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CRYPTOCURRENCY AND INDIA- Sachhi Sinha¹**ABSTRACT**

With the onset of Bitcoin in the year, 2008 up until today cryptocurrencies have occupied a vital place in the lives of people all over the world. Especially during the pandemic era, we witnessed immense growth in the field of cryptocurrencies approximately by 500%. However all around the globe, we can find countries adopting this practice of virtual currencies enthusiastically but like always how India becomes late in adopting new and advanced technologies the same thing is happening in the case of cryptocurrency as the Indian government along with the Reserve Bank of India kept denying the use of cryptocurrencies stating that using them one would expose themselves to various types of threats. Though Indian Public started to use the virtual currencies still it wasn't being considered as legal tender by the Government of India, hence it was said that citizens are involved in the transactions relating to cryptocurrencies at their own risk and that for any mishappening in this regard the government would not be responsible. But with the increasing demands of the people asking cryptocurrency to be regulated in the nation steps were taken by the government and therefore a committee was formed to work upon the status of cryptocurrencies in India that whether it should be banned or it should be regulated. Major developments concerning cryptocurrency were made since the beginning of 2021 when a high-level committee was formed for this purpose; also parliamentary debates took place leading the status of cryptocurrencies in India to regulation.

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BACKGROUND OF CRYPTOCURRENCY

Cryptocurrency originated in the year 2008 with the introduction of Bitcoin as a peer-to-peer electronic system which later in the year 2010 were initially traded at \$0.0008. However, with 2011 we can find the sector of virtual currencies developing since many more cryptocurrencies came into existence now like Ethereum, Litecoin, Monero and so on. Also, we can see many countries adopting this practice of virtual currency and taking a step further in the development of their nation whereas there are certain countries too where the case is not the same and one among them is India. The time when cryptocurrency came into the knowledge of the Indian market and its participants it became a hot topic of attraction for the people and thus people start indulging themselves in activities associated with cryptocurrencies². However, we can find the Reserve Bank of India in the year 2013 issuing a circular for the citizens of India to warn them about the so-called virtual currency which is taking over the market like fire all around the globe. Specifically, the users, traders and holders of such currency were given the warning stating that these currencies might turn out to be financial, legal, customer security and operational threat. It was told by the central bank that the value of these currencies isn't underpinned as an asset which makes the use of cryptocurrencies a matter of speculation. Along with the warning notice it was also informed by the central bank to the people that they are keeping a close watch upon the working of cryptocurrencies in different countries and how they are developing and whether such development is fruitful for the nation as well people or not. Despite the warning given banks kept on doing transactions relating to cryptocurrencies avoiding the statement issued by the central bank. Thus in February 2017, a circular was issued by RBI³ where it stated all its concerns regarding the use of cryptocurrencies in the Indian market but it was of no avail since people were continuously drowning themselves into the world of cryptocurrencies without any stop. Therefore again a warning was issued in the same year by the central bank of India clarifying its stand on cryptocurrencies concerning India that yet virtual currencies are not being given the status of legal tender so the people should act accordingly. This clarifying statement got the support of the government too. During this year only, two PILs were found to be filed with the Supreme Court of India where one PIL⁴ has been filed asking to ban the use of

² chrome-extension://theogkfdfchfphceeifdbepaoicaho/html/y

³ Reserve Bank of India

⁴ Public Interest Litigation

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cryptocurrencies completely whereas the other one is asking the court to provide cryptocurrencies with the status of regulation in India. Concerning this issue on the order of government, a committee was constituted to look into the matter of virtual currencies and then to make proposals accordingly.

PATH TOWARDS THE REGULATION

In March 2018, certain situations turn to be so where one started ensuring the ban of new spark which lit the Indian market and its participant that is cryptocurrency. The circumstances were so due to the draft scheme submitted by the Central Board of Digital Tax in favour of the ban to the finance ministry of India. This ban decision was supported by RBI as from the start only we could see that how RBI was never in favour of the virtual currencies and it happens so that even after many discussions and studies being done RBI is still standing firm with its choice. Owing to RBI's decision small financial institutions, commercial banks, cooperative banks etc., pulled out their support resulting in the fall of cryptocurrencies overnight as no more they can use banking services for the exchanges relating to cryptocurrencies in India. It was highlighted that these cryptocurrencies are a chain of black money and nothing more out of it can come and thus mostly it lured the uninformed people. Thereon several writ petitions were filed in the Supreme Court of India through the exchanges concerned with the cryptocurrency. A committee was then formed in April 2018 called the high-level Inter-Ministerial Committee (IMC) by the finance department of government for drafting a bill that would regulate the concept of virtual currencies in the Indian markets and it must be noted that the committee shall not go for proposing a ban. The committee started its work under the chairmanship of the secretary of Economic Affairs. Concerning what the finance ministry asked for in 2019 the concerned committee submitted its proposal along with a recommendation of the blanket ban that is a ban on the private cryptocurrencies in India. This means that all the private currencies leaving aside the virtual currencies issued by the government would deem to be banned in India. However, the categorization made by the government of cryptocurrencies being public that is backed by the government and private that is backed by others is a misleading differentiation since the cryptocurrencies are rather decentralized not private and a decentralized cryptocurrency could not be controlled by any entity whether it be private or public. In 2020, a major development was seen where the Apex Court of India was found crushing down the decision of the central bank

for banking exchanges not being supportive of the transactions related to cryptocurrencies and therefore this ban was overturned declaring the decision of RBI to be an unconstitutional one. It was stated by the Court that though cryptocurrencies are unregulated in India but still they are not illegal and as an outcome of this major judgment a spectacular rise was observed in the price of a cryptocurrency. It was also known by this time that the government is planning to introduce a bill for cryptocurrencies as the existing laws regarding this aspect are found to be not sufficient enough for the issues arising. On the path to making cryptocurrencies a regulation, our Prime Minister Narendra Modi was found to be meeting the senior officials to take further strong steps regarding the regulation of these virtual currencies. Around November 2021 Jayant Sinha being the chairman of the standing finance committee had a discussion with representatives from Blockchain and Crypto Assets Council (BACC) along with the members of crypto exchanges and finally after all these things it was confirmed that cryptocurrencies are going to be regulated instead of being banned. However, RBI was firm on its statement of cryptocurrency being a threat to the country in terms of finance and economy but it was also told by the central bank this time that it providing support to the government for regulation and thus is planning to introduce an official digital currency of India in the face of cryptocurrency.

THE CRYPTOCURRENCY AND REGULATION OF OFFICIAL DIGITAL CURRENCY BILL, 2021

Back in 2019, the regulation which was enforced in India concerning cryptocurrency was Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019 which prohibits all the activities relating to cryptocurrencies whether it be mining, selling, buying or holding etc. Whereas the upcoming bill called out to be The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 clearly states that when a cryptocurrency will be authorized to use as an official currency that means people would legally be able to sell, buy and hold it, hence Indian Economy now will be dealing with the transactions relating to cryptocurrencies within the legal purview. This bill will curb down the use of private cryptocurrencies and lead the way for a sovereign digital currency of India⁵. Also, certain exceptions are guaranteed under

⁵ <https://techcrunch.com/2021/11/23/india-plans-law-that-will-prohibit-all-private-cryptocurrencies-with-certain-exceptions/#:~:text=certain%20exceptions'%20%7C%20TechCrunch-.India%20plans%20law%20that%20will%20prohibit%20'all%20private,%2C'%20with%20'certain%20exceptions'&text=India%20plans%20to%20introduce%2C%20evaluate,agenda%20for%20the%20winter%20session.>

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this bill to spread awareness among the people regarding the technology associated with and use of cryptocurrency. Cryptocurrencies are of vital importance as they could help one in tracking down the transactions taking place in the economy and the flow of funds in the market, hence in this manner government and its officials would be able to keep a check on corruption prevailing in the country. Since cryptocurrency transactions are internet-based they take place instantaneously and also involves minimum transaction fees saving time as well as the money for both the parties namely receiver and remitter. It also provides benefits to intermediaries involved in such transactions like payment gateways, banks etc. However, the upcoming bill also talks about a ban hence we shall focus upon this aspect as well. The ban might lead India to lose its source of skill and entrepreneurship as these sources would be moving further from India may be to any other country where they don't have to face any such kind of prohibition thus many things in India involving the use of technology, innovation and all would come to a stop. Such a ban would slow down the development of the nation as a whole due to the loss of contact with new transformative technologies in comparison with other nations where such technology is present and also being practised. Most importantly this ban is violative of the provisions contained in Draft National Strategy on Blockchain, 2021 which was introduced by the Ministry of Electronics and Information Technology wherein it was clearly stated that blockchain is a trustworthy, secure and transparent technology therefore can be put into practice without any issues. The regulation would help one to ensure that no misuse of these virtual currencies would be made and also it will provide protection to the market from getting exploited so the provisions in the regulation shall be coherent and clear. And it would be good if cryptocurrencies would be defined in terms of securities or any financial instrument as mentioned under the Indian laws.

CONCLUSION

Cryptocurrencies are said to bring about a digital revolution all around the world and thus they are of huge importance from the perspective of a nation as a whole and its economic growth. Therefore the government is taking right step by moving towards regulation instead of the ban but still it is stuck with a blanket ban rather than this government shall go for integrating cryptocurrencies and blockchain technology creating the path towards transformative technology which has now is been prohibited. However, it is still good that the government gave it a thought and changed the status of cryptocurrency from ban to regulation despite blanket ban still

existing. Now further things depend upon the policies which will be introduced in the upcoming bill and it is expected of them to be efficient so that all the disputes related to cryptocurrencies and their use in India can come to a halt.

