CRYPTOCURRENCIES, IN NEED OF REGULATION: A PRIMER TO BITCOINS REGULATION IN INDIA

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"The root problem with conventional currency is all the trust that's required to make it work. The central bank must be trusted not to debase the currency, but the history of fiat currencies is full of breaches of that trust. Banks must be trusted to hold our money and transfer it electronically, but they lend it out in waves of credit bubbles with barely a fraction in reserve. We have to trust them with our privacy, trust them not to let identity thieves drain our accounts. Their massive overhead costs make micropayments impossible."

—Satoshi Nakamoto, 2009

ABSTRACT

Cryptocurrency has induced anticipation among investors, who are increasingly posing questions in order to unravel its complexities. Such anxiety seeps into institutions that govern world economies. Nonetheless, their attempts at understanding it are at best modest. This paper is one such effort to simplify the concepts and processes, which surrounds Cryptocurrency.

The paper utilizes Bitcoins, an atypical and most popular form of Cryptocurrency, in order to explain it's working. By adopting a descriptive strategy, it analyzes the various regulatory responses to Bitcoins adopted by various countries. Further, the paper also aims at extrapolating the trend for Bitcoins exchanges and popularity by clearly demarcating its limits (both as an alternative to fiat money and equity asset creation). The unregulated currency has facilitated various illegal activities, resulting in a dire need of regulation. Keeping the above in mind, the paper discusses the challenges faced by regulatory authorities across the globe to govern cryptocurrencies. Finally, by placing the conversation in a purely Indian context, it extends a few suggestions for institutions to regulate this abstracted commodity in the financial market. The suggestions entail developing a nexus and symbiotic relationship between various organizations like the Reserve Bank of India and the Income Tax authorities to reach an enforceable framework which meets the objectives and goals of the authorities and the market players for fruitful growth and sustainability of this nascent virtual currency regime.

INTRODUCTION

The digitalized currency, being the perfect confluence of equity risk and technology, has grasped the world by a wind of enigma and skepticism. By entering into deep analysis, this paper aims to extend ideated solutions to make Cryptocurrency a viable mechanism for not only exchange but also as an asset. For the same, the paper suggests that a balanced view ought to be taken for its regulations.

A currency gains validation by way of institutional and popular acceptance as a medium of exchange. In India, the digital currency makes a complex case as a medium of exchange as even though it has not

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been formally accepted, it has not been illegalized. On the contrary, people are increasingly engaging in transactions involving Cryptocurrency.

What makes Cryptocurrency stand out is its ability to work on a system of payments, which is independent of the 'third party' institutions such as banks and government. This assures that the payer can deliver the agreed upon funds directly to the payee without any intermediary. Rather, it imbibes trust in an inviolable, decentralized computer program that is 'supposed' to be incapable of defrauding people.

When, Satoshi Nakamoto created Bitcoins[141],one of the most popular form of digital money, and first of its kind, it was transacted merely to satiate investor's curiosity and not for serious investment.[142] However, today, Bitcoins is gaining acceptance as an Internet Asset.[143]Interestingly, many major retailers have begun accepting electronic currency as payments through their websites.[144] Such a trajectory can be lucidly illustrated - the digital currency had advanced over 1,600 per cent to $17,040 on December 15 against $1,000 in January 2017.[145]

This paper utilizes Bitcoin as a lens to analyze the wide ocean of Cryptocurrency. It commences with a brief on the *characteristics of a Bitcoin* and the ways in which it functions in the market economy. **Part II,** illustrates its *impact on the economy* and consequently its unviability to exist as the only currency in the world. In **Part III**, the paper discusses the *illegal uses of cryptocurrency* which is a central concern fueling the debate for the need for regulations to be put in place. **Part IV** ventures into the *regulatory response to Cryptocurrencies*, wherein it discusses the attempts of various countries like the United States of America, The United Kingdom, Germany, and Brazil. **Part V** of the paper elucidates upon the *regulatory attempts made by India* and puts forth *suggestions for further regulations* to be put in place. The paper finally concludes that *Cryptocurrency* needs to be regulated and India can show its prowess and nudge ahead of other countries in this field.

CHARACTERISTICS OF CRYPTOCURRENCY

A successful analysis of regulations on Bitcoin can only be carried forward by way of a deep discovery into its nuts and bolts**.** The Bitcoin can be understood as a string of computer-generated code.[146]This particular line of code can only be utilized by the coin's owner, who has a unique passcode that allows the user to either "spend" that coin with someone who will trade it in exchange for goods, or give the coin to another user in exchange for some other form of currency.[147]In this way, Bitcoins operates on the market much like a currency would. In other words, Bitcoins can be traded for goods from sellers who will accept it as payment or exchange it for other forms of currency. There are two ways to get Bitcoins - mining it and obtaining it through exchange for a different currency with other Bitcoins users.

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141 *Who is Satoshi Nakanmoto?,* CoinDesk, available at http://www.coindesk.com/information/who-is-satoshi-nakamoto/, last seen on 17/10/2017. .

142 *Should You Invest in Bitcoin?,* WALL ST. J., available at http://online.wsj.com/articles/SB10001424052702304607104579212101356897382, last seen on 14/10/2017.

143 *How to Use Bitcoin to Shop at Amazon, Home Depot, CVS and More*, Forbes, available at http://www.forbes.com/sites/clareoconnor/2014/02/17/how-to-use-Bitcoins-to-shop-at-amazon-home-depot-cvs-and-more/, last seen on 17/10/2017.

144 *Overstock to Allow International Customers to Pay in Bitcoin*, N.Y. TIMES DEALBOOK, available at http://dealbook.nytimes.com/2014/08/19/overstock-to-allowintemational-customers-to-pay-in-Bitcoins/, last seen on 18/10/2017.

145 *Finance Ministry said to form panel to frame response to the bitcoin issue*, Economic Times, available at https://economictimes.indiatimes.com/markets/stocks/news/finance-ministry-said-to-form-panel-to-frame-response-to-the-bitcoin-issue/articleshow/62081651.cms, last seen on 16/12/2017.

146 *How the Bitcoin Protocol Actually Works*, DATA-DR, available at http://www.michaelnielsen.org/ddi/how-the-Bitcoins-protocol- actually-works/, last seen on 19/10/2017.

147 *How Does Bitcoin Work?,* ECONOMIST, available at http://www.economist.com/bitcoinexplained, last seen on 21/10/2017.

The process of mining is simply creating Bitcoins. All Bitcoins transactions are monitored and recorded into an ongoing log called the "blockchain," which verifies that the coins being traded actually belong to that particular owner and can be traded in the way being proposed.[148]This process of recording Bitcoins transactions onto the block chain is known in the cryptocurrency community as "mining"; this is also the way that the currency itself comes into being.[149] A currency has no value if it is available in infinite amount, without any cap. One the similar lines, when the quantity of bitcoin reaches to 21 million the process of mining stop. The solving sequences encryptions and earning Bitcoins then stops.[150] As a result the process mining becomes more and more complex over time and less Bitcoins are awarded with each successful attempt. Despite this, Bitcoins can be further broken down into smaller denominations called 'Satoshis'.[151] Consequently, a single Bitcoin can be split into 100 million smaller units.

The second method of obtaining a Bitcoin is by way of exchange. By now, we know that there is no central authority that governs the transaction of Bitcoins or any virtual currency for that matter. However, there are certain procedural measures taken to ensure security in transactions. These measures are not regulatory *per se*; rather a way of ensuring safe transactions between the parties. First, any individual who wants to transact in Bitcoins needs a digital wallet or an application that he downloads on his computer or gains access through the internet.[152]This digital wallet provides the user with a unique two-part address. One part of the address contains information about the user and is kept private, while the other part of the address is publicly viewable and contains information pertaining to when the transaction occurred. This means transactions keep the parties anonymous, but publicly show that a transaction has occurred.[153]

Once a user participates in transacting Bitcoins by using a digital wallet, additional security measures are put in place. The time and public wallet address of each party is recorded when they take part in any exchange.[154] To put in perspective, each Bitcoin which has been transacted carries on it a history of its past transactions, time when the transaction happened, and the public addresses of the parties involved as well.[155] This has twin benefits in the long run. Firstly, the same Bitcoin cannot be used twice, as it is not possible for two transactions to take place at the same time. Secondly, it also preserves a record of past transactions while keeping the identities of the parties involved secret.[156]

Even though Bitcoins *prima facie* works as a currency, there exists an inherent lacuna for it to become a perfect currency. Compared with conventional payment systems, Bitcoins lack a governance structure other than its underlying software. This has several implications for the functioning of the system. First, Bitcoins impose no obligation for a financial institution, payment processor, or other intermediary to verify a user's identity.[157] Second, Bitcoins impose no prohibition on sale of any item; in contrast, for example, banks typically disallow all manner of transactions unlawful as per the law of a country. Finally, Bitcoins payments are irreversible as the protocol provides no way for a payer to reverse an

148*How the Bitcoin Protocol Actually Works,* Michael Nielsen.org, available at http://www.michaelnielsen.org/ddi/how-the-Bitcoins-protocol- actually-works/, last seen on 21/10/2017.
149 Ibid.
150*Who Needs Paper Anyway?,* BUSINESSLIFE.CO, available at http://www.businesslife.colFeatures.aspx?id=who-needs-paper-anyway, last seen on 22/10/2017.
151 Susan Hely, *Pay Your Way with Bitcoins*, available at http://connection.ebscohost.com/clarticles/89450156/pay-your-way-bitcoins, last seen on 12/11/2017.
152Derek A. Dion, *Note, I'll Gladly Trade you Too Bits on Tuesday for a Byte Today: Bitcoin, Regulating Fraud in the E-Conony of Hacker-Cash*, 2013 U. ILL. J.L. TECH. & POL'Y 165, 167 (2013).
153 Ibid.
154 Ibid.
155 Ibid.
156 Ibid.
157 Rainer Böhme, , *Bitcoin: Economics, Technology, and Governance*, Vol. 29, No. 2, The Journal of Economic Perspectives, pp. 213-238, 2015, available at http://www.jstor.org/stable/24292130, last seen on 30/10/2017.

accidental or unwanted purchase, whereas other payment platforms, such as credit cards, do include such procedures. As discussed in subsequent sections, these design decisions are intentional—simplifying the Bitcoin platform and reducing the need for central arbiters, albeit raising concerns for some users.[158]

I. IMPACT ON THE ECONOMY

In recent years Bitcoins is slowly becoming a popular mode of exchange for goods and services. In its capacity as a form of virtual currency, it forms an alternative to the fiat currency discussed earlier. This characteristic of this technology leads to the necessity of considering the impact it has on the economy since in principle it is tapping into the revenue and resources which were traditionally reserved for fiat currency. Different aspects of the impact of the advent of cryptocurrency have been looked at in this paper to understand the implications which this technology could possibly entail for the economy of a country.

Adopting a Keynesian Lens is only appropriate to gather what the libertarian model of crypto currencies has for the financial world. Consider this Thought Experiment – *The existing Medium of Exchange gets limited to Cryptocurrency.* Merits of such an ideology lies in its capacity to extrapolate the viability of the cryptocurrency as the only currency sustaining world economy. Such an analysis fosters better investment decisions and lends states a pragmatic lens from which they can build or unbuild threat perceptions.

Few consequences flow from such a Thought Experiment – *First*, Complete denationalization of currency, which breaks the regime of foreign exchange; *Second* debacle of government spending and welfare state and *Third* uncontrollable market behavior.

Denationalization of Currency and Breaking of Foreign Exchange Regimes:

Many postulate that Bitcoin is already a *de facto* global currency. There are merits of having a global currency such as price stability, reduction in costs for trade and permeability of international services and commodity markets. However, the Euro model explains grave pitfalls of such a system. The absence of parity in growth and spending in nations represent that a global currency like Bitcoin is susceptible to crisis, akin to the Euro Debt Crisis.

The resource asymmetry, which guides geopolitics is another reality which questions the viability of a global currency. Bitcoins have an upper cap of 21 million, which makes the currency free from inflation. With the above assumptions it is easy to presume that oil-producing nations would experience inflow of the crypto currencies while the rest of the world will be left with no means to create new money supply. Fiat money curbs this from happening as the governments have hold over the money supply.

Lastly, inflation (or deflation) depends upon real demand and supply. However, Cryptocurrency does not have the capacity to respond to real markets.

Implication on Welfare State

Bitcoin is an expression of extreme technological libertarianism. This school of thought goes by many names: anarcho-capitalism (or ancap for short), libertarian anarchy, market anarchism. Central to the philosophy is a distrust of states in favor of individuals. Its adherents believe society best facilitates individual will in a free-market economy driven by individual property owners—not governments or corporations—engaging in free trade of that private property.

Ordinarily, money would be sufficient. But currency troubles market anarchists. The central banks that control the money supply are entities of the state. Financial payment networks like Visa are corporations, which aren't much better. That's where Bitcoin and other cryptocurrencies enter the

[158] Ibid.

picture. They attempt to provide a technological alternative to mastercard and banking that would avoid tainting the pure individualism of the ancap ideal.

This makes Bitcoin design different from other technology-facilitated payment systems, like PayPal or Apple Pay. Those services just provide a more convenient computer interface to bank accounts and payment cards. For anarcho-capitalism to work in earnest, it would need to divorce transactions entirely from the traditional monetary system and the organizations that run it. Central banks and corporations could interfere with transactions. And yet, if individuals alone maintained currency records, money could be used fraudulently, or fabricated from thin air. To solve these problems, Bitcoin is backed by mathematics instead of state governments.[159]

<u>Uncontrollable Market Behavior</u>

Bitcoins have the tendency of getting into deep cycles of deflation as there is an upper cap to the money supply. In the absence of any financial regulator, there will be no scope for supervising such market risks.

Another peculiar characteristic of Cryptocurrency is its capacity to exist as a Store of Value as well as Medium of Exchange. In situations of inflation, which is plausible only due to an eventual lack of faith in the currency, it can be the case that the value of the Bitcoin as a Medium of Exchange is lower than its store of value.

The systems can be recreated to a manner we dreamed of, by using the power of the digital commons and internet. Through cryptocurrency the economic power of the state economic system gets deposed welcoming a new digital one. This is just the starting stage of an era where the power shift takes place from the hands of the state to the citizens. This can be a challenge to the state and their control on every level of life. This deposition sways away the economy from its current state, which is corrupt and controlled by the political system. Currently, the percent of Bitcoins when compared to the fiat money is very negligible but that might change the fact that we can anticipate.

ILLEGAL USE OF CRYPTOCURRENCY

The fact that Bitcoins are anonymous in nature comes with both disadvantages and advantages. This comment puts forth the premise that the disadvantages of criminal activity and susceptibility to hackers outweigh the advantage it offers like privacy and transparency because of the distributed ledger amongst other things. From time to time, hackers have taken advantage of flaws within Bitcoin software code. In 2010, a group of hackers fraudulently obtained 184 billion Bitcoins by exploiting a flaw in the code, triggering a security breach.[160] It is pertinent to note however that this error was reversed within a few hours and the code was modified to prevent similar flaws in the future[161].

One of the biggest security breach for Bitcoin investors occurred in 2014 when an estimated 850,000 Bitcoins[162] went missing from Tokyo-based Mt. Gox, a trading platform that once accounted for 80% of Bitcoin transactions.[163] This theft which had taken place involved 6% of the Bitcoins then in circulation.[164] Mt. Gox in a statement has said that "A flaw in the Bitcoins software allowed transaction

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159 *Cryptocurrency Might be a path to Authoritarianism*, The Atlantic.com, available at https://www.theatlantic.com/technology/archive/2017/05/blockchain-of-command/528543/, last seen on 24/10/2017.

160 Winklevoss Bitcoin Trust, Registration Statement (Form S-1), at 26-38, available athttp://www.sec.gov/Archives/edgar/data/1579346/000119312513279830/d562329dsl.htm, last seen on 27/10/2017.

161 Ibid.

162 *Mt. Gox Could Follow Japan Bankruptcy with U.S. Case,* WALL ST. J. BANKRUPTCY BEAT, available at http:/blogs.wsj.com/bankruptcy/2014/02/28/mtgox-could-follow-japan-bankruptcy-with-u-s-case/, last seen on 18/11/2017.

163 *Shutdown of Mt. Gox Rattles Bitcoin Market,* WALL ST. J., available at http://online.wsj.com/news/articles/SB10001424052702304834704579404101502619422, last seen on 20/11/2017.

164 Ibid.

records to be altered, potentially making possible fraudulent withdrawals[165]." Customers were not able to withdraw funds during this time.[166] Mt. Gox was initially unable to recover its customer's money or Bitcoins and filed for bankruptcy in Japan days after the theft.[167] Hours after filing, a U.S. customer filed a class action lawsuit asserting numerous allegations, including fraud, in order to recoup millions of dollars of losses linked to a hacking attack[168]. Bitcoin's anonymity makes it difficult to track transactions, and therefore difficult to reverse and recover fraudulent transactions which have taken place.[169]

In the past two and a half years Bitcoins has been synonymous with criminal use on an underground website known as the Silk Road.[170] This website was run through The Onion Router (TOR) network, which is a series of virtual tunnels on the "deep-net" that provide privacy and anonymity to users by concealing the true IP address of each computer within its network.[171] The anonymity of the TOR network, coupled with the fact that transactions were paid exclusively in Bitcoins, meant that Silk Road transactions were almost entirely untraceable and anonymous.[172] In September 2013, however, the FBI brought an action against the alleged creator and operator of the Silk Road, Ross William Ulbricht, and shut down the website itself.[173] The federal government seized 3.6 million Bitcoins, worth approximately 1.6 Billion USD.[174]

Bitcoin user did not waste time finding a replacement website operator who announced the revival of the Silk Road publicly via his Twitter account.[175] The Silk Road continued selling the same illegal drugs and merchandise, but with enhanced security measures and "insurance against users losing their Bitcoins. "[176]

Bitcoin-based investments have also been subject to white-collar crime through Ponzi schemes. In 2013, the SEC charged Trendon Shavers with operating a Ponzi scheme through his investment vehicle Bitcoin Savings and Trust (BTCST).[177]Since 2011, Shavers offered a weekly 7% interest rate from this trust, where he obtained more than 700,000 Bitcoins (amounting to more than 4.5M USD) from

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165*Could Your Holdings Survive the Failure of the NYSE?,* The Conglomerate.org, available at http://www.theconglomerate.org/2014/02/could-your-holdings-survive-the-failure-ofthe-nyse.html, last seen on 28/10/2017.

166 Ibid.

167*Mt. Gox Could Follow Japan Bankruptcy with U.S. Case,* WALL ST. J. BANKRUPTCY BEAT, available at http:/blogs.wsj.com/bankruptcy/2014/02/28/mtgox-could-follow-japan-bankruptcy-with-u-s-case/, last seen on 18/11/2017.

168*Mt. Gox Sued in United States over Bitcoin Losses,* REUTERS, available at http://www.reuters.com/article/2014/02/28/Bitcoins-mtgoxlawsuit-idUSL1NOLX1QK20140228, last seen on 11/11/2017.

169EUROPEAN CENT. BANK, VIRTUAL CURRENCY SCHEMES, available athttp://www.ecb.europa.eulpub/pdflother/virtualcurrencyschemes20l2lOen.pdf (noting that Bitcoin's theoretical roots stem from the theory of Austrian Economics), last seen on 21/11/2017.

170*Feds Nab Alleged Leader of "Silk Road" Online Drug Market,* WALL ST. J. DIGITS, available at http:llblogs.wsj.com/digits/2013/10/O2/feds-nab-alleged-leaderof-silk-road-online-drug-market/, last seen on 24/11/2017.

171Derek A. Dion, Note, I'll *Gladly Trade you Too Bits on Tuesday for a Byte Today: Bitcoin, Regulating Fraud in the E-Conony of Hacker-Cash*, 2013 U. ILL. J.L. TECH. & POL'Y 165, 167 (2013).

172 Sealed Complaint at 4-5, 6, 9-11, United States v. Ulbricht, No. 13 MAG 2328.*Overstock.com Is Going To Accept Bitcoin in 2014,* FORBES, available at http://www.forbes.com/sites/amitchowdhry/2013/12/21/overstock-com-is-goingto-*accept-Bitcoins-in-2014,* last seen on 30/10/2017.

173 Ibid.

174*Bitcoin Prices Continue To Fall Following Silk Road Raid in U.S.,* FIN. TIMES available at http://www.ft.comlintllcms/s/0/27ca2d60-2b89- 11e3-alb700144feab7de.html#axzz2hulNDrDJ, last seen on 30/10/2017.

175*Silk Road 2.0 Rises from the Ashes-with Improvements,* NBC NEWS TECH., available at http://www.nbcnews.com/tech/internet/silk-road-2-0-rises-ashesimprovements-f8C11545412, last seen on 2/11/2017.

176 Ibid.

177Winklevoss Bitcoin Trust, Registration Statement (Form S-1), at 26-38, available athttp://www.sec.gov/Archives/edgar/data/1579346/000119312513279830/d562329dsl.htm,. Last seen on 11/11/2017.

investors.[178] In response to this case and numerous other occurrences of questionable Bitcoin investment offerings, the SEC issued alert cautioning investors about the risks inherent in these investment vehicles.[179]

Moreover, tax evasion has resulted from the anonymous nature of Bitcoin use.[180] Because Bitcoin transactions take place between two willing parties and never pass through a financial intermediary, the tax regulatory authorities have no simple way of tracing the transaction.[181] Given its untraceable and therefore difficult to tax nature, opponents have labeled Bitcoins as a 'digital Cayman Islands.'

REGULATORY RESPONSE TO CRYPTOCURRENCY

In order to regulate Cryptocurrency there were a series of failed attempts. Many states and government agencies have already undertaken to try and regulate Bitcoins. The first step involves determining what exactly the asset is that is being regulated. However, the existing efforts to classify Bitcoins have led to a confusing regulatory divergence as to which asset category cryptocurrencies should belong.[182] As a result, there have been various experiments by different countries to regulate virtual currencies by treating them as currency, security instrument, property, etc. USA has been a major player in the history of developing regulatory strategies of Cryptocurrency. To analyze the problem of regulating Cryptocurrency, it is necessary to look into the efforts made by different countries across the world. However, more emphasis is given on the efforts made by USA since it has been one of the front-runners till now.

<u>USA</u>

The United States of America engaged almost every regulatory body for the purpose of regulating cryptocurrencies including the Securities and Exchange Commission, the Commodities Futures Trading Commission, the Consumer Financial Protection Bureau. This was done in a belief that regulation may be needed to protect consumers and the wider financial system due to growth of Bitcoins and other cryptocurrencies. Owing to this understanding, a few steps have attempted to be taken in this direction, but the regulators still have a lot of ground to cover in order to come up with a concrete set of regulations. A number of fundamental questions arise when laws are attempted to be framed or existing laws are sought to be juxtaposed for this new technology. A few of these instances are discussed here. These may help to gain inspiration and help to enhance the existing progress with fundamental changes in law that would be able to regulate Bitcoins and other cryptocurrencies to the best extent possible.

The preliminary question is whether the online currency is legal, given the federal government's monopoly on issuing legal tender. The answer to this is in the affirmative as the US Constitution only prohibits the states from coining money.[183] This restriction, which is imposed upon the states is not applicable to private individuals as long as it does not resemble the US Dollar. Therefore, many local currencies are in circulation provided the issued currency does not resemble the legal tender. A case which sheds light on this is of Bernard von NotHaus, who was convicted in 2011 after printing and

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178 Ibid.

179 Ponzi Schemes Using Virtual Currencies, SEC Investor Alert, Pub. No. 153 (7/13) (2013), available athttp://www.sec.gov/investor/alerts/ia-virtualcurrencies.pdf last seen on 04/11/2017.

180 *Digital Currency: A New Worry for Tax Administrators?* ,TAX ANALYSTS, available at www.taxanalysts.com/www/features.nsf/Articles/C1A7ED502DD2B84685257AAF0056A2A2, last seen on 06/11/2017.

181 *FBI Raid Heralds Campaign Against Tax Evasion,* Soc'Y TR. &EST. PRAC., available at http://www.step.org/fbi-raid-heralds-campaign-against-Bitcoins-tax-evasion, last seen on 08/11/2017.

182 Evan Hewitt, *Bringing Continuity to Cryptocurrency: Commercial Law as a Guide to the Asset Categorization of Bitcoin*, 39 Seattle U. L. Rev. 619, 640 (2016).

183 Jerry Brito and Andrea Castillo, *Bitcoin : A Primer for Policy Makers*, MercatusCenter, George Mason University, available at https://www.mercatus.org/publication/bitcoin-primer-policymakers last seen on 05/11/2017.

distributing a gold-backed currency called the Liberty Dollar. His crime was not that he issued an alternative currency, but that it was similar in appearance to the US dollar and that von NotHaus attempted to spend his currency into circulation as dollars and encouraged others to do so as well.[184] In contrast, Bitcoins is in no danger of being confused with US currency. Once the legality of the currency is established, a attempt would be made to look at the regulations which currently attempt to govern the same.

In 2014, a US Court in *SEC v. Trenton T. Shavers*[185]gave a landmark ruling which recognized that Bitcoins is a currency and that transactions using Bitcoins are akin to currency transactions and that the Courts have jurisdiction to hear the cases involving Cryptocurrency transactions. As held by Judge Mazzant, "Cryptocurrency (expressly Bitcoins) can be used as money (it can be used to purchase goods and services, pay for individual living expenses, and exchange for conventional currencies), it is a currency or form of money. This ruling allowed for the SEC to have jurisdiction over cases of securities fraud involving Cryptocurrency. It was a case where the owner, Trenton Shaver had solicited funds from his investors on the false notion that an interest of 7 percent a week would be provided to them. In pre-trial motions, the court looked at the issue whether the interests in BTCST were investment contracts under the federal securities law. Because investors paid for the interest in Bitcoins, Shavers argued that Bitcoins were not currency and the interests did not result an investment of money. The court held that the investments in BTCST were in fact securities. This judgment has changed the way Bitcoins or Cryptocurrency is perceived in the US.

In the case of *Faiella*[186]the court held Bitcoins is money during a case which sought to assess whether Charlie Shrem, CEO of defunct Bitcoins exchange Bit-Instant, allegedly acted with Robert Faiella to supply Bitcoins to Silk Road users. The two were charged with two counts of operating an unlicensed money transmitting business, one count of money laundering conspiracy and one count of willful failure to file a suspicious activity report. The Judge rejected Faiella's reasoning that Bitcoins are not money and that his money transmission charges should subsequently be cleared, saying *"Money in ordinary parlance means 'something generally accepted as a medium of exchange, a measure of value, or a means of payment.' It was further noted that, Bitcoin clearly qualifies as 'money."* The trial culminated in both defendants pleading guilty to the charges, ultimately agreeing to pay nearly $1 Million in fines.

IN 2013 The Financial Crimes Enforcement Network (FinCEN) of the US government classified Bitcoins as a convertible decentralized virtual currency.[187] FinCEN subsequently issued guidelines for cryptocurrencies in 2014. The issued guidelines contain an important caveat for Bitcoins miners: it warns that anyone creating Bitcoins and exchanging them for fiat currency are not necessarily beyond the reach of the law. It states, *"A person that creates units of convertible virtual currency and sells those units to another person for real currency or its equivalent is engaged in transmission to another location and is a money transmitter."*[188]Furthermore, US Internal Revenue Service (IRS) in the same year had clarified that Bitcoins will be treated as 'property' for tax purpose as opposed to 'currency'. This means Bitcoins will be subject to capital gains tax. One positive aspect of this ruling is that it puts to rest the varying debates revolving around the legality of Bitcoins. No longer do investors need to worry that

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184 *Protecting Us From A 'Terrorist' Who Made Pure Silver Coins: The Bernard von NotHaus Case,* FORBES, available at https://www.forbes.com/sites/georgeleef/2014/12/09/protecting-us-from-a-terrorist-who-made-pure-silver-coins-the-bernard-von-nothaus-case/#60c771df64f3, last seen on 09/11/2017.

185Securities and Exchange Commission v. Trenton T. Shavers and Bitcoin Savings and Trust: Civil Action No. 4:13-CV-416,(E.D. Tex. Sept,18,2014)

186 United States of America v. Faiella et al, Criminal 14 *Cr.*243 *(JSR).*

187Financial Crimes Enforcement Network. (FinCEN). 2013. available at https://www.fincen.gov/news_room/testimony/html/20131119.html, last seen on 15/11/2017.

188*FinCEN Declares Bitcoin Miners, Investors Aren't Money Transmitters*, CoinDesk, available at http://www.coindesk.com/fincen-bitcoin-miners-investors-money-transmitter, last seen on 18/11/2017.

investments or profit made from Bitcoins are illegal or the processes to follow in order to report them to the IRS if the need arises.[189]

While there have been several judgments in US courts in favor of and against recognizing Cryptocurrency, until a Supreme Court ruling arrives, the States would have to comply with the rulings of their respective courts. However, the US Legislature needs to improve their laws regulating Bitcoins and other Cryptocurrency in order to bring about clarity and disentangle the existing cloud created by various rulings and Anti-money laundering as well as Tax Laws.

These varying outlooks add fuel to the fire regarding the debate whether crypto currencies like Bitcoins ought to be seen as a form of legal tender in which transactions can take place along with punishment for breach of such contracts or not. Moreover, the actions discussed above make it evident that most the existing laws do not have any provisions to regulate cryptocurrencies. Even the attempt of applying existing laws have brought upon more debates which would need to be resolved. The legislative authorities specifically in the USA have a Herculean task before them as Bitcoins and other virtual currencies gather popularity. Not having a specific statute dedicated to this new technology can be detrimental to the financial and legal players.

GERMANY

BaFin, the German Federal Financial Supervisory Authority had issued a communication on Bitcoins in 2013 which is the first noted step towards regulation of cryptocurrency there[190]. In Germany Bitcoins have been classified as a financial instrument but not of a currency[191].The Federal Ministry of Finance discussed briefly the tax treatment of Bitcoins in a statement as well. The ministry has discussed the possibility of levying value-added tax liability for Bitcoins transfers, lack of long term capital gains liability for Bitcoins that are held for more than a year.[192] No specific nomenclature has yet been ascribed to crypto-currencies though till date.

BRAZIL

Law No. 12865, enacted by Brazil on October 9, 2013, indicated the possibility for creation of electronic/virtual currencies, including Bitcoins, was introduced. *Inter alia* the law laid down the kind of payment systems and payment arrangements that are included in the Brazilian Payment System (Sistema de Pagamentos Brasileiro, SPB).[193]"Payment institution" is defined as a legal entity that, by adhering to one or more payment arrangements, has as a principal or secondary activity, alternatively or cumulatively, one of the activities listed in Article 6(III). "Electronic currency" is defined as resources stored on a device or electronic system that allow the end user to perform a payment transaction.[194] These steps however have not yet culminated in a final resolution regarding the same.

United Kingdom

The Bank of England has published no statement clarifying its position on Bitcoins. Although, Bitcoins has been expressly excluded in the latest quarterly reports published.[195]It has been indicated by the HMRC (The UK customs and tax department) that Bitcoins will be considered as 'single purpose

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[189] *3 Reasons The IRS Bitcoin Ruling Is Good For Bitcoin*., NASDAQ. available at http://www.nasdaq.com/article/3-reasons-the-irs-bitcoin-ruling-is-good-for-bitcoin-cm339333, last seen on 24/11/2017.

[190] Kreditwesengesetz [Banking Act] (updated Sept. 9, 1998), Bundesgesetzblatt I at 2776, as amended, See http://www.gesetze-im-internet.de/kredwg/ index.html (Ger.), last seen on 07/12/2017.

[191] Deutschland erkenntBitcoinals privates Geld an [Germany Recognizes Bitcoin as Private Money], Frankfurter AllgemeineZeitung , http://www.faz.net/aktuell/finanzen/devisen-rohstoffe/digitale-waehrung-deutschland-erkennt-Bitcoin-als-privates-geld-an-12535059.html, last seen on 07/12/2017.

[192] See, http://www.skatteetaten.no/no/ Radgiver/Rettskilder/Uttalelser/Prinsipputtalelser/Bruk-av-Bitcoin--skatte--og-avgiftsmessige-konsekvenser/.), last seen on 07/12/2017.

[193] Lei No. 12.865, de 9 de Outubro de 2013 [Law No. 12,865 of October 9, 2013], available at http://www.receita.fazenda.gov.br/Legislacao/leis/2013/lei12865.htm (Braz.), last seen on 09/12/2017.

[194] Ibid.

[195] *"UK Eliminates Tax on Bitcoin Trading, Publishes Official Guidance"*, CoinDesk, available at http://www.coindesk.com/top-uk-tax-agency-eliminate- 20-levy-Bitcoin-trading/, last seen on 09/12/2017.

vouchers'.[196]This classification will render a levy of VAT extending up to 10-20% on the sale of Bitcoins. This move has been vehemently criticized by those involved in the sale of Bitcoins alleging that this would lead to a tremendous slowdown in the UK Bitcoins industry.[197] This move is indicative of the intent to treat Bitcoins as a tax instrument.

INDIA – A WINDOW OF OPPORTUNITY

Currently there are no laws laid down by the Central Government, which regulate the use of Bitcoins and other cryptocurrencies in India albeit coupled with the fact that this digital currency is not considered legal.[198] However, the Indian government has been working on creating a legal framework for Bitcoin and other digital currencies.

One of the prime reasons for this is that Bitcoins trading in India has been steadily increasing to become over US$3.5 million recently in September of 2017, following a steady rise in domestic usage. While a monthly trading volume of US$3.5 million may seem insignificant in juxtaposition to global trends – the U.S. Bitcoins trading volume for the same month exceeded US$36 million – the figure demonstrates India's growing interest in Cryptocurrency.[199]Another reason which can be attributed to the rise of Bitcoins in India is due to the Modi-led government's demonetization of 86 percent of paper currency which took place in November 2016.

The reason for this is twofold[200]:

First, demonetization forced many Indians holding onto large amounts of untaxed, black money to quickly find new, novel ways of laundering money in order to avoid both taxation and government scrutiny. Bitcoin became an ingenious way to hide money from the purview of the state: would-be money launders could simply purchase large quantities of Bitcoins with old rupee notes, then sell them back later for newly minted, legal currency.

Secondly, and more importantly, demonetization showed Indian citizens that they could not trust the government to uphold the value of money. As journalist and novelist John Lanchester explains in an essay on Bitcoins, *"The value of fiat money is an act of faith"*. By turning the vast majority of India's fiat currency into valueless paper overnight, the Indian government broke that faith.

For tech-savvy Indians, Bitcoin, became an attractive alternative to government controlled currency. However, the popularity and the usage of this currency has not been much till now. Despite the demonetization-driven spur in Bitcoins purchases in India, Cryptocurrency usage remains peripheral. Though its price is volatile in nature, Bitcoin is consistently more expensive in India than rates on the international market – by 5 to 10 percent. This is largely because India lacks Bitcoins 'mining' capacity, the excruciatingly slow and energy intensive means of generating new Bitcoins through the verification

[196]*The Challenge of Being a Bitcoin Trader, Financial Services Club Blog (Nov. 13, 2013),* The Finanser.co.uk, available at,http://thefinanser.co.uk/fsclub/2013/11/the-challenge-of-being-a-Bitcoin-trader.html, last seen on 14/11/2017.

[197] Stan Higins, *Proposed US Law Calls For Five-Year Moratorium on Bitcoin Regulation, CoinDesk, available at* http://www.coindesk.com/proposed-us-moratorium-Bitcoin-regulation, last seen on 09/12/2017

[198]*Government doesn't recognise bitcoin as legal: FM Arun Jaitley*, Economic Times, available at https://economictimes.indiatimes.com/markets/stocks/news/government-doesnt-recognise-bitcoin-as-legal-fm-arun-jaitley/articleshow/61873558.cms last seen on 30/10/2017.

[199]"*Cryptocurrency in India: Usage and Regulation*", Indiabriefing.com, available at: http://www.india-briefing.com/news/cryptocurrency-Bitcoins-india-usage-regulation-15343.html/, last seen on 11/11/2017.

[200] Ibid.

of sophisticated algorithms. Furthermore, Indian nationals struggle to buy Bitcoins from foreign exchanges due to government restrictions on cross-border currency flows.[201]

However, a growing domestic Cryptocurrency ecosystem and favorable government regulations could make Bitcoins more accessible to middle class Indians, setting the stage for a digital gold rush.[202] This is also in consonance with the objectives of the Prime Minister of launching the Digital India campaign. The aim of demonetization and propagation of cryptocurrencies has also been the attempt to shift the economy to a paperless system along with the other objectives which have been laid down above.

The Reserve Bank of India (RBI) has not exactly been shy in recognizing and even regulating technological advances in the financial sector as is evident from their detailed guidelines on Internet Banking[203], Prepaid Payment Instruments[204] Account Aggregator Regulations[205], and the consultation paper on proposed regulations for P2P lending platforms[206], etc. However, though the RBI has acknowledged the existence of Bitcoins (it issued a note cautioning the public against dealing in virtual currencies including Bitcoins way back in 2013[207] and again in 2017[208]), there have been no clear guidelines regarding the same. Nevertheless, Bitcoins has come a long way since its inception and a consensus is emerging amongst the more technically inclined individuals that Bitcoins is in fact here to stay.

However, a small step in this regard was an attempt by the government of India to finalize as of early August 2017, the draft proposal recommending how to regulate the use of digital currencies in the country effectively. The plan was already submitted by the intergovernmental panel that was formed in April 2017 for said purpose to the Indian Ministry of Finance. The contents of the draft proposal are relatively unknown, but based on earlier reports, some of the members of the panel have proposed that the Indian government should introduce some kind of a tax policy for the cryptocurrencies.[209]

Many observers assume that Cryptocurrency will come under the gambit of the RBI, though Digital Currency Exchanges may also have to register under the Securities and Exchange Board of India (SEBI). The Indian government will most likely make Cryptocurrency taxable and create guidelines for Initial Coin Offerings (ICO) in which Cryptocurrency ventures raise funds in Bitcoins and other digital monies.

A central concern for the Bitcoins community in India, however, is how the government will define Cryptocurrency. Though referred to in terms of currency, given its slow transaction times and volatile value, Bitcoins operates more like an asset. A decision to classify it as a currency instead of an asset would necessitate a large regulatory apparatus – constituting a serious discouragement for Bitcoins usage in India.

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201 Ibid.
202 Ibid.
203 https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=414&Mode=0
204 https://rbi.org.in/scripts/NotificationUser.aspx?Id=10799&Mode=0
205 https://www.rbi.org.in/scripts/BS_ViewMasDirections.aspx?id=10598
206 https://rbidocs.rbi.org.in/rdocs/content/pdfs/CPERR280416.pdf
207 https://rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=30247
208 https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=39435

1. 209 *'INDIA COMPLETES DRAFT PROPOSAL FOR CRYPTOCURRENCY REGULATIONS'*, **COINTELEGRAPH.COM, AVAILABLE AT HTTPS://COINTELEGRAPH.COM/NEWS/INDIA-COMPLETES-DRAFT-PROPOSAL-FOR-CRYPTOCURRENCY-REGULATIONS, LAST SEEN ON 16/11/2017.**

Though there is still no clarity on who, how and what the law relating to crypto currencies passed by the Indian Government would entail, previous reports and speculations are present which give us some indication of what to expect. Hence, if Bitcoins are legalized in India, there is probability of the following framework being made applicable[210]:

- Bitcoins could fall under the purview of RBI's 1934 Act.
- Bitcoins investors could be taxed under Goods and Services Tax.
- RBI could issue guidelines regarding investment and purchase of Bitcoins.
- If any foreign payment is made through Bitcoins, it could fall under the purview of FEMA.
- Returns from investment in Bitcoins would be taxed (Capital gains tax).

Apart from this, the debate surrounding crypto currencies in India is also a buzz with the possibility of the Indian Government creating its own form of digital currency to compete with the Bitcoin called 'Lakshmi' (named after the Hindu goddess of wealth and fortune). If this speculation does become a reality it would add a whole new dimension to the debate in India. However, in order to make this a reality the government will have to overcome a herculean task of alleviating the concern of the critics who are of the opinion that this would be a largely unproductive strategy, given that the appeal of crypto currency is its independence from governments.

Suggested regulatory framework for India

The search for a regulatory framework for Bitcoins has become pertinent in recent times. Owing to this, the viability and legality of making Bitcoins come under the purview of taxation is garnering support. The form of taxation i.e. direct or indirect is a conundrum which is yet to materialize into an applicable regulatory framework. Bitcoins may not qualify as currency or money as it is not a legal tender for Indian indirect tax laws, therefore, VAT (value-added tax) or GST implications may arise.[211] However, the possibility of GST being made applicable to buying of Bitcoins is not there. But the transaction fee for purchase or sale of Bitcoins or the underlying transaction for which it is used will be liable to GST. Owing to GST (indirect tax) implications not being distinct, subjecting Bitcoins to direct taxation is suggested for India. Gains from Bitcoins would attract taxation, depending on categorization of the gains either as business income or capital gains. Applying capital gains tax should be the preferred framework to follow with regard to Bitcoins especially on the tax front. Long-term capital gains tax at 20% would be levied if Bitcoins were held for at least 36 months. In all other cases, short-term capital gains tax at 30% would be applicable.[212]

It is pertinent to note that tax is only one aspect of the regulatory issue. While applying taxation policies to profits, it is also imperative to regulate the Bitcoins operating framework holistically too which is a role which the RBI could handle. Since Bitcoins is a decentralized Cryptocurrency, it is impossible to regulate it through one single centralized point for all transactions. Neither is it practically possible to regulate each and every Bitcoins user. A pragmatic compromise between these two extremes is

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[210] "*Indian Government Mulling Legalising Bitcoin Cryptocurrency In India*", available at https://inc42.com/buzz/Bitcoins-cryptocurrency-india-government/, last seen on 18/11/2017.

[211] *Tax Dept Starts Probe Into Bitcoin Exchanges To Ascertain Rate They Can Be Taxed Under GST*, Economic Times, available at https://economictimes.indiatimes.com/news/economy/policy/tax-dept-starts-probe-into-bitcoin-exchanges-to-ascertain-rate-they-can-be-taxed-under-gst/articleshow/62090482.cms, last seen on 16/12/2017.

[212] *See Mega bitcoin gains come with megabyte tax*, Economic Times, available at https://economictimes.indiatimes.com/news/economy/policy/mega-bitcoin-gains-come-with-megabyte-tax/articleshow/62014373.cms, last seen on 16/12/2017.

suggested to regulate the points at which fiat currency or valuable goods enter the Bitcoins system, i.e. the Bitcoins exchanges where people may buy and sell Bitcoins for fiat money, or websites which offer Bitcoins as a mode of payment. Such an approach would reduce the number of intermediaries and lead to effective enforcement of the regulations. The regulations may require any entity providing services such as buying and selling of Bitcoins for actual money, trading in Bitcoins (such as non-cash exchanges) or providing other Bitcoins related services (such as Bitcoins wallets, remittance facilities, etc.) to be registered with a central government agency, preferably the Reserve Bank of India.

One legal issue stemming from the regulation of companies transacting in Bitcoins is whether the RBI has the authority or jurisdiction to regulate Bitcoins in the first place. Without getting into whether it is a dangerous trend or not, an easy way in which the RBI could ensure it has the authority to regulate Bitcoins would be to follow the path that the RBI adopted while regulating Account Aggregators under the Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016 wherein the RBI declared Account Aggregators as Non-Banking Finance Companies under section 45-I(f)(iii) thereby getting the authority to regulate and supervise them under section 45JA of the Reserve Bank of India Act, 1934.[213]

The Regulations, once issued by the Reserve Bank of India, can prescribe mandatory registration, capital adequacy provisions, corporate governance conditions, minimum security protocols, Know Your Customer (KYC) requirements and most importantly provide for regular and ongoing reporting requirements as well as supervision of the Reserve Bank of India over the activities of Bitcoins companies.

Any proposed Bitcoins regulatory framework would seek to address certain issues out of which the three mentioned here are central points of concern:

- Security of the consumer's property and prevention of fraud on the consumer. In the technology sector this translates into specific emphasis on increased security (against hacking) for accounts that the consumers maintain with the service provider.
- India has robust exchange control laws and the inherently decentralised and digital nature of Bitcoins can enable transfer of value from one jurisdiction to another without any oversight by a central agency, potentially violating the exchange control laws of India.
- Bitcoins has for long been associated with criminal and nefarious activities, in fact many believe that the famous black-market website "Silk Road" played a big role in making Bitcoins famous[214] and therefore preventing Bitcoins from being used for illegal activities (or creating a mechanism to ensure a digital trail to help investigations post facto) would be a major issue that the regulations would seek to tackle.

If the regulations provide for minimum capital adequacy requirements as well as registration by the RBI or some other central agency, then the chances of consumers being duped by "fly-by-night" operators would be significantly reduced. The Regulations can also provide for minimum security protocols to be maintained by the companies. Critics may point to the hacking of various Bitcoin exchanges in the recent past, including that of MtGox, discussed earlier in the paper, and argue that the security protocols may not be enough to prevent future instances of hacking. But that is true even for the

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213 Section 45JA of the Reserve Bank of India Act, 1934.

214 See generally, Nathaniel Popper, "Digital Gold: Bitcoin and the Inside Story of the Misfits and Millionaires Trying to Reinvent Money", Harper Collins, 2015., last seen on 08/12/2017.

current security protocols for online banking; and that has not prevented a large number of banks from providing online banking facilities and the RBI regulating the same. The other vital issue that legally mandated security protocols would address (and potentially solve) is the issue of liability in case of hackings. Regulations may provide clarity on this issue and protect innocent customers from negligent companies while at the same time protecting entrepreneurs by defining and limiting the liability for *bona fide* and vigilant companies.[215]

The other issue that may be of major concern to the authorities is exchange control. India has extremely specific exchange control laws, and if any person in India wants to transfer any amount to any person overseas, the only legal way to do so is through a bank transfer, which requires filling paperwork giving the reason for the transfer. This means that all transfers outside India are done through proper banking channels and are therefore under the supervision of the RBI. However, the decentralized nature of Bitcoins enables individuals to transfer money outside the borders of India without going through any banking channels and hence stay completely outside the purview of the RBI's supervision. Such a system which lets users transfer money beyond national borders outside legal banking channels could be easily misused by nefarious actors and this is exactly what happened as international drug cartels turned to Bitcoins and other digital currencies to move their ill-gotten wealth beyond the borders of various countries.[216] Regulating the entities which provide Bitcoins wallets and Bitcoins exchanges will ensure that the RBI can exercise its supervisory jurisdiction over Bitcoins transactions of individual customers even though these transactions do not go through the regular banking channels. The Regulations could impose an obligation on the companies to provide information on any suspicious activities or information about accounts which see very high volumes, etc. to ensure that Bitcoins is not used to finance organized crime. Thus, the regulations could have provisions that would require the companies providing the Bitcoins wallets or exchanges to flag and monitor customers whose trading accounts or Bitcoins wallets have transactions of an amount greater than a specified limit. This would provide the RBI with the ability to enquire as to the reasons for such high volumes and weed out illegal transactions while at the same time allowing *bona fide* transactions to continue.[217]

Thus, a taxation regime synchronized with overall regulation of the Bitcoins eco-system through a symbiotic relationship between the tax authorities and the RBI, can aid the government to deal with the perplexities of the labyrinth of issues which the rise of Bitcoins has thrown up more so in the last year than ever.

CONCLUSION

The need to regulate draws from the observations, which prove that Cryptocurrency is prone to serious frauds and ought to be limited in terms of usage as it possesses the capacity to destabilize economies. Owing to the forgoing, the institutions in India ought to take on the responsibility of regulating Cryptocurrency, even though at its very core, Cryptocurrencies aim to be free of government

[215]*Regulating Bitcoin in India*, CIS-India.org, available at https://cis-india.org/internet-governance/blog/regulating-bitcoin-in-india, last seen on 05/12/2017.
[216]*Are Bitcoins the Criminal's Best Friend*? , Bloomberg.com, available at https://www.bloomberg.com/view/articles/2013-11-18/are-bitcoins-the-criminal-s-best-friend-, last seen on 09/12/2017.
[217]*Regulating Bitcoin in India*, CIS-India.org, available at https://cis-india.org/internet-governance/blog/regulating-bitcoin-in-india, last seen on 05/12/2017.

intervention. The dilemma regarding the regulation of Cryptocurrency has been prevalent for quite some time now.

There have been divergent views present globally which have been discussed earlier in this paper on not only how to regulate this new technology, but which arena of the financial and legal sectors does this new currency conform to. This is evident by the dilemma the United States of America is still grappling. While the Internal Revenue Service is keen on putting Cryptocurrency under the garb of property and making it taxable, the SEC is of the opinion to consider this currency as a security and subject it to its own framework of regulation. The example of the United States of America is substantive enough to put into perspective the complexities which surrounds not only the framing of regulations but also the organization which would be entrusted with this task.

However, there are critics who believe that regulation or 'overregulation' of crypto-currencies would defeat the sole purpose of creating Cryptocurrency. These individuals believe that Cryptocurrencies should remain part of an unregulated free market in which supply, and demand attach a value to Bitcoins and any price fluctuation should work themselves out and stabilize through market forces. The argument for no regulation ignores the reality that the price of Cryptocurrencies is too volatile in the free market to compete with other stable national currencies. If the goal were to create a localized and specific hobby market that does not aim to trade and compete with other national currencies in the foreign exchange markets, no regulation would be necessary. However, this is not the case.
The need for regulation is becoming more of a necessity from being an option in yester years especially in light of what is being considered as the first case of Bitcoins fraud in India.[218] India in its attempt to become a global superpower in the times to come needs to make rapid progress in every sphere of development including technology intertwined with the financial sector. The advent and increasing popularity of Bitcoins is a golden opportunity for India to harness and be the torch bearer for this technology. It can look at the mistakes made by other countries and develop its own regulatory framework from the experience of other nations. This paper suggests a few policy considerations and methods to overcome challenges, which the regulatory authorities in India may face in their journey to regulate Cryptocurrency while at the same time maintaining the novelty of the same. The government should not shy away from this herculean task but instead take it as a spoke in the wheel of overall development and take it to a successful conclusion. This is becoming more imperative day by day since Cryptocurrency, specifically Bitcoins rocketed to a lifetime high well above $16,000 quite recently in the beginning of December 2017.[219]

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[218] *This may be the first Bitcoin scam in India,* Gadgetnow.com, available at https://www.gadgetsnow.com/tech-news/this-may-be-the-first-bitcoin-scam-in-india/articleshow/62078523.cms, last seen on 18/12/2017.
[219] *Bitcoin blows past $16,000, alarm bells ring louder,* Gadgetnow.com, available at https://www.gadgetsnow.com/tech-news/bitcoin-blows-past-16000-alarmbellsringlouder/articleshow/61974398.cms?utm_source=toiweb&utm_medium=referral&utm_campaign=toiweb_hpwidget, last seen on 15/12/2017.