
CRYPTOCURRENCY: NAVIGATING ITS LEGAL CHALLENGES AND REGULATORY COMPLEXITIES

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Introduction

Cryptocurrency, a revolutionary innovation has changed the landscape of traditional finance and commerce sector. Cryptocurrencies like Bitcoin, Ethereum, due to its decentralised, pseudonymous and borderless feature have gained extreme popularity over the past decade. Though its ecosystem continues to evolve and grow it faces complex web of legal challenges and regulatory hurdles that need proper attention.

Cryptocurrency first came into existence with introduction of Bitcoin in 2008 by Satoshi Nakamoto, a pseudonymous creator. Through Bitcoin the concept of decentralised digital currency backed by blockchain technology that involved peer to peer transaction was introduced. Since Cryptocurrency doesn't require banks or financial institutions for transferring of money it was seen as a challenge for traditional financial institutions as it provided financial services to unbanked population.

Over the years, the market of cryptocurrency has evolved significantly with various projects based on blockchain other than digital currencies. For example, Ethereum another type of cryptocurrency introduced the concept of smart contracts that enabled decentralised applications to be built on its blockchain which in turn opened new possibilities like decentralised finance (DeFi) platforms NFT's etc.

With the rise in popularity of Cryptocurrencies it also raised concerns about various factors like money laundering, tax evasion, consumer protection etc due to its decentralised nature. This led the governments and regulatory bodies to develop legal frameworks and regulations to address these concerns.

But the legal and regulatory framework of Cryptocurrency varies significantly from one jurisdiction to another. There are some countries that consider cryptocurrency as legal and have made provisions to promote innovation, some countries took a prohibitive approach and in

some countries it is a grey area of study. This fragmentation in regulatory approaches has led to complex and challenging environment for people operating in cryptocurrency space.

Looking into the legal challenges and regulatory complexities related to the cryptocurrency landscape holds great significance due to its impact on various facets of our world. The Blockchain technology used in cryptocurrency offers potential to create an efficient and transparent financial system but to enjoy its benefit, proper regulatory framework is necessary. There is an increasing need to have adequate regulatory measures to safeguard the interests of investors, prevent frauds, scams, mismanagement of funds and ensure fair market practices. Cryptocurrency markets are volatile in nature and improper regulations can lead to market instability thus, affecting the financial sector. Cryptocurrency helps in providing financial services to unbanked individuals thereby creating financial inclusivity among individuals. The decentralised technique used poses threat to privacy of an individual and therefore having proper regulatory provisions is necessary. Effective regulation helps the government in proper collection of tax and contributing to budgetary stability of a country. To prevent the happening of illegal activities like terrorist financing and money laundering which is very much possible by use of digital currency and to ensure legal certainty to business operating in said field regulatory clarity is of great importance.

There are various challenges in field of cryptocurrency like AML/KYC requirements, taxation, security regulations, cross border regulatory challenges etc. In this research paper we will look deeper into such legal and regulatory complexities. We will also analyze approaches of different countries regarding crypto regulations, look into case studies relating to regulatory developments and try to find potential solutions for navigating this complex landscape.

Hypothesis

- The absence of a clear and comprehensive regulatory framework for cryptocurrencies has hindered the growth of the cryptocurrency market, resulting in reduced investment and innovation in the sector.
- The legal challenges surrounding cryptocurrency adoption and regulation pose significant hurdles for both industry participants and regulatory authorities, impacting the development and mainstream acceptance of cryptocurrencies.

Research Objective

- To explore, analyze, and provide insights into the legal challenges associated with

cryptocurrencies and the strategies employed by various stakeholders, including governments, businesses, and individuals, to address these challenges.

- To understand the regulatory environment surrounding cryptocurrencies and provide recommendations for effective regulation in this rapidly evolving space.
- To analyze the current state of Cryptocurrency Regulation by looking into the existing regulatory framework of various countries.

Research questions

1. What are the key legal challenges and regulatory complexities faced by the cryptocurrency industry on a global scale?
2. How do different countries and regulatory authorities approach the regulation of cryptocurrencies, and what are the implications of these approaches?

Research Gap

- Existing studies tend to be fragmented and primarily focus on specific legal issues, such as money laundering or securities regulation, within individual jurisdictions.
- A comprehensive analysis of the legal challenges faced by cryptocurrencies, including a comparative study of regulatory approaches across different countries, is lacking.

Legal Challenges and Regulatory Complexities faced by Cryptocurrency¹

□ Insufficient Regulatory Uniformity:

Although the nature of cryptocurrencies is international and borderless, different countries have different regulatory frameworks. Due to the lack of global harmonisation, users and businesses using cryptocurrencies may unintentionally transgress laws in other countries which can lead to causing confusion and complexity. Lack of uniform laws creates a state of confusion and ambiguity that makes it difficult for people and businesses to operate in the area. Diverse regulatory strategies discourage potential investors and innovators from entering the cryptocurrency space in addition to making compliance more difficult². Because of the ensuing

¹ Stephanie Ligot, Challenges to Cryptocurrency: Isn't it time to regulate the intermediaries, Research gate, October 2019

https://www.researchgate.net/publication/336895750_Legal_Challenges_of_Cryptocurrencies_Isn't_It_Time_to_Regulate_the_Intermediaries

² Irina Cvetkova, Cryptocurrencies Legal Regulation, BRICS Law Journal, July 2018

https://www.researchgate.net/publication/326195399_Cryptocurrencies_legal_regulation

ambiguity, the industry is unable to develop and flourish as a result of stakeholders struggling to adhere to a wide range of regulations. This prevents the creation of a unified and widely recognised framework for the use of cryptocurrencies. As the digital economy develops, it will be necessary to address this regulatory fragmentation in order to promote responsible innovation and make it easier for cryptocurrencies to be widely adopted.

□ **Uncertain Legal Situation:**³

The regulation of cryptocurrencies is ambiguous. They are categorised as commodities in some countries, securities in others, and currencies in some others. The legal treatment of cryptocurrencies, including taxation, securities laws, and consumer protection, may be affected by this lack of clarity. It may also make it difficult for people and companies to comprehend their responsibilities and rights.

Cryptocurrencies perform well as a medium of exchange. They are non-perishable by definition because they only exist in digital form. Bitcoins are very fungible and divisible. Unlike gold and cash, there are no transportation expenses because all transactions take place online. Finally, because of the technological design and application of cryptography, they cannot be counterfeited.

It ought to be a unit of account so that we can evaluate the prices of goods and services across retailers and over time. Because of their current extreme volatility, cryptocurrencies are not a suitable unit of account.

The topic of cryptocurrency scores a medium due to their price fluctuations. Because of these price swings, it can't be considered a reliable store of value. However, because cryptocurrencies are digital in nature, they can be stored very well and do not expire.

From a legal standpoint, According to U.S. law, cryptocurrencies meet the requirements for being considered a commodity. Additionally, despite not being actual coins or being in the actual possession of investors, cryptocurrencies are tangible. In conclusion, there is still disagreement regarding how to classify Bitcoin. Considering the aforementioned, the number of classifications for Bitcoin may equal its uses. Government regulators ought to offer

³ Akansha Singh, Sharan Chawla, Cryptocurrency Regulation: Legal issues and challenges, 7, international journal of reviews and research in social sciences, 365-375(2019)
<https://anvpublication.org/Journals/HTMLPaper.aspx?Journal=International%20Journal%20of%20Reviews%20and%20Research%20in%20Social%20Sciences;PID=2019-7-2-13>

guidelines outlining precisely how each regulatory framework will operate and coexist without impeding this cutting-edge financial platform's exciting growth potential.

□ **AML, or anti-money laundering, and Compliance with Know Your Customer (KYC):**

Because cryptocurrencies are anonymous, governments and regulatory agencies are worried that they could be used to support money laundering and other illegal activities. Companies in the cryptocurrency sector are required to set up strong AML and KYC procedures as part of their compliance efforts. In order to identify and stop money laundering activities, AML procedures entail tracking and monitoring transactions. Businesses must, however, identify and authenticate the people participating in cryptocurrency transactions in order to comply with KYC procedures. Usually, this entails gathering comprehensive data about users, including their identity documents, and confirming the accuracy of this data. Businesses may find it difficult to ensure compliance with these requirements, especially if they provide decentralised services. Decentralised services work on the tenet of reducing central control, which makes it more challenging for companies to efficiently track and monitor user activity. Furthermore, the anonymity of some cryptocurrencies can present challenges in KYC process.

□ **Reporting and Taxation:⁴**

Taxing cryptocurrencies is a complicated topic. The way that cryptocurrency transactions are treated tax-wise varies greatly between jurisdictions. This covers income taxes, capital gains taxes, and in certain situations, transaction taxes as well. Furthermore, it's frequently unclear what needs to be reported for cryptocurrency transactions, which can result in non-compliance and possible legal problems for people and companies.

Determining the tax implications of cryptocurrencies depends on their legal classification. The primary contrast is whether or not cryptocurrency is a currency or a commodity, in which case capital gains regulations are applicable. Taxes apply to cryptocurrency transactions just like they do to any other kind of asset or money. Notwithstanding the fact that Bitcoin serves as a store of value, a medium of exchange, a unit of account, and operates similarly to actual currency in certain circumstances, the Internal Revenue Service of the United States declared

⁴Akansa Singh, Sharan Chawla, Cryptocurrency Regulation: Legal issues and challenges, 7, international journal of reviews and research in social sciences, 365-375(2019)
<https://anvpublication.org/Journals/HTMLPaper.aspx?Journal=International%20Journal%20of%20Reviews%20and%20Research%20in%20Social%20Sciences;PID=2019-7-2-13>

in March 2014 that Bitcoin will be treated as property for tax purposes rather than currency. This implies that capital gains tax will apply to Bitcoin

Canada determined that Bitcoin fails the currency test and should be treated as a commodity for tax purposes because it lacks a feature that makes it legal tender. Germany decided to acknowledge Bitcoin as an equivalent to private funds, and as a result, granted it currency-specific tax regulation

□ **Protection of Consumers:**⁵

The cryptocurrency markets are full of con artists, shady business plans, and hackers. The job of regulators is to shield customers from these dangers, which can include fraudulent initial coin offerings (ICOs), Ponzi schemes, and dishonest trading techniques. It can be difficult to strike a balance between protecting consumers and fostering innovation and entrepreneurship.

One of the main concerns of cryptocurrency users has been the absence of consumer protection. There is no financial institution or government backing cryptocurrencies, leaving them open to theft, fraud, and other criminal activity. Because of its decentralised nature, cryptocurrencies are difficult to regulate and safeguarding consumers becomes a challenge.

To guarantee safety of consumer funds, banks and payment service providers must enforce stringent counterterrorism financing (CTF) and anti-money laundering (AML) regulations. The use of smart contracts, which are self-executing agreements with the terms of the sale and purchase directly written into lines of code, is one potential remedy that might allow customers to have more control over their money.

□ **Privacy Issues and safety of data:**⁶

Strong privacy features are built into some cryptocurrencies, like Monero and Zcash, which can make it challenging for regulators and law enforcement to track transactions. It can be difficult to strike a balance between the need for regulatory oversight and user privacy because too stringent regulations may violate people's right to privacy.

Most cryptocurrencies are based on blockchain technology, which is transparent and decentralised and creates a special challenge for data privacy. Despite the high levels of

⁵ Afrasiab Ahmed Rana, Fiza Zulfiqar, Salman Masud, The Legal and Regulatory Framework for Cryptocurrency and Fintech in Pakistan: Challenges and Policy Recommendations, SSRN (2023) <https://deliverypdf.ssrn.com/delivery.php?>

⁶ JusCorpus, Legal challenges and issues related to cryptocurrency in India: A critical and exploratory Analysis, Jus Corpus Law Journal (5th November 2023, 8:40 P.M) <https://www.juscorpus.com/legal-challenges-and-issues-in-regulation-of-cryptocurrency-in-india-a-critical-and-exploratory-analysis/>

security and transparency provided by blockchain technology, transactions can be linked back to specific users due to the public nature of the ledger, which may reveal sensitive personal data

Payment service providers and banks must encrypt consumer data and conduct routine security audits to find and address any possible threats to user privacy. They must also have data protection policies and procedures in place to prevent unauthorised access to or disclosure of customer information.

□ **Cybersecurity**⁷

Although decentralised cryptocurrencies provide benefits like immutability and transparency, they also present serious cybersecurity risks. All transactions are visible to anybody with network access due to blockchain's public and transparent nature. Although transparency is an essential component of cryptocurrencies, it also gives bad actors the chance to take advantage of weaknesses and commit fraud. Unauthorised financial transfers can occur as a result of hacking and security lapses, costing both individuals and companies money. Cybersecurity precautions are necessary for the long-term viability and sustainability of companies dealing with crypto. To safeguard sensitive data and ensure the security of transactions, this involves putting sophisticated encryption techniques into practise.

□ **Illegal Activities Driven by Cryptocurrencies:**⁸

Since cryptocurrencies like bitcoins are widely accepted, no government or nation is required to do anything in relation to them. In general, they are not considered legal tender. This is among its shortcomings. Consumer protection is lacking in cryptocurrencies due to a lack of oversight and regulations.

The reason why cryptocurrencies are being utilised for money laundering is they offer a good amount of anonymity, though not complete anonymity, especially when combined with the TOR network. Furthermore, because advanced encryption techniques, or "wallets," can be used, they are widely accessible, simple to store, and extremely difficult for unauthorised

⁷ Afrasiab Ahmed Rana, Fiza Zulfiqar, Salman Masud, The Legal and Regulatory Framework for Cryptocurrency and Fintech in Pakistan: Challenges and Policy Recommendations, SSRN (2023) <https://deliverypdf.ssrn.com/delivery.php>

⁸ Akansha Singh, Sharan Chawla, Cryptocurrency Regulation: Legal issues and challenges, 7, international journal of reviews and research in social sciences, 365-375(2019) <https://anvpublication.org/Journals/HTMLPaper.aspx?Journal=International%20Journal%20of%20Reviews%20and%20Research%20in%20Social%20Sciences;PID=2019-7-2-13>

parties (like law enforcement agencies) to access. For hackers, bitcoins are a convenient way to make payments.

Cryptocurrencies enable real-time transactions, high negotiability, near anonymity, and fund withdrawal, all of which contribute to money laundering. They are exempt from source taxation since there is no jurisdiction in which they are "held" (they are "held" in online "wallets"). Also accounts with cryptocurrencies are anonymous. Without ever revealing any personal information, users are free to create as many virtual "wallets" as they like to purchase, mine, and exchange Bitcoins. Bitcoin's operation is independent of the existence of financial intermediaries like banks.

□ **Legal Contests and Court Cases:**

In the cryptocurrency space, legal disputes are frequent and can involve a variety of problems, including intellectual property violations, fraud, and disputes over contracts. A major obstacle in cryptocurrency-related legal disputes is the absence of a centralised authority or jurisdiction. It is challenging to apply current legal frameworks to decentralised and borderless technologies because traditional legal systems are frequently set up inside national borders. With the help of cryptocurrencies, transactions between individuals in different nations can take place without the need for middlemen on a worldwide scale. Since cryptocurrencies are based on the decentralised blockchain technology and transactions are recorded on a public ledger, dispersed throughout a network of nodes. It makes it difficult to identify a particular place or organisation in charge of legal matters. Determining which legal system should handle disputes resulting from international cryptocurrency transactions presents particularly complex jurisdictional issues.

□ **Safety of the Public:**

Cryptocurrencies are currently functioning in a regulatory vacuum of sorts.⁹ Furthermore, the victim of cryptocurrency fraud is helpless because there are no available remedies. The anonymity makes it challenging to identify the offender. Because there is no specific law or regulation in place, neither the suspect nor the jurisdiction is known.

Due to the lack of fundamental consumer protections like refund policies for disputes between customers and merchants, bitcoin transactions are dangerous. In the event of a breach, the

⁹ JusCorpus, Legal challenges and issues related to cryptocurrency in India: A critical and exploratory Analysis, Jus Corpus Law Journal (5th November 2023, 8:40 P.M) <https://www.juscorpus.com/legal-challenges-and-issues-in-regulation-of-cryptocurrency-in-india-a-critical-and-exploratory-analysis/>

victim might not be able to provide sufficient legal proof to be compensated for losses. Since cryptocurrencies operate on information technology (IT) principles, the majority of potential disputes centre on IT-related offences like hacking and digital licences, among other things. Failing to report cryptocurrency theft to local police, like any other crime, only gives criminals more confidence. Aware, a company that assists investors impacted by cryptocurrency scams, and Autonomous NEXT, a financial research firm, estimate that between 2012 and the first half of 2018, roughly 15% of cryptocurrencies were stolen, worth a total of \$1.7 billion at the time of the theft and showing signs of increasing.

□ **Regulation versus Decentralisation:**

Key to cryptocurrency development is the idea that Decentralisation puts conventional regulatory models to the test.¹⁰ One of the main challenges facing this industry is finding a balance between preserving the advantages of decentralisation and the requirement for regulation to safeguard consumers and financial stability.

To guarantee the expansion and sustainability of the cryptocurrency market while managing risks and upholding the rule of law, each of these difficulties poses a complicated problem that needs to be carefully considered and addressed through rigorous regulatory measures.

Comparative Analysis of cryptocurrency regulations in various countries

□ **USA¹¹**

The United States has implemented a disjointed regulatory structure. State-level legal approaches to cryptocurrency are inconsistent, but US federal legislation pertaining to cryptocurrencies is still evolving. Since cryptocurrencies are regarded by the Financial Crimes Enforcement Network (FinCEN) as money transmitters, they must register and abide by AML/KYC guidelines. The Internal Revenue Service (IRS) defines cryptocurrency as "a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value", it does not view it as legal tender and has released tax guidance in this regard. Bank Secrecy Act (BSA) covers the exchanges for cryptocurrency and they are lawful in the

¹⁰ Martin C W Walker, Crypto industry's continuing efforts to avoid legislation, London School of Economics and Political Science (20th September, 2023, 10:00 pm)
<https://blogs.lse.ac.uk/businessreview/2021/10/13/unnecessary-complexity-the-crypto-industrys-continuing-efforts-to-avoid-regulation/>

¹¹ Comply advantage, Cryptocurrency Regulations around the world, (2018)
<https://complyadvantage.com/insights/cryptocurrency-regulations-around-world/>

United States. This means that companies that offer cryptocurrency exchange services have to set up an AML/CFT programme, register with FinCEN, keep the necessary documentation, and file reports with the government. In the meantime, the US Securities and Exchange Commission (SEC) has stated that it views cryptocurrencies as securities and that digital wallets and exchanges must abide by all securities laws. Certain cryptocurrencies and initial coin offerings (ICOs) are also subject to Securities and Exchange Commission (SEC) regulation. While The Commodities Futures Trading Commission (CFTC) regulates cryptocurrency derivatives and views cryptocurrencies similarly to commodities. There is regulatory uncertainty as a result of the complicated regulatory approach. Companies in the US have to deal with a variety of regulatory bodies, which could impede their ability to innovate and expand. The industry might profit from more standardised procedures and clearer guidelines.

□ **Japan**¹³

According to the Payment Services Act (PSA), Japan has the most progressive cryptocurrency regulations in the world and acknowledges Bitcoin and other digital currencies as legitimate property. The National Tax Agency decided in December 2017 that cryptocurrency gains ought to be treated as "miscellaneous income" and subject to the appropriate taxes for investors. Japan enacted regulations pertaining to cryptocurrencies, recognising Bitcoin as a legitimate form of payment and legalising it.¹⁴ The nation established a cryptocurrency exchange licencing system, and these platforms must adhere to stringent consumer protection and security guidelines. The regulation of cryptocurrencies in Japan has drawn investment and companies.

The Financial Instruments and Exchange Act (FIEA) and the PSA have both undergone recent amendments that went into effect in May 2020. The changes relaxed regulation on the trading of cryptocurrency derivatives, increased limitations on the management of users' virtual money, and replaced the term "virtual currency" with "crypto-asset."

Japan's laws governing cryptocurrency exchanges are likewise progressive¹⁵. Although exchanges are allowed in Japan, there is a growing national concern about cryptocurrency

¹² Commissioner Caroline A. Crenshaw, US Security and Exchange Commission, 9th November 2021
<https://www.sec.gov/news/statement/crenshaw-defi-20211109>

¹³ Irina Cvetkova, Cryptocurrencies Legal Regulation, BRICS Law Journal, July 2018
https://www.researchgate.net/publication/326195399_Cryptocurrencies_legal_regulation

¹⁴ Comply advantage, Cryptocurrency Regulations around the world, (2018)
<https://complyadvantage.com/insights/cryptocurrency-regulations-around-world/>

¹⁵ Kevin George, Cryptocurrency Regulations around the world, Investopedia, 31st July 2023
<https://www.investopedia.com/cryptocurrency-regulations-around-the-world-5202122>

regulations following a number of high-profile hacks. The Financial Services Agency (FSA) of Japan has intensified its efforts to control trading and exchanges. Additionally, the exchanges must adhere to more stringent cybersecurity and AML/CFT regulations. Japan formed the Japan STO Association and the Japanese Virtual Currency Exchange Association (JVCEA) to encourage compliance and offer guidance to exchanges that are not yet licenced.

□ **Switzerland**¹⁶

Switzerland has taken a pro-crypto position and dubbed itself the "Crypto Valley." It provides a business-friendly environment with a well-defined regulatory framework for cryptocurrencies and initial coin offerings (ICOs). Many blockchain and cryptocurrency startups have been drawn to Switzerland due to its approach. Growth has been encouraged by the emphasis on innovation, but there are new risks as well, such as the possibility of fraud.

Cryptocurrency exchanges and cryptocurrencies are allowed in Switzerland, which has also taken a remarkably progressive approach to regulating them. Cryptocurrencies are regarded as assets by the Swiss Federal Tax Administration (SFTA), which means they are liable to the wealth tax in Switzerland and need to be reported on yearly tax returns.

To operate, cryptocurrency exchanges in Switzerland are required to register and receive a licence from the Swiss Financial Market Supervisory Authority (FINMA). Furthermore, FINMA applies current financial legislation to offerings in a variety of fields, from banking to securities trading and collective investment schemes. Cryptocurrency regulations are also in place for initial coin offerings (ICOs) in Switzerland. The Blockchain Act, which further defines the legalities of trading cryptocurrencies and operating cryptocurrency exchanges in Swiss law, was passed by the Swiss parliament in September 2020.

□ **China**¹⁷

China has adopted a strict policy regarding cryptocurrencies. Both cryptocurrency exchanges and initial coin offerings (ICOs) are prohibited. The People's Bank of China, the country's central bank, has been creating its digital yuan, or Central Bank Digital Currency (CBDC). Numerous Chinese companies and investors have been forced to look for other jurisdictions as

¹⁶ Comply advantage, Cryptocurrency Regulations around the world, (2018)
<https://complyadvantage.com/insights/cryptocurrency-regulations-around-world/>

¹⁷ Matthew P. Ponsford, A Comparative Analysis of Bitcoin and other Decentralized Virtual Currencies: Legal Regulation in the People's Republic of China, Canada, and the United States, *jolt digest*, 14 November 2015
<https://jolt.law.harvard.edu/digest/a-comparative-analysis-of-bitcoin-and-other-decentralized-virtual-currencies-legal-regulation-in-the-peoples-republic-of-china-canada-and-the-united-states>

a result of the ban. The goal of the digital yuan's introduction is to lessen dependency on private cryptocurrencies while preserving control over the country's financial system.

It should come as no surprise that China views cryptocurrencies as illegal money and is known throughout the world for its strict cryptocurrency laws. The Chinese government declared in 2020 that cryptocurrencies are property for the purposes of determining inheritances, as per an amendment to the Civil Code. China banned cryptocurrencies altogether in September 2021 after banning all domestic cryptocurrency mining in June 2021. A significant token sell-off was sparked by the new regulation, which effectively outlawed the use of any cryptocurrency exchanges, domestic or foreign. While local cryptocurrency exchanges operate under a blanket ban in China, workarounds are possible using certain foreign platforms and websites that China's internet firewall doesn't catch.

□ **India**¹⁸

India's cryptocurrency regulations¹⁹ have been subject to some upheaval. The Reserve Bank of India (RBI) outlawed "dealing with or settling virtual currencies" for banks and other regulated financial institutions in 2018. The comprehensive regulation made it illegal to trade cryptocurrencies on local exchanges and compelled those that already operated to shut down. But in a historic ruling in 2020, the nation's Supreme Court declared the ban to be unconstitutional and overturned this ban.²⁰ The regulatory environment is still unclear, though. India's bitcoin enterprises are facing challenges due to unstable regulations. The adoption of cryptocurrencies by the general public has been hampered by unclear regulatory guidelines.

On 2nd November 2017 Inter- Ministerial committee (IMC) was established to look into matters related to digital currency and propose actions to be taken in this regard. "Report of the committee to propose specific actions to be taken in relation to virtual currencies" was published by department of economic affairs in India on 28th February 2019. It discussed about virtual currencies in detail²¹. It studied distributed ledger technology, regulatory challenges

¹⁸ India Today, 13th January 2023

<https://www.indiatoday.in/business/story/rbi-governor-shaktikanta-das-cryptocurrency-should-be-banned-similar-to-gambling>

¹⁹ Reserve Bank of India, 1st February, 2017

<https://www.rbi.org.in/commonman/English/Scripts/PressReleases.aspx?Id=2152>

²⁰ Internet and Mobile association of India v RBI, Supreme Court of India, 4th March 2020

https://main.sci.gov.in/supremecourt/2018/19230/19230_2018_4_1501_21151_Judgement_04-Mar-2020.pdf

²¹ Department of Economic affairs, New Delhi, Report of committee to propose specific actions to be taken in relation to virtual currencies, 28th February 2019

<https://dea.gov.in/sites/default/files/Approved%20and%20Signed%20Report%20and%20Bill%20of%20IMC%20on%20VCs%2028%20Feb%202019.pdf>

associated with it, virtual currencies launched globally, initial coin offering, regulatory concerns regarding use of digital currencies, central bank digital currency designs and how such designs are working in the countries that have adopted it, various recommendations by the committee etc.

In India, cryptocurrency is not accepted as legal money²², and exchanges standing is still unclear while new rules are being thought through. Finance Minister Bhagwat Karad hinted in February 2022 that cryptocurrency transactions might be subject to a 30% tax, despite the fact that the tax status of cryptocurrencies is still unclear.

□ **Malta**

Malta has positioned itself as a global leader in cryptocurrency regulation by adopting a very progressive stance towards cryptocurrencies. The government of Malta recognises cryptocurrencies as "a medium of exchange, a unit of account, or a store of value," despite the fact that they are not legal tender. Malta does not currently have any tax laws pertaining to cryptocurrencies, nor does VAT apply to transactions involving the exchange of fiat money for cryptocurrency.

In 2018, the Maltese government introduced historic legislation that defined a new regulatory framework for cryptocurrencies and addressed AML/CFT concerns. Cryptocurrency exchanges are legal in Malta. The legislation included a number of bills, one of which, the Virtual Financial Assets Act (VFA), established a precedent for the world by regulatory framework that applies to asset managers, brokers, advisers, ICOs, wallet providers, and cryptocurrency exchanges. The Innovative Technology Arrangements and Services Act, which created the framework for the future registration and accountability of cryptocurrency service providers, was accompanied by the VFA regulations, which went into effect in November 2018. Additionally, the Malta Digital Innovation Authority (MDIA) was founded. As the government body in charge of developing policies related to cryptocurrencies, the MDIA works with other countries and organisations to enforce moral standards regarding the use of blockchain technology and cryptocurrencies.

□ **South Korea²³**

²² Drishti IAS, Future of Crypto Assets in India, 19th September 2022
<https://www.drishtiiias.com/daily-updates/daily-news-editorials/future-of-crypto-assets-in-india>

²³ Comply advantage, Cryptocurrency Regulations around the world, (2018)
<https://complyadvantage.com/insights/cryptocurrency-regulations-around-world/>

Strict AML/KYC regulations are part of the regulatory framework that South Korea has put in place for cryptocurrencies. ICOs are prohibited in the nation, although trading cryptocurrencies is allowed. The adoption of AML/KYC procedures has been fueled by regulatory compliance. Certain fundraising efforts have been moved to other nations as a result of the ICO ban.

In South Korea, there is currently no tax on cryptocurrency transactions because they are not regarded as financial assets or currencies. However, the Ministry of Strategy and Finance has stated that it intends to announce a tax framework in 2022 and that it is considering imposing a tax on income from cryptocurrency transactions.

The Financial Supervisory Service (FSS) of South Korea is in charge of overseeing government registration and other measures related to cryptocurrency exchange regulations, which are stringent in the country. In a similar vein, banks that have accounts with cryptocurrency exchanges are subject to stringent reporting requirements from the Financial Services Commission (FSC).

□ UK²⁴

The UK has taken a relatively balanced approach to cryptocurrency regulation. The Financial Conduct Authority (FCA) regulates cryptocurrency businesses for AML purposes. Cryptocurrencies are not considered legal tender, but they are legal and subject to existing financial laws. One of the main objectives is to strike a balance between innovation and consumer protection.

The UK has taken a measured approach to regulating cryptocurrencies. Despite the lack of laws specifically pertaining to cryptocurrencies in the UK, exchanges must require registration and cryptocurrencies are not regarded as legal money. The UK incorporated the requirements for cryptocurrency regulation outlined in 5AMLD and 6AMLD into domestic law following its exit from the EU in 2020. Exchanges that deal in cryptocurrencies must therefore register with the Financial Conduct Authority in the UK.

To sum up, there are notable differences in cryptocurrency regulations across nations, which can be attributed to varying attitudes, concerns, and priorities. These regulatory approaches have a wide range of implications. With transparent and encouraging regulations, certain nations have successfully drawn investment and promoted innovation; others, on the other

²⁴ Kevin George, Cryptocurrency Regulations around the world, Investopedia, 31st July 2023 <https://www.investopedia.com/cryptocurrency-regulations-around-the-world-5202122>

hand, have chosen more stringent policies that may present difficulties for users and enterprises. The degree to which regulation and innovation coexist is a crucial determinant of the prosperity of the cryptocurrency sectors across various nations. Additionally, given the worldwide and borderless nature of cryptocurrencies, international coordination and harmonisation of regulations might be required.

Suggestions and Conclusion

□ Global Regulatory Collaboration:

Promotion of international cooperation and coordination between nations should exist to create uniform guidelines for the regulation of cryptocurrencies. With this a more uniform and harmonised regulatory environment may be created. Encourage the creation of a global cryptocurrency regulatory framework. via global institutions like the Financial Action Task Force (FATF). A framework like this can aid in the creation of global norms and procedures.

□ Risk-Oriented Method:

Adopt a risk-based approach to regulation, acknowledging that the risk associated with various aspects of the cryptocurrency industry varies. While allowing for flexibility in lower-risk areas, regulators should concentrate their efforts on areas where risks are highest, such as AML/KYC compliance. Thorough Anti-Money Laundering (AML) and Know Your Customer (KYC) processes can help stop illegal activity like funding of terrorism and money laundering. Regulations can also be modified using the risk-oriented approach as the industry changes. This strategy acknowledges that the cryptocurrency market is dynamic and that laws should adapt to new threats and developments in technology.

□ Awareness and Education of Consumers:

Public education initiatives and public awareness should be carried out. Providing consumers with information about advantages and risks associated with cryptocurrency can increase market safety, lower the chance of scams, and enable them to make wise decisions. The fundamentals of blockchain technology, the potential advantages of cryptocurrencies, and the dangers of trading and investing should all be included in educational initiatives. Users can navigate the cryptocurrency landscape more safely by stressing the significance of secure practises, such as using trustworthy wallets and exchanges, putting in place robust security measures, and being on the lookout for potential scams. Raising awareness also helps stop fraudulent activity because it makes users more perceptive and capable of spotting and

reporting unusual activity. This can thus lead to the development of a cryptocurrency ecosystem that is more reliable and resilient.

□ **Governing Sandboxes:**

Create regulatory sandboxes wherein cryptocurrency startups are permitted to operate in an atmosphere under control where companies can test their products and services in a real-world setting without being subject to the same regulatory requirements as fully operational businesses. The purpose of the regulatory sandbox should be to safeguard consumers from potential harm while simultaneously giving fintech companies a safe environment in which to test out new technologies and business strategies. This strategy gives companies the chance to experiment and innovate while regulators keep a close eye on their operations.

□ **Unambiguous Tax Guidelines:**

Provide uniform and transparent tax regulations for bitcoin transactions, including how gains and losses are taxed. Clear and unambiguous tax laws can ease noncompliance and confusion, facilitating the reporting and payment of cryptocurrency-related taxes by both individuals and companies. A more stable and predictable environment for cryptocurrency users is fostered by well-defined tax regulations, which in turn promotes wider adoption and involvement in the digital asset ecosystem.

□ **Create Explicit Legal Framework**

Legislators need to create precise legal frameworks that spell out each party's responsibilities and rights when transacting with digital currency. Regulations pertaining to contract enforcement, dispute resolution, and liability for theft and fraud fall under this category. Unambiguous legal frameworks will boost investment, give consumers and companies confidence, and aid in the growth of a robust digital currency ecosystem. Explicit legal frameworks provide businesses and consumers confidence by delineating the legal parameters that govern cryptocurrency transactions. This assurance encourages investment and helps to build a strong ecosystem for digital currencies as a whole.

□ **Progressive and Flexible Rules:**

Regulations should be applied gradually and flexibly. Acknowledge that the cryptocurrency market is changing quickly and that new risks and technologies require new regulatory strategies. Refrain from enacting excessively onerous rules that can hinder innovation. Regulations can be implemented gradually to allow the industry to change while maintaining

the necessary safety measures. Maintaining a robust and flourishing digital currency ecosystem requires finding the ideal balance between control and flexibility.

□ **Measures for Protecting Consumers:**

Implement consumer protection laws, including insurance mandated security standards, open disclosures, and requirements for cryptocurrency service providers. It is imperative for policymakers to guarantee that consumers can obtain precise information and clear pricing details regarding digital currency goods and services. In order to preserve customer privacy, stop identity theft, and defend them against cyberattacks and frauds connected to cybersecurity use, they must also enact strict data privacy laws

□ **Working Together with Industry Participants:**

To gain a deeper understanding of the distinct opportunities and challenges present in the cryptocurrency industry, interact with blockchain developers, representatives from the industry, and other relevant parties. Working together can assist regulators in making well-informed choices that balance protection and innovation. Along with encouraging innovation and financial inclusion, policymakers must also be proactive in recognising and addressing potential risks related to digital currencies, such as money laundering and financing of terrorism.

□ **Frequent Evaluation and Updates:**

Provide procedures for the ongoing evaluation and revision of cryptocurrency laws. Acknowledge that the landscape of cryptocurrencies is always changing, and laws need to keep up with emerging technologies and market trends. Frequent evaluations of the regulatory environment make it possible to spot any gaps, take fresh risks into account, and apply knowledge gained from previous mistakes. Lawmakers can encourage innovation, safeguard consumers, and uphold the integrity of the financial system by establishing a regulatory framework that can change in step with the cryptocurrency market.

□ **Cybersecurity Framework & An Equitable Perspective on Privacy:**

Strong cybersecurity measures are necessary to guard against online threats like phishing, hacking, and other types of cybercrime. Policymakers should create a cybersecurity framework to address this issue. A clear cybersecurity framework reduces the possibility of security breaches while boosting the ecosystem's overall resilience and fostering investor and user confidence. Privacy of users also need to be protected and not unduly violated by regulatory

measures. Policies should be designed to protect user data and private information while allowing for efficient oversight to stop illegal activity. Incorporating user consent and transparency into data handling procedures can help create a regulatory framework that upholds people's right to privacy.

The future of technology and finance will be greatly impacted by the complicated and dynamic task of regulating cryptocurrencies. It's critical to strike the correct balance between regulation and innovation as the cryptocurrency market develops and grows. A fair and progressive approach to regulating cryptocurrencies is necessary to encourage innovation, safeguard consumers, and enable widespread adoption. To address the legal obstacles relating to its adoption, international coordination, proportionality, and regulatory clarity are essential.

The choices that governments and regulatory bodies make about cryptocurrencies will probably have a significant impact on technology and finance in the future. Finding the ideal balance is essential and can result in a financial system that uses blockchain technology and is effective, inclusive, and creative. On the other hand, unduly burdensome or erratic regulations could impede the possible advantages and impede the advancement of financial technology.

As the bitcoin ecosystem develops further, it is crucial. It is important for all parties involved i.e. governments, businesses, regulatory agencies, and consumers to collaborate in order to create a regulatory framework that promotes innovation while maintaining security and protecting consumers. Determining the essence and nature of cryptocurrencies, in addition to their legal status and functions, along with cash is evidently necessary. By doing this, we can improve the global finance and technology sectors by utilising the revolutionary potential of cryptocurrencies and blockchain technology.