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Legal Status of Ethereum: Regulatory Mechanisms

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The technological world is witnessing inventions in quick succession. Ethereum is the back-to-back breakthrough after the launch of Bitcoin in the crypto market. Although India became the fourth largest economy in the world at $4trillion, the legality of cryptocurrencies in India remains in a grey area of law. India thinks it would be a huge risk to the banking sector. The Reserve Bank of India's notice shocked the world by issuing a notice to ban all cryptocurrencies. Eventually, guard of citizen rights, i.e. Supreme Court of India, set aside the circular of the RBI on the grounds of disproportionality. This article examines the legal stance of India in recognising cryptocurrencies in the country. It aims to explore, by way of various draft bills of the Indian Parliament and the role of legal recognition. This paper also suggested ways to provide legal recognition to cryptocurrency. This Article also recommends the regulatory mechanism of Pathetic Dot Theory. It is an urgent need of the hour to provide legal validity to cryptocurrencies instead of creating a Central Bank Digital Currency.

Keywords: *blockchain technology, Ethereum, RBI, digital currency, distributed ledger technology.*

INTRODUCTION

Emerging technological advancements created a paradigm shift in a groundbreaking system that solves the limitations. The introduction of DARPA Net paved the way for sharing files and exchanging resources. The second revolution was brewing with new public-private

cryptography. It was invented by the two cryptographers Whitfield Diffie and Marty Hellman from Stanford University, who brought a solution for secure key distribution. In the 1990's Internet services were accessed by using client server model, which prevented sharing and became unavailable.

Instead of relying on a centralised server, researchers came up with a peer-to-peer (P2P) network, which is based on a decentralised system. To a great extent, it benefits the user to act as both supplier and consumer of information resources. As a result, Napster software gained momentum around the world overnight. The Cyberpunk Movement was started by Timothy May in 1988. He alarms by saying "genie was out of the bottle" and defined it as a crypto anarchy that will allow trade secrets to be traded freely, citing national security concerns, use of technology by drug dealers, and tax evaders. He insisted that Various criminals and foreign elements would become users of cryptonet.

The dream of cyberpunk was to build an anonymous cash and untraceable payment system and to ensure privacy privacy-compliant identity system. The launch of the DigiCash system by Chaum in 1998 embarked on a decade-long quest to build an anonymous digital currency that lacked centralised control. Finally, in 2008, an anonymous developer, Satoshi Nakamoto, fused public-private key cryptography, digital signatures, and to peer network, which came to be known as Blockchain. Using this blockchain, he developed a decentralised digital currency that could operate without a centralised agency.

Since its launch in 2009, Bitcoin has become one of the largest payment systems in the world. It also attracts many investors and businessmen trading with Bitcoin. But the Reserve Bank of India released a notification warning about high potential risk. Indian Trade Market caught off guard by the RBI cracks the whip on cryptocurrency ban in India. But the RBI notification was set aside by the Supreme Court of India, finding it too disproportionate. It was also considering the Central Government of India's failure to introduce an official digital rupee despite draft bills and several committee reports.

BLOCKCHAIN TECHNOLOGY

Blockchain is a shared, immutable ledger that facilitates the process of recording transactions across a network of computers in a way that is transparent and resistant to tampering. It is also

known as Distributed Ledger Technology, which stores the information on blocks that are linked in a chronological chain. Once a block is full, the block data is run through a cryptographic hash function, which creates a hexadecimal number called the block header hash. The hash is entered into the following block header, creating a chain of blocks, so it is named as a blockchain.[1] Blockchain resides on every user device, and it is called a node, which authenticates every transaction and ensures the security and integrity of the network.

TYPES OF BLOCKCHAIN

There are three types of blockchain, namely public, private, and hybrid. Public Blockchain is a fully decentralised platform where anyone can read or write to it, provided they can show proof of work, and it is widely used. Private Blockchain, the owner is a centralised authority who can read or write to the platform and has the right to make any changes. Whereas in hybrid is a mix of both private and public blockchain. It is used by a group of firms or organisations with restricted access.

CHARACTERISTICS OF BLOCKCHAIN

Blockchain exhibits a set of characteristics which are less dependent on centralised control, resilient to change, enable to storage of non-repudiable data, pseudonymously, in a transparent manner, and transnational. It operates under a different hierarchical structure and is operated by a network of computers, linked via an overarching software protocol. Once information has been recorded in a blockchain, it becomes exceptionally hard to change or delete. Blockchain relying on a proof of work consensus mechanism, parties seeking to modify a blockchain would need to deploy sufficient computational resources to generate blocks faster than an honest party supporting the network.[2]

Information maintained on a blockchain is authenticated, encrypted. A digital signature provides a higher degree of assurance that parties are bound by its terms. The parties can subsequently review that a transaction has occurred. Pseudonymity masks the party identities to ensure the privacy of the Bitcoin transactions. Incentivisation mechanisms influence the

[1] Adam Hayes, 'Blockchain Facts: What is it, How it works, How it can be used' (*Investopedia*, 24 March 2024) <https://www.investopedia.com/terms/b/blockchain.asp> accessed 03 June 2025
[2] Primavera De Filippi and Aaron Wright, *Blockchain and the Law – The Rule of Code*, (HUP 2018)

decision-making process of parties using a blockchain network to store information, transfer digital currency, or interact with smart contracts.[3]

SHIFT FROM BITCOIN TO ETHEREUM

Bitcoin excelled as a platform to facilitate the exchange of digital currency, but without updating the underlying protocol, it could not be used for much more. This network lacked formal governance, relying on the efforts of small group developers who slowly revised and fixed the bugs in the software.[4] By addressing these limitations, Vitalik Buterin conceived a cryptocurrency in 2019 called Ethereum. It is a decentralised platform that runs smart contracts, which are applications that run exactly as programmed without any possibility of downtime, censorship, fraud, or third-party interference. The first blockchain to successfully implement complex smart contracts was the Ethereum Blockchain.

ETHEREUM TRANSACTION

It is a peer-to-peer network governed by a free and open-source protocol. In Ethereum, the state is made up of 'accounts' with each account having a 20-byte address. An Ethereum account contains four fields:

- The nonce, a counter used to make sure each transaction can only be processed once.
- The account's current ether balance.
- The account's contact code.
- The accounts storage.[5]

It implements its digital currency called "*ETHER,"* which is allocated to miners supporting the network and can be transferred. It is used to pay transaction fees. Ethereum has a unique feature that allows users to deploy smart contracts by using the Solidity programming language or decentralised program application ("dApps"). Rather than depending on the centralised authority, we can create an application to transfer digital currency as well, for any other purpose. Smart contracts are self-executing contracts between buyer and seller. Once the mentioned

[3] *Ibid*
[4] Joseph Bonneau et al., 'SoK: Research Perspectives and Challenges for Bitcoin and Cryptocurrencies' 2015 IEEE Symposium on Security and Privacy <https://www.ieee-security.org/TC/SP2015/papers-archived/6949a104.pdf> accessed 04 June 2025
[5] Filippi (n 2)

conditions are met, the contract is enforced, which enhances the security of the transaction. The part of the Ethereum protocol responsible for processing smart contracts is the Ethereum Virtual Machine (*EVM)*. EVM is a virtual machine that executes smart contracts on the Ethereum Blockchain by interpreting bytecode that has been compiled into. The Ethereum virtual machine runs a Turing-complete language. Turing completeness is a property of a programming language that allows a computer to loop and process its output in iteratively complex terms. This property is absent in all public blockchains except Ethereum.[6]

Ethereum operates based on proof of stake, which replaces miners in Bitcoin management by validators, and the reward system is changed. Every validator owns the ether and puts their owned ether on the line to certify that the block is valid. Hence, it provides a barrier against malicious behaviour. Ethereum provides two protocols for **peer-to-peer support** for the exchange of messages and static files. *Whisper* is the peer-to-peer protocol for exchanging messages. It provides a powerful, distributed, and private messaging capability. *Swarm* is another peer-to-peer protocol that provides an incentive-based approach for the distribution of static content among peers and for exchange.[7]

LEGALITY OF ETHEREUM IN INDIA

India steeped high in the adoption of decentralised assets in the cryptocurrency market from 2023-2024 despite restrictions being imposed by the government. India has played a notable role in surging the great number of users globally and ranked second in adoption. Cryptocurrency has a rapid growth and started to grab attention among Indian investors in 2010. As far as our country is concerned about the legal validity of Ethereum or any cryptocurrencies is still operating in the grey area of law. Regulations for cryptocurrencies remain in a draft proposal; their finality has been delayed so far, even in the 2025-2026 budget. Awaiting issues of legal regulation has been placed for discussion in the September parliament session. In April 2018, the Reserve Bank of India notice shocked the world by issuing a notice to ban all cryptocurrencies.

Eventually, guard of citizen rights, i.e. Supreme Court of India, set aside the circular of the RBI on the grounds of disproportionality. Although the growth of the crypto market in usage becomes

[6] Dejey and Murugan, *Cyber Forensics* (OUP 2018) 128
[7] *Ibid*

high, there is a rapid increase in cryptocurrency scams, notably $4 billion investment scam in 2023. A regulatory body for controlling cryptocurrencies is mandatory at the hour. The Government of India has clearly stated that crypto transactions do not come under the protection of deduction. There have been strict laws prevailing for crypto users, which include a 30% tax on crypto income gains and 1% TDS in the current 2025-2026 budget. This tax has remained unchanged compared to the previous year's budget. The Budget has come up with an Amendment in the Income Tax Act, 1961, proposed to align the definition of Virtual Digital Asset accordingly.

RBI Warning on Currency Usage 2013: It was the first time in 2013 that, Reserve Bank of India warned the traders and investors of cryptocurrency. It has released a press statement cautioning the public against the risk of the crypto market. The creation and trading of Virtual currencies, including Bitcoin, Ethereum, are not recognised by the Central Bank. It has not granted any regulatory approvals, registration, or authorisation is stated to have been obtained by the entities concerned for carrying on such activities"[8]. It has outlined the financial risk related to digital currencies because it led to threats and loss via misuse or malicious intent, hacking, malware, and fraud. As a decentralised authority employed in blockchain technology, there is no assurance of recovering the value of lost digital currencies. By enclosing a potential risk, RBI has declared that users of crypto transactions are engaging at their own risk.

Inter-Ministerial Committee on Virtual Currencies in India 2017: A higher-level Inter-Ministerial Committee was constituted in November 2017 to analyse the issues about virtual currencies and active measures to be taken. The committee submitted its report on February 28, 2019, and the report was released in the public domain on July 22, 2019.

Banning of Virtual Currencies: Issues related to virtual currencies were addressed by the committee that they cannot replace traditional currency. The committee observed that cryptocurrencies are subject to market fluctuations. And also highlight the main challenges that, as it was developed as a decentralised system, make it difficult to regulate. It also consumes more amount of storage and processing power, which results in unfavourable consequences to the

[8] 'RBI Cautions users of Virtual Currency' (*Reserve Bank of India*, 24 December 2013) <https://www.rbi.org.in/Commonperson/english/scripts/PressReleases.aspx?Id=2152#:~:text=The%20Reserve%20Bank%20of%20India,release%20dated%20December%2024%2C%202013.> accessed 07 June 2025

country's energy resources.[9] The committee studied the regulatory framework in the world. Countries like Japan, Switzerland, and Thailand allow the use of cryptocurrency as a mode of payment. On the other hand, China has completely banned cryptocurrency. This states that no country has allowed the use of any virtual currency as legal tender. Ultimately, it has been recommended that "all cryptocurrency except any cryptocurrency officially used by the state, be banned in India[10], and the committee has suggested 56 private cryptocurrencies should not be allowed. Also, the government considers the standing committee to take into account the technological developments globally and within the country.[11]

Recommendations on banning cryptocurrency have become controversial around the world. The committee has only had its focus on the challenges, not considering the benefits and investors' interests. As a governing body, it must regulate against fraud and hacking, not to ban all cryptocurrencies. This recommendation paves the way to move two steps back and not one step ahead.

Official Digital Currency: The Committee observed that an official digital currency i.e., state-recognised currency like money) has many advantages over the existing payment mechanism. They consider the secured transaction, which facilitates ease and is a cheap alternative for cross-border payments. But it also pointed out the disadvantages in implementation. As of the date, it is unclear whether it would be adopted in the context of India, the committee observed. It may be possible to visualise some models of future currency.[12] In addition, there is high consumption power, infrastructural challenges, and a requirement for high computational power. Finally, it is of the view that an open mind should be kept in introducing the official digital currency. Hence, it also suggested that if needed, a committee may be constituted by the Department of Economic Affairs with the representatives of RBI, Minister of Electronics and Information Technology (MEITY), to explore and create a model of central bank digital currency. Further, it has been

[9] Hatim Hussain, 'Inter-Ministerial Committee on Regulation of Cryptocurrency in India: Critical Analysis (Part II)' (*Medium*, 26 August 2019) <https://esyacentre.medium.com/inter-ministerial-committee-on-regulation-of-cryptocurrency-in-india-a-critical-analysis-part-ii-5dd6d34ea27c> accessed 07 June 2025

[10] Ministry of Finance, *Report of the Committee to propose specific actions to be taken in relation to Virtual Currencies* (2019)

[11] *Ibid*

[12] Komal Gupta, 'Policy Brief: Highlights of the Inter Ministerial Committee's Report on Virtual Currencies' (*Nasscom Community*, 25 July 2019) <https://community.nasscom.in/index.php/communities/policy-advocacy/policy-brief-highlights-of-the-inter-ministerial-committees-report-on-virtual-currencies.html> accessed 01 June 2025

clarified that if currency is issued, the RBI shall act as a regulator under section 22 of the Reserve Bank of India Act.[13]

Central Digital currency ruins the purpose of introducing crypto cryptocurrency system in India. CBDC is necessarily associated with a higher interest rate on CBDC balances than previously charged by the banks, given that the central bank's goal is to create a CBDC that provides an efficient exchange to households and firms. To avoid losing funds to the bank or private financial banks, which increases the interest rate on their deposits, too.[14] Centralised Authority plays a major role in complete control over all the cryptocurrency in and out of every personal account.

Distributed Ledger Technology (DLT): The committee observed that DLT is an innovative technology that will play a prominent role in financial services. Committee favours it because of its beneficial features, making it easier to identify duplicate transactions, utilised for fraud detection, processing KYC requirements, and claim management insurance. It is also helpful in removing errors, fraud in the land market if used for maintaining land records and improving access to credit. The committee suggested that Reserve Bank of India (RBI), Securities Exchange Board of India (SEBI), Insurance Regulatory Development Authority (IRDA), Pension Fund Regulatory and Development Authority (PFRDA), and Insolvency and Bankruptcy Board of India (IBBI) should also focus on DLT to investigate the mechanisms for the adoption of DLT in their respective areas.

Minister of Electronics and Information Technology (MEITY) also advised exploring the consent-based strategies for maintaining consumer information on DLT. Goods and Service Network (GSTN), MEITY can play an effective role in identifying and building the benefits of DLT to enable trade financing, which leads to enable growth of trade invoicing through Distributed Ledger Technology. Further, the committee also suggested framing legislation to promote and regulate the use of DLT in the financial and respective areas.[15]

DLT in Other Areas: Distributed Ledger Technology can be utilised in other areas for enabling a fast and secure payment system, particularly for cross-border transactions. Banks and other

[13] Ministry of Finance (n 10)
[14] Daniel Sanches, 'Central Bank Digital Currency Is it a good Idea?' (*Federal Reserve Bank of Philadelphia*, 2020) <https://www.philadelphiafed.org/the-economy/banking-and-financial-markets/central-bank-digital-currency-is-it-a-good-idea> accessed 05 June 2025
[15] Ministry of Finance (n 10)

firms can also benefit by adopting DLT in their services for processes such as loan issuance tracking, fraud detection tracked easily, collateral management, reconciliation system in securities exchange market, claims management in insurance. The committee is of the view that a blockchain-based system can ease for making KYC transactions at low cost, which decreases the need for duplication of KYC requirements for customers.

SEBI may examine the adoption of DLT in its services as an alternate mode to the present system of issuance for IPOs and FPOs. It may verify that the depositary system can be avail through the DLT system. Access to this technology is not only for banks and other financial sectors, but also the State Government and the Central Government can evaluate the feasibility of using DLT for land record management. And committee extended the use of DLT to the stamping system, which was leveraged to improve the collection of stamp duty. The Committee considered the Data Protection Bill, which needs to be applied cautiously with respect to privacy concerns to store the personal data of consumers and ensure that there is no adverse negative impact on the Indian consumers and Indian Firms by applying the benefits of DLT[16].

RBI Ban on Crypto Currencies 2018: In 2018, the Reserve Bank of India issued a circular that banned all cryptocurrencies, as it ordered not be facilitated by banks in India. Investors who have invested in cryptocurrencies were shocked the conscience on the complete ban by the RBI. There are countries that didn't ban cryptocurrencies, either they have regulations to combat crypto scams and to ensure money laundering. The main issue pointed by RBI is that cryptocurrencies lead to loss of "seigniorage" income, which means profit earned by RBI from money creation. Even if it is of the stance to discourage cryptocurrency by introducing a tax on crypto[17].

RBI Governor Shakthikanta Das' stance on the outright ban of cryptocurrency by pointing out the risk involved in crypto. He said that it could be costly and technically challenging to enforce. Also, he even insisted on the outright ban, even when the domestic crypto industry hoped for the government to work on regulating cryptocurrencies, while the roadmap for the adoption of crypto assets paper of G20 finance ministers at a meeting in Marrakech. He also addressed the issues of huge financial stability, monetary stability risk, posing a huge risk to the banking sector.

[16] *Ibid*
[17] 'Prohibition on dealing in Virtual Currencies (VCs)' (*RBI*) <https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=2632> accessed 05 June 2025

He has proudly stated that India is the first country to raise a voice about serious concerns and issues on cryptocurrencies. It could cause a huge amount of instability in the monetary system, and the central government would lose control over the monetary system. Further, it has not satisfied the characteristics of currency, and it emerges to bypass the current system.[18]

It is a decentralised system designed with blockchain technology and to peer network model. It is not going to disturb anyway in the process of monetary system. How could a decentralised method be similar to a centralised system of payment, and how does digital currency fulfil the nature of currency? It would strengthen the financial stability by attracting more investors and boost the economy globally as well in globally.

SUPREME COURT SET ASIDE RBI CIRCULAR – 2020

Rajdeep Singh & Ors v Union of India 2018; Internet Mobile Association of India v RBI:[19] The two writ petitions have been filed by the petitioner, challenging the legality of the RBI circular dated 6 April 2018. Submission made by the petitioner on the legal character of virtual currencies and to show that the circular violates the rights of the petitioner under Article 19 (1) (g) of the Constitution.

Submission made by the Petitioner –

On the Legal Character of Virtual Currencies: Petitioner argued that money functions as a medium of exchange and final discharge of debt, and also, people have enough faith in virtual currency to term it as a medium of exchange. It has not acquired the status of a socially acceptable medium of exchange. Almost anything can be reduced in terms of money.

Characteristics of Virtual Currency resemble those of Good: Petitioner cited a UK report which defines virtual currency as a property; it is represented by two sets of data

[18] Ben Kochuveedan, 'Cryptocurrencies huge risk to financial stability: RBI Governor Shantikanta Das' *The New Indian Express* (26 October 2024) <https://www.newindianexpress.com/business/2024/Oct/26/cryptocurrencies-huge-risks-to-financial-stability-rbi-governor-shantikanta-das> accessed 05 June 2025
[19] *Internet Mobile Association of India v RBI* (2020) SCC Online SC 275

parameters, public and private; the private key can be controlled by a crypto asset; it is permanent, like other permanent financial assets.[20]

Circular violates Article 19(1)(g) of the Constitution: Argued that virtual currency exchanges cannot carry out their business without access to a bank. Virtual currency is only an intermediary between buyer and seller. Even a simple business needs access to a bank for its day-to-day transactions. Access to a bank is an integral to the right to carry on any trade or business, like oxygen.[21]

RBI exceeds its Power: The RBI had issued the circular as per the Banking Regulation Act, 1948; RBI Act, 1934; Payment and Settlement System Act 2007, referred to as the source Acts. Virtual currencies do not come under the subject matter of the source Acts.[22]

Power to Regulate, not Prohibit: Only the legislature can prohibit the trade of a commodity by terming it as a Res extra commercium.

Virtual Currencies do not fall within the credit system: It does not come under the purview of the credit system to authorise the bank to follow upon the preamble of the RBI Act, which provides a compulsion to operate the currency and credit system of the country.[23]

Non-Payment System: Argued that the Payment and Settlement System Act 2007 empowers RBI to issue guidelines for an efficient payment system. But virtual currencies do not come under the term Permanent system under the PSS Act 2007.

Submission by Respondent –

- RBI submits that it has wide power under the Banking Regulation Act, 1948; RBI Act, 1934; Payment and Settlement System Act, 2007, to issue the circular. The issuance of the circular was on the grounds of proportionate action from the risk posed by virtual currencies.

[20] 'Fight for Survival of Cryptocurrencies in India' (*IKIGAI Law*, 05 February 2020) <https://www.ikigailaw.com/article/332/fight-for-survival-of-cryptocurrencies-in-india> accessed 05 June 2025
[21] *Ibid*
[22] 'Breaking down the Indian Supreme Court's Crypto Writ Verdict' (*IKIGAI Law*, 06 March 2020) <https://www.ikigailaw.com/article/324/breaking-down-the-crypto-writ> accessed 06 June 2025
[23] *Ibid*

- RBI stated that financial and economic laws have the statutory force of law, so courts should not interfere with the executive discretion.
- It is sine qua non duty of the bank to regulate the payment system of the country; it takes all steps in the first instance if a slight possibility that the payment system will be compromised.
- It does not satisfy the criteria required to hold it as a currency. It does not possess any formal mechanism for handling consumer grievances.
- Extensive use of cryptocurrency endangers the country's monetary stability and the credit system.
- It is in the view in public interest to safeguard the interests of consumers and regulated entities against the crypto scams and volatility of cryptocurrencies[24].

SUPREME COURT JUDGEMENT

The Apex Court held that the RBI has the requisite power to regulate virtual currencies. The Supreme Court favored the contention of the petitioner that right to access the banking system is integral to the right to carry on any trade or profession and thus a legislation, which infringes the right to carry on a trade or business, as a result it is violative of Article 19(1)(g) of the Constitution of India. It ruled that the measures taken by the RBI must pass the test of proportionality. The Supreme Court mainly held that the virtual currencies are not banned as of now, but trading in cryptocurrencies is adversely affected by the RBI Circular, as their lifeline, namely, the interaction with the banks, has been cut off.[25] The RBI has been granted very wide powers in the economy of the country, which are in the form of preventive as well as curative. The Supreme Court ruled that the steps taken by the RBI for the issuance of the RBI Circular were not proportionate. RBI has no proof to show that proportional damages were suffered by the RBI-regulated entities. The court dismissed this contention by confirming that the term "regulate" has a wider meaning and includes the power to prohibit the banking system.[26]

[24] Fight for Survival of Cryptocurrencies in India (n 20)
[25] 'Can Virtual Currency Platforms Operate in India – Supreme Court's Recent Judgement' (*Lex Counsel Law Offices*, 16 September 2022) <https://lexcounsel.in/newsletters/can-virtual-currency-platforms-operate-in-india-supreme-courts-recent-judgement> accessed 08 June 2025
[26] Breaking down the Indian Supreme Court's Crypto Writ Verdict (n 22)

The regulatory approach adopted by other countries has a persuasive value at best. It cannot guide what the regulator can or cannot do. Developed economies have a greater ability to absorb economic shocks. Hence, if India adopts a similar approach, it may just lead to Indian entities having a stronger ring fence against exposure to VCs. Hence, the RBI Circular dated 2018 has been set aside on the grounds of proportionality.

BANNING OF CRYPTOCURRENCY AND REGULATION OF OFFICIAL DIGITAL CURRENCY Bill 2019

Amid the Supreme Court verdict, the inter-ministerial Committee proposed a draft bill to ban cryptocurrency and to provide for an official digital currency. Finally, the bill has been proposed in the parliament for discussion. The bill contains 27 sections, 8 Chapters, 6 parts and Three Schedules. The Bill aims to prohibit all cryptocurrencies from being used in the country.

Section 3[27] states that a person shall be prohibited from mining, generating, holding, selling, issuing, or transferring the cryptocurrency in Indian territory. But it gave an exception to Distributed Ledger Technology for providing any financial service, provided it does not use any cryptocurrency for delivering its service. Further, it extends its exception to research purposes, imparting instructions to pupils, but it should not be involved in the payment of virtual currency.

Section 4[28] provides that Government-authorised digital currency can be considered as legal tender and as well as legal currency. And it shall be governed by the regulations of the RBI under the provisions of the RBI Act, 1934.

Section 5[29] prohibits the crypto user from usage of cryptocurrency as legal tender in India. They shall not use it as a medium of exchange, store of value or unit of account.

Section 7[30] prohibits a person from using cryptocurrency for activities like as a means of investment Payment system, a credit, cryptocurrency-related services to investors trading cryptocurrency with Indian Currency or foreign currency.

[27] Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019, s 3
[28] Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019, s 4
[29] Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019, s 5
[30] Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019, s 7

The Act prohibits the usage of cryptocurrency, but rather comes up with an introduction of new central bank digital currency. The Supreme Court questioned the government regarding the framework of regulations for cryptocurrency, even though several committees and a draft bill were formed. Also, the Court raised an issue of the central digital official currency. Whether govt is toying with the plans for an official digital currency. The centre constituted an Inter-Ministerial Committee, which recommended the Crypto Token Regulation Bill of 2018. The bill suggested a complete ban on cryptocurrency as an extreme tool. At the same time, it also recommended the idea of ale and the purchase of digital crypto assets at authorised exchanges. The Apex Court noted that the same committee did a volte face by introducing a total ban in the 2019 Banning of Cryptocurrency and Regulation of Official Digital Currency Act,2019. The government aims to monopolise the creation and circulation of digital currency.

OFFENCES AND PUNISHMENTS

Offences (Section 8 of the Bill)	Punishments (Section 12 of the Bill)
Directly or indirectly uses the cryptocurrency (Bitcoin, Ether, Ripple, XRP.	
Ethereum-related financial products - S.7 (1)(e)	
As a means of investment	
Payment system, as a credit	
Ethereum-related services to investors, which include trading, registering, selling, clearing, or other services[31]	Imprisonment up to 10 years Fine: The higher of three times the loss or harm caused by the person or 3 times the gain made by the person.

[31] Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019, s 8(1)

Advertising or promoting on an Ethereum-based payment system	Imprisonment up to 7 years Fine: The higher of 3 times the loss or harm caused by the person or 3 times the gain made by the person. If the loss cannot be reasonably determined, the maximum amount of fine is Rs. 25 lakhs.[32]

CRYPTOCURRENCY AND REGULATION OF OFFICIAL DIGITAL CURRENCY BILL 2021

The intention behind the introduction of the bill is to again the banning the use of private cryptocurrencies and to build a centralised digital currency. The Indian Legislature reworked the bill of 2019 after the direction to fasten the enactment of cryptocurrency regulation. Further Legislature proposed this bill by changing the name. One major aspect changed by the bill is to term the cryptocurrencies as a crypto asset, and it was regulated by the Securities Exchange Board of India (SEBI).

Prohibition of Private Digital Currency: In this instance, it is crucial to comprehend that the measure explicitly targets 'private cryptocurrencies,' or private funds, mostly due to the perception that they are opaque currencies that could facilitate illegal acts like money laundering and fraud. The Indian government has adopted a restrictive stance against private cryptocurrencies because it views them as a danger due to their decentralised character.[33]

RESTRICTING CRYPTOCURRENCY AND ENCOURAGING BLOCKCHAIN

Notably, the bill strongly supports blockchain technology in other domains even as it flatly rejects cryptocurrencies in the private sector. In this manner, the government recognises blockchain's potential in industries like finance, healthcare, and supply chain without categorising the idea as with cryptocurrency.

[32] Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019, s 8(3)
[33] 'Cryptocurrency Regulations in India: A guide for 2025' (*KycHub*) <https://www.kychub.com/blog/cryptocurrency-regulations-in-india/>accessed 09 June 2025

THE CREATION OF A RECOGNISED DIGITAL CURRENCY

The establishment of official digital money that will be developed and overseen by the RBI is one of the bill's new provisions. This action is consistent with the RBI's recent drive for a Central Bank Digital Currency (CBDC), which is based on an unchangeable digital asset that is supported by the government and subject to the same regulations as fiat money. Thus, with a centrally controlled and decentralised system, CBDC would assist India in achieving the finest possible digital currency.

Still, even after the ruling of the Supreme Court verdict not to ban cryptocurrencies and to regulate currency, they are on the stance of strong opposition to the crypto currency. But they recognised blockchain technology and backed the cryptocurrency. This restrictive manner leads to huge losses of volumes for the biggest cryptocurrency exchange, also proliferating illegal trading.[34]

REGULATORY MECHANISMS

Lawrence Lessig elaborated a theory called "Pathetic dot theory" that described how individual actions are controlled via four different mechanisms, such as laws, social norms by society, market forces derived from the law of supply and demand, and the architecture.

Imposing Laws: The most direct way the government can regulate the use of blockchain technology is by imposing laws and regulations directly on end users. Deanonymisation techniques can potentially unravel the identities of individuals involved in blockchain-based transactions by mapping out the relationship of transactions on a blockchain and combining these analyses with contextual data. Instead of holding directly responsible for the use of a blockchain-based system, the government can hold end users vicariously liable for interacting with the undesirable blockchain-based applications. The risk of vicarious liability may create a deterrent effect.[35]

[34] 'Committee Report Summary: Virtual Currencies in India' (*PRS India*) <https://prsindia.org/billtrack/prs-products/prs-report-and-bill-summary-3301> accessed 06 June 2025
[35] Filippi (n 2)

Transportation Layers: The government can use ISPs as a regulatory tool or as a crude instrument of internet discipline by requesting that they monitor and selectively ignore packets of information coming from or directed to a particular address.

Information Intermediaries: Beyond transportation layers, the government also retains the power to apply regulations on information intermediaries as search engines and social networks, requiring that they purposefully avoid indexing or distributing links to undesirable or illegal blockchain-based applications. Like how Facebook and Twitter have removed the posts that are deemed to induce hateful conduct or fake news, the government can pass laws or regulations requiring that information intermediaries delist blockchain-based services.

Blockchain-Specific Intermediaries: New businesses and services built on top of blockchain are also emerging, so the government can pressure these new chokepoints to apply local laws and regulations. Centralised operators relying on blockchain-based networks could be forced to abide by a set of laws.

Miners and Transaction Processors: In blockchain-based networks, miners retain the ultimate authority to adopt new software that amends a blockchain's protocol. The government provides miners with specific limitations of liability or safe harbour if they abide by the law and legal requirements. To dissuade miners from supporting illicit applications, the government can impose taxes or penalise the miners.

Regulating Code and Architecture: The government can also regulate parties developing blockchain-based protocols and smart contracts. Code has long been recognised as a powerful tool to enforce legal rules. Regulators could hold developers strictly liable for creating and deploying an autonomous blockchain-based cryptosystem to operate more carefully to decrease the risk of damage.[36]

SUGGESTIONS

The time had arrived to shift from the centralised mode of payment system to adopt the decentralised system without a controlling authority and to adopt blockchain technology-based

[36] *Ibid*

currency. So, it is a matter of the hour that the Government should allow this system as a free exchange of service.

An outright ban on all cryptocurrencies is not the right approach for the government. Because it would result in a loss to the crypto investors and push the economy one step back. So, it is suggested to permit a private cryptocurrency in circulation and avail all services, like as an investment, a credit, trading with Indian currency, as a payment system, and to sell or issue, or register the virtual currency, and to raise funds.

It is directed that the Government define a cryptocurrency as a monetary instrument or securities not to be defined as property or crypto asset, which was proposed in the Cryptocurrency and Regulation of Official Digital Currency Bill 2021. Further, it is suggested to bring amendments in the Income Tax Act and, Sales of Goods Act. The Supreme Court itself recognised that it is capable of functioning as a medium of exchange and store of value.

The government should withdraw the Banning of Cryptocurrency and Regulation of Official Digital Currency Bill 2019, and Cryptocurrency and Regulation of Official Digital Currency Bill 2021, object aimed to blanket ban on private cryptocurrencies and to develop a Central Digital Currency.

Instead, the Government should constitute a standing Committee with clear guidance to frame a regulatory mechanism to provide recourse against misuse, fraud, theft, and scams. And to frame regulations suggesting the legal performance of smart contracts. After such a recommendation Government should enact a bill for regulation, not for an outright ban.

The government levied a higher tax rate of 30% on profits earned from cryptocurrencies than even developed countries like the United States and the Eurozone. It is suggested to reduce the tax limit levied on cryptocurrencies in the next financial budget, because the budget 2025-2026 remains the same tax rate, with the aim of discouraging cryptocurrencies.

US regulatory authorities like the SEC, CFTC, and FinCEN were appointed to oversee the decentralised system. Japan, Financial Service Agency oversees the crypto exchanges.

Similarly, India should have a structured framework of regulatory authorities like RBI, SEBI, and MEITY to oversee cryptocurrency.

It is suggested not to develop a Central Bank Digital Currency, which ruins the purpose of blockchain technology and implies control over the circulation of currency. Rather, it could bring regulations to ensure privacy and security concerns.

CONCLUSION

The world is moving ahead with new technology by adopting cryptocurrency; indeed, India is toying with many committees and proposals to ban cryptocurrency from the territory of India. Even after the Supreme Court Verdict, the Government and Central Bank are on the move to hold on to the stringent stance of a blanket ban. And they are aiming their utmost level to develop a CBDC - Central Bank Digital Currency, and a pilot study on CBDC with various banks to assess the working mechanism. How could they bring new legislation on the regulations of Cryptocurrency? While a pilot study is in progress for the issuance of CBDC. It is contended that the RBI stance by addressing various risks like financial, monetary, banking sector, inflation, but they can regulate by imposing various laws on Internet service providers, Information intermediaries, Block chain specific intermediaries, Miners and Transaction processors, Regulating the code developers, Hardware manufacturers and Block chain-based markets. It can also be regulated via social norms within a blockchain-based community. Many countries confer legal status to the cryptocurrency exchanges with a regulatory mechanism and tax liability. So, awaiting the Legislation to regulate cryptocurrency and provide legal status to private cryptocurrency is India's economic growth.