

# CRYPTOCURRENCY AND BLOCKCHAIN LAWS

By – *Rishabh Tiwari, Barkatullah University, Bhopal, 3rd yr. B.A.LL.B*

---

## INTRODUCTION

Cryptocurrency and blockchain are two of the most disruptive technologies of our time. Cryptocurrency is a digital or virtual currency that uses cryptography for security. Blockchain is a distributed ledger technology that allows for secure, transparent, and tamper-proof transactions.

These technologies have the potential to revolutionize a wide range of industries, including finance, healthcare, and supply chain management. However, they also pose a number of risks, such as money laundering, fraud, and cyberattacks.

Cryptocurrency and blockchain technology are relatively new and rapidly evolving fields that have gained significant attention from regulators around the world. In India, while the government has not yet provided a clear legal framework for cryptocurrencies and blockchain technology, there have been various developments in this area. This article provides an in-depth analysis of the current legal status of cryptocurrencies and blockchain technology in India and discusses the various legal issues that arise from their use.

As a result, governments around the world are grappling with how to regulate these technologies. India is no exception.

## OVERVIEW

Cryptocurrency is a digital or virtual currency that uses cryptography to secure and verify transactions as well as to control the creation of new units. The most well-known cryptocurrency is Bitcoin, which was created in 2009. [1] Since then, numerous other cryptocurrencies have been developed, including Ethereum, Litecoin, Ripple, and many others.

Blockchain technology is a distributed ledger system that maintains a continuously growing list of records, called blocks, which are linked and secured using cryptography. The decentralized nature of blockchain technology means that no single entity controls the network, making it difficult for any one party to manipulate the data.

### **INDIAN GOVERNMENT'S APPROACH**

The Reserve Bank of India (RBI), the country's central bank, has been cautious in its approach to cryptocurrencies. In 2013, the RBI issued a circular that cautioned users about the risks associated with virtual currencies. [2] The Indian government's approach to cryptocurrency regulation has been evolving over time. In 2017, the Reserve Bank of India (RBI), the country's central bank, banned banks from providing services to cryptocurrency exchanges. This effectively made it illegal for Indian residents to buy or sell cryptocurrencies. [3] In April 2018, the RBI issued another circular, which prohibited banks and other financial institutions from dealing with cryptocurrency exchanges and traders. The circular stated that banks could not provide services to facilitate the purchase or sale of cryptocurrencies. [4]

This circular led to a significant backlash from the cryptocurrency community, with many arguing that the RBI's move was arbitrary and lacked any clear legal basis. Several cryptocurrency exchanges challenged the RBI's circular in the Supreme Court of India, arguing that it violated their constitutional rights

However, this ban was lifted in 2020. In 2022, the government introduced a 30% tax on gains from cryptocurrency investments. [5] The government is also considering a bill that would regulate cryptocurrency. The bill would define cryptocurrency, create a framework for its regulation, and establish a regulatory authority. The bill is still under consideration, but it is expected to be introduced in Parliament in the coming months.

The government's approach to cryptocurrency regulation is still unclear. On the one hand, the government seems to be open to the potential benefits of cryptocurrency, such as its potential to promote financial inclusion and innovation. On the other hand, the government is also concerned about the risks associated with cryptocurrency, such as its potential to be used for money laundering and other criminal activities.

### **LEGAL ISSUES**

The Indian government's approach to blockchain regulation is also unclear. Blockchain is the underlying technology that powers cryptocurrency. It has a number of potential benefits, such as its potential to improve efficiency and transparency in a variety of industries. However, the government is also concerned about the risks associated with blockchain, such as its potential to be used for cyberattacks.

The government's approach to blockchain regulation is likely to evolve in the coming years. The government will need to balance the potential benefits of these technologies with the risks. It is also important to ensure that the regulations are fair and do not stifle innovation.

There are a number of legal issues that arise from the use of cryptocurrencies in India. These include:

#### **Lack of Clarity on Taxation**

The government has not yet clearly defined the legal status of

cryptocurrency. This makes it difficult for businesses and investors to operate in the space. The tax implications of cryptocurrency transactions in India are still unclear. In 2018, the Central Board of Direct Taxes (CBDT) issued a circular that required individuals and businesses to declare their cryptocurrency holdings and gains as part of their income tax returns. [6] However, this circular did not provide any clear guidelines on how to calculate the tax liability on cryptocurrency transactions.

### **AML and KYC Compliance**

Anti-Money Laundering (AML) and Know Your Customer (KYC) regulations are important for preventing the use of cryptocurrencies for illegal activities such as money laundering and terrorism financing. However, there is currently no clear regulatory framework for AML and KYC compliance for cryptocurrency exchanges and traders in India.

### **Lack of Consumer Protection**

Cryptocurrency is a new and complex technology. This makes it more susceptible to fraud and abuse. Cryptocurrency transactions are irreversible, and there is no legal framework for consumer protection in case of fraud or other disputes. While some exchanges have established their own dispute resolution mechanisms, these are not backed by any legal authority.

### **Regulatory Ambiguity**

The lack of clear regulations for cryptocurrencies and blockchain technology in India has created uncertainty for businesses operating in this space. This has made it difficult for entrepreneurs and investors to raise capital or to launch new projects.

## **CONCLUSION**

Cryptocurrencies and blockchain technology have the potential to revolutionize the way we conduct financial transactions and store data. However, their use also presents a number of legal issues that need to be addressed. In India, the legal status of cryptocurrencies remains uncertain, with no clear guidelines or regulations in place.

The government is facing a number of challenges in regulating cryptocurrency and blockchain. However, the potential benefits of these technologies are significant. The government will need to find a way to balance the risks and benefits in order to create a regulatory framework that is fair and conducive to innovation.

In addition to the challenges mentioned above, here are some other potential challenges that the government may face in regulating cryptocurrency and blockchain in India:

Lack of resources. The government may not have the resources to effectively regulate cryptocurrency and blockchain. This is especially true given the fact that these technologies are constantly evolving.

Public opposition. There is some public opposition to the regulation of cryptocurrency and blockchain. Some people believe that these technologies should be unregulated, while others believe that they should be regulated more strictly.

Political pressure. The government may face political pressure to regulate cryptocurrency and blockchain in a certain way. This pressure could come from special interest groups, such as the banking industry or the cryptocurrency industry.

Despite these challenges, the government is likely to continue to regulate cryptocurrency and blockchain in India. The government recognizes the potential benefits of these technologies, and it is committed to ensuring that they are used safely and responsibly.

- 
1. Bernard Marr, "A short history of Bitcoin and Cryptocurrency everyone should read."([Forbes.com](https://www.forbes.com) , December 6, 2017) accessed May 9, 2023.
  2. RBI Circular Number 1261 of 2013-14.
  3. RBI Circular Number 2054 of 2016-17 (Feb 01, 2017)
  4. RBI Circular Number 154 of 2017-18 (April 06, 2018)
  5. "Scheme for Taxation of Virtual Assets (Union Budget 2022-23)" Point 131, Pg. No.23
  6. Gireesh Chandra Prasad, "Centre notifies rules on TDS provisions on virtual digital assets" (Livemint, June 22, 2022) accessed May 10, 2023.