

## UPCOMING AEON OF CRYPTOCURRENCY

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### ABSTRACT

The virtual sector requires laws and regulation, and prohibiting cryptocurrencies would limit their growth potential. We are living in an age of exponential technological breakthroughs. We've progressed from mobile banking to stock exchange to cryptocurrency. These technological advancements have already made life more manageable and feasible. According to some sources, India's largest cryptocurrency exchanges - WazirX, CoinDCX, and Unocoin - estimate that the nation has between 60 lakh and one crore cryptocurrency holders with combined balances of more than Rs 10,000 crore<sup>1</sup>. Globally, cryptocurrency has gained traction. We are technologically advanced age, and any progress will undoubtedly represent a danger. There is tremendous potential for investors, but it also carries risk. The phrase "virtual money" refers to an intangible means of trade that is not legal money; "cryptocurrency" is a subset of virtual money. As cryptocurrencies gained popularity, governments, central banks, and regulators started to show curiosity, curiosity, and skepticism.

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<sup>1</sup> Ridhima Saxena, *India's Crypto Investors Weigh Options Ahead Of Impending Ban*, Bloomberg Quint, February 14, 2021, <https://www.bloombergquint.com/business/indias-crypto-investors-weigh-optionsahead-of-impending-ban>.

## I. INTRODUCTION

### "ONE WORD: DOGE"

Dogecoin, a digital currency that began as a joke currency in the cryptocurrency world, currently has a market capitalization of over 42 billion dollars. Elon Musk (also known as the "dogefather"), the founder of Tesla and Space X, has a significant effect on the cryptocurrency market, including funny statements and witty remarks that drive the prices to rise. His latest tweet on Bitcoin, in which he said that Tesla is exploring other options, resulted in bitcoin plummeting near the \$30000 threshold. Technology advancements have had a significant influence on traditional industrial and commercial processes. The internet has produced a plethora of new ways to do business that did not exist even a few years ago. A cryptocurrency is a decentralized digital means of exchange. Recently, particularly in 2021, there has been a tremendous increase in the popularity of cryptocurrency, which can no longer be dismissed as a passing trend; an increasing number of people are now interested in purchasing and acquiring virtual currencies, and it has also been suggested that the time is not far away when people will purchase goods and services using cryptocurrency. When asked if they own any cryptocurrency and, if not, what is the primary reason for their lack of ownership, 37.3 percent of those surveyed stated that they do own at least one type of cryptocurrency, with the primary reason for those who do not being a lack of knowledge and prior experience with the same.

## II. GOVERNMENT'S SAY IN LEGALITY OF CRYPTOCURRENCY

The majority of governments lack a comprehensive and well-defined framework for regulating the flow of cryptocurrencies, further complicating the task of governing a decentralized currency.

According to recent statistics, Indians own over INR 10,000 crore in cryptocurrency.<sup>2</sup> While the government attempted to impose a blanket ban on cryptocurrencies, it was also directed by the Supreme Court to propose laws allowing cryptocurrencies to be used as a legal means of payment

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<sup>2</sup> Priya Dialani, Cryptocurrency in India: Nation's new power but with regulations, ANALYTICS INSIGHT(May 5, 2021), <https://www.analyticsinsight.net/cryptocurrency-in-india-nations-new-power-but-with-regulations/>.

regulated by the RBI. Currently, the Government is promoting cryptocurrency development in India by convening a panel and consulting stakeholders.<sup>3</sup>

The curiosity of the Indian public in cryptocurrencies has attracted the Government's attention. The Finance Ministry of India published a statement stating that they do not regard Cryptocurrencies to be "Legal Tender or Coin" and that they would take the necessary procedures to include them into funding "Illegitimate Financing." Additionally, the Government ensured the use of blockchain technology and the transition to a digital economy. Governments were never opposed to technology; they were always concerned about its unauthorized and illicit usage. Additionally, this may be retained as an asset but cannot be utilized for acquiring or selling.

Nirmala Sitaraman, the Finance Minister, also said that they are not closing down all choices but would make specific ones open for individuals to explore with blockchain and cryptocurrencies. While turning to cryptocurrencies is a difficult undertaking, refusing to embrace new technology is a disservice to innovation.

Finally, countries such as Germany and the United Kingdom have chosen to adjust their tax systems to what is economically sustainable. Indeed, despite the fact that Bitcoin is not a currency due to its denationalization, Germany decided to recognize Bitcoin as a form of private money and so subjected it to the same taxation as private money<sup>4</sup>

### ***Recent developments in Cryptocurrency rules in India***

The Indian Government is proposing a new bill titled "Cryptocurrency and Regulation of Official Digital Currency Bill, 2021." This bill is being submitted to prohibit all the private cryptocurrencies and the introduction of a new digital currency by the Reserve bank of India, which will be called a "Rupee." However, this already prohibits individual cryptocurrency investment in unregulated markets.

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<sup>3</sup> Cryptocurrency may not face complete ban in India, INDIA TODAY (May 19, 2021, 1:08PM), <https://www.indiatoday.in/business/story/cryptocurrency-may-not-face-complete-ban-in-india-details-here-1804327-2021-05-19>.

<sup>4</sup> Liedel, Deidre A. ,The Taxation of Bitcoin: How the IRS Views Cryptocurrencies.” Drake Law Review 66 (1): 107–145(2018).

Additionally, a recent modification to Schedule III of The Companies Act, 2013<sup>5</sup>, required companies to report their bitcoin investments beginning with the new fiscal year. Where they are required to declare profit and loss from cryptocurrency investments, as well as data on advances and deposits<sup>6</sup>; additionally, their motivation for investing in cryptocurrencies must be revealed. This is an opportunistic step by the Indian Government that would increase the rate at which different corporations invest in cryptocurrencies. This also instills confidence in them, which results in growth.

Bitcoins how are not currently covered by the Coinage Act of 2011, as section 2(a) of the act states that "coin" refers to "any coin which is made of any metal or any other material stamped by the Government or any other authority empowered by the Government in this behalf and which is a legal tender including commemorative coin and Government of India one rupee note."<sup>7</sup>

Reliance must be placed on *Dwaipayan Bhowmick vs. Union of India & Others*<sup>8</sup> a PIL was filed pursuant to Article 142 of the Indian Constitution, pleading with the court to grant orders to define the meaning of Cryptocurrency establishing a special committee to develop suitable regulations to address cryptocurrency in the country. Due to the absence of any structure, the market has remained uncontrolled, allowing for all kind of illicit and terrorist activities which involves high risk.

Additionally, reference must be made to Sections 2(h) and 2(m) of the FEMA ACT, 1999, which deal with currency and foreign currency, respectively. A perusal of these laws reveals that cryptocurrency, or virtual money, is not included in any of the definitions. As a result, it may be stated that the FEMA act does not apply to the regulation of cryptocurrencies.<sup>9</sup>

### III. CHALLENGES AND ISSUES

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<sup>5</sup> The Companies Act, 2013(INDIA).

<sup>6</sup> [http://www.mca.gov.in/Ministry/pdf/ScheduleIIIAmendmentNotification\\_24032021.pdf](http://www.mca.gov.in/Ministry/pdf/ScheduleIIIAmendmentNotification_24032021.pdf).

<sup>7</sup> The Coinage Act, 2011(India).

<sup>8</sup> *Dwaipayan Bhowmick vs Union of India & Others Writ Petition(s)(Civil)No(s)1076/2017*

<sup>9</sup> FEMA ACT,1999(INDIA).

In March 2017, former RBI Deputy Governor R Gandhi said", It may remain a pipe dream that blockchain will eliminate currency by ushering in virtual currency, it is unlikely"<sup>10</sup> Every new currency faces an uphill battle both legally and technically; however, cryptocurrency has enormous growth potential because it offers a novel and attractive mode of payment; however, it is still in its infancy stage, and those who are not technically advanced have not recognized its true potential; meanwhile, due to recent trends, an increasing number of people are investing without realizing how.

Cryptocurrency is not yet immune to security dangers and financial difficulties. If hackers successfully breach the virtual currency system's operation, they will be able to generate counterfeit virtual money. Because bitcoin is not dependent on demand and supply, it may be issued indefinitely, causing economic difficulties. This may exacerbate inflation and eventually bring the virtual currency system to a halt. This will also have an effect on the actual monetary system since it will reduce the demand for actual money. This may also increase the danger of money laundering when users are able to trade virtual currency for real money through platforms. Accounts created on virtual platforms are not authenticated. Authorizers may create several accounts using fictitious identities and then use them to conduct unlawful operations.

Why is it that the committee established by the ministry of finance wants to prohibit cryptocurrency? According to the report, the primary reason is that prices fluctuate, leaving consumers vulnerable to fraud such as phishing. Additionally, the Financial Action Task Force, an intergovernmental organization, has stated that virtual currencies such as Bitcoin are a threat to the economy and promote money laundering. This technique makes it more difficult to monitor defaulters.<sup>11</sup>

India's cryptocurrency market will remain unregulated until a regulatory framework is established. Although cryptocurrency start-ups are growing in popularity, and several businesses have already begun investing. Still, cryptocurrency start-ups are optimistic about the response, and possible and

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<sup>10</sup> Virtual Currencies pose real financial risk: RBI's Gandhi, THE TIMES OF INDIA(Mar 1, 2017, 4:32 PM) <https://timesofindia.indiatimes.com/business/india-business/virtual-currencies-pose-real-financial-risk-rbis-gandhi/articleshow/57410724.cms>.

<sup>11</sup> <http://www.fatf-gafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf>.

ongoing submissions to the Government are being made to avoid imposing a ban on cryptocurrencies.

Governments should place a greater emphasis on maximizing the advantages of cryptocurrencies and strengthening regulatory measures.

#### IV. CONCLUSION

Despite the Government's actions and planned changes, there is still a lack of clarity on cryptocurrency legislation in India. The Government must make efforts to instill trust in businesses, hence promoting bitcoin investment in India. Cryptocurrency has yet to obtain legal recognition as a banknote, money, or other legal instruments. A legal maxim, "expressum facit cessare tacitum," clarifies that if a certain thing is clearly mentioned, then only it is acceptable. This was established by the Supreme Court of India in a series of judgments.

Numerous concerns remain with regards to the utilization of Bitcoin that do not merit a great deal of trust. They must be considered, and efforts should be made to address them. This area needs extensive study and development. It must be addressed from a variety of angles. Confidence and trust are the most critical factors to consider in order for businesses and individuals to feel secure investing.

India has to develop the measures and regulate them in such a way that it can get widespread approval. Regulators must use prudence when categorizing virtual currency. Companies' records should be open in connection to virtual currency since this will help prevent unauthorized usage and development of software. It has already been acknowledged widely over the globe; the time has come for India to enact some rules and plan for it. It is time to tame the dragon and maximize opportunities. The earlier this is accomplished, the better.