

# Legal Regulations and Developments of Cryptocurrencies in India and Russia: A Comparative Analysis

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## Abstract

**[Purpose]** This article addresses the lack of legislation in India to govern digital currencies, as well as the legality of Bitcoin in comparison to Russia's ban on other digital assets for payment regulation, highlighting the necessity for effective legislation once all around the world. It further delves into potential misuse of private cryptocurrencies in a variety of ways while placing upon the need for both countries to form a new digital currency regulatory authority.

**[Methodology/Approach/Design]** This paper probes into the existing legal regulations for Cryptocurrency in India, Russia and other countries by using primary and secondary data throughout the paper. The primary data have been taken from legitimate government sources such as Russia's federal law and other bills and laws enacted in India, such as the "Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019" and "The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021." Various judgments like the case of Internet and Mobile Association of India v. Reserve Bank of India and Dwaipayan Bhowmick v. Union Of India and Ors. have been taken out from Manupatra which is an online database for legal research. Government reports and notifications from the Indian, Russian and US government have also been examined. The secondary data include numerous news articles from Times of India, The Mirror, India Times, The Moscow Times, Telegraph, The UK News and other new sites. Lastly,

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articles by various researchers like Bohme et al, Dyhrberg and Kim have also been thoroughly analysed.

**[Findings]** It was concluded that legalising Cryptocurrency through codified laws, appropriate approval for digital currencies through regulatory authorities, establishing clear definition of 'cryptocurrency', uniform taxation for all types of Cryptocurrencies, updation of penal laws and setting imprisonment for cryptocurrency regulation violation seem to be some effective solutions to reignite the Indian and Russian Economies.

**[Practical Implications]** The practical implication lies in the fact that the use of cryptocurrencies is increasing on a daily basis, but neither the national government nor the world organizations has made any steps to control the market for virtual currencies.

**Keywords:** Cryptocurrency. Legislation. Misuse. India. Russia.

## INTRODUCTION

The most raised question that occurs in every currency and its usage is the "search" for complete laws. Cryptocurrency, a relatively new innovation in the trading industry, necessitates the establishment of a legal framework to oversee its operation as a digital currency. A cryptocurrency is a kind of digital asset that is created on a network that is distributed across multiple computers. This network is known as a blockchain. Because of the decentralised structure of these organisations, it is possible for them to function independently of governments and other authoritative bodies. The use of cryptocurrencies offers a number of advantages, including financial transactions that are both less expensive and more effective, as well as decentralised systems that are resistant to failure at a single point.<sup>1</sup> When a cryptocurrency is issued by a single issuer, it is considered to be centralised even if it was coined or created before the implementation of the relevant legislation. Each cryptocurrency, when used in conjunction with decentralised governance, functions via the use of distributed ledger technology, most often a blockchain, which functions as a financial dataframe for the government.<sup>2</sup> There are around 16,000 different cryptocurrencies that are held openly, and the number of cryptocurrencies is expected to continue growing. On December 23, 2021, the total value of all cryptocurrencies was over \$2.3 trillion, which was a significant decrease from the all-time high of more over \$2.9 trillion that was reached only a few weeks

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<sup>1</sup> Frankenfield, J. (2022, October 23). Cryptocurrency explained with pros and cons for investment. Investopedia. Retrieved October 25, 2022, from <https://www.investopedia.com/terms/c/cryptocurrency.asp>

<sup>2</sup> Admin. (2021, May 16). Admin. Dastawezz. Retrieved October 25, 2022, from <https://dastawezz.com/2021/05/16/cryptocurrency-and-its-legality-in-india/>

earlier.<sup>3</sup> Due to the fact that it may be converted in real time to a conventional currency with a predetermined value, Bohme et al. (2015) argue that cryptocurrencies, and Bitcoin in particular, behave more like payment mechanisms than they do like currencies. This coin is distinct from other assets in terms of portfolio management, risk analysis, and the categorization of emotion (Dyhrberg, 2016). Kim (2017) asserts that bitcoin and other cryptocurrencies are substantially closer to fulfilling the role of money and meet the aforementioned requirements. As a result, it is unclear if a cryptocurrency is an asset or a currency. However, this has not deterred traders from investing in cryptocurrency. In India, it is projected that over 100 million people, or 7.30% of the entire population, hold bitcoin<sup>4</sup> and in Russia, nearly 17 million individuals possess cryptocurrency, accounting for 11.91 percent of the entire population.<sup>5</sup> As a result, it is past time to examine the legal complexities of cryptocurrency throughout the world, particularly in India and Russia.

## RESEARCH OBJECTIVES

This paper is an attempt to analyse the cryptocurrency regulations in India, Russia and other countries, discuss the operation of laws made with regard to Cryptocurrencies especially in India and Russia, examine the legality and illegality of Cryptocurrencies in various nations, scrutinize the issues that have arisen owing to inception of Cryptocurrency and due to lack of legislation in India, Russia and at international level. Several suggestions have been proposed in order to minimise legal complications and go hand in hand with the evolution of virtual currencies.

## TYPES OF CRYPTOCURRENCIES

There are 16,000 distinct currencies that currently exists. If a person wants to acquire some bitcoin, the first thing that they need to do is create a digital wallet so that they can store their cryptocurrency. In addition, there are a variety of online exchanges that one may use to purchase cryptocurrencies.

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<sup>3</sup> Kevin Voigt. (2022, September 30). Cryptocurrency: Definition and current prices. NerdWallet. Retrieved October 25, 2022, from <https://www.nerdwallet.com/article/investing/cryptocurrency-7-things-to-know>

<sup>4</sup> Admin. (2022, October 4). Global cryptocurrency ownership data 2021. TripleA. Retrieved October 25, 2022, from <https://triple-a.io/crypto-ownership-data/>

<sup>5</sup> Ibid 4.

These exchanges are accessible online. The first thing a person has to do in order to get their hands on any bitcoin is to locate the exchange platforms that are suitable for their needs. After gaining access to an exchange portal and selecting the appropriate cryptocurrency, the very next step is to input the wallet address to which the cryptocurrency must be sent, as well as the quantity of cryptocurrency that is to be withdrawn. This step is followed by the final step of withdrawing the cryptocurrency. The next and last stage, which involves actually completing the transaction, comes after this one. The most widely used Cryptocurrencies throughout the globe are:

- **Bitcoin:** Bitcoin is a decentralised digital money that was introduced in January of 2009. It was created in 2009. It is founded on the concepts that were outlined in a white paper written by the mysterious individual who goes by the alias Satoshi Nakamoto.<sup>6</sup> The blockchain is a distributed public database that stores transactions once they have been verified by nodes in the network using cryptography. They may be exchanged for a variety of other currencies, as well as products and services. The use of bitcoin in illegal activities, the enormous amount of power (and, thus, the carbon effect) needed for mining, price volatility, and exchange theft have all been criticised as negative aspects of bitcoin.<sup>7</sup> Bitcoin was created so that anyone may send and receive monetary transactions via the internet. It was intended for the digital currency to function as a decentralised payment system that could be used in the same manner as was possible with previously existing currencies.
- **Ethereum:** Vitalik Buterin, a computer programmer, is credited with the creation of Ethereum in 2013. Others who contributed to the creation of Ethereum include Gavin Wood, Charles Hoskinson, Anthony Di Iorio, and Joseph Lubin.<sup>8</sup> The launch of the network took place on July 30, 2015, after the beginning of the financed technical development in 2014.<sup>9</sup> There are costs associated with

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<sup>6</sup> Ibid 1

<sup>7</sup> Kay, G. The many alleged identities of bitcoin's mysterious creator, satoshi nakamoto. *Business Insider*. Retrieved October 25, 2022, from <https://www.businessinsider.com/bitcoin-history-cryptocurrency-satoshi-nakamoto-2017-12>

<sup>8</sup> Admin. Ethereum Home. [ethereum.org](https://ethereum.org). Retrieved October 25, 2022, from <https://ethereum.org/en/>

<sup>9</sup> Ethereum launch. Ethereum Foundation Blog. Retrieved October 25, 2022, from <https://blog.ethereum.org/2015/07/30/ethereum-launches/>

the fact that all agreements made on Ethereum are broadcast publicly on each and every client of the blockchain.

- **Ripple:** Developed by Ripple Labs Inc., a technology company based in the United States, Ripple is a real-time gross settlement system, trading platform, and transfer mechanism. Ripple is a cryptocurrency that was introduced in 2012 and is built on a shared open source protocol. This protocol accepts tokens that represent conventional cash, cryptocurrency, and commodities in addition to other measurements of value such as frequent flyer miles and cellphone minutes.<sup>10</sup> Ripple is a decentralised digital currency that also operates as an online payment system. It is a part of the Ripple financial system. The Securities and Exchange Commission (SEC) filed charges against Ripple Labs and two of its executives in December 2020 for selling XRP tokens, which the SEC deemed to be unregistered commodities. The SEC brought these charges against Ripple Labs.<sup>11</sup>
- **Tether:** Tether is a cryptocurrency that is kept on the Ethereum blockchain. Tokens for Tether are produced by Tether Limited. Tether is also more often known as USDT.<sup>12</sup> Both Tether Limited and the Tether cryptocurrency are fraught with risk as a result of the suspicion that Tether Limited was involved in manipulating the price of bitcoin.<sup>13</sup> Stablecoins are digital currencies that are designed to maintain their value over time. Tether is one such cryptocurrency that was designed to maintain its value at \$1.00 at all times.
- **Cardano:** Cardano was developed in 2015 by Charles Hoskinson, who was also a co-founder of Ethereum. The Cardano Foundation, which has its headquarters in Zug, Switzerland, is in charge of

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<sup>10</sup> Dow Jones & Company. (2013, November 12). Ripple labs banks \$3.5m for open-source payments system and virtual currency. *The Wall Street Journal*. Retrieved October 25, 2022, from <https://www.wsj.com/articles/DJFVW00020131112e9bncf1w>

<sup>11</sup> Popper, N. (2020, December 22). Cryptocurrency company ripple is sued by S.E.C. *The New York Times*. Retrieved October 25, 2022, from <https://www.nytimes.com/2020/12/21/technology/ripple-cryptocurrency-sec-lawsuit.html>

<sup>12</sup> Silverman, J. (2022, October 25). Is tether just a scam to enrich bitcoin investors? *The New Republic*. Retrieved October 25, 2022, from <https://newrepublic.com/article/160905/tether-cryptocurrency-scam-enrich-bitcoin-investors>

<sup>13</sup> Robinson, M., & Schoenberg, T. (2018, November 20). Bitcoin price manipulated by tether? Justice Department probing. *Bloomberg.com*. Retrieved October 25, 2022, from <https://www.bloomberg.com/news/articles/2018-11-20/bitcoin-rigging-criminal-probe-is-said-to-focus-on-tie-to-tether>

monitoring and directing the project's development. It is a distributed ledger system that is available to the general public. It is not centralised and can be accessed easily; agreement is reached via the use of proof of stake. It is possible that peer-to-peer communications will be enabled using its native currency, Ada. An initial coin offering was used to generate revenue for Cardano. At inception, the value of the currency's market capitalization was around \$600 million. At the end of 2017, its market value was ten billion dollars, and in 2018, it temporarily hit a high of thirty-three billion dollars before falling back down to ten billion dollars due to a general tightening of the cryptocurrency market.

## INTERNATIONAL DEVELOPMENT OF CRYPTOCURRENCY OVER THE YEARS

The technical foundations of cryptocurrencies may be traced back to the early 1980s, when an American cryptographer by the name of David Chaum developed a "blinding" approach that is still used in modern web-based encryption. The technology allowed the parties to convey information that was both secure and irreversible, laying the groundwork for future transactions using digital currency. In 1998, Wei Dai gave a presentation in which he described "b-money," which he characterised as an anonymous, worldwide electronic payment system.<sup>14</sup> Nick Szabo soon after identified bit gold.<sup>15</sup> Bit gold (not to be confused with the subsequent gold-based exchange, BitGold) was referred to as a network monetary system that requires users to complete a proof of work feature with remedies being cryptographically placed together and presented. This is comparable to bitcoin and other cryptocurrencies that would follow it in its footsteps.

Bitcoin, the world's first decentralised digital money, was reportedly created in 2009 by an individual going by the alias Satoshi Nakamoto. At the beginning of 2009, Nakamoto released Bitcoin to the general public, which prompted a swarm of enthusiastic supporters to immediately begin exchanging and producing the digital currency. Late in the year 2010, the very first of what would eventually amount to hundreds of other cryptocurrencies, including

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<sup>14</sup> Tim May's crypto-anarchy. Wei Dai's home page. Retrieved October 25, 2022, from <http://www.weidai.com/bmoney.txt>

<sup>15</sup> Peck, M. E. (2022, March 3). Bitcoin: The cryptoanarchists' answer to cash. IEEE Spectrum. Retrieved October 25, 2022, from <https://spectrum.ieee.org/bitcoin-the-cryptoanarchists-answer-to-cash>

alternative techniques like Litecoin, started to appear. Coincidentally, the first public Bitcoin exchanges were established around the same period.

In the late year of 2012, WordPress was the first major company to start accepting payments in bitcoin. Others followed in their footsteps, such as online retailer Newegg.com, travel website Expedia, software company Microsoft, and automobile manufacturer Tesla. In 2014, the government of the United Kingdom disclosed that an investigation had been carried out by the Treasury into cryptocurrencies and the potential role, if any, that they might play in the economy of the United Kingdom. The findings of the investigation were also meant to provide recommendations about the implementation of rules.<sup>16</sup>

Its comprehensive document was made available to the public in the year 2018, and in January of 2021, it held a referendum on crypto assets and stablecoins. In June of 2021, El Salvador was the first country to officially acknowledge Bitcoin as a kind of legitimate currency. This was followed by Cuba and Ukraine in September of the same year.<sup>17</sup> The Chinese government deemed all crypto exchanges unlawful in September 2021.

## CURRENT FRAMEWORK OF CRYPTOCURRENCIES

### India

#### *The Controversial "2018 Notice"*

Under the provisions of Section 35A read with Section 36(1)(a) and Section 56 of the Banking Regulation Act, 1949 as well as Section 45JA and 45L of the Reserve Bank of India Act, 1934 (hereinafter referred to as the "RBI Act, 1934") and Section 10(2) read with Section 18 of the Payment and Settlement Systems Act, 2007, the Reserve Bank of India (RBI) has traditionally prohibited all banks and other financial institutions from providing segregated accounts. This was done in accordance with the aforementioned laws.<sup>18</sup>

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<sup>16</sup> UK launches initiative to explore potential of virtual currencies. The UK News. Retrieved October 25, 2022, from <https://www.theuknews.com/news/224504231/uk-launches-initiative-to-explore-potential-of-virtual-currencies>

<sup>17</sup> After El Salvador and Cuba, Ukraine is latest country to legalise Bitcoin. cnbctv18.com. (2021, September 9). Retrieved October 25, 2022, from <https://www.cnbctv18.com/cryptocurrency/afterel-salvador-and-cuba-ukraine-is-latest-country-to-legalise-bitcoin-10676501.htm>

<sup>18</sup> Prohibition on dealing in Virtual Currencies (VCs). Reserve Bank of India - notifications. Retrieved October 25, 2022, from <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=11243>

### ***The Leading Case Law that Legalized Trading in Virtual Currencies***

The Supreme Court of India in the case of *Internet and Mobile Association of India v. Reserve Bank of India*<sup>19</sup> has held that the Reserve Bank of India Circular dated 06 April 2018 virtually banning cryptocurrencies and their trade in India, is violative of Article 19(1)(g) of the Constitution of India, 1950. The petitioner raised an objection to the notice for 2018. This was done for two reasons: first, the RBI's forces did not include the regulation of VCs because such currency was only a tradable commodity and not legal tender; and second, even if VCs did fall within the RBI's regulation sphere, the Circular had massively violated the petitioners' privileges. This was done because the RBI's forces did not include the regulation of VCs because such currency was only a tradable commodity and not legal tender. The court came to the conclusion that despite the fact that the Reserve Bank of India has extensive powers and is an essential component in the growth of the Indian economy, the RBI is unable to provide evidence that its regulated businesses have suffered any harm as a result of this case.

In its judgement, the Supreme Court just upheld the RBI circular and did not rule on the legality of virtual currencies. Furthermore, as there is no legislation in India that regulates virtual currencies, these currencies continue to be unregulated there.

### ***The Clarification***

"In light of the Supreme Court's judgment, the circular is no longer valid as of the date of the Supreme Court verdict, and so cannot be referred or quoted from," the RBI stated in a statement to banks. Following a warning from State Bank of India and HDFC Bank to its clients not to engage in transactions using virtual currencies such as Bitcoin, the Reserve Bank of India (RBI) issued a clarification to address these concerns. Citing a circular issued by the Reserve Bank of India in 2018<sup>20</sup>, financial institutions including HDFC Bank and State Bank of India warned their clients through email that they run the danger of having their accounts closed if they participate in activities related to virtual currency. It's interesting to note that the circular was ruled unconstitutional by the Supreme Court in March of 2020. As a consequence of this, the Reserve Bank of India (RBI) was compelled to take action and explain that banks and other approved entities were not permitted to utilise its circular from 2018

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<sup>19</sup> MANU/SC/0264/2020

<sup>20</sup> Customer Due Diligence for transactions in Virtual Currencies (VC). Reserve Bank of India - notifications. Retrieved October 25, 2022, from <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12103>



regarding cryptocurrency since it had been voided by the Supreme Court. In addition, financial institutions warned customers that if they disobeyed the warning, it might lead to the cancellation or suspension of their credit or debit cards.

### ***Draft Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019: The First Attempt***

The Draft Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019, makes it illegal to mine cryptocurrencies, hold cryptocurrency, sell cryptocurrency, trade cryptocurrency, issue cryptocurrency, dispose of cryptocurrency, or use cryptocurrency. Mining cryptocurrency, keeping cryptocurrency, selling cryptocurrency, issuing cryptocurrency, transferring cryptocurrency, or using cryptocurrency resulted in a fine, imprisonment for up to 10 years, or both depending on the circumstances. After the bill is enacted, individuals will have a period of ninety days to get rid of any cryptocurrencies that they now own. People could not be able to pay for services with cryptocurrencies, trade them for value, exchange them for other currencies, use them for financial goods or investments, or use them for any other form of payment if the current trend continues. The measure included a comprehensive definition of cryptocurrencies, which included various forms of digital tokens whose primary use was not exclusively cryptographic.

### ***Cryptocurrency and Regulation of Official Digital Currency Bill, 2021: The Second Attempt***

During the winter session of parliament, the Cryptocurrency and Regulation of Official Digital Currency Bill, 2021, was submitted for consideration. The government has been given the report that was compiled by the Inter-Ministerial Committee on Virtual Currencies, which was led by the Finance Secretary and was chaired by Subhash Chandra Garg. The "Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019" is the working title of the draught legislation that was created by the committee that was established by the federal government. The amended measure that was introduced in 2019 does not include the phrase "Banning of," as it was previously written. Nevertheless, according to the report of the Lok Sabha, the purpose of the new bill is to "prohibit all private cryptocurrencies in India" while at the same time "offering limited exclusions to support the underlying technology and its use."<sup>21</sup> Pankaj Chaudhary, Minister of State in the Ministry of

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<sup>21</sup> Tewari, H. (2021, November 29). *Financial Express*. The Financial Express Stories. Retrieved October 25, 2022, from

Finance, made the following statement on the 14th of December, 2021: "A legislation on cryptocurrencies and regulation of official digital currency is under finalisation for approval by the Cabinet, in a written answer."<sup>22</sup> As a result, the bill is expected to be in effect soon.

## **Russia**

### ***First Effort of the Ministry of Finance***

In 2014, the Ministry of Finance attempted to develop regulations that were directed at 'monetary surrogates' and Bitcoin; nevertheless, the plan was heavily denounced at the time by the Ministry of Economic Development. In addition, the Ministry of Economic Development did not support the initiative.<sup>23</sup>

### ***Proposal to Ban Cryptocurrency***

According to the Ministry of Finance, those who work with individuals referred to as "money surrogates" might face a jail sentence of up to seven years. The Russian authorities consider Bitcoin and other cryptocurrencies to be "surrogates." The monetary fines for acting as a money surrogate may range anywhere from 500,000 to 1 million rubles, which is around \$7,000 to \$14,000 per. Executives working in the financial sector may get salaries of up to 2.5 million rubles (about \$35,000). Despite this, the proposal was never put into action.

### ***The Uncertain Period for Cryptocurrencies***

The Russian government and central bank began banning the use of cryptocurrencies in October 2017. Sergei Shvetsov, Russia's first deputy governor, went so far as to declare Bitcoin a pyramid scam, saying, "We see bitcoin gradually turning into an asset acquired for the purpose of obtaining a high yield in a short period of time, meaning it has signs of a financial

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<https://www.financialexpress.com/money/cryptocurrency-bill-2021-live-updates-crypto-bitcoin-ban-regulation-official-digital-currency-parliament-highlights-key-points/2378014/>

<sup>22</sup> Bureau, O. (2021, December 14). Bill on cryptocurrency, regulation of official digital currency under Finalisation: Finmin. Bill on cryptocurrency, regulation of official digital currency under finalisation: FinMin - The Hindu BusinessLine. Retrieved October 25, 2022, from <https://www.thehindubusinessline.com/money-and-banking/cryptocurrency/bill-on-cryptocurrency-regulation-of-official-digital-currency-under-finalisation-finmin/article37946900.ece>

<sup>23</sup> Jr, J. S. (2016, March 11). Russian Ministry of Finance proposes 7 years in prison for cryptocurrency use. Cointelegraph. Retrieved October 25, 2022, from <https://cointelegraph.com/news/russia-proposes-7-years-in-prison-for-cryptocurrency>

pyramid."<sup>24</sup> Putin noted in his address that criminals use cryptocurrencies like Bitcoin and Litecoin to launder money and make unlawful payments.<sup>25</sup> A week later, Putin declared that the government needs to concentrate on its digital economic strategy as the future economy continued to shift online, and he called for legislation to provide a structure for cryptocurrency businesses in Russia. In addition, he stated that the government needs to focus on its digital economic strategy as the future economy continued to shift online. In addition, Putin called for the establishment of a national infrastructure to support bitcoin and even made a reference to the CryptoRuble, which is a cryptocurrency that functions as an equal to the Russian ruble. Putin then proceeded to outline Russia's stance by providing five significant directives.<sup>26</sup> In these instructions, the goals of taxing bitcoin miners, regulating initial coin offerings (ICOs), establishing a testing environment for recently found blockchain technology, and defining the "creation of a unified payment space" are outlined.

### *The Second Effort*

A bill on the regulation of digital financial assets was introduced into the State Duma on March 20, 2018. Mining a cryptocurrency is defined there as "actions with the objective of creating cryptocurrency with the intention of getting reward in the form of cryptocurrency." Because of this, it is categorised as a "entrepreneurial activity liable to taxes if the miner exceeds the government's energy usage restrictions for three months in a row." The law classifies bitcoins as property, and they are not recognised as a form of legal tender in any jurisdiction. It is permissible to exchange cryptocurrencies for rubles and other foreign currencies, but this must be done via licenced operators. The legislation also incorporates a provision that would be included in a smart contract.<sup>27</sup> According to this measure, those who had not been registered as qualified investors were only allowed to deposit a maximum of 50,000 rubles

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<sup>24</sup> Murphy, M. (2017, October 11). Putin, Russian Central Bank come down hard against bitcoin. MarketWatch. Retrieved October 25, 2022, from <https://www.marketwatch.com/story/putin-russian-central-bank-come-down-hard-against-bitcoin-2017-10-10>

<sup>25</sup> Ibid

<sup>26</sup> Перечень поручений по итогам совещания по вопросу использования цифровых технологий в финансовой сфере • Президент России. Президент России. (n.d.). Retrieved October 25, 2022, from <http://kremlin.ru/acts/assignments/orders/55899>

<sup>27</sup> Rapoza, K. (2021, March 4). Russia's newly drafted cryptocurrency bill: 'crypto not cash'. Forbes. Retrieved October 25, 2022, from <https://www.forbes.com/sites/kenrapoza/2018/01/29/russias-newly-drafted-cryptocurrency-bill-crypto-not-cash/>

(\$900) in initial coin offerings (ICOs). The law was received with a range of responses, and the regulatory status of cryptocurrencies was maintained.

### *The Third Effort*

The legislation that would have classified cryptocurrencies as property for the purposes of taxation was submitted to the Duma in December of 2020. The proposed law would make it mandatory for citizens of the Russian Federation to disclose their holdings of cryptocurrencies when they file their income tax returns.<sup>28</sup> The Russian government has made the long-awaited decision to recognise cryptocurrencies as legal tender, and is now making preparations to enact the sector's first comprehensive piece of law. The act confers a legal meaning on digital assets and makes it possible to engage in bitcoin trading in Russia. However, the legislation does not allow for the use of cryptocurrencies like Bitcoin as a method of payment under any circumstance.<sup>29</sup> According to the legislation, digital money is a digital code that may be used as a method of payment as well as an instrument for savings (an investment). (Article 3.) On the other hand, it is against the law for citizens of the Russian Federation to take money in the form of digital currencies, whether it be for goods, jobs, or services. (Article 14) Furthermore, the legislation prohibits the dissemination of any information regarding prospective digital currency settlements, the provision and receipt of digital currency as payment for transferred items, given labour, or services, and the utilisation of any other mode of payment in digital currency. In addition, the legislation prohibits the use of any other mode of payment in digital currency. Digital currency is not recognised as a valid form of payment in Russia, as required by the country's law; the ruble is the only currency recognised for use in the country. (Article 14) In January of 2021, the provisions were finally put into force.

### *Latest Stance of Russia*

It was reported in December 2021 that Russia's central bank is contemplating a ban on investments in cryptocurrencies, which would escalate

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<sup>28</sup> TIMESOFINDIA.COM / Nov 19, 2021. (n.d.). Russia's prosecutor general drafts legislation to recognize cryptocurrencies as property - times of India. The Times of India. Retrieved October 25, 2022, from <https://timesofindia.indiatimes.com/business/cryptocurrency/blockchain/russias-prosecutor-general-drafts-legislation-to-recognize-cryptocurrencies-as-property/articleshow/87799049.cms#:~:text=The%20bill%20defining%20digital%20currencies,has%20not%20yet%20been%20adopted>

<sup>29</sup> Partz, H. (2020, July 22). Russian lawmakers finally pass country's major crypto Bill. Cointelegraph. Retrieved October 25, 2022, from <https://cointelegraph.com/news/russian-lawmakers-finally-pass-countrys-major-crypto-bill>

the financial authority's long-standing hostility against Bitcoin and other digital assets.<sup>30</sup> In the last few years, cryptographic currencies like Bitcoin and Ethereum, as well as so-called "meme coins" like Dogecoin, have seen a rise in popularity among retail investors. Approximately one-twelfth of the total population already has cryptocurrencies on a yearly basis (compared to a little over 8 percent of the U.S. population).<sup>31</sup> On the other hand, the Central Bank is in the process of compiling a report in which it will detail its perspective on the possible prohibition of cryptocurrency investments.<sup>32</sup>

## MAJOR COMPLICATIONS WITH CRYPTOCURRENCIES

The major legal and economic problems with Cryptocurrencies are:

- **Data Security:** The use of cryptocurrencies will make them susceptible to cyberattacks, and they might end up in the possession of hackers. They are available to people who engage in these activities via the use of portable electronic devices, such as laptops or mobile phones. As a direct consequence of this, financial institutions, governments, and other organisations do not have a record of these transactions. As a consequence of this, criminal organisations are able to use these cryptocurrency transactions for illicit motives, which may be harmful to any nation. Several initial coin offerings (ICOs) have been hacked, costing investors a total of several hundreds of millions of dollars.<sup>33</sup> Mitigating this will need ongoing maintenance of security systems.
- **Use of Private Cryptocurrencies in an Improper Manner:** Private cryptocurrencies can be anything that is not distributed by the government or the central bank, or if the cryptocurrency is

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<sup>30</sup> Person, & Elena Fabrichnaya, A. O. (2021, December 16). Russian Central Bank to seek ban on investment in cryptocurrencies. Reuters. Retrieved October 25, 2022, from <https://www.reuters.com/markets/currencies/russian-cenbank-seek-ban-investment-cryptocurrencies-sources-say-2021-12-16/>

<sup>31</sup> Supra 4

<sup>32</sup> The Moscow Times. (2022, October 25). Russia mulls crypto investment ban – Reuters. The Moscow Times. Retrieved October 25, 2022, from <https://www.themoscowtimes.com/2021/12/17/russia-mulls-crypto-investment-ban-reuters-a75851>

<sup>33</sup> ADITTANE, S. (2021, January 24). Should you invest in cryptocurrencies? Medium. Retrieved October 25, 2022, from <https://medium.com/learning-lab/should-you-invest-in-cryptocurrencies-9380c803885a>

maintained or administered by a specific group of developers or a society. Another definition of a private cryptocurrency is a cryptocurrency that is maintained or administered by a society. As a consequence of the fact that such cryptocurrencies are completely untraceable, they may be used by criminals for activities such as money laundering or conducting illegal transactions.<sup>34</sup> As a result of this, the authorities have no control over them, which presents a risk to the nation's security.

- **Adaptability:** The problems with scalability that cryptocurrencies bring are one of the most significant concerns about these digital currencies. Even if the number of digital currencies and their use is expanding at a rapid rate, it is still dwarfed by the number of transactions that the payment processing giant VISA handles each day.<sup>35</sup>
- **Lack of Legislation:** The countries of India and Russia presently do not have any legislation in place that are enough to control cryptocurrencies. As a result of the absence of governmental regulation in the market, cons and manipulations of the market are common. Onecoin, which was recently revealed to be a ponzi scam, is believed to have defrauded investors out of millions of dollars while they were under the impression that they were getting in early on what would become the "next Bitcoin."<sup>36</sup> It is possible that this may result in a large loss for anybody holding cryptocurrencies. In addition, it does not have a physical presence and is not backed by any kind of centralised authority. Bitcoin continues to be unaffiliated with any state or organisation; as a result, investing in Bitcoin is fraught with risk due to the fact that

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<sup>34</sup> Admin. Private cryptocurrency: What does it mean? types of private cryptocurrencies. IndiaTimes. (2021, November 24). Retrieved October 25, 2022, from <https://www.indiatimes.com/technology/news/private-cryptocurrency-what-does-it-mean-555018.html>

<sup>35</sup> Boukhalfa, S. (2019, December 19). What are the disadvantages of cryptocurrencies? - prescouter - custom intelligence from a global network of experts. PreScouter. Retrieved October 25, 2022, from <https://www.prescouter.com/2019/11/disadvantages-of-cryptocurrencies/>

<sup>36</sup> Andrew Penman. (2018, January 25). Alleged pyramid scheme onecoin faces collapse as police move in. mirror. Retrieved October 25, 2022, from <https://www.mirror.co.uk/news/uk-news/alleged-pyramid-scheme-onecoin-faces-11911858>

governments throughout the globe have attempted a variety of tactics to impose their regulatory authority.

- **No Monetary Reserve:** A thing, a commodity, or money is said to be a store of value if it can be kept, retrieved, and traded at some point in the future without suffering a loss in value. The viability of an economy is directly correlated to the degree of monetary stability it enjoys. It is necessary for a nation's currency to be an acceptable store of value in order for its citizens to be able to participate in labour and trade, save money, and spend it. When a monetary unit fails to fulfil its function as a store of value, it removes the incentive to save money or even to work, and it also makes it more difficult to engage in economic exchange. The trading of cryptocurrencies, especially bitcoin, is plagued by illiquidity and manipulation due to the predominance of "whale wallets." The identities of the bulk of the owners of the top 100 wallets are unknown, and it is anticipated that they will hold 13% of the entire quantity of bitcoin by the end of the year 2020.<sup>37</sup> As a consequence of this, it would be sufficient for a few whale wallets to exert influence on the bitcoin market in order to cause huge price movements. Bitcoin and other cryptocurrencies are not suitable assets to keep as a long-term investment because of the extreme price volatility associated with them.
- **It Is a Property:** The way in which centralised authorities see bitcoin ownership is one of the most critical legal problems that any cryptocurrency investor should be aware of. The Internal Revenue Service of the United States treats cryptocurrencies more like property than like cash. This is the case in the United States.<sup>38</sup> When it comes to disclosing their cryptocurrency expenses and revenues on their annual tax returns, individual investors are required to comply with capital gains tax requirements. These regulations apply to individual investors regardless of where they received digital currencies. It's possible that something similar will occur in other countries.

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<sup>37</sup> Am, B. (2022, October 18). Viewpoint. ViewPoint English. Retrieved October 25, 2022, from <https://investors-corner.bnpparibas-am.com/markets/what-is-the-problem-with-cryptocurrency-bitcoin/>

<sup>38</sup> Notice 2014, <https://www.irs.gov/pub/irs-drop/n-14-21.pdf> (last visited Dec 31, 2021).

## SUGGESTIONS AND CONCLUSION

- **The Need for Effective Law:** Cryptocurrency legislation is fragmented, weak, and, in some places, non-existent. This enables for the flourishing of illegal operations, ranging from fraudulent merchants who disappear with cash to the financing of terrorists and worldwide money laundering. For example, the United Kingdom does not have specific legislation on cryptocurrencies, and the sector is currently governed by the Financial Conduct Authority, whereas Singapore has established "clear rules," with legislation for the sector implemented by the Monetary Authority of Singapore under its Payment Services Act (MAS).<sup>39</sup> As a result of the clear regulations in Singapore, Singapore people may be more comfortable utilising cryptocurrency than those in the United Kingdom. Both India and Russia are in the process of developing new legislation to regulate cryptocurrency; nevertheless, the legislation must be implemented as quickly as feasible.
- **The Creation of a Digital Currency Regulating Authority Is Required:** Cryptocurrency is issued and controlled by the nation's monetary authority or central bank in the majority of countries.<sup>40</sup> However, whether the Central Bank has the necessary skills to oversee cryptocurrency is an open topic. As a result, both India and Russia will develop a new digital currency regulatory power, whose legislation has to include Financial and Digitally knowledgeable individuals, so the body can function correctly of regulating currency as well as assisting in combating money laundering or other criminal activities through Cryptocurrency.
- **The Regulatory Authority's Approval Is Necessary:** The most common question that cryptocurrency consumers have is whether or not every cryptocurrency platform can be trusted. Because criminal activity is a big concern for regulatory authorities, cryptocurrency platforms must meet eligibility requirements before

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<sup>39</sup> Cryptocurrency regulation: Here's what countries around the world have done. Moneycontrol. Retrieved October 25, 2022, from <https://www.moneycontrol.com/news/business/cryptocurrency/cryptocurrency-regulation-heres-what-countries-around-the-world-have-done-7760921.html>

<sup>40</sup> Seth, S. (2022, September 26). What is a Central Bank Digital Currency (CBDC)? Investopedia. Retrieved October 25, 2022, from <https://www.investopedia.com/terms/c/central-bank-digital-currency-cbdc.asp>



being granted a licence to conduct business in both India and Russia. As a result, established norms and eligibility requirements should be implemented to demonstrate the organization's integrity so that no bitcoin users become victims of illicit operations.

- **Establishment of Uniform Exchange Rate:** Internationally, there is no unified legislation governing Cryptocurrencies. As a result, cryptocurrency transactions occurring both abroad and within the nation may have distinct exchange and tax rates. Because both the importer and the exporter are affected by currency rates while attempting to pay for and collect on products, a consistent exchange rate must be set, and no one should experience a loss in the 'same transaction' due to opposing exchange prices.
- **Create a Precise Definition for the Term "Cryptocurrency":** Cryptocurrencies lack a centralised issuing or governing authority, instead relying on a decentralised system to record transactions and issue new units. As a result, it is evident that no regulation specifies what a cryptocurrency is. If cryptocurrency cannot be defined, how can the distinction between public and private cryptocurrency be made? It is essential to define cryptocurrencies, preferably on a global scale. So that all transactions covered by the purview may be controlled without interference from various nations.
- **Updation of Penal Laws:** Although Germany has legalised the usage of Bitcoins, this does not indicate that all difficulties with cryptocurrency have been handled, as its penal laws have not been amended. In India, in the case of, *Dwaipayan Bhowmick Vs Union of India & Others*<sup>41</sup>, A Public Interest Litigation (PIL) was launched under Article 142 of the Indian Constitution, asking the court to provide directives explaining the nature of cryptocurrency and establishing a special committee to draft suitable regulations to deal with cryptocurrency in India. The lack of a structure has largely left the market uncontrolled, allowing all kinds of illicit activity to flourish. As a result, old criminal laws in both India and Russia must be updated so that the punishment and imprisonment for the violation are obvious.

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<sup>41</sup> *Dwaipayan Bhowmick vs. Union Of India and Ors.* (02.04.2018 – SC Order) : MANU/SCOR/12786/2018

The Bitcoin concept's future seems bright, with greater chances for good change and advancement in a variety of areas. Cryptocurrency will continue to advance because of the rapid advancement and improvement of technology. Unlike traditional investments, virtual currencies do not have a cap on volatility. They are extremely volatile and can be altered by the tiniest of factors. Nonetheless, it has not failed to draw investors from all over the world and provide a substantial return on their capital. It appears that present legislation is not prepared to deal with Cryptocurrencies. Traditional rules lack the adaptability needed to swiftly adjust to new technology situations. As a result, a solid regulatory framework encompassing all parties and striking a balance between user interests and market attitudes must be implemented. Instead of destroying the future of the fintech sector, the governments of various countries should seize the opportunity while safeguarding the safety of the country's financial and payment systems. As a result, both India and Russia should reveal their legislative frameworks as soon as possible. They must also make modifications to their current legislation. The international level must also be prioritised in order to consolidate Cryptocurrency legislation. It is critical to focus on the growth of cryptocurrencies and to build a better environment for adapting to and preventing the misuse of cryptocurrency.

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