LEGAL ASPECTS OF CRYPTOCURRENCY: IN THE INDIAN ECONOMY V AMERICAN ECONOMY

Vridhi Singh*

ABSTRACT

Cryptocurrencies have ushered in a new era of global financial politics, opening up new avenues and creating problems for all the nations of this world. The different legal aspects of cryptocurrencies are explored under the contrasting Indian and US Economies. Although India has adopted a cautious approach by shaping regulatory ambiguity, restrictive policy and a focus on risk reduction (fraud, money laundering and financial instability), the lack of explicit regulation leads to the perception of insecurity. On the other hand, with Fragmented regulation and a balance of technologies and consumer protections, the US inspires innovation but cannot guarantee it, as the same regulatory oversight is not present. The study, takes a deep dive into the legal framework working behind the cryptocurrency has taken, regulatory authority and taxation policies of this cryptocurrency in both countries. The socio-economic implications of digital currencies are examined, in particular the effects on financial inclusion, innovation and monetary policy. Also, a comparative analysis emphasizes the differences between the public perception, adoption and economic priorities of the two countries. The article also identifies regulatory gaps critical to closing and offers policy recommendations specific to each nation's unique economic and legal context. Finally, the analysis concludes that cryptocurrencies must be harnessed in a clear, conducive and globally consistent legal environment to mitigate risks whilst maximizing benefits. The future of any cryptocurrencies will be determined by how countries such as India and the United States manage to manoeuvre through a complex intersection of innovation, the need for regulation and economic stability. Finally, the article recommends a policy that seeks a balance between the potential of cryptocurrency in these economies and urges policy outcomes that lead towards the future potential of cryptocurrency technology.

*BA LLB, FIRST YEAR, NAWADA VIDHI MAHAVIDYALAYA, MAGADH UNIVERSITY, GAYA.

INTRODUCTION

The global financial and digital transaction system has been revolutionized by cryptocurrencies with its decentralizing flying and visa-free digital transactions. However, cryptocurrency has become one of the most revolutionary technological and financial innovations of the 21st century. Cryptocurrencies (Bitcoin, and Ethereum, just to name a couple) make use of decentralized blockchain technology and challenge traditional currency, financial regulation, and economic powers. This has been characterized as a new form of currency which governments worldwide have struggled to adapt to the legal complexities of, and consequently, there have been diverse approaches in regulation and adoption.

Two major economic players of the world – India and the United States – offer radically different standpoints towards the legal frame of reference for cryptocurrency. While India has often taken a cautious, if not restrictive, route, the US is going the way of establishing innovations, although with a growing emphasis on regulatory oversight. In this article, the legal aspects of cryptocurrency in Indian and American economies are studied and regulatory approaches, their challenges and implications are analyzed for their respective financial ecosystem.

UNDERSTANDING CRYPTOCURRENCY

First of all, we know that money equals value. If I buy a car, I will pay money to the company and I pay because I got something valuable in return, that is a car. By using this car, I can travel from point A to point B faster and more comfortably. We give money to anyone in the world only when we get something valuable in return, but about 8000 years ago, there was nothing like money.

In the olden days, if person A had 5 extra bananas and person B had extra apples, then person A would give 5 bananas to person B and in return for its value, person B would give 5 apples to person A. So, in this case, instead of money, there was a transaction of objects. This system is called the barter system, but this barter system has a huge drawback. Let us once again assume that for the transaction person A has a cat and person B has a donkey. Now person A will accept the donkey in exchange for the cat because the donkey can be used to carry goods but what will person B do with the cat after giving his donkey? So, in such a situation the barter system fails because there is an exchange of value but there is no fair and equal exchange. To make something valuable, people had to believe that this thing is valuable and will remain valuable for a long time in the future. So, leaving the barter system, people started trading in precious metals like gold and silver. Now if someone wants a donkey to carry goods, he can buy the donkey by paying 10 gold coins and if someone wants a cat, he can buy the cat by paying 2 gold coins. As people started trading in the gold standard, fair trade started taking place but there was fraud in the mining and circulation of gold moreover carrying gold was also comparatively very difficult, so the government suggested to the people that they could deposit their gold with the government and in return the government will give you a receipt and that receipt will be acceptable for trading all across the country. It will be easy to carry and there will be no hassle. Apart from this, at one point in time, the government realized that as the population increased, more currency would have to be printed, but there was very limited gold in the country, as a result, the government abolished the gold standard and said that people will have to trust the government and now the currency will run in the market only based on the promises of the government. This is the reason why yours, mine and every currency note circulating in India has the signature of the RBI governor and just above it is written that I promise to pay XYZ rupees to the bearer, in short, this currency note has been given to me by the RBI governor under his responsibility and promise and in India if I give this currency note as money in exchange for some valuable item then the other person will have to accept it, but as the technology developed, people moved away from physical currency and started adopting digital currency, i.e. started making payments through mobile using Paytm and Google Pay. Before understanding cryptocurrency, we need to understand what happens when we make online payments.

Suppose I went out shopping and I liked a pair of shoes at this person X's shop. Now since this person X is giving me value in the form of these shoes, I will also have to pay money from my pocket to this person X in place of value. Suppose ₹4000, now I will open Google Pay on my smartphone, scan its QR code, enter the secret credentials and then there will be a processing gap of 1 to 2 seconds before the final payment is made. You will easily notice that it is written here that 'Payment processing by partner bank' but the question arises what is the exact meaning of this line? As soon as I tried to pay ₹4000 to person X, during processing this request went to my bank, further this bank will check whether I have ₹4000 in my account to make the payment or not, if there is a proper balance then the transaction will be successful and this bank will note in its ledger that now I have ₹4000 less in my account and person X has ₹4000 more. This ledger is nothing but a sheet stored in the bank's computer in which the transaction data of the bank's customers is noted. This is the biggest difference between the world of physical currency and digital currency. If you have a currency note, you can touch it, feel it, smell it, and use it for cleaning, but when you make a digital payment, you realize that technically it is nothing but money and just an entry in this ledger. When I paid this person X Rs4000 on Google Pay, I trusted the authority maintaining this ledger, that is, I had full faith in this bank that this bank will deduct only Rs4000 from my account and will not be less than that. Similarly, person X also has full faith in the bank that this bank will add only 4000 rupees to his account, but work cannot be done only on trust so that this bank cannot cheat people, that is why there is a central bank to control these banks which is called Reserve Bank of India or RBI and this RBI is controlled by the Ministry of Finance of the Government of India. In short, our current financial system is centralized i.e. we have given 100% control of our money to these central officials, as a result of which we have given so much power to these central officials that if they want, they can stop 500 and 1000 rupee notes in a moment, they can print unlimited currency and create inflation in the market. Actually, due to the mismanagement of these central offices, such a situation can arise that the common man who deposits his hard-earned money in these banks with full faith is not able to withdraw his own money from these banks when needed. To save the general public from this problem of centralization, Satoshi Nakamoto published a paper in 2008. The title of that paper was Bitcoin a Peer-to-Peer Electronic Cash System. Satoshi Nakamoto did not reveal his identity. No one in the world knows who this Satoshi Nakamoto is. It could be an individual computer programmer or it could be a group of programmers. In this paper, Satoshi Nakamoto explained in detail how we can eventually completely remove these central authorities using cryptocurrency. And by decentralizing our financial system, we can give people direct control over their own money. For those who are still getting confused between Bitcoin and cryptocurrency, let me tell you that there are currently more than 10,000 cryptocurrencies in circulation in the market, but first, we will understand the science of Bitcoin. Bitcoin is a type of cryptocurrency which is the most famous and oldest cryptocurrency in the world. Similarly, Ethereum is also a type of cryptocurrency, Dogecoin, Binance, Tether and this list goes on. To understand how Bitcoin works, let us once again come back to our shoes example. Currently, the value of Bitcoin is US$97,342.85 or more than 75,00,000 in rupee, but let us assume for a moment that the value of one Bitcoin is equal to these shoes i.e. Rs4000. This person gave me shoes and in return, I will transfer one Bitcoin from my mobile to his mobile. Now this transaction made for shoes has to be noted in some ledger. In the zeal of making our financial system decentralized, we removed the central authority i.e. this bank from the middle but still the biggest question is who will create this ledger? So, Satoshi Nakamoto published a paper on Bitcoin in 2008. The title of that paper was

Peer to Peer Electronic Cash System. Peer to Peer means that now this ledger will not be created by any central authority but every person who is transacting Bitcoin and is a part of the Bitcoin network will maintain this ledger. Suppose apart from me and this person X, there are A, B, C, D, E, i.e. total of 5 people who are part of the Bitcoin network. So, in this account in which it is written that I gave one bitcoin to X, a copy of this account will be given to everyone and everyone will maintain this account, in short till the time this account was maintained by the bank and was only in its main computer, it was a private account but now when everyone has a copy of this account it has become a public account. Further, next time when I will buy a TV for Rs40,000 from this person X. If I buy it, then I will write in my account that I gave 10 bitcoins to that person X. Similarly, that person X will also verify and write in his account that I gave 10 bitcoins to X. Similarly, these people A, B, C, D, E will also verify and write in their account that I gave 10 bitcoins to X. But use your brain a little and think, here a lot of problems are arising. The first problem is that in the first place of verification and making entries in the ledger, how will this person X and these people A, B, C, D, and E know whether I have bitcoins or not? The second problem is, what is the guarantee that these people A, B, C, D, and E who are part of the Bitcoin network will make correct entries in their ledger? If this person X wants, he will make an entry in the ledger that I will receive 100 bitcoins in exchange for X. Similarly, he will also write in his ledger that I will pay 200 bitcoins in exchange for X. In short, when the financial system was centralized, it was still running on trust, we were trusting this bank that this bank would maintain our ledger correctly, and even after it was decentralized, we trusted people that these people would maintain our ledger correctly, but Satoshi Nakamoto's aim was something else. To avoid this blind trust system, Satoshi Nakamoto gave the idea of a trustless decentralized financial system in that paper. And explained the practical use of blockchain technology to implement this idea. Remember that Blockchain technology is the most important word in the cryptocurrency market and this Blockchain technology is revolutionary and will change the whole technology world in the coming time. To understand how blockchain technology is used in Bitcoin, let's go back to our shoe example. This time, instead of distributing the ledger we have prepared, we will store it in an online block. This block used in blockchain technology is made up of a total of three fields. The first field stores the transaction data i.e. this ledger and the second field stores the hash. This hash is nothing but a kind of fingerprint. Just like every human has a unique fingerprint, in the same way, every block has a unique fingerprint. Which is called hash. This hash is automatically generated as soon as the account or data is added to this block. The third part stores the hash of the previous block. The component of blockchain that can prevent any form of fallacy is the reliance on a decentralized and distributed ledger system. All information about a transaction is contained within a so-called "block" and the linkage of the blocks results in making a chain.

To reach acceptance of the fear of fraudulent transactions, all users of the networks are required to abide by certain protocols. The transaction is subsequently batched into a new block and then sent out to be distributed in the network.

In addition, since everyone possesses the records, there is no one central authority that exercises control over blockchain networks. This open environment combined with robust cryptographic techniques, prevents data tampering.

Many industries, starting from banking and even ending in supply chains, now have so many more possibilities thanks to increased trust in the digital ecosystem due to the improved sensitive and accountable system.

LEGAL CHALLENGES

Regulation and Oversight: With no potential within conventional banking systems, cryptocurrencies intimidate regulatory authorities.

Taxation: However, creating the right tax framework for cryptocurrencies, be it as an asset, commodity or currency, remains a complex job.

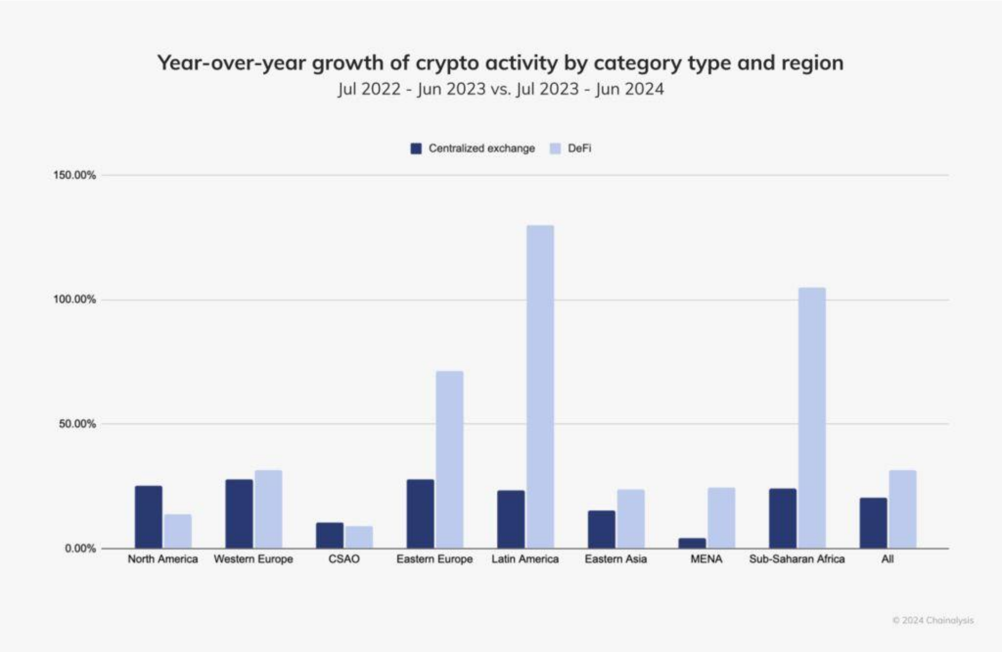
Fraud and Scams: Cryptocurrency transactions are anonymous, but making the correlation between such transactions and other financial or business transactions is impossible.

Consumer Protection: The legal remedies of investors are constrained when fraud, exchange collapse or financial loss occur.

Cross-Border Transaction: In reality, the cryptocurrencies themselves are not borderless, which means their use is impermeable.

STATUS OF CRYPTOCURRENCY AROUND THE WORLD

Global crypto activity is actively increasing. Between the fourth quarter of 2023 and the first quarter of 2024, the total value of global crypto activity increased substantially, reaching higher levels than those of 2021 during the crypto bull market. We can see this pattern in the chart below, where we apply our Adoption Index methodology globally by adding all 151 countries' index scores for each quarter from Q3 2021 to Q2 2024 and re-indexing them again to show global adoption growth over time.[1]



The growth of cryptocurrency from speculative investment to a new asset class has prompted governments around the world to explore ways to regulate it. As of September 2024, some governments have created frameworks to protect users, while others bide their time.[2]

United States - The U.S. announced a new framework in 2022 that opened the door to further regulation. The new directive handed power to existing market regulators such as the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC).[3]

[1] Chainalysis team, "2024 Global Crypto Adoption Index – Chainalysis" (chainalysis, 11 Sep 2020) <https://www.chainalysis.com/blog/2024-global-crypto-adoption-index/#:~:text=Global%20crypto%20activity%20is%20increasing&text=Last%20year%2C%20growth%20in%20crypto,since%20the%20beginning%20of%202024 > accessed on 20 Dec 2024

[2] Kelvin George, "Cryptocurrency Regulations Around the World" (Investopedia, 20 Sep 2024) < https://www.investopedia.com/cryptocurrency-regulations-around-the-world-5202122 > accessed on 20 Dec 2024

[3] The White House, "Fact Sheet" (WH.GOV, 16 Sep 2022) <-https://www.whitehouse.gov/briefing-room/statements-releases/2022/09/16/fact-sheet-white-house-releases-first-ever-comprehensive-framework-for-responsible-development-of-digital-assets/ > accessed on 21 Dec 2024

The SEC is already regulating the sector, demonstrated by its lengthy list of filings against crypto-centric businesses and projects, such as lawsuits and complaints against Ripple, Coinbase (COIN), Binance (BNB), and many others over their crypto products and services.[4]

But in 2023, a district court of appeals decided that Ripple's sale of XRP were securities offerings only when sold to institutions, not when they were sold on exchanges. This was one partial victory for the crypto industry—it was followed by another decision in November that vacated the Commission's denial of Grayscal's application to convert its Bitcoin ETF Trust to an ETF that holds bitcoin. The court ordered the Commission to re-review the application, which eventually led to the approval of the first Bitcoin Spot ETFs in January 2024 and Ethereum Spot ETFs in July 2024.[5]

The continuous fight between regulators, broker-dealers, investors, and the crypto industry shows that the U.S. is still evolving, regardless of the frameworks introduced and the powers given to regulators.

As SEC chair Gary Gensler stated, the fight will likely continue, "It [the approvals] should in no way signal the Commission's willingness to approve listing standards for crypto asset securities. Nor does the approval signal anything about the Commission's views as to the status of other crypto assets under the federal securities laws or about the current state of noncompliance of certain crypto asset market participants with the federal securities laws. As I've said in the past, and without prejudging any one crypto asset, the vast majority of crypto assets are investment contracts and thus subject to the federal securities laws…While we approved the listing and trading of certain spot bitcoin ETP shares today, we did not approve or endorse bitcoin."[6]

China - The People's Bank of China (PBOC) bans crypto enterprises from operating in the country, stating that they facilitate public financing without approval. [7]

---

[4] U.S. Securities and Exchange Commission, "Press Release" < https://www.sec.gov/news/pressreleases > accessed on 21 Dec 2024

[5] U.S. Securities and Exchange Commission, "Statement on the Approval of Spot Bitcoin Exchange Products, Chair Gary Gensler" < https://www.sec.gov/news/statement/gensler-statement-spot-bitcoin-011023 > accessed on 21 Dec 2024

[6] U.S. Securities and Exchange Commission, "Statement on the Approval of Spot Bitcoin Exchange" < https://www.sec.gov/news/statement/gensler-statement-spot-bitcoin-011023 > accessed on 21 Dec 2024

[7] Library of Congress, "China: Central Bank Issues New Regulatory Document on Cryptocurrency Trading" < https://www.loc.gov/item/global-legal-monitor/2021-10-13/china-central-bank-issues-new-regulatorydocument-on-cryptocurrency-trading/ > accessed on 21 Dec 2024

Furthermore, China banned Bitcoin mining in May 2021, forcing many engaging in the activity to close operations entirely or relocate to jurisdictions with a more favourable regulatory environment.[8] And in September 2021, cryptocurrencies were banned outright.[9]

Canada - While crypto is not considered legal tender in Canada, the country has been more proactive than others about crypto regulation. Canada became the first country to approve a Bitcoin exchange-traded fund (ETF), with several trading on the Toronto Stock Exchange.[10]

As for crypto trading platforms, the Canadian Securities Administrators (CSA) and the Investment Industry Regulatory Organization of Canada (IIROC) require that crypto trading platforms and dealers in the country register with provincial regulators.[11]

Canada classifies all crypto investment firms as money service businesses (MSBs) and requires that they register with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).[12] From a taxation standpoint, Canada treats cryptocurrency similarly to other commodities.[13]

United Kingdom - In October 2022, the lower house of the British Parliament recognized crypto assets as regulated financial instruments. The Financial Services and Markets bill became an act (law) in June of 2023 and extended existing laws regarding all crypto assets, services, and providers.

There are cryptocurrency-specific reporting requirements relating to Know Your Client (KYC) standards, as well as anti-money laundering (AML) and combating the financing of terrorism

---

[8] Library of Congress, "China: National Development and Reform Commission Issues Notice Restricting Cryptocurrency Mining" < https://www.loc.gov/item/global-legal-monitor/2022-02-08/china-nationaldevelopment-and-reform-commission-issues-notice-restricting-cryptocurrency-mining/ > accessed on 21 Dec 2024

[9] The People's Bank of China, "Notice on Further Preventing and Resolving the Risks of Virtual Currency Trading and Speculation" < http://www.pbc.gov.cn/en/3688110/3688172/4157443/4353814/index.html > accessed on 22 Dec 2024

[10] Purpose Investments, "Purpose Investments Cleared to Launch First Bitcoin ETF in the World" <https://www.purposeinvest.com/thoughtful/purpose-investments-cleared-to-launch-first-bitcoin-etf-in-theworld> accessed on 22 Dec 2024

[11] Canadian Securities Administration, "Crypto Trading Platforms" < https://www.securitiesadministrators.ca/crypto-trading-platforms-regulation-and-enforcement-actions/ > accessed on 22 Dec 2024

[12] Government of Canada, "Money Services Businesses" < https://www.fintrac-canafe.gc.ca/msb-esm/msb-eng> accessed on 22 Dec 2024

[13] Government of Canada, "Guide for Cryptocurrency Users and Tax Professionals" <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/compliance/digitalcurrency/cryptocurrency-guide.html > accessed on 23 Dec 2024

(CFT). Although investors still pay capital gains tax on crypto trading profits, more broadly, taxability depends on the crypto activities undertaken and who engages in the transaction.[14]

Crypto exchanges and custodian wallet providers must comply with the reporting requirements set by the Office of Financial Sanctions Implementation (OFSI). Crypto firms must notify the OFSI as soon as possible if they know or have reasonable suspicion that a person is subject to sanctions or has committed a financial sanctions offence.[15]

Japan - Japan takes a progressive approach to crypto regulations, recognizing cryptocurrencies as legal property under the Payment Services Act (PSA). Meanwhile, crypto exchanges in the country must register with the Financial Services Agency (FSA) and comply with AML/CFT obligations. Japan established the Japanese Virtual Currency Exchange Association (JVCEA) in 2020, and all crypto exchanges are members.[16] Japan treats trading gains generated from cryptocurrency as miscellaneous income and taxes investors accordingly.

The country has been working on several aspects when it comes to regulation, including taxation. In September 2022, the government announced it would introduce remittance rules as early as May 2023 to prevent criminals from using cryptocurrency exchanges to launder money. The Act on Prevention of Transfer of Criminal Proceeds has been revised to allow for the collection of customer information.[17]

Australia - Australia classifies cryptocurrencies as legal property, subjecting them to capital gains tax.[18] Exchanges are free to operate in the country, provided that they register with the Australian Transaction Reports and Analysis Centre (AUSTRAC) and meet specific AML/CTF obligations.[19]

---

[14] His Majesty's Revenue & Customs, "Cryptocurrency Manual" < https://www.gov.uk/hmrc-internalmanuals/cryptoassets-manual/updates > accessed on 23 Dec 2024

[15] National Crime Agency, "Suspicious Activity Reports" < https://www.nationalcrimeagency.gov.uk/what-wedo/crime-threats/money-laundering-and-illicit-finance/suspicious-activity-reports > accessed on 23 Dec 2024

[16] Japan Crypto Asset Trading Association, "Member Introduction" < https://jvcea-or-jp.translate.goog/member/?_x_tr_sl=ja&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=sc > accessed on 23 Dec 2024

[17] Nikkei Asia, "Japan Cryptocurrency Transfer Rules Take Aim at Money Laundering" < https://asia.nikkei.com/Spotlight/Cryptocurrencies/Japan-cryptocurrency-transfer-rules-take-aim-at-money-laundering > accessed on 24 Dec 2024

[18] Australian Taxation Office, "How to Work Out and Report CGT on Crypto" < https://www.ato.gov.au/individuals-and-families/investments-and-assets/crypto-asset-investments/how-to-work-out-and-report-cgt-on-crypto)ls-and-families/investments-and-assets/crypto-asset-investments/how-to-workout-and-report-cgt-on-crypto > accessed on 24 Dec 2024

[19] Australian Transaction Reports and Analysis Centre, "Digital Currency Exchange Provider" < https://www.austrac.gov.au/business/industry-specific-guidance/digital-currency-exchange-providers > accessed on 23 Dec 2024

In 2019, the Australian Securities and Investments Commission (ASIC) introduced regulatory requirements for initial coin offerings (ICOs). It banned exchanges from offering privacy coins, which are cryptocurrencies that preserve anonymity by obscuring the flow of money across their networks.[20]

In 2021, Australia announced plans to create a licensing framework around cryptocurrency and potentially launch a central bank digital currency (CBDC).[21]

In October 2023, the Australian treasury announced plans to introduce a regulatory framework, with a draft to be released sometime in 2024. There will be a 12-month transitory period if the framework is approved and implemented.[22]

Singapore - Like the U.K., this island state classifies cryptocurrency as property but not legal tender. The Monetary Authority of Singapore (MAS) licenses and regulates exchanges as outlined in the Payment Service Act (PSA).[23]

Singapore issued guidance in 2022 warning digital payment token (DPT) providers to avoid advertising their services to the public.[24]

In August 2023, the Monetary Authority of Singapore (MAS) announced a framework that would regulate stable coin issues in the country, requiring any issuers to conform to specific criteria. Stable coins must be approved by the MAS to be allowed to use the label “MAS-regulated stable coin” to distinguish themselves from non-regulated stable coins.

---

[20] Australian Securities and Investments Commission, “Crypto - Assets” < https://asic.gov.au/regulatoryresources/digital-transformation/crypto-assets/ > accessed on 24 Dec 2024

[21] Reserve Bank of Australia, “Central Bank Digital Currency” < https://www.rba.gov.au/payments-andinfrastructure/central-bank-digital-currency/ > accessed on 24 Dec 2024

[22] Australian Government, The Treasury, “Regulating Digital Asset Platform” < https://treasury.gov.au/sites/default/files/2023-10/c2023-427004-proposal-paper-final.pdf > accessed on 24 Dec 2024

[23]Singapore Statutes Online, “Payment Services Act 2019” < https://sso.agc.gov.sg/Acts-Supp/22019/Published/20190220?DocDate=20190220 > accessed on 24 Dec 2024

[24] Monetary Authority of Singapore, “MAS Issues Guidelines to Discourage Cryptocurrency Trading by General Public” < https://www.mas.gov.sg/news/media-releases/2022/mas-issues-guidelines-to-discouragecryptocurrency-trading-by-general-public > accessed on 24 Dec 2024

Singapore, in part, gets its reputation as a cryptocurrency haven because long-term capital gains are not taxed.[25] However, the country taxes companies that regularly transact in cryptocurrency, treating gains as income.[26]

South Korea - In South Korea, cryptocurrency exchanges and other virtual asset service providers must register with the Korea Financial Intelligence Unit (KFIU), a division of the Financial Services Commission (FSC). South Korea also banned all privacy coins from exchanges in 2021.

In 2023, the South Korean government's Act on the Protection of Virtual Asset Users went into effect. The Act officially appointed the Financial Services Commission as a regulator for virtual assets and outlined their legal and illegal uses.[27] Additionally, the Act ensured user protection by requiring issuers or service providers to follow certain practices.

India - India remains on the fence regarding crypto regulation, neither legalizing nor penalizing its use. There is a bill in circulation that prohibits all private cryptocurrencies in India, but it has yet to be voted on.[28] There is a 30% tax levied on all crypto investments and a 1% tax deduction at source (TDS) on crypto trades.[29]

Overall, India continues to hesitate to ban crypto outright or to regulate it. The country's Finance Bill of 2022 defined virtual digital assets as property and outlined tax requirements for collecting taxes on income from them.[30]

Brazil - Bitcoin is not legal tender in Brazil, but the country passed a law legalizing cryptocurrency as a payment method throughout the country, boosting the adoption of digital

[25] Inland Revenue Authority of Singapore, "Non-Taxable Gains from Sale of Property, Shares and Financial Instruments" < https://www.iras.gov.sg/taxes/individual-income-tax/basics-of-individual-income-tax/what-istaxable-what-is-not/gains-from-sale-of-property-shares-and-financial-instruments > accessed on 24 Dec 2024
[26] Inland Revenue Authority of Singapore, "How to Determine Whether Your Income Is Taxable" < https://www.iras.gov.sg/taxes/corporate-income-tax/income-deductions-for-companies/taxable-non-taxableincome > accessed on 24 Dec 2024
[27] Korea Legislation Research Institute, "Act on the Protection of Virtual Asset Users" < https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=63752&type=part&key=23 > accessed on 24 Dec 2024
[28] PwC, "PwC Global Crypto Regulation Report 2023" < https://www.pwc.com/gx/en/newventures/cryptocurrency-assets/pwc-global-crypto-regulation-report-2023.pdf > accessed on 24 Dec 2024
[29] India Budget, "Budget 2022-2023" < https://www.indiabudget.gov.in/doc/bspeech/bs202223.pdf > accessed on 25 Dec 2024
[30] India Budget, "Finance Bill, 2022" < https://www.indiabudget.gov.in/budget2022-23/doc/Finance_Bill.pdf > accessed on 25 Dec 2024

currencies. Brazil's Chamber of Deputies approved a regulatory framework legalizing the use of cryptocurrencies as a means of payment in the country on Nov. 29, 2022.[31]

The bill was enacted as a law and entered into force on June 20, 2023, as Law No. 14,478, "Legal Framework for Virtual Assets"[32]. The Brazilian Central Bank was designated the competent authority to regulate, authorize, and supervise operations of crypto exchanges, pursuant to Decree No. 11,563 of June 13, 2023.[33]

European Union - Cryptocurrency is legal throughout most of the European Union (EU), although exchange governance depends on individual member states.[34] Meanwhile, taxation also varies by country within the EU and ranges from 0% to about 48%.[35]

Recently, the EU's Fifth and Sixth Anti-Money Laundering Directives (5AMLD and 6AMLD) have come into effect, tightening KYC/CFT obligations and standard reporting requirements.[36]

In September 2020, the European Commission proposed the Markets in Crypto-Assets Regulation (MiCA)—a framework that increases consumer protections, establishes explicit crypto industry conduct, and introduces new licensing requirements.

In April 2023, Parliament approved measures that allow legislation requiring certain crypto service providers to seek an operating license. MiCA was provisionally agreed on in 2022 and placed into effect in July 2023. This legislation is intended to give regulators the tools they

[31] Camra dos Deputados, "PL4401/2021(Previous Number: PL 2303/2015)" < https://www-camara-legbr.translate.goog/proposicoesWeb/fichadetramitacao?idProposicao=1555470&fichaAmigavel=nao&_x_tr_sl=au to&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=wapp > accessed on 25 Dec 2024
[32] Planalto.gov, "Law No. 14,478, of December 21, 2022" <https://www.planalto.gov.br/ccivil_03/_ato20192022/2022/lei/L14478.htm > accessed on 25 Dec 2024
[33] Planalto.gov. "Decree No. 11,563, of June 13, 2023" < https://www.planalto.gov.br/ccivil_03/_Ato20232026/2023/Decreto/D11563.htm > accessed on 25 Dec 2024
[34] EUR-Lex, "Proposal for a Regulation of the European Parliament and of the Council on a Pilot Regime for Market Infrastructures Based on Distributed Ledger Technology" < https://eur-lex.europa.eu/legalcontent/EN/TXT/?uri=CELEX:52020PC0594 > accessed on 25 Dec 2024
[35] European Commission Eurostat, "Tax Revenue Statistics" < https://ec.europa.eu/eurostat/statisticsexplained/index.php?title=Tax_revenue_statistics#Tax_revenue-to-GDP_ratio:_France.2C_Belgium_and_Austria_show_the_highest_ratios > accessed on 25 Dec 2024
[36] Electronic Identification, "6AMLD: 6th Anti Money Laundering Directive & 6 Key Changes" < https://www.electronicid.eu/en/blog/post/aml6-sixth-anti-money-laundering-directive/en > accessed on 25 Dec 2024

need to track crypto being used for money laundering and terrorism funding while providing users with protections.[37][38]

INDIAN ECONOMY AND THEIR CRYPTOCURRENCIES

Legal framework & regulatory landscape -

Like most of India, India's stance on cryptocurrencies is marked by caution but ambiguity. While the Indian currency has historically been left somewhat free to swirl around by itself, cryptocurrencies have been a source of consistent concern for the Reserve Bank of India (RBI), with each of them highlighting the risks associated with cryptocurrency: the instability of the financial system, the risk of fraud, and misuse to advance unlawful activity. Key developments include:

- **2018 RBI Circular:** The RBI limited banks to not permit serving the business of cryptocurrency exchanges, more or less making the industry's operations into oblivion. In 2020, the Supreme Court overturned this decision and allowed cryptocurrency trading to continue.
- **Cryptocurrency and Official Digital Currency Regulation Bill, 2021:** The proposed legislation to prevent private cryptocurrencies but introduce central bank digital currency (CBDC).
- **Taxation:** The 2022 union budget came down hard on cryptocurrency earnings with 30% tax and 1% TDS on transactions, what was being portrayed was an angle of regulation rather than a ban outright.

Legal Challenges in India -

- **Legal Ambiguity:** Important questions unanswered regarding whether cryptocurrencies are considered legal tender, assets, or securities remain.
- **Risk of Misuse:** There is still a lot of concern about money laundering, terrorist financing and fraudulent activities.

[37] European Parliament, "Crypto-Assets: Green Light to New Rules for Tracing Transfers in the EU crypto – Assets: Green Light to New Rules for Tracing Transfers in the EU" < https://elaw.klri.re.kr/eng_mobile/viewer.do?hseq=63752&type=part&key=23 > accessed on 25 Dec 2024

[38] Kelvin George, "Cryptocurrency Regulations Around the World" (Investopedia, 20 Sep 2024) < https://www.investopedia.com/cryptocurrency-regulations-around-the-world-520212 > accessed on 25 Dec 2024

- **Consumer Protection:** A highly volatile and speculative market offers no real safeguards for the investor.

Impact on the Economy -

- **Financial Inclusion:** Because of their inherent encrypted nature and ability to reach underserved areas, cryptocurrencies have the potential to deliver banking to the unbanked, and potentially rural populations in particular.
- **Innovation and Investment:** Blockchain technology can both boost innovation and growth in India's developing fintech ecosystem.
- **Monetary Policy:** The RBI can't keep a leash on the government control in these circumstances and it is being challenged by cryptocurrencies.

CRYPTOCURRENCIES IN THE U.S. ECONOMY

Legal Framework and The Regulatory Landscape -

As a whole, the United States has played an open and cautious hand regarding cryptocurrencies. Its regulatory framework involves multiple agencies, reflecting the complexity of the country's financial structure:

- **Securities and Exchange Commission (SEC):** Cryptocurrencies defined as securities are their job.
- **Commodity Futures Trading Commission (CFTC):** It also develops a regulator for cryptocurrency derivatives and looks at Bitcoin as a commodity.
- **Internal Revenue Service (IRS):** Takes the opinion that cryptocurrencies are taxable assets.
- **Office of the Comptroller of the Currency (OCC):** Custody for digital assets is permitted by banks. Key Legal Developments:
- **Infrastructure Investment and Jobs Act (2021):** A reporting of cryptocurrency transactions to be expected.
- **Executive Order on Ensuring Responsible Development of Digital Assets (2022):** He wanted federal agencies to be lined up, trying to come up with a single regulatory framework.
- **Stable coin Regulation:** In our stable coin focus, we centre on protecting consumers and financial stability. Legal is a Challenge in the U.S.

- **Regulatory Overlap:** The action of multiple agencies each with its authority has created regulatory uncertainty.
- **Consumer Protection:** There has also been fraud and, more worryingly, major cryptocurrency exchanges going under.
- **Tax Compliance:** We still have not mastered such accurate reporting of income and transactions from cryptocurrency activities.

Impact on the Economy -

- **Innovation and Leadership:** Behind Silicon Valley, the US is leading with blockchain and cryptocurrency.
- **Financial Modernization:** For cryptocurrency, this is a risk to existing day banks, as well as an opportunity to upgrade the working system.
- **Global Influence:** How to integrate cryptocurrencies into the U.S.'s financial system as the issuer of the global reserve currency.

COMPARATIVE ANALYSIS: INDIAN ECONOMY VS US ECONOMY

Regulatory Approach -

- **India:** It is a cautious and restrictive principle in favour of risk mitigation and CBDCs' development.
- **US:** It encourages innovation but is tightening regulations for the risks associated with it.
- **Legal Clarity:**
- **India:** The legal framework is obscure and confuses businesses as well as investors.
- **US:** While it has been fragmented because of oversight by various agencies, there is work underway to create a unified and complete regulatory structure.

Economic Impact:

India: If used appropriately, cryptocurrency can facilitate the growth of fintech and financial inclusion for those considered underserved, however, when used incorrectly it can threaten monetary stability.

US: Leadership in global blockchain innovation benefits the American economy, but appeals to financial stability due to the speed at which the sector is developing.

Adoption of the use of CLV:

The use of CLV has undergone public perception; however, it has not been fully adopted. Often the CLV calculation is based on experience, which results in a false sense of CLV's accuracy.

India: Regulatory ambiguity, high volatility and low digital literacy cause public sentiment to be cautious. With interest in cryptocurrency growing, especially amongst younger individuals, there's never been more of a time to recognize productivity in what you spend your money on.

US: However, institutional adoption and mainstream awareness combined with increased acceptance amongst other younger more tech-savvy demographics have created favourable perceptions of cryptocurrencies.

FUTURE OF CRYPTOCURRENCY

How the 'probity' of cryptocurrency will develop in India, compared with the United States, will depend on how regulatory policies and technological progress, as well as changing market conditions can evolve. Key trends to watch include:

1. Central Bank Digital Currencies (CBDCs): A CBDC launch by India could upturn the country's long-standing opposition to digital currencies, while the U.S. advances carefully down the path of adopting a digital dollar.

2. International Collaboration: Because cryptocurrencies are international (and, therefore, operate internationally), there will be a need for coordinated international efforts to create consistency among regulations.

3. Advances in Blockchain Technology: Smart contracts and its ecosystem of decentralized finance (Defi) will be key innovations for the future expansion and utility of cryptocurrencies.

4. Public Education: Helping to raise awareness of the risks and opportunities of cryptocurrencies will be a key enabler for widespread adoption and use.

POLICY RECOMMENDATIONS

For India:

1. Make sure the legal frames of cryptocurrencies are clear and comprehensive enough.

2. Achieve protection for investors and public education.

3. Use blockchain technology to expand public services, as well as financial inclusion.

For the US:

1. Promote fragmentation of our equitable and unified regulatory system.

2. Striking the balance between finding the right way to foster innovation and safeguard consumers by means of specific measures.

3. Align internationally the cryptocurrency regulations by encouraging global partnership.

CONCLUSION

Legal challenges in cryptocurrency are very convoluted issues both for India and the United States. However, India's caution will also hamper innovation. The US takes a more open but fragmented regulatory approach, involving innovation and more consumer protection and financial stability on demand. Both countries, determined to adapt to the world of digital currency, will have an enormous influence on how the global financial system and the money of the future work.