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Cryptocurrency Regulation in India: Challenges and a Way Forward

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ABSTRACT

The rapid growth of cryptocurrency is visible across the globe in the past one decade and it is reflected in India too. This digital currency which was originally developed as a payment mechanism has been widely used by people across the globe as a form of investment due to its highly volatile nature. Even though crypto trading is highly popular in India, if we look at the cryptocurrency regulatory framework, it is very evident that the current system is inadequate to govern and regulate a growing technology like cryptocurrency. The current statutory framework is very fragmented and unstructured which leaves consumers in a state of confusion and uncertainty. This paper examines the legal challenges in cryptocurrency regulation in India by exploring the regulatory gaps, jurisdictional issues, issues with consumer protection and taxation, data privacy and intellectual property concerns. The primary research methodology that is used in this paper is the doctrinal approach in order to analyse the Indian legal framework around cryptocurrency. A comparative approach is also employed to study and understand the policy measures employed by other countries. The study reveals the fragmented and inconsistent legal framework around cryptocurrency in India, and lack of effort from the Indian law makers to create a coherent legal framework that understands the intricacies of the technology behind cryptocurrency. The over reliance on the existing legal framework - that is never designed to govern crypto - to govern crypto is also examined through a critical lens. The study also reflects on how this uncertain mechanism leaves the consumers in a state of confusion and helplessness. Finally the paper calls for the adaptation of a coherent, balanced and inclusive regulatory framework that understands the legal and technological complexities of a digital currency like cryptocurrency.

KEYWORDS

Cryptocurrency, Blockchain, Virtual Digital Assets, Regulatory Uncertainty, Consumer Protection, Data Privacy

INTRODUCTION

In July 2024, India witnessed a cyber attack on its cryptocurrency exchange WazirX which led to the loss of assets over \$230 million. The company later introduced a controversial restructuring scheme to spread the loss across its users in the High Court in Singapore, which left many Indian users in a legal vacuum as the Indian legal and regulatory framework does not provide for any remedies in case of the theft of digital assets like cryptocurrency.¹ Over the past one decade, there was an exponential growth in the number of cryptocurrency users across the globe and in India. Even though it was originally built to be used as a method of payment, people have been increasingly using it as an investment asset or as a financial instrument due to its high volatility. Even with such a huge number of people investing and trading in crypto, the Indian legal system is barely keeping up with that change. Over the past one decade we can see the Indian legal system and its regulatory bodies struggling to accept and adapt to this rapidly growing cryptocurrency framework.

As of now, there is no comprehensive legal framework in India that is specifically tailored to govern cryptocurrency. The current approach involving multiple warnings by the Reserve Bank of India, incorporation of cryptocurrency into the Income Tax Act 1961 and Prevention of Money Laundering Act 2002, etc. is very fragmented and inconsistent. This fragmented approach creates lots of confusion regarding the legality, regulatory and enforcement mechanisms around cryptocurrency. So this paper analyses the key challenges with regard to cryptocurrency governance in India such as the regulatory vacuum, jurisdictional issues, issues around consumer protection and inconsistent taxation, data privacy and intellectual property issues. Further, this paper also analyzes the crypto governance policies of other nations that have successfully implemented it. By using a doctrinal and comparative research methodology, the paper analyzes the existing crypto governance framework in India to identify the major regulatory gaps. The paper will include the overview of the legal framework, issue wise analysis, discussion and a way forward.

¹ The Hindu, "A Year after cyberattack, WazirX investors are waiting for legal woes to end," <https://www.thehindu.com/sci-tech/technology/a-year-after-cyberattack-wazirx-investors-are-waiting-for-legal-woes-to-end/article69826930.ece> (accessed Apr 8, 2026).

LITERATURE REVIEW

A. The Current Legal Position

After the blanket ban on cryptocurrency introduced by the Reserve Bank of India (RBI) in its 2018 regulatory circular,² The Supreme Court decision in *Internet and Mobile Association of India v Reserve Bank of India* in 2020 was a major judicial development that changed the trajectory of crypto governance in India.³ This decision struck down the RBI warning stating that unless the government has explicitly banned cryptocurrency, RBI cannot ban it on its own. In the Union Budget on 2022-23, the Government of India introduced 30% tax on crypto gains and also defined ‘Virtual Digital Assets.’⁴ This was later amended into the Income Tax Act, 1961.⁵ Later, from 2023 onwards crypto exchanges and crypto intermediaries are officially governed under the Prevention of Money Laundering Act, 2002. This implies they will have to follow the strict KYC (Know Your Customer) norms under the Act and will have to report to the Financial Intelligence Unit (FIU-IND) if they notice any suspicious activities.⁶ These existing regulations are purely based on taxation and surveillance and give little to no importance to innovation, inclusion and consumer protection.

B. Perspective on the Existing Regulatory Bodies

From 2013 onwards India has witnessed multiple RBI warnings that have shown hostile approach to cryptocurrency.⁷ And, the government is not making any actual effort to formulate an exclusive law to regulate cryptocurrency that understands the intricacies and nuances of cryptocurrencies. Across the globe, many countries have welcomed cryptocurrency in a positive way with inclusive policy measures and specifically tailored regulatory bodies. Noticeable among them are the Securities and Exchange Commission and Commodity Futures Trading

² Reserve Bank of India, “Prohibition on dealing in Virtual Currencies (VCs),” <https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=2632> (accessed Apr 8, 2026).

³ *Internet and Mobile Association of India v Reserve Bank of India*, MANU/SC/0264/2020.

⁴ Jerome Joseph, “Union budget 2022-23 and digital currency economy,” 3 *Kerala Economy* 75-79 (2022).

⁵ The Income Tax Act 1961, § 115BBH (India).

⁶ Arunima Kumar & Amit Jajoo, Lexology, “Cryptocurrency trading subject to anti-money laundering laws,” <https://www.lexology.com/library/detail.aspx?g=0e6e9a42-fb65-4a69-9b09-38c405a3bda0> (accessed Apr 9, 2026).

⁷ Reserve Bank of India, “RBI cautions users of Virtual Currencies against Risks,” <https://www.rbi.org.in/CommonPerson/english/scripts/PressReleases.aspx?Id=2522> (accessed Apr 9, 2026).

Commission in the United States of America,⁸ Markets in Crypto-Assets in the European Union,⁹ Financial Conduct Authority in the United Kingdom, Monetary Authority of Singapore in Singapore and the intergovernmental organisation called the Financial Action Task Force (FATF).¹⁰ In comparison to India, a structured approach is reflected in the execution of these regulatory models.

C. Scholarly Debates

Scholars have been arguing for a clear classification of Cryptocurrency. So if it is classified as ‘money’, then it can be governed by RBI regulations and if it is ‘property’, it can be governed by the general civil laws in the country. There are also scholarly arguments that advocate for treating digital assets as a distinct class of property, so even if an exchange collapses the investors will get protection.¹¹ There are also arguments on the lack of proportion in the current crypto regulatory framework of India and how the highly restrictive regulatory framework and heavy taxation is a violation of Article 19(1)(g) of the Constitution of India that provides for the fundamental right to carry out trade or business.¹² There were also scholars promoting the European Union's ‘Markets in Crypto-Assets’ model, as models like that focus more on regulating the activity rather than not giving it any legal status or banning it.¹³

D. Regulatory Gap

When we go through this existing literature, one can see that their focus is primarily centered on many isolated factors such as taxation, legality and risks associated with cryptocurrencies. The

⁸ U.S. Securities and Exchange Commission, “SEC-CFTC Harmonization Initiative,” <https://www.sec.gov/featured-topics/sec-cftc-harmonization-initiative> (accessed Apr 8, 2026).

⁹ Blockchain Council, “MiCA Regulation,” https://www.blockchain-council.org/cryptocurrency/mica-regulation/?gad_source=1&gad_campaignid=21681326336&gclid=Cj0KCOjwy_fOBhC6ARIsAHKFB7_UM-T4upw9kqhgSfioTJ8VRvq9YptS9Z-j6yci8mNlfLKKAs1Uy0aAtE2EALw_wcB (accessed Apr 8, 2026).

¹⁰ Brenda Medina, International Consortium of Investigative Journalists, “From trading bans to total embrace, a global guide to crypto regulation,” <https://www.icij.org/investigations/coin-laundry/cryptocurrency-regulations-global-explainer/> (accessed Apr 9, 2026).

¹¹ Andrew Godwin, et al., “Cross-border insolvency law in India: Are the principles of comity of courts and inherent common law jurisdiction relevant?,” 32 *International Insolvency Review* 228-252 (2023).

¹² Subhadeep Saha, SCC Online Times, “Regulating the Unregulated: India’s Legal Conundrum with Cryptocurrencies,” <https://www.sconline.com/blog/post/2026/01/23/regulating-unregulated-india-legal-conundrum-cryptocurrencies/#:~:text=The%20petitioners%20argued%20that%20the.of%20India%20v> (accessed Apr 9, 2026).

¹³ Yogesh, Law Jurist, “Critical Evaluation of Cryptocurrency Regulation in India : Legal Complexities and The Need for A Coherent Framework,” <https://lawjurist.com/index.php/2026/02/23/critical-evaluation-of-cryptocurrency-regulation-in-india-legal-complexities-and-the-need-for-a-coherent-framework/#:~:text=However%2C%20in%202020%20the%20Hon.on%20the%20ground%20of%20proportionality> (accessed Apr 8, 2026).

cryptocurrency governance landscape of India needs a more holistic analysis that also gives focus to jurisdiction, consumer protection, data privacy and intellectual property aspects of cryptocurrency governance. This paper is trying to bridge this gap by providing a comprehensive analysis of the cryptocurrency regulation in India.

METHODOLOGY

This paper primarily adopts a doctrinal research methodology that involves the analysis of the existing statutes, judicial decisions and scholarly writings on the governance of cryptocurrency in India. In addition to that a comparative approach is also employed to compare India's cryptocurrency governance framework with that of countries like Switzerland, Singapore and European Union. The purpose of a comparative approach is to understand the various effective alternative governance models that India can employ to strengthen its crypto governance. The core focus of this hybrid research methodology employed here is to understand the key legal gaps in India's crypto governance landscape and to understand the key regulatory challenges. This research has not used any empirical or field data and the research methodology is strictly limited to publicly available resources.

REGULATORY VACUUM IN CRYPTOCURRENCY GOVERNANCE IN INDIA

The clouds of uncertainty have always been looming around the cryptocurrency governance in India. Ever since its inception in 2009, Indians have been using cryptocurrency and there is a steady growth in its usage ever since, gaining a massive momentum in the 2012-17 time period.¹⁴ Even though cryptocurrency has been originally developed as a payment mechanism, due to its high volatility, cryptocurrency is seen as an investment mechanism globally, and this trend is reflected in the Indian crypto market too. But when you try to answer the question “what is the legal status of cryptocurrency in India?”, the answer always lacks clarity. Because, on one side India still does not have any comprehensive legislation or an exclusive regulatory body to govern cryptocurrency and on the other side there has been orders of government bodies and statutory

¹⁴ Vipul Kharbanda, The Centre for Internet and Society, “Cryptocurrency Regulation in India- A brief history,” <https://cis-india.org/internet-governance/blog/cryptocurrency-regulation-in-india-2013-a-brief-history> (accessed Apr 9, 2026).

changes that conflicts or contradict each other with regard to the views they disseminate to the public with regard to the legality of cryptocurrency.

Even though cryptocurrency is not illegal in India, the government does not consider it as a legal tender. If we look at the warnings issued by the Reserve Bank of India (RBI) since 2013, we can see the RBI trying to warn the investors to not invest in Cryptocurrency.¹⁵ The rationale behind this warning is that cryptocurrency is not based on any goods or any kind of underlying asset, rather it is based on speculation. According to the RBI, such speculations will lead to the formation of an investment bubble, attracting investments from a huge number of people who will invest in it expecting high returns. On a closer look, we cannot completely dismiss these concerns. Even though cryptocurrency is not illegal in India, it neither had any proper legal backing nor it was backed by any kind of underlying asset at that time. So if anyone becomes a victim of any cyberattacks like hacking, they will not be able to raise their grievances before any court of law in India.

Now if we look at the evolution of cryptocurrency regulation in India, it has always been a tug-of-war between the RBI and the techno-legal community. As discussed above, from 2013 to 2018, the Reserve Bank of India has issued various circulars warning the public about the financial risks associated with various “virtual currencies”. Most notable among these is the 2018 RBI circular¹⁶ that introduced a blanket ban on all the banks from providing any cryptocurrency services. This included prohibition on taking cryptocurrencies as collateral for loans and other purposes. This hugely affected investor confidence, and even opened the possibilities of a national ban on cryptocurrencies.

This perspective took a reverse turn in 2020 with the *Internet and Mobile Association of India v Reserve Bank of India* judgement.¹⁷ This judgement struck down the 2018 RBI circular that introduced a blanket ban on cryptocurrencies. The judgement emphasised that the RBI circular was ultra vires as the Government of India has not introduced any cryptocurrency ban, and RBI's power is limited to ‘regulation’. Another major development happened in the Union Budget 2022-23,¹⁸ with the introduction of 30% tax on Cryptocurrency and the government also defined

¹⁵ Reserve Bank of India, “RBI cautions users of Virtual Currencies against Risks,” <https://www.rbi.org.in/CommonPerson/english/scripts/PressReleases.aspx?Id=2522> (accessed Apr 9, 2026).

¹⁶ Reserve Bank of India, “Prohibition on dealing in Virtual Currencies (VCs),” <https://www.rbi.org.in/commonman/english/scripts/Notification.aspx?Id=2632> (accessed Apr 8, 2026).

¹⁷ *Internet and Mobile Association of India v Reserve Bank of India*, MANU/SC/0264/2020.

¹⁸ Bhamini Rathore, Invest India, “Budget 2022 : Cryptocurrency,” <https://www.investindia.gov.in/team-india-blogs/budget-2022-cryptocurrency> (accessed Apr 9, 2026).

“Virtual Digital Assets (VDA)”, which was later added to the Income Tax Act, 1961. This incorporation of cryptocurrency into the category of “Virtual Digital Assets”, clarified some concerns with regard to the confusion regarding whether crypto currency is money or currency or some sort of asset. It also gave cryptocurrency a de facto legitimacy as the State cannot ban something that it imposes tax on. But this does not fill the regulatory vacuum. The Government's reluctance to give cryptocurrency a formal legal recognition while imposing taxes on it shows the inconsistency and lack of clarity within the government on their approach to cryptocurrency. In 2023, the most recent developments with regard to crypto currency regulation in India happened with the official incorporation of crypto exchanges and intermediaries under the Prevention of Money-Laundering Act (PMLA), 2002.¹⁹ Also in the 2023 G20 Summit hosted in India, the Prime Minister has advocated for the development of global standards to regulate crypto currencies.²⁰

At present, even though the concerns regarding a blanket crypto ban are removed, the crypto currency governance landscape of India is still unclear, unstructured and fragmented. This fragmented nature of crypto governance is a huge contributor to the uncertainty around it. This unstructured governance framework can also increase the risks associated with crypto transactions which will discourage consumers. This will also negatively impact the innovation in the field. So, at present there is a need for a more structured and coherent regulation with regard to the governance of cryptocurrency in India.

JURISDICTIONAL CHALLENGES

A fundamental aspect of cryptocurrency is the borderless and decentralised nature of its transactions. It is secured through cryptography, and its management is purely based on a peer-to-peer network based on blockchain technology, and there is no involvement of any central authority like banks. This also implies that it operates beyond geographical barriers and does not always happen on a fixed geographical location. These transactions are initiated through digital wallets, exchanges and blockchain networks. One of the major issues that every government

¹⁹ Arunima Kumar & Vipul Kharbanda, Lexology, “Cryptocurrency trading subject to anti-money laundering laws,” <https://www.lexology.com/library/detail.aspx?g=0e6e9a42-fb65-4a69-9b09-38c405a3bda0> (accessed Apr 9, 2026).

²⁰ G20 2023 INDIA, “Prime Minister’s remarks at the G20 Summit Session 3,” <https://www.g20.in/zh/media-resources/speeches/september-23/session-3.html> (accessed Apr 9, 2026).

faces with regard to cryptocurrency governance or cyber governance in general is the issue of Jurisdiction. India, just like all the other traditional legal systems across the world, has designed its law to be territorial. If a crime happens within the territory of India, India will have jurisdiction over it. Fundamentally jurisdiction is determined on the basis of the place of transaction, where the parties reside or the place of impact of the harm occurred. So in a traditional monetary transaction, there will be a bank in between the transferor and the transferee which verifies the transaction and keeps records of it, while in a cryptocurrency transfer, the transaction is verified when a specific number of miners solve a highly complex code or puzzle. This decentralized nature of cryptocurrency is a fundamental barrier that prohibits the application of law, that is essentially territorial, in this borderless cryptocurrency framework.

Let's look at some cyber crime scenarios. First one is where an Indian user is conducting crypto transactions through a foreign exchange, second one involves fraud involving multiple countries and in the third one, the wallet is hosted outside India. Determination of jurisdiction in all these situations is a complex process that involves conflicting and contradicting laws across multiple nations in the world. First of all, it will be difficult to pinpoint where a particular transaction occurred, and it's even more complicated to decide which court has jurisdiction and which country's law will apply in that situation. This will weaken the enforcement mechanisms as the regulatory authorities can seldom intervene here. These regulatory gaps also open the doors of exploitation. If we connect these issues into the Indian context, we don't have any statutory framework addressing cross-border crypto disputes and in such scenarios we extensively rely on the existing financial laws and the Information Technology Act, 2000 which is not designed to regulate cryptocurrency.

If we look into the global scenario, many countries have positively integrated cryptocurrency in their existing legal frameworks, which has enhanced the consumer confidence and have also attracted blockchain companies to enter into such markets, for this study I have primarily analysed the approaches of Switzerland, Singapore and the European Union (EU). In 2021, Switzerland passed the Distributed Ledger Technology Act which attributed “digital tokens” the same legal status as that of traditional stocks or bonds. This legal certainty paved the way for more than 1000 companies to invest in Canton of Zug, which is now known as the ‘Crypto

Valley’ of the world.²¹ This is a positive example of how such nuanced and inclusive adaptation of technology into the traditional legal framework can contribute to the formation of such self-sustaining economic hubs.

The model adapted by Singapore is focused on financial integrity and consumer protection. For example, Singapore’s Payment Services Act 2019, mandates the licensing of all crypto exchanges with the Monetary Authority of Singapore.²² The EU also provides for a positive legal framework that promotes cryptocurrency. EU’s Markets in Crypto-Assets (MiCA) regulation provides that if a Crypto company is licensed in any of the EU countries, it can operate in all other EU countries too.²³ From these global crypto governance frameworks, it can be inferred that if we focus only on risk mitigation, innovation will not happen. In order to properly utilize the opportunities provided by the technologies like cryptocurrencies, India needs to adopt a policy that is less focused on imposing heavy taxes on consumers and more focussed on providing for good operational standards that will attract both consumers and crypto companies alike.

LEGAL UNCERTAINTY AND ITS IMPACT IN CONSUMER PROTECTION

The legal uncertainty and regulatory vacuum around cryptocurrency have an adverse effect on the protection of the consumers of cryptocurrency. If we look at other investment mechanisms like stocks, there is a dedicated regulatory body called the Securities and Exchange Board of India (SEBI) to regulate and manage its affairs. When it comes to crypto there is no such dedicated regulatory body or any uniform compliance standards, which paves way for lack of accountability on the actors involved in such transactions. When financial transactions happen with such minimal regulatory oversight, there is no guarantee that fair practices will be complied with, as there is also lack of transparency.

This will make the consumers prone to fraud practices and scams like ponzi schemes and fake tokens. There are also risks associated with hacking and other cybersecurity threats. Also, crypto transactions are irreversible, so if you lost your cryptocurrency through a scam, it is lost forever.

²¹ Tanya Narayan, SIGNZY, “Which Countries are Most Crypto-Friendly in 2026? Top 10 Ranked,” <https://www.signzy.com/blogs/which-countries-are-most-crypto-friendly> (accessed Apr 9, 2026).

²² Monetary Authority of Singapore, “Payment Services Act 2019,” <https://www.mas.gov.sg/regulation/acts/payment-services-act> (accessed Apr 9, 2026).

²³ Patrik A., Adam Smith Corporate Law, “MiCA Regulation:2026 Guide for Licensing & Compliance,” <https://adamsmith.lt/en/mica-license-2025/> (accessed Apr 9, 2026).

Another matter that should be read together with this is the lack of a proper grievance redressal mechanism for the victims of these scams. Due to the current regulatory vacuum and legal uncertainty India does not have a proper mechanism to address such complaints; the decentralised nature of cryptocurrency also complicates this. This will ultimately take away the consumer trust in India's cryptocurrency ecosystem and will also reduce even legitimate participation. Thus India needs a balanced regulatory framework that gives equal importance to both innovation and consumer protection.

CONTRADICTIONARY OUTLOOK IN CRYPTO TAXATION AND ITS LEGALITY IN INDIAN LANDSCAPE

Indian law does not recognise cryptocurrency as a legal tender or as a formally regulated asset, but still crypto investors are liable to pay 30% tax on the returns derived from trading or investing in cryptocurrencies.²⁴ Apart from that 1% TDS (Tax Deducted at Source) is imposed on every transaction.²⁵ Taxation is an implication that the State formally acknowledges an economic activity, but not having a legal status comes with lack of protection and unclear rights. There is an inherent contradiction in taxing something you do not formally recognise and the incorporation of the concept of "Virtual Digital Asset" in the Income Tax Act does not guarantee the consumers any kind of protection a recognised legal tender will give them. This has created a situation where individuals are taxed without getting any kind of legal protection. It also reflects the government's revenue oriented approach in this matter.

This 30% flat tax rate also projects the government's hostility towards crypto. For example, in stocks if you make profit from one stock and made loss in another, you will have to pay tax only on the net profit, but when it comes to crypto the government does not care whether your loss is bigger than what you have gained or not, you will always have to pay tax no matter how big your loss is. Ultimately this will create lack of confidence in consumers, as they will always be in a state of confusion due to this regulatory uncertainty. This inconsistent approach is not sustainable, and taxation must come with legal recognition. This is also a matter of fairness, it is

²⁴ Ravish Bhatt, Lexology, "Guide on cryptocurrency and taxation in India," <https://www.lexology.com/library/detail.aspx?g=bc50db55-2498-4920-9d53-648c08043b09> (accessed Apr 10, 2026); Income Tax Act 1961, §115BBH (India).

²⁵ Income Tax Act 1961, §194S (India).

not just and fair to not give any legal protection to something and also continue to impose hefty taxes on it. So a better regulatory mechanism should be formulated that will give legal recognition to crypto along with a balanced approach in taxation.

DATA PRIVACY CONCERNS

There is always a continuing conflict between data privacy and transparency when it comes to crypto governance. Even though cryptocurrency always has an image of being anonymous, it is not completely anonymous. It functions on the basis of pseudonyms, that is, even though your name is not in the blockchain, your wallet address is. Now, as India has brought in cryptocurrency within the PMLA framework,²⁶ The crypto agencies will have to follow the general KYC (Know Your Customer) norms that are again not created for crypto at all. This also raises huge data privacy concerns. If your wallet address is linked to your real identity, someone who knows your wallet address will get access to all the transactions you have made through that wallet. KYC integration has not caused any harm before because for example, if you take your normal bank account, only you and your bank will have access to your transactions, even if a third party knows your bank account number, they will not be able to access the data concerning your transactions. But blockchain technology does not work like that.

This also raises concerns over the irreversible nature of blockchain and data privacy concerns. The ongoing phase of cyber governance is witnessing a huge shift towards the creation of a strong data privacy framework. The recognition of right to privacy as a fundamental right in 2017²⁷ and the enactment of the Digital Personal Data Protection Act, 2023 were important milestones in this regard. The right to be forgotten, an essential facet of the right to privacy will be completely undermined by integrating regular KYC norms in crypto governance. Because how can someone erase the data from a block when the entire blockchain technology functions on the basis of irreversibility. It is time the government should move from this one size fits all approach in crypto governance. Crypto needs a strong data regulation framework that ensures transparency, understands the nuances of cryptography and blockchain technology, while also protecting the privacy of its consumers.

²⁶Arunima Kumar & Amit Jajoo, Lexology, "Cryptocurrency trading subject to anti-money laundering laws," <https://www.lexology.com/library/detail.aspx?g=0e6e9a42-fb65-4a69-9b09-38c405a3bda0> (accessed Apr 9, 2026).

²⁷ Justice K.S. Puttaswamy (Retd) And Anr. v Union Of India And Ors., (2017) 10 SCC 1.

CRYPTOCURRENCY AND INTELLECTUAL PROPERTY RIGHTS

Intellectual Property (IP) Rights with regard to cryptocurrency is an emerging and underexplored area with regard to cryptogovernance. Cryptocurrency primarily operates through blockchain technology, software protocols and algorithms and these elements can raise concerns with regard to IP rights in matters connected with software ownerships, proprietary blockchain systems and exchange platforms. So even though cryptocurrency is essentially a decentralised system, the technologies that created it will be subjected to IP regulations. This decentralised nature also creates difficulty in identifying ownerships, which will make the enforcement of IP rights more difficult and complex. The emergence of open source crypto projects also complicates IP protection and the scope of exclusivity is narrowed down in such scenarios. The Indian IP law framework does not provide for the protection of IP rights in blockchain or crypto systems. Here also, a regulatory vacuum may discourage innovation and there are also chances of potential disputes. So adapting the current Indian IP law framework to accommodate the nuances of blockchain technology and cryptocurrency will be a great addition to the new and inclusive crypto governance framework in India.

LEGAL CHALLENGES OF CRYPTOCURRENCY REGULATION IN INDIA

From the analysis it is evident that India has adopted a highly cautious and fragmented approach in cryptocurrency governance. Currently, the Government of India treats cryptocurrency as Virtual Digital Assets (VDA). A flat 30% tax is imposed on cryptocurrency in addition to surcharge and 4% cess, under section 115BBH of the Income Tax Act 1961. It does not provide for any deduction; so one cannot claim any expenses except the cost of buying the crypto. The current legal framework does not provide for any set-off too. Even if a user suffers loss in crypto transactions they cannot use that loss to reduce the tax they owe on other crypto gains. Apart from that the government has also imposed 1% TDS on every transaction over ₹10,000 /-. This will help the government to track the flow of money.

Since 2023, crypto exchanges and intermediaries are officially governed under the PMLA Act. This will mandate the strict following of the KYC rules under the Act, and the Act also obligates

the reporting of suspicious activity to the Financial Intelligence Unit (FIU-IND). The Union Budget 2026 has introduced strict penalties in case of incorrect reporting of crypto holdings in tax returns.²⁸ This is to discourage off-shore trading. The fine is upto ₹50,000/-.

An evaluation of this current crypto regulatory framework reflects a reactive approach from the side of the government. But what India needs right now is a more proactive approach. First of all a regulatory vacuum exists in the current framework, and this regulatory vacuum opens the doors of uncertainty and lack of clarity before the consumers and companies alike. Then there are issues with regard to jurisdiction that mainly stems from the decentralised and borderless nature of cryptocurrency transactions. The weak safeguards adversely affect consumer protection and the non recognition as a legal tender is inconsistent with the current crypto taxation policy of the government. There are also data privacy concerns as the existing laws are not specifically tailored for blockchain technology, so it cannot balance data privacy and transparency. Adaptation of crypto into the current IP law framework is also an emerging need. All these issues collectively emphasise the inadequacies that exist within the current legal framework.

One thing that is common in all these issues is the over reliance on the existing legal framework to regulate a novel and nuanced technology like cryptocurrency. That idea itself is flawed in its core. What India needs now is a coherent policy vision exclusive to cryptocurrency. This can reverse the current framework that does not have a unified regulatory authority or a clear legal classification. An effective framework can rebuild the current fragmented governance by balancing innovation with regulation and privacy with surveillance.

WAY FORWARD : FROM UNCERTAINTY TO CLARITY

These are some of the approaches India can adopt to create a more structured crypto governance framework:

(a) Clear Legal Classification

India should define cryptocurrency. This will give consumers as to whether to treat it like a currency or asset or as security or as something that is hybrid.

²⁸ AKM GLOBAL, “Crypto assets : Penalty proposed in Budget 2026 on reporting entities for failure to publish information or incorrect details,”

<https://www.akmglobal.com/quotes/19/23/1658/crypto-assets-penalty-proposed-in-budget-2026-on-reporting-entities-for-failure-to-publish-information-or-incorrect-details/> (accessed Apr 9, 2026).

(b) Dedicated Regulatory Framework

India needs an exclusive regulatory framework and a dedicated regulatory body to govern and regulate cryptocurrency transactions. There should be a clear role allocation just like how RBI is regulating banks or SEBI is regulating stocks.

(c) Consumer Protection Measures

There should be a proper grievance cell that should be established under the new crypto dedicated regulatory framework. This will make the actors more accountable and ensure more transparency. This will also make sure that the grievances of the victims will never go unaddressed.

(d) Balanced Taxation Policy

India should adopt a taxation policy that is compatible with the legal recognition status it gives to crypto. It should also move away from the heavy flat 30% tax on all crypto gains and adopt a more realistic and customer friendly approach. It should also permit deductions and set-off. Such policy changes can encourage innovation and will result in more crypto investments.

(e) Data Protection Framework

India should create new crypto specific data regulation rules. This framework should balance privacy, transparency and compliance.

(f) International Cooperation

In order to regulate something like cryptocurrency which is essentially decentralised and borderless, there should be global cooperation and global regulatory frameworks to govern cross-border crypto transactions.

CONCLUSION

The cryptocurrency regulation in India continues to remain uncertain even with the recurring governmental interventions. One of the major reasons that fuels this uncertainty is the fragmented regulatory framework that does not keep up with the growing technological changes. This regulatory gap is neither temporary nor new, it has always been there. This continued regulatory gap is shaped by lack of legal clarity, complexities with jurisdiction, and policy measures that are always inconsistent with each other. All these factors played a huge role in the formation of the current inconsistent, fragmented and uncertain crypto governance framework. The governmental effort to regulate cryptocurrency using the traditional taxation and money

laundering frameworks also poses huge regulatory challenges, as these traditional frameworks are never made for crypto in the first place and they are not structured in a way to incorporate the nuances of crypto. So the isolated regulatory measures like RBI warnings, amendments in Income Tax Act, PMLA inclusion have remained insufficient and non-compatible with the crypto frameworks. The concerns related to excessive taxation, data privacy and IP protection reveals the multi-dimensional nature of the issue.

As the current regulatory framework could not properly address the core legal issues around cryptocurrency governance, India should shift to a more proactive approach. The policy measures employed by countries like Switzerland, Singapore and EU which give more importance to innovation and operational compliance are good examples that shall be taken into consideration. Most fundamental among them is Singapore's focus on operational standards and it is something India should adopt as its high time to move away from the current high taxation policy, which drains consumers and fails to attract crypto companies. Such proactive adaptations can rejuvenate the current failing system that could not find a balance between innovation, regulation and consumer protection.

Moving forward, an effective regulation should be adaptable with the current technological advancements and the cryptocurrency ecosystem. It also needs a coordinated institutional response that aligns with the global developments in cryptocurrency regulation. It should also be open to continuous evolution in compliance with expanding digital technology. Given the potential for the rapid growth crypto can bring in a country's economy, a structured and nuanced regulatory change can bring huge changes in India's cryptocurrency governance regime and economic growth. Ultimately, the effectiveness of such policy changes will always depend on how well India's legal and institutional frameworks adapt to the changing technological realities.