

EMBRACING CRYPTOCURRENCY

Relevant for: Indian Economy | Topic: Issues relating to Mobilization of resources incl. Savings, Borrowings & External Resources

On June 9, El Salvador became the first country in the world to adopt bitcoin as legal tender. This is illustrative of the rising global trend of embracing cryptocurrencies with all its attendant risks. While not every country's approach has been as open as El Salvador's, the dominant theme has been to permit the growth of the cryptocurrency market subject to certain safeguards. As India finds itself at a crossroads of prohibition and regulation in its tryst with cryptocurrencies, globally, the inclination towards permissive regulation recognises the freedom of choice given to people for using a medium of exchange other than a central bank-backed fiat currency.

The cryptocurrency market in India has developed in a largely laissez-faire regulatory space since the first recorded cryptocurrency transaction in 2010. Between 2013 and 2018, the government's response to the rise of virtual currencies was cautionary, alerting users to the potential risks posed by cryptocurrency transactions. These fears were legitimate and stemmed from cryptocurrencies' volatility, their susceptibility to hacking, and the fact that they could potentially facilitate criminal activities such as money laundering, terrorist financing and tax evasion. Instead of developing a regulatory framework to address these issues, the Reserve Bank of India (RBI), in April 2018, effectively imposed a ban on cryptocurrency trading. This ban was overturned by the Supreme Court in 2020. The court reasoned that there were alternative regulatory measures short of an outright ban through which the RBI could have achieved its objective of curbing the risks associated with cryptocurrency trading. While the court had an opportunity to put a label on the legal nature of cryptocurrencies, it stopped short of doing so.

After swinging between the extremes of non-interference and prohibition, a clue as to India's next move lies in the draft Cryptocurrency and Regulation of Official Digital Currency Bill, 2021. The draft Bill proposes to criminalise all private cryptocurrencies while also laying down the regulatory framework for an RBI-backed digital currency. The Minister of State for Finance, in response to a question in Parliament, stated that regulatory bodies do not have a legal framework to directly regulate private cryptocurrencies owing to their imprecise legal nature in India. As the draft Bill is yet to be tabled in Parliament, there is some hope that his concerns will be addressed in the form of a tailored regulatory approach rather than another ban.

There are lessons in this regard from the U.K., Singapore and the U.S. The U.K. has classified cryptocurrency as property and this has paved the way for cryptocurrencies to be encompassed within a regulated legal framework in the country's economy. The U.K. has sought to regulate the functioning of crypto-businesses while still imposing some restrictions to protect the interests of investors. On the other hand, while there is no exact legal classification of cryptocurrency in Singapore, the amenability of cryptocurrency transactions to the contract law framework of the country has been firmly established and there is now a legal framework for cryptocurrency trading. In the U.S., the open approach taken by the authorities has resulted in the trade in cryptocurrency being both taxed and appropriately regulated. While the approaches are specific to the countries' economic realities and cannot be blindly implemented in India, the global regulatory attitude towards cryptocurrencies offers valuable insights into the alternative ways to achieve balanced regulation. In India, the absence of an existing legal classification of cryptocurrency should not be the impetus to prohibit its use. The government should use this as an opportunity to allow private individuals the freedom to harness a powerful new technology with appropriate regulatory standards.

Nakul Dewan is Senior Advocate, Supreme Court of India and was the lead counsel who argued

against the RBI's cryptocurrency ban; Rohan Andrew Naik is Advocate, Supreme Court of India, who assisted in the case

[Our code of editorial values](#)

Please enter a valid email address.

To reassure Indian Muslims, the PM needs to state that the govt. will not conduct an exercise like NRC

END

Downloaded from **crackIAS.com**

© **Zuccess App** by crackIAS.com

CrackIAS.com