**LEGAL ASPECT OF CRYPTOCURRENCY LAW**

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**Abstract**

This research paper compares and contrasts the legal frameworks for cryptocurrencies in different nations. Abstract currencies are a novel type of currency. They are currencies in the sense that they can be traded among individuals. They are abstract things that are representations of numbers. An abstract currency system is a self-enforcing system of property rights over an abstract instrument that grants its owners the freedom to use the instrument as well as the right to prevent others from doing so. Cryptocurrency, often known as virtual currency, is a decentralized, cryptographically protected digital currency that is used as a medium of exchange.

The rate of use of virtual currency is fast expanding around the world, replacing not only cash and bank transfer payments, but also electronic cash payments, thanks to the development of new technologies and innovations. Bitcoin, Litecoin, and Ethereum are three of the most well-known cryptocurrencies. The nature and legal status of virtual currency have yet to be determined by legal scholars. Because it can be used as both a means of payment and a commodity, virtual currency has the characteristics of both responsibilities and property rights. The approach to cryptocurrency may change depending on the country.

There is already a global bitcoin community without a single coordinating Centre in place. Only progressive jurisdictions and state regulation of bitcoin activity will allow for the creation of conditions that will allow for the deployment of legal and secure cryptocurrency relationships.

Keywords: bitcoin; blockchain; cryptocurrency; e-money; mining; token; virtual currency.

**Introduction**

Cryptographic currencies arose as a result of technological advancements and money's growth as a fully liquid medium of exchange. Money did, in fact, serve as a medium of transaction in the beginning. The universal equivalent was then allocated to gold. The move to paper money was the next stage, and now we have the birth of electronic money (e-money). Money is first and foremost a social norm that arises to establish trust between strangers in their economic transactions, both intertemporal and in spot markets. A monetary exchange convention allows for valuable inter-temporal exchanges that would not otherwise be possible. Individuals who may not know or trust each other opt to settle their transactions by exchanging symbolic items, such as bank deposits or banknotes, according to this viewpoint. They prefer this trade system to the alternatives because it allows them to exchange labour, goods, and services. A monetary system can thus be understood as a social convention that arises to support meaningful economic exchanges between strangers by establishing trust.

In some ways, faith in the financial institution can compensate for a lack of trust in other members of society. This viewpoint has some empirical validity thanks to laboratory research. Historically, public faith in currency was based mostly on the quality of the coins that served as the currency's foundation. Governments had a clear edge over private issuers in terms of ensuring this quality, not only because they could more easily develop and enforce quality standards than private issuers, but also because states have more resources. can absorb the long-term benefits of a stable currency, increasing the motivation to prevent depreciation.

E-money, often known as digital money, has been around for a long time. Commercial bank reserves with the central bank and money created by commercial banks when they make loans are the two main types of e-money. In the last 10 years, a new class of digital instruments has emerged that are not issued by a sovereign institution or commercial bank, do not have physical equivalents, and are not denominated in a sovereign unit. These instruments are referred to as "electronic cash," "digital currency," "virtual currency," or "cryptocurrency" since they can be utilised as a form of currency. Cryptocurrency is more convenient to generate as it require no physical resources like metal, paper, or plastic. It is easy to store, transact and operate. It is cheaper and faster. It is floated by a non-government entity. Crypto is one of the widely known species of currency which is promoted by non- government.[[1]](#footnote-1)

**Definition and types of virtual currency**

A virtual currency is a digital representation of value that can only be accessed over the internet. It is saved and transacted via special software, mobile apps, or computer programmes. Virtual currency transactions take place over secure, dedicated networks or the Internet. They are typically unregulated and issued by individual parties or groups of developers.

Other types of digital currencies, such as cryptocurrencies and tokens issued by private entities, are included in virtual currencies, which are a subset of digital currencies. Virtual currencies provide the advantages of faster transaction speeds and ease of usage. Virtual currencies have the problem of being hackable and not providing much legal recourse to investors due to their lack of regulation.

Some experts, however, say that virtual currency is essentially the same as traditional currency. Only a small portion of our economy is based on cash; the majority of money is in electronic form, which refers to data saved on a computer.

The state's currency is no longer backed by gold. The existing legal currency system is based on mutual confidence between citizens, monetary institutions, and the government, all of whom believe that the legal currency will continue to have value in the future. Users' trust in virtual currency is also dependent on the belief that it will retain its worth in the future.

The European Commission currently has a working definition of virtual currency: [it is] a digital representation of value that is accepted as a means of payment by natural or legal persons and can be transferred, stored, or traded electronically. It is not issued by a central bank or a government and is not necessarily linked to a fiat currency.

Many virtual currencies are based on data stored on the software platform blockchain, or distributed ledger technology, which may also be used within private, permissioned ledger systems — variants of public and private systems may be used by financial institutions, governments, and cross-industry.

Payments in abstract money are not intermediated; they are settled as soon as enough system members agree they are acceptable, despite the fact that they take place over the internet.

[[2]](#footnote-2)The following are the general justifications for a successful distributed cryptocurrency:

1. Open-source software: To validate the code and possible updates for adoption by the network, a core and trusted set of developers is required.

2. Decentralized: it is critical that it be not controlled by a single group of people or entity, even if it is not entirely distributed.

3. Peer-to-peer: While the goal is to avoid the need of intermediaries, pools of subnetworks may arise.

4. Global: The currency is global, which is a huge plus for financial integration, whether or not smart contracts are used between the parties.

5. Quick: Transactions can be completed more quickly, and confirmation times can be reduced.

6. Reliability: The benefit is that there is no chance of settlement and it is irreversible. A large settlement team can possibly save a lot of money on financial tasks.

7. Secure: By combining evidence of identity with encryption, privacy architecture can be improved.

The difficulties regarding Know Your Customer/ Client (KYC), anti-money laundering, and terrorism financing (AML/TF) will be handled if this is done.

8. Advanced and adaptable: The system will be able to support and accommodate to a wide range of assets, financial instruments, and markets.

9. Automated: Payment and contract algorithm execution can be readily implemented.

10. Scalable: Millions of people can use the system.

It is totally reasonable to inquire as to why virtual currency has grown in popularity.

**[[3]](#footnote-3)**The following are the primary elements that influence how much a cryptocurrency is worth:

1.The issuer's value offer, as well as additional activities such as maintaining a fixed or semi-fixed exchange rate

2.Dimensions of the network The cost of the currency is determined by the number of users and their income levels who are accepted into the network. The value of the currency increases proportionally as the network (i.e. consumers and sellers) grows in size.

3.the institutional circumstances controlling the virtual community, i.e., virtual communities with a transparent policy and modern security measures are highly trusted, which is a requirement for developing a more valuable cryptocurrency;

4.The cryptocurrency's issuer's ability to fulfil its obligations. Because there is no authority responsible for the transaction's reliability when making payments with cryptocurrency, one of the most important factors influencing the virtual rate is the trust accumulated by the cryptocurrency's issuer;

5.assumptions about the currency's future value and the history of cyber-attacks on victims in the virtual community.

Legal Status of Cryptocurrencies (cryptocurrency in various forms)

**Cryptocurrency is money**

Some of the tasks of bitcoin are similar to those of monetary methods, according to adherents of this position. Cryptocurrency can be used to pay for products and services, and US law, for example, specifically allows it to be used as a payment unit for wages. IN some nations, Bitcoin has evolved into a settlement unit that is recognised and acknowledged by a variety of market participants.

The Financial Crimes Enforcement Network (Fin Cen) of the United States believes that transactions involving the exchange of cryptocurrencies for fiat money should be controlled in the same manner that transactions involving the exchange of fiat money should be regulated. Licenses are required for legal companies involved in the flow of funds using cryptocurrency

**[[4]](#footnote-4).Cryptocurrency is a money surrogate**

Opponents of recognising bitcoin as a monetary instrument contend that it is not a monetary instrument since the government does not issue it, does not guarantee its value, and does not impose a requirement that it be acknowledged.

Cryptocurrency is not recognised as an official mode of payment in the great majority of governments, and it does not apply to money. For example, the Dutch tax service does not consider cryptocurrencies to be a legitimate form of payment, and the Central Bank of Denmark declared Bitcoin to be a currency in 2014.This cryptocurrency, according to the Danish authority, has no real trade value when compared to gold or silver, and is more equivalent to bitcoin.

**Cryptocurrency as electronic money**

In international law, the definition of electronic money was established in 1998 by the European Central Bank's report on electronic money (eCB). Electronic money is defined as the electronic storage of monetary value on a technical device that can be widely used to make payments in favour of not only the issuer, but also other businesses, and that does not require the use of bank accounts for transactions, but instead acts as a prepaid instrument to a bearer.

Cryptocurrency enthusiasts argue that it is a sort of electronic money because it has no issuers and can be used to make payments without going through a bank. It can be compared to cash, which is customarily given from one person to another without the need to create a bank account.

The primary operational risk associated with electronic money is the potential failure of the system on which it is kept. Cryptocurrencies are not only vulnerable to credit, operational, and liquidity risks due to a lack of legal protection, but they are also vulnerable to security breaches and fraud due to a lack of regulation and public supervision.

PayPal, an internet-based payment system, is not included in the definition of cryptocurrency systems used in this research. The PayPal account is funded through a bank account credit transfer or a credit card payment, therefore it works within the banking system. Furthermore, PayPal is governed by the Commission de Surveillance du Commerce.

[[5]](#footnote-5)**Cryptocurrency as financial instrument**

A security or its derivative is a financial instrument. moreover, the derivative is a contract in which one of the possibilities is for the obligation to be fulfilled to purchase or sell securities, cash, or merchandise. A derivative financial instrument's underlying asset can be cash, commodities, or other financial instruments numerous statistical measures, indexes, and percentages, as well as commodities or securities.

As a result, if bitcoin is neither a commodity nor a security, it will not be the currency of choice. The derivative financial instrument's underlying asset view that cryptocurrencies can be used as a financial instrument was taken by the International Monetary Fund (IMF).

Finance Ministry of Germany It enacted a decree recognising bitcoin in 2013. At the same time, the law explicitly defines this as an official form of settlement status according to the status

**Cryptocurrency as a commodity**

A commodity is a tangible or intangible object that can be traded for money. Cryptocurrency is taxed in a number of nations since it is treated as property or a commodity. These countries' legal systems classify bitcoin as an inexhaustible non-material commodity with a fixed value at any given time.

The Australian Taxation Office considers bitcoin to be neither money nor foreign currency, equating operations involving it to barter agreements (barter arrangement).

The Commodity Futures Trading Commission (CFTC) recognised the Bitcoin cryptocurrency as a commodity on September 16, 2015.

The Israel Tax Service produced a draught circular in 2017 that classified cryptocurrencies as a digital unit with a notional value that can be used for trade or investment.

**Cryptocurrency in the form of security**

The Securities and Exchange Commission (SEC) of the United States noted in their report on the examination of a blockchain firm called "The Dao" that the issuing of iCo (initial coin offering) tokens (a token is a unit of value) was illegal. issued by a private company in the blockchain system) must be taken into account. securities, regardless of what the investors had put their money into. what it was called and how it functioned.

Opponents of such a stance contend that cryptocurrency is devoid of value.It is not a monetary obligation, but rather a set of accountability rights. They rely on the fact that the relationships are positive that are included in cryptocurrency transactions are the most equivalent in. The barter agreement has a natural quality to it. Cryptocurrency is issued on a first-come, first-served basis.

**Cryptocurrency as a property**

The United States' Internal Revenue Service (IRS) has provided guidance on the taxation of Bitcoin and other cryptocurrencies, stating that they can be classified as

currency

property

3) **investment instruments (long-term investment in shares)**

Payment of wages in cryptocurrencies is subject to income tax and salary tax, and payments in cryptocurrencies to independent contractors are taxed using the self-employment tax. Bitcoin is considered property for the purposes of payment of US federal taxes; upon sale, the owners will not receive the profit from exchange rate differences, but the profit from capital gains at the same time; payment of wages in cryptocurrencies is subject to income tax and salary tax; and payments in cryptocurrencies to independent contractors are taxed using the self employment tax.

**Benefits and Complications associated with Cryptocurrencies**

The purpose of cryptocurrency development was to revolutionise the financial system. There are, however, trade offs to be made, as with any revolution. There are significant gaps between the theoretical ideal of a decentralised system based on cryptocurrencies and its actual implementation at the current stage of cryptocurrency development.

**Benefits of Cryptocurrencies-**

Cryptocurrencies are a new type of decentralised money. In this system, centralised intermediaries such as banks and monetary organisations are not necessary to enforce trust and police transactions between two parties.

As a result, a cryptocurrency-based system decreases the possibility of a single point of failure, such as a large bank, creating a worldwide crisis comparable to the one caused by the failure of institutions in the United States in 2008.

Cryptocurrencies promise to make it easier to transfer money between two parties without relying on a trusted third party like a bank or credit card company.

To protect such decentralised transfers, public and private keys, as well as other incentive schemes such as proof of work and proof of stake, are used.

Because they do not use third-party intermediaries, cryptocurrency transfers between two transacting parties are faster than traditional money transfers. Flash loans from Decentralized Finance are a good example of such decentralised transactions.

These loans, which are not secured, can be made in a matter of seconds and are used in trading. Cryptocurrency investing can be lucrative.

The value of bitcoin exchanges has increased dramatically during the last decade. The remittance industry is one of cryptocurrency's most well-known applications. Cryptocurrencies such as Bitcoin currently serve as intermediary currency for cross-border money transfers.

**[[6]](#footnote-6)Complications of Cryptocurrencies-**

Despite the fact that they claim to be anonymous, cryptocurrency transactions are pseudonymous. They leave a digital trail that agencies like the Federal Bureau of Investigation can analyse (FBI). This enables governments and federal agencies to track average people's financial transactions.

Cryptocurrency is increasingly being used by criminals for nefarious activities such as money laundering and illegal purchases. The instance of Dread Pirate Roberts, who managed a dark web bazaar for drug sales, is well-known. Cryptocurrencies have also grown popular among hackers who use them to spread ransomware.

Cryptocurrencies are supposed to be decentralised, with their wealth spread between multiple parties on a blockchain. In fact, there is a lot of power in the hands of a few people. According to an MIT analysis, only 11,000 investors owned nearly 45 percent of Bitcoin's soaring value. While cryptocurrency block chains are extremely secure, other crypto repositories, such as exchanges and wallets, are vulnerable to hacking.

Over the years, many cryptocurrency exchanges and wallets have been hacked, resulting in the theft of millions of dollars worth of "coins."

Cryptocurrencies traded in public markets suffer from price volatility. Bitcoin has experienced rapid surges and crashes in its value, climbing to as high as $17,738 in December 2017 before dropping to $7,575 in the following months.3 Some economists thus consider cryptocurrencies to be a short-lived fad or speculative bubble.

**[[7]](#footnote-7)Security aspect of cryptocurrency- Is crypto safe?**

Due to the decentralised — and public — nature of distributed ledger technology and the encryption process that every transaction goes through, the blockchain technology that underpins bitcoin is inherently safe.

This does not, however, imply that it is completely secure in the same way that the majority of people perceive the US dollar or other established currencies. Because Bitcoin is not backed by any government, it lacks the same safeguards as many traditional currencies around the world.

"If a virtual currency company fails – and many have," the Consumer Financial Protection Bureau said in a 2014 alert regarding cryptocurrency, "the government would not pay the loss," unlike money saved in a bank insured by the Federal Deposit Insurance Corporation (FDIC) (its most recent guidance).

The Consumer Financial Protection Bureau (CFPB) identifies more specific dangers.

**Future of cryptocurrency**

The value of Bitcoin and other cryptocurrencies has risen dramatically in recent years. Bitcoin's value has more than tripled, while Ethereum's value has more than doubled by 2021.

However, it needs to be seen whether or not that growth is sustainable, as well as what it means in the long run. Dr. Richard Smith, executive director of the Foundation for the Study of Cycles, a non profit organisation dedicated to studying recurring patterns throughout economies and cultures, says, "This crypto, blockchain technology, A type of speculative fever is driving public interest in it right now.

Despite this, a growing number of large, powerful players are seeing crypto's potential.

"Every day, the idea that it may be worth something, that it could be a store of value is being accepted by more people."[[8]](#footnote-8)

**Where does India stand**

The 'Cryptocurrency and Regulation of Official Digital Currency Bill, 2021' aims to regulate cryptocurrency in general "– Launch a framework that will make it easier for the Reserve Bank of India (RBI) to create the official digital currency. The bill also aims to outlaw all private cryptocurrencies in India, but it makes exceptions to encourage cryptocurrency's core technology and applications "..

– There is currently no regulation or restriction in place in India for the usage of cryptocurrencies, but Prime Minister Narendra Modi met with senior officials earlier this month to address the subject, and "indications are strong" that regulatory action will be taken, cording to PTI.

– There has been an increase in the amount of advertising, some even involving movie stars, missing quick and big returns on investments in real estate.

[[9]](#footnote-9)**Conclusion**

Cryptocurrency is a relatively young technological development.. Along with fiat money, it has evolved into a liquid, simple-to-use medium of trade. Cryptocurrency fulfils one of the most fundamental purposes inherent in money: the community's exchange of knowledge, which is recognised as an appeal. The use of cryptocurrency as a medium of trade has already been established. As a result, cryptocurrency circulation and mining will become an integral feature of the market economy in the not-too-distant future.

E-money is also digital, but the primary distinction is that it is issued by both the government and commercial banks, resulting in an imbalance. Cryptocurrency's issuer is decentralised, and it only exists in the virtual world. The nature of virtual currency is that it has obligations and rights. Since it may be both a means of payment and a commodity, it also has property rights.

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