in New Delhi, said more than 150 bitcoins were changing hands every week through its platform. The company has 100,000 registered users and is now launching a platform to sell ethereum and other digital currencies ("Government Sends Tax," 2018).

Economic Impact of Bitcoins

Alternative currencies such as Bitcoin or the ones backed by Gold have one feature that is particularly charming in the post-QE world – the promise of finite supply and nil dependence on central planners. Such currencies are supposed to be a free-market counter to 'deep state' monetary interference.

But the concept of a finite monetary supply system deserves a deeper review. While the merits are relatively well-known, it is time we look closer at some demerits of such a fixed supply system. Many such demerits are well-documented but not widely-appreciated. There is no fiat currency and central bankers are jobless. No authority in the world can create currency out of thin air and indirectly devalue/deflate the hard-earned currency stashed in our wallet (Sethi, 2017).

On November 8, the day Prime Minister Narendra Modi announced that Rs 500 and Rs 1,000 banknotes would cease to be legal tender; bitcoin was priced at about Rs 52,000 on Unocoin and Zebpay. The surge in interest for the e-currency came as it evolved as an alternative and safe investment option. Google search data show that Indians' search for the keyword "Bitcoin" was at its peak soon after note ban. But increasing demand has also raised security concerns. Experts say there was a rush following the cash crackdown announcement as many traders exchanged their black money against bitcoins. The demand of the largest and oldest among crypto currencies is high as it is untraceable by security agencies and does not require physical storage that can be raided by authorities (Narayan, 2017).

The government has sent tax notices to tens of 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. The government has issued repeated warnings against digital currency investments, saying these were like "Ponzi schemes" that offer unusually high returns to early investors. But it has not so far imposed curbs on an industry estimated to be adding 200,000 users in India every month ("Government Sends Tax", 2018).

Position of Bitcoins in Various Countries

Countries like Australia, United States, Canada etc. have legalized bitcoins operations within their territories. While countries like China, Japan etc. have adopted a restrictive approach. China has restricted only financial institutions from dealing directly in bitcoins without making it illegal (Jhala, 2014).

Chinese citizens are still investing in Bitcoin and the cryptocurrency market despite the government's heavy crackdown. In September 2017, Chinese cryptocurrency exchanges BTCC China, Huobi and OKCoin were ordered by the government to shut down their businesses. At one point, executives of the three cryptocurrency exchanges were prevented from leaving the country, due to a government investigation into local cryptocurrency exchanges.

In Hong Kong, it is relatively easy for investors to set up businesses. With less than \$1,000, businesses can be legally created, which allows the opening of business bank accounts at Hong Kong-based financial institutions. Beginning in December 2017, many Chinese investors moved their funds from their Chinese bank accounts to Hong Kong bank accounts and started to trade cryptocurrencies more actively, effectively bypassing China's restrictions (Young, 2018).

In November 2013, the United States Senate held a committee meeting to discuss virtual currencies. It was stated that bitcoin is a legal means of exchange and that online payment systems, both centralized and decentralized, offer legitimate financial services. Further, the Internal Revenue Service made its position clear on bitcoin in March 2014 stating that it will consider bitcoin a form of "property" rather than a currency. Thus, every bitcoin transaction would be considered as capital gain and accordingly taxed (Narayan, 2017). While cryptocurrencies have been a talking point at previous World Economic Forum conferences, they have come to the fore in Davos this year. Following a breakout year which saw Bitcoin rise to an almighty high of \$20,000, alongside the massive growth of other altcoins, it's hardly surprising that one of the major talking points at WEF

would be the future of cryptocurrency. UBS Chairman Axel Weber said as much in an interview with Bloomberg, saying his firm would not recommend cryptocurrency adoption or investment to its clients until there is clarity on future regulatory action. Renowned American investor Bill Gross suggested that the rise of bitcoin and cryptocurrency has signaled a move away from centralized institutions governing and controlling money. People seem to be putting their trust in technology over government-run establishments (Jankinson, 2018).

Joseph Stiglitz, well-known economist, is bragging to the Davos crowd that Bitcoin is used for "secret use cases" & that fiat currency is superior. My theory is that this type of fear-mongering actually drives more adoption of Bitcoin & cryptocurrencies (Jankinson, 2018).

Bitcoin's rise may reflect, for better or worse, a monumental transfer of social trust: away from human institutions backed by government and to systems reliant on well-tested computer code. (<https://www.nytimes.com/2017/12/18/opinion/bitcoin-boom-technology-trust.html>.)

As the 68th US Secretary of State John Kerry told Cointelegraph earlier this week at the summit, the sheer value of capital that has been poured into the overall cryptocurrency market has made it impossible to ignore.

Legal Position of Bitcoins in India

The main problem with determining the legal status of how bitcoins should be handled is whether they are a currency, security, commodity, or something completely different. While bitcoins are commonly referred to as a "currency" as they have many common characteristics of one, the legal definition requires a currency to be issued, used and accepted by a country, which is not the case with bitcoin. Another problem with bitcoins is that not all the countries have legalized its use. For consumers, some countries like Australia, Canada, Finland and Germany have legalized its use and have made it clear to apply normal earned income rules on Bitcoin, while many countries have yet not made a clear statement with the legalization and use of bitcoin. On the hand Thailand has made the use of bitcoins illegal. The non-uniformity in the legalization of bitcoin in different countries is a major issue ("Effect of Bitcoin", 2017).

In March, RBI Deputy Governor R Gandhi warned against crypto-currencies such as Bitcoin. "They pose potential financial, legal, customer protection and security-related risks," Gandhi said. "Payments by such currencies are on a peer-to-peer basis and there is no established framework for recourse to customer problems, disputes, etc. Legal status is definitely not there," he added (Dhar, 2017).

As mentioned above, bitcoins are not authorized as yet but there is scope for them to be legalized under different legislations. As per the Foreign Exchange Management Act, 1999, currency is defined as "all currency notes, postal notes, postal orders, money orders, cheques, drafts, travelers cheques, letters of credit, bills of exchange and promissory notes, credit cards or *such other similar instruments*, as may be notified by the Reserve Bank." *According to the definition, RBI has the power to include bitcoins within the definition of currency.* Currency other than "Indian currency" is termed as "foreign currency", and regulated by foreign exchange laws. Most likely bitcoins can be governed by foreign exchange laws. Further, Bitcoins can also be included within the definition of "security" which states that "such other instruments as may be declared by the Central Government to be securities". Further, the Indian Copyright Act, 1957, defines the term "computer programme" 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". Having gone through the various definitions, it can be concluded that there is enough scope for legalizing bitcoins. One has to wait and watch as to which approach the Indian government takes (Jhala, 2014).

In the Union Budget 2018, Finance Minister Arun Jaitley reiterated that the cryptocurrencies are not recognised as legal tender. During his budget speech, the Finance 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. However, Jaitley also added that the government would try and explore the blockchain technology, which drives bitcoin and other crypto-currencies. The recognition of blockchain technology for future use in the digital economy has received positive reactions from the industry. Though the budget does not specifically talk about how blockchain will be explored, it should be noted that in digital economy the major use for this has been around crypto-currencies like Bitcoins ("Budget 2018", 2018).¹⁰

IV. Conclusion

Every new currency has to face an uphill battle legally and technically. Though the bitcoin is a huge step towards decentralized digital currency but it is not a fiat currency. Any currency in the world has government or its institutions' backing which the bitcoins lacks. The value of bitcoins is highly volatile in nature as it has decreased from \$20000 approximately to \$ 6000 (The Guardian). The new head of the Bank for International Settlements, Agustín Carstens, also said bitcoin threatened to undermine public trust in central banks and posed a threat to financial stability, and he signalled a global clampdown. In india the finance

minister during his budget speech on February 01, 2018 has cleared that the cryptocurrencies are not recognized as legal tender in India. Moreover the various government has issued tax notices to the investors of the cryptocurrencies and has also warned its people to be aware while investments in digital currencies. Thus the bitcoins are not legal tender in India.

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