

## CRYPTOCURRENCY AND ITS LEGAL PROSPECTS ACROSS THE GLOBE

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### Abstract

There has been a numerous overseas online transfer in recent time due to globalization and digitalization. Because of advancement in technology it has been easier for individual to transfer sum of money to any piece of world. Globalization has made world into a small village but there are certain revolutionary remarks which shook the world i.e. Cryptocurrency. It is termed as an agent for the apparent economic and technological revolutionary changes. Present paper reflects the facts about cryptocurrencies and its Legal regulatory framework within several countries and also highlights the whole and sole part behind these Cryptocurrency- Blockchain. Purpose of present paper is to clarify the position of Cryptocurrency whether it is good deal or not.

Due to peer-to-peer nature of Cryptocurrency, The only option is to fill the gaps in current situations of world financial market and the old and weak traditional banking system.

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**Key words – *Cryptocurrency, Blockchain, legal framework***

## ❖ Introduction:

There has been a visible evolution in terms of medium of exchange, which started from barter system then came paper money, which for many decades has been the only medium, but now with digitalization the situation and means have changed.

The price of currency mainly fluctuated by inflation of the country. Although the global factors are also applicable as the local factors are. In the past money was measured with the gold price or with the commodity price. Physical money is not helpful when the two parties i.e. buyer and seller is not present in same area or same location. This has created necessity for digital payment (e.g.- E-commerce sector).

Crypto currency can be termed as the revolution without any nexus in the field of digital currency. Cryptocurrency works on encryption technology which creates unique hashes for every transaction. In 2008 an entity named Satoshi Nakamoto circulated a white paper through online website metzdowd.com, entitled “Bitcoin: A Peer to Peer Electronic Cash System” a nine page outline which merely rocked the world with new way of thinking.

Even the past attempt was also made by David Chaum in 1982 to expand an electronic blind signature system. But it didn't as popular as like Cryptocurrency. According to the paper which was published by Satoshi Nakamoto it only constant on the two parties' transaction without any intervention of third party. Even crypto currencies are turn out to be flattering sector for investors and traders due to its

fluctuations and earning opportunities. Warren Buffet the richest man on the earth has advised to stay away from these currencies but according to Ben Bernanke “Virtual Currencies may hold long-term promise, particularly if the innovations promote a faster, more secure and more efficient payment system.”

Developing countries are suffering harshly from the curse of corruption because there is lack of secure financial institutions existence. Cryptocurrency is new phenomenon which opens a gate for corruption free system. Cryptocurrency is not backed by any government. Potentially it provides various benefits over the traditional money i.e. faster transfer with minimum transfer rates and decentralised network. These currencies are built and developed by computer scientist and the focus was mainly on the security and smooth functioning. Basically the gaming currencies are termed as virtual currency and crypto currency is the one type virtual currency but in its backbone is block chain technology which secures each and every deal without interference of third party including Government. Among all the crypto currencies Bitcoin is the foremost famous crypto currency around the globe.

Its invention may lead to many concocted stories but Governments were forced to deliberate with regard to regulation, law enforcement, and investor protection. It has also invoked the chances of increase of terrorism, money laundering, and tax issues.

But deficiency of proper regulations and attraction of the investor help in outpacing the pragmatic use of cryptocurrencies. There

is no ambit in case of the Cryptocurrency transfer it must be retained globally.

### ❖ Emergence of Cryptocurrency

#### • Cryptocurrency

There are more than 750 cryptocurrency in the market, however the researchers would like to put light on the most famous, talked about and valuable currencies. If we talk about numbers of particular Cryptocurrency that is limited in terms of preventing burden and creating its rare identity. For example, though water is main element for life living but diamond is more worthy than water, because diamond is rare and water is easily available for free or for some cost.

There are several research papers which describes the systematic structure of Cryptocurrency. As the nature of Cryptocurrency is decentralised so it is not feasible for any Government of Central Bank to control over it. If Government considering Cryptocurrency as legal tender there are certain laws which are also applicable on it but due to its vague structure it is impossible to put it in fixed ambit.

Cryptocurrency as legal payment may obstacle the current world legal system as well as the cyber security of globe as it can only be stored in the digital wallets. There might have several issues regarding to hacking, loss of password, hacking of e-wallets, not creation for consumer issue wing, and money laundering and financing to the terrorism groups.

This is the same principle as the investors are adopt before investment of any shares of company, they put faith on the structure and

performance and in similar manner people put faith in the concept of Crypto currency as means of transaction and they use it while purchasing something. This will gain a faith and demand of the Crypto currency. Crypto currency is truly a magical and transformative step towards money exchanges in worldwide with the help of Block chain technology.

A crypto currency has also portrayed a negative impact through some recent events. Due to digital payments system the one who dealing in the drugs and millions of customers are making deals. But due to lacuna in government initiatives and policies normal users certainly thinks towards a new phenomenon that cryptocurrencies are only used by criminals to fulfil their illegal intentions. But the different view is, this has occurred due to the be short of of general user's interest and faith. Cryptocurrencies had been started fluctuations like commodity trade market and that has made adverse result for the faith of investors.

The main focus of cryptocurrencies is ambit free international transaction, especially when there would be an emergency for the response. As I described it is a peer-to-peer system that will enough to make speedier and smoother overseas transactions. Napster, the best example which is another peer to peer system altered music industry by cutting out the middle men.

According to British Government, more than 2.5 billion people have no access to a financial institutions or insurance provider. More than 35% of population of the world do not have accessible bank accounts, so it is impossible for them to execute any digital

payment and that would be a giant obstacle for globalization, so this gap would be filled only by cryptocurrencies as there would be no need of third party, not even a bank account for each and every transaction.

Mobile phones usage has been increased quickly so access over transfer of Cryptocurrency can be easily performed through mobile application. In other words Cryptocurrency (especially Bitcoin) has become great competitor for M Pesa a major used online transfer application.

#### **Advantage:**

- It would be great fraud evading as it is not in physical outline so copying currency notes, reprinting of currency notes is not possible in virtue of Cryptocurrency.
- Cryptocurrency cannot be duplicated the only alternative is to take control over the main server of cryptonetwork. It is the sole safety feature provided by Cryptocurrency.
- Cryptocurrencies has opened the access for international trade and protected banking for those countries where the secure banking and international trade is vision.

#### **Bitcoin**

Bitcoin was first officially introduced by a single paper and described this as “peer to peer decentralised network”. It mainly based on the cryptographic protocol; which is not governed by any Government or agency. Bitcoin also being called as “digital gold. Transfer of Bitcoin is quite easy through smart phone or computers. All the transactions are secured by networking

servers which is known as “Bitcoin mining” which is secured by the technology named “Blockchain”. The circumstances for Bitcoin’s extensive adoption could be described as a “fire triangle”. Where fire needs fuel, oxygen, and heat to exist; Bitcoin requires user recognition, merchant approval, and advance to ignite.

Demand of Bitcoin had been blown up very shortly. For some period of time Bitcoin became news head line for all the world leading newspaper and news agencies. Although to look after the benefits and issues Ministry of Finance had formed a committee to scrutinize the basic structure and regulatory framework of cryptocurrencies.

#### **Ethereum**

Ethereum is having the same vague structure as the Bitcoin. But there are some methodological differentiations which make Ethereum bit different and better; although the technology behind these cryptocurrencies is same. The special feature of Ethereum is “Smart Contract” which is fundamentally done in terms of barter of money, content, assets, shares or etc. This technology has gained the interest of MNCs like Microsoft, IBM, and UBS who are intrigued by the prospective of the smart contract functionality to save time and capital. And especially Ethereum is providing the facility to construct a several functionality which are based on Blockchain on one stage; no need to set up new Blockchain set-up for different applications.

## Ripple

The main thing about Ripple is one kind of Cryptocurrency as well as platform which provides open source protocol for quicker and safer payments. Ripple is commonly working as “Real time gross settlement system” (RTGS). It provides transaction of majorly each and every currencies as well as Bitcoin also; its charges are too nominal i.e. \$0.00001 per transaction. The Ripple solution utilised by the Bank was built around the open source Inter ledger Protocol that allows payments to be made across diverse ledgers and set-ups across the globe. The numerous advantages of ripple are lesser commission charge, no requirement to exchange into USD, rapid international transaction as it takes only 4 seconds for transfer. Even Axis Bank and Yes Bank have shown their support with regard to Ripple.

## ❖ Cryptocurrency in India

As the lower digital banking transaction in India, it might have affected into bit late announcement of Cryptocurrency; but when people of India understood the advantage and power of Cryptocurrency the major flow of investor led to these Cryptocurrency with giant investment and indulged the previous investors as prices were hiked due to heavy demand in crypto sector. As per the provisions under Indian Constitution Central Government has the full fledge power over the currency, coinage, foreign currency, legal tender etc. but due to its vague nature Government has to make certain regulations which are in accord with the Cryptocurrency. Even Ministry of Finance had formed a committee to review the

current phenomenon and how to put regulations with respect to Cryptocurrency.

## ❖ Blockchain Technology

*“Blockchain is to Bitcoin, what the internet is to email. A big electronic system, on top of which you can build applications. Currency is just one.”*

*-Sally Davies, FT Technology Reporter*

Originally Blockchain was developed to maintain digital currency transactions mainly Bitcoin transactions but techworld has potentially found out various ways to make pragmatic use of this technology. The original company of PayPal was suffering from the issue of double spending of money, but this concern has been solved due to Blockchain system. As per the review by Google search of word “Blockchain” has increased by 250%. In simple words Blockchain can be termed as transaction ledger. Blockchain is the only backbone of all the Virtual currencies and its safe and fast transfer. Many Indian banks have shown their keen interest in this emerging Blockchain technology. It is apparently made out of cryptographic server and can be available only through encryption technology which is most secured technology presently in the techworld.

Blockchain technology itself providing assurance that it won't be hacked as it is built without central authority.

### “Advantages :

- Immutability
- No Corruption and tamper

- secure
- Zero downtime: Apps never go down and can never be switched off”

## ❖ Legal & Regulatory Framework of Cryptocurrency:

Since the beginning of Cryptocurrency there were number of private currencies formed.

The key impact is able to be seen when the central banks of several countries have revealed their keen interest in this technology for interbank transaction and retail and huge worthy transactions

For example, the People’s Bank of China aims to develop a universally digital currency based on blockchain technology; the Bank of Canada and Monetary Authority of Singapore are studying its handling for interbank payment systems; the Deutsche Bundesbank has developed a primarily model for blockchain-based settlement of financial assets. The basic legal structure and financial structure of various countries are not being well planned to allow this theory of cryptocurrencies.

- **Least developed countries:**

### 1. Cambodia:

The legitimacy of cryptocurrency in Cambodia is yet not clear. An agreement was signed between the National Bank of Cambodia and Japanese firms with the intention to build up its own block chain based venture for its special use only, the project would keep way on the financing and lending transactions of bank. The National Bank of Cambodia has constrained citizens from carrying out dealings in cryptocurrency.

In 2017 at the Annual NBC Macroeconomic Conference Cheay Serey Stated that: “activities of the companies functioning in Cambodia that tried to convince people to make use of cryptocurrencies for daily purchases and other monetary transactions were “not legal as digital currencies are not issued or backed up by any government.” She also further added that digital currencies are not legal tender in Cambodia. ”

### 2. Nepal:

Nepal Rastra Bank in 2017 recognized cryptocurrency as an illegal tender, issued notice that stated “all dealings associated to or regarding to bitcoins are not legal.” The Central Investigation Bureau of Nepal arrested 7 persons for trade and transactions in the business of bitcoin transfer.

### 3. Kazakhstan

National Bank of Kazakhstan in 2018 made it apparent that the opinion of Kazakhstan on the matter of cryptocurrency is very conservative. The changes are also in process to restrict trade of cryptocurrency against national currency.

### 4. Mozambique

Bank of Mozambique in 2018 warned about the progress of cryptocurrency in the cryptomarket, it also specified that it does not classify any action that is continued with the utilization of bitcoin as it does not have legal recognition.

- **Developing Countries:**

## 1. India

There are yet no concrete regulations with regard to cryptocurrency, but the government in 2018 stated out that cryptocurrency are not legal tender. The Reserve Bank of India has issued warning against the usage of the same. On April 6, 2018, the RBI issued a notification prohibiting banks, lenders and other regulated financial firms from “dealing with virtual currencies,” which predetermined that “in view of the related risks, it has been determined that, with instant effect, institutions regulated by the Reserve Bank shall not deal in VCs or provide services for facilitating any person or institutions in dealing with VCs. Such services include maintaining accounts, registering, trading, settling, clearing, giving loans against virtual currencies, accepting them as deposit, opening accounts of exchanges dealing with them and transfer / receipt of money in accounts relating to purchase/ sale of VCs.”

## 2. El Salvador

Cryptocurrency are not a legal tender in any of the part of El Salvador unlike the currencies issued by a financial authority, are not controlled or regulated and their price is determined by the supply and demand of their market. Any transaction that is carried with cryptocurrency shall be done at the risk of the individuals.

## 3. Colombia

Like most of the countries Colombia too recognised cryptocurrency as illegal tender. The SF further clarified that the Colombian peso is the only legal currency, and that the Banco de la República has the sole authority to issue money in Colombia. According to

the SF, cryptocurrencies have no value under wealth market laws and therefore are also not recognized as a share or security.

## 4. Iran

Central Bank of Iran in 2018 banned the exchange of cryptocurrency and usage of the same by all financial institutions. Cryptocurrency also can't be used to buy, sell or exchange goods and services.

### ➤ Developed Country

#### 1. Argentina

The constitution of Argentina provides the Authority to issue currency on the Central Bank only and so cryptocurrency are not legal tender in Argentina. Cryptocurrency cannot pay of the debt or any obligations, so it is not considered as currency. Irrespective of its non-recognition cryptocurrencies are traded in high volume in Argentina. According to some experts cryptocurrency can be termed as a good or a commodity. The government is likely to ratify regulation regarding to cryptocurrency. The plan is to amend the Law on Money Laundering to add stock markets, wallets, and brokers as firms required to notify dealings with crypto currency to official authorities.

The recent amendment to the Income Tax law clears that the profit incurred from the exchange of digital currency will be termed as income and taxed as such incurred income. Income earned from the sale of crypto currency is taxed at 15% when incurred from either Argentine or foreign networks. The tax handling of cryptocurrency related with the dealing of profits on securities and bonds.

## 2. United Kingdom

The UK does not have law that specifies laws regarding cryptocurrencies. Section 2A of the Bank of England Act 1998 specifies that the Bank of England has accountability to both defend and improve the constancy of the fiscal system of the UK. Pursuant to this aim, the Bank has considered the risk cryptocurrencies pose to the stability of the UK's monetary markets and the size of the cryptocurrency market is currently not huge enough to create "objective risk to monetary or financial steadiness in the UK."

### ❖ Conclusion

Despite some regulations, the number of cryptocurrencies are increasing rapidly and making its extraordinary remark in the digital world. According to some techexpert this would be an agent of new drastic change in traditional Banking system. It contains systematic codification which is able to make change in payment system of world (country). The uneven views by various countries indirectly pushed the image of Cryptocurrency in positive way. It would be beneficial especially for those countries which are not as developed as others. And if we look from another way each and every bank are trying to adopt Block chain technology but unfortunately their government has ignored the capacity of Cryptocurrency. There might have chances for breaching of monopoly of USD.

The Blockchain technology has numerous benefits and lowest issues, so it's better to develop the Blockchain based network in

every governmental department for much clarity and smoother functioning. Though cryptocurrencies are having both pros and cons but if we consider pros than there would be no issue of exchange rates for overseas transfer and this would be a boon for countries whose inflation rates are high.

On the perspective of India, Indian government announced Cryptocurrency as not legal tender but on other side, RBI has decided to introduce its own Cryptocurrency named "Lakshmi". Indian Government didn't recognised or considered the interest of its citizen, Government has made announcement without any remedial plan for those whose money has been still stuck in the Cryptocurrency and what will be taxable zone for the occurred gains.

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