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# Guidelines on Legal Framework for Cryptocurrency in India

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## ABSTRACT

*The word crypto originated from Greek word “kruptos” meaning hidden or secret. This Article discusses on the legal validity of crypto currencies in India. Further studies on the regulatory body for the new digital currency payment and the cryptocurrency system. Crypto currencies with money laundering and its effects have been dealt with. As the talk of cryptocurrency increasing day by day, people are more attracted to it and started investing in that. But the government of India is still on discussion to give recognition for this decentralized currency. As there is no proper regulation for cryptocurrency in India, it lies in the state that whether it is a legal tender or not. Further elaborates on the problems faced by India Government to bring the cryptocurrency as a legal tender or to ban. It gives the information on the discussion made by the Reserve Bank of India, along with the finance minister to build up a new regulation for cryptocurrency. And it also highlights on the risks the investors might face in case of defect in the transaction of cryptocurrency as it is one way transaction. The guidelines on the statutes of the PMLA, Foreign Exchange Management Act, Narcotics, Drugs and Psychotropic substances, RBI, SEBI and more other regulations to prevent from money laundering are also discussed in this Article. As the system of this decentralized cryptocurrency is more vulnerable to these kinds of cybercrimes, it must be protected from being exploited and protect the investors as well and prevent them from loss, for that formulation of a regulation for cryptocurrency can be made instead of being banned.*

**Keywords:** *Crypto currencies, regulations, money laundering, Intellectual property Rights, Block chain technology, IP protection.*

## I. INTRODUCTION

A Cryptocurrency is a digital or virtual currency which is secured by techniques of cryptography<sup>3</sup>, also by various encryptions and algorithms. It is a decentralised digital currency. They are traded between consenting parties with no broker and tracks on digital ledger<sup>4</sup>. It is monitored and works on blockchain technology and makes transactions easy to do

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<sup>3</sup> Cryptography - the art of writing or solving codes.

<sup>4</sup> Digital ledger- A digital system of recording the transaction of asserts in which transaction and their details are

across borders and serves as a secure ledger of transaction eg: buying, selling, and transferring. The cryptocurrency customers have wallets system with explicit facts that confirms them because of the proprietors in their devices. Whereas personal keys verify the credibleness of a cryptocurrency group, action, wallets scale back the danger of theft for devices that aren't being employed. The wallets used by cryptocurrency exchanges square measures prone to hacking as an example, Japan-primarily based whole bitcoin amendment Mt. Gox shut down and declared financial disaster some years once hackers consistently eased it of additional than 450\$ million in bitcoin changed over its servers. Wallets is also saved at the cloud, associate inner powerful drive, or an out of doors garage device despite the manner a pocket is saved, as a minimum one backup is powerfully counselled. Note that backing up a pocket doesn't duplicate the 64000\$ cryptocurrency devices, merely the document of their livelihood and ownership.

**(A) Objectives:**

1. To study on the regulatory body for the new digital currency payment and the cryptocurrency system.
2. To analyse the legal validity of cryptocurrencies in India.
3. To examine the remedies available for the investors.

**(B) Hypothesis**

There is an emerging of a new digital currency based on an advanced technology in the digital world. Though it is welcomed by the public, there is insufficiency of regulatory mechanism to use the currency. That lacuna results in the arising of risk factors which simultaneously build fear in the minds of public to use it.

## **II. HOW TO INVEST IN CRYPTOCURRENCY**

To invest in cryptocurrency exchanges is more or less like the stock market investment. The crypto market has the facilitators which works like a brokers or exchanges platform. There are few steps to invest and buy cryptocurrency through a crypto exchange platform which is an easy process<sup>5</sup>.

- **Step 1:** The very first step to invest in cryptocurrency is to find a crypto exchange platform. There are various exchange platforms like Coin Switch Kuber, Coin DCX are popular platforms in India. In these we must choose a platform and check the background details of it before investing, since in India there is no regulatory system for the crypto exchange.

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recorded in multiple places at the same time.

<sup>5</sup> Vignesh.B, Cryptocurrency for beginners with special focus on Indian Market

- **Step 2:** After selecting the platform, we need to create an account in that, for that we should sign up to open an account and also verify the identity. For verification we need to submit some personal details like PAN card or driving license or Aadhar card details.
- **Step 3:** Now the third step is to buy cryptocurrency of your choice, so for that first we must fund our money to invest in buying it. This can be done through linking our bank account with our newly created crypto account and deposit some interested amount by using debit or credit card.
- **Step 4:** After done with all the above steps, you'll be entering into the crypto world. Choosing of a cryptocurrency to invest in is completely up to an individual decision, they can invest in any cryptocurrency like Bitcoin, Ethereum Dogecoin, Shiba Inu and more other famous cryptocurrencies. Each has its own symbol and logo to identify they currency like BTC, ETH, etc., respectively.

### III. CATEGORIES OF CRYPTO CURRENCY

The Cryptocurrency is classified in to four basic categories, they are, Transactional, Platform, Utility and Application.

**(A) Transactional:** The main aim and purpose of cryptocurrency is to cutdown the middleman relationship in our transaction (i.e) to remove the control of central authority. Hence these currencies were called as payment crypto asset in other words the payment is done without any platform.

**(B) Platform:** Generally, crypto currency uses a platform which works online for transaction. The purpose of this platform cryptocurrency is to make simple operation of other decentralized application. And this platform cryptocurrency gives a foundation and building block which helps to make development in other de- centralized apps of cryptocurrency rapidly.

**(C) Utility:** The concept of utility cryptocurrency is design for a specific reason, just to make usage of decentralize storage network easier. Each cryptocurrency will come under various categories as crypto assert. And here this utility is the one which helps in storing of the asset value and it also represent this widely throughout the world on a basis of Block-chain. Another advantage is, this Utility token helps us to access a certain amount which is in cloud storage, as it is a string of data, used for specific function. Here the cloud storage refers to tokens such as coupons or tickets for some amount of goods and services.

**(D) Application:** This category refers the way of cryptocurrency applied upon the platform of cryptocurrency. In the market, there are numerous applications were created for cryptocurrencies, and its purpose is to develop on this operation. Types of applications are Side-chain, Dapps, App coins.

#### **IV. SERVICES OF CRYPTOCURRENCY**

To monitor the functioning of cryptocurrency and the graph of cryptocurrency there are lot of hosts of services which refers to applications are available. There is one of the best app or platforms called “Coin Market Cap”. To check the price, availability of supply and the volume of cryptocurrencies. “Reddit” is another great platform to know and communicate to follow the flow charts of crypto coin which includes information of types of crypto coins used, exchanges made and more. Lite shack allows the users to view the rate of hash network of various coins over six different algorithms. They also show hash rate network graph, through that they can detect the signs of gaining or losing interest of people on a particular coin.

#### **V. SECURITY OF CRYPTOCURRENCY**

The cryptocurrency security system is of two parts. The first part deals in finding the hash set intersections which is the task done by the miners. The second part is defined and stated as 51% attack. Here, the process is, a miner is the person who has a power to mine the cryptocurrency transaction process. In this case, if a miner got more than 51 % of mining power of the block chain network, then it gets a control to a certain extent i.e. he can take control of Global Block Chain and can bring an alternative block chain. As this process is less possible and difficult to do, the attackers have his own limits. But in another way, he can either block his transaction or reverse his own transaction.

According to the statistics, most of all the cryptocurrency are pseudo-anonymous but in cases of some coins or cryptocurrency they are allowed to add features to create true anonymity.

Bitcoin is one and prime most of the cryptocurrency that you just purchase, sell associate degreed exchange directly while not a negotiant like bank<sup>6</sup>. Bitcoin was created by a pseudonymous person whose real identity continues to be unknown. Bitcoin has lot of mystery behind it, it had been first planned in 2008, by most prominent creator Santhoshi Nakamoto. Nakamoto announce a paper and entitled it has Bitcoin which is a peer-to-peer electronic money system. This gained lot of attention and discussion continuous to be within the method. Bitcoin’s genesis block was mined on or around January 3, 2009. The currencies galvanized by Bitcoin area unit together referred to as altcoins and tried to portrait it as improvised and modified version of bitcoins, namely,

Litecoin: It is the second largest cryptocurrency in the world, introduced on October 2011, first successful cryptocurrency to use Scrypt as its function instead of SHA-256.

Namecoin: It is introduced in April 2011, was created as an attempt at forming a decentralized

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<sup>6</sup> Saifidean Ammous, *The Bitcoin Standard: The Decentralized Alternative to Central Banking* 2008

DNS creating censorship extraordinarily totally different.

Peercoin: It is also referred as PP coin and P2P coin was created by software developers Sunny King (a pseudonym) and Scott Nadal. It was launched in Aug 2011, first currency to use combination of proof-of-stake and proof of work .

## **VI. BLOCKCHAIN**

Blockchain Technology area unit improbably turning into far-famed and well-liked in recent days. It brought the eye and attraction among the individuals all over the globe. Blockchain technology is mostly defined as a decentralized, distributed ledger that records the provenance of a digital asset. It is sometimes referred as Distributed Ledger Technology (DLT). To put even more simpler Blockchain is a database, with series of blocks and every block has data within in. It is a system of recordings information in a way that makes it difficult or impossible to change, hack, or cheat the system.

Blockchain stores information in batches called blocks. Each block in the chain contains several transactions and every time a new transaction occurs on the blockchain, a record of the transaction is added to every participant ledger. A simple analogy for understanding is Google Doc. When we create a file and proportion it to a collection of people, the document is shipped as opposed to copied or transferred. This process is known as decentralized distribution, this chain gives access to everyone to the document at the same time. Even if there are any modifications or add-ons to the document it is seen by all the people to whom it has been shared, it is being recorded in real-time, the changes made in document are completely transparent and safe.

As the name indicates, in simple words. A blockchain is a chain of Blocks which contains or stores information. The Blockchain works in a combination of three leading concepts

- 1) Cryptographic keys
- 2) a peer – to peer network with a shared ledger.
- 3) A computing, to store the transactions of records of the networks.

It is also defined as a shared ledger which involves and allows numerous computers or servers to maintain a secured, immutable, and single ledger. By using cryptographic key technology that is Private Key and Public Key, the transaction been performed successfully between two Parties. Each one of the individuals will be having these private key and public key, through which they use to secure digital identity reference. The protecting and securing the identity are the most important work of Blockchain technology. Hence this technology is performing the transaction without involving third party intermediary. And this identity of securing is referred as “Digital Signature”, which is used for accepting and authorising and controlling the

Transactions. The transaction is performed by a wallet called “Blockchain Wallet”. Each one should have this wallet to perform their transactions. The blockchain wallet is a type of program which permits the owner to spend their cryptocurrencies such as BTC (Bitcoin), ETH (), etc. Again, this wallet is controlled and safeguarded by the cryptographic key method. Now, a block is created, when a user creates or initiates a transaction over this blockchain network, that block represents the transaction which has been initiated. Once a block is created, the created transaction is distributed to this peer- to peer network, which has thousands of computers, to validate the transaction. So once a data has been recorded in blockchain it is very difficult to change or modify.

Now a days the public or people thinks that Bitcoin is an anonymous payment network. But speaking reality, the bitcoin is the most transparent payment network across the world. But at the same time only a certain level of privacy can be accepted by Bitcoin when it is correctly used. Basically, bitcoin is software file or computer file, stored in a wallet called “Digital Wallet”, which is installed through an app on a computer or smartphone. People who use bitcoin can send a part of bitcoin or a whole to this digital wallet, and it can be sent to other people. Each bitcoin transaction is completely public, traceable, and permanently stored in the bitcoin network.

The bitcoin gives only the information of addresses of where the bitcoin has been allocated and where they have been sent. These private addresses are created by the wallet users. In that case, if the address is once used then it is prone to be tainted by the history of all other transaction which they are involved with it. As stated earlier, Though the Bitcoin transactions are transparent, it cannot remain anonymous hence, the balance and all the transactions of any address can be seen by anyone. Since the blockchain technology is permanent, if there is something which cannot be traceable now, can become trivial to trace it later or in the future.

In this scenario, jurisdiction plays a role as it is subjected to rules and in legality of using such service might vary. Still this service requires users to be careful on not to lose or steal the fund of the users. Though this blending offering can destroy the traceability of small quantity invested, its miles extra tough to hint for large transaction

## **VII. TECHNOLOGICAL BENEFITS**

The benefits of the block chain technology and they are referred to be distributed ledger technologies are as follows;

- No need of vigilance.
- Cost of maintenance is reduced.
- Security is tightened when users are increased.

- Timestamp (patentability or the date of invention)
- Up to date record.

### **VIII. ADVANTAGES AND DISADVANTAGES OF THE CRYPTO CURRENCY**

There won't be any third party like credit or debit card or bank between the two parties (ie) seller and Buyer during fund transaction. Cryptocurrency transaction is the cheaper online transaction when compared to other online transaction. In this cryptocurrency system there is a user wallet or an account address, which can be accessed only by using private key and public key. The owner of the wallet alone will have the access to the private key. By this processing system, it gives the safe and secured mode of payment transactions. Funds can also be easily and quickly transfer with minimal processing chargers. In one way or the other way, cryptocurrency helps the government to reduce or eliminate the cost held in printing the money. It gives power to the people to take control over their money. It also helps in eradication in corruption since there is no third party.

Cryptocurrency basically has a hidden nature of transaction; hence it may turn out to a platform to perform illegal activities like money laundering, tax-evasion and there is more possibility for terror- financing. In the cryptocurrency payment system, there is no reversible transaction, once payment is made, it is a one-way process. Since cryptocurrency have not evolved completely all over the world, it is not accepted or used everywhere, it has only a limited value.

### **IX. REGULATIONS OF CRYPTOCURRENCY IN INDIA**

Basically, there is no specific law either to regulate or bans cryptocurrency in India. Till March 2021 there is no specific laws to ban cryptocurrency, hence it is legal. Before getting into the status of the subject matter, we look into the history of the cryptocurrency in India. The government of India is bit closer to ban on Private Cryptocurrency because, they fear and not considering the cryptocurrency are legal tender. They think that it is very volatile and can be used for illicit or illegal activities. India's stand on Cryptocurrency is sort of negative, because as we said earlier the government doesn't consider it as a legal tender and since the year 2013, the government warned the investors not to invest in the virtual currency like Bitcoin, because they are not based on any goods or any underlying asset, instead it is just based on speculation which may be will leads to risk of loss in future.

Secondly when more and more people start to invest in this system, there will be rapid increase in the value and people will expect it to give them a good profit after a period. At the same time this system is not having any legal backing or support, in that case it is prone to hacking, or money laundering or through other loss. In that scenario, if there is any loss happens to the



investors, the aggrieved party cannot go to any court for the claiming of money they had lost or ask for legal remedy to get his or her investments back.

In March 2018, Reserve Bank of India (RBI), issued a circular to banks and financial institutions, stating not to deal or provide services, which includes having account for them or accepting collateral for any kind of loan with anybody who is dealing with any virtual currency system. Then the issue was brought before the Supreme Court in March 2020. In this case the Supreme Court held that the Circular issued by RBI was bad in law and illegal and quashed the petition filed by RBI. Supreme Court also stated that the circular produced by the RBI is illegal since it is a violation of the fundamental right under Article 21 of Constitution of India. And suggested to bring some smart regulations instead of an outright ban because there are other bigger investors like USA are trading and accepting the cryptocurrencies. When the issue was in pending before the Supreme Court, the Government came up with a proposal to form a committee in the year 2018-19 to ban private cryptocurrency and decided to set our own digital currency name “Central Bank Digital Currency” (CBDC), which will have equal value as fiat money has in the Indian Economy. The committee also said that if anyone trades with private crypto currencies, they be under penalties up to Rs 25 crores or imprisonment from one to ten years, which was not approved. Now coming back to the March status, after the verdict of the Supreme Court, the government in 2021 came out with a bill named “Cryptocurrency and Regulation of Official digital currency bill in India 2021”. The government was planning to propose this bill in Lok Sabha but so far it has not been done. But by this action of the government, it is presumed that, and what government is trying to establish is to come out with a law on cryptocurrency, whether the law bans cryptocurrency or regulates cryptocurrency. Till now it is not clear because still there is lot of mixed messages coming across the world without giving a clear picture to regulate or ban cryptocurrency system. But till March 2021, information through news and the discussion took place in Lok Sabha, it seems that the government is working towards regulating the cryptocurrency.

## **X. RECENT PROPOSAL ON CRYPTOCURRENCY REGULATION**

The government says that it is necessary to formulate a law to regulate the usage and trade practices in cryptocurrency to safeguard the interests of the investors. What the law says is as follows.,

- (i) The law will “create a facilitative framework for creating of the official digital currency to be issued by the Reserve Bank of India (RBI).
- (ii) “to prohibit all private cryptocurrency in India, however, it allows for certain exceptions to promote the underlying technology of cryptocurrency and its uses”.

Explanation: (1) Here in the first point the “facilitative framework means, only when there is a sovereign backed, when it comes under the regulation and has a backing sovereign which is state, only then there will be value for that currency and then it is widely accepted. For example: If we look back to the days of demonetization, when Rs. 500 and 1000 notes were banned in the year 2016, the notes stopped being a legal tender, hence it loses its value. Similarly, until and unless if there is central ban in sovereign validation it is not widely accepted.

(2) In the second provision it clearly says that all the private cryptocurrencies will be prohibited in India, with an exception that it will entertain only the certain technology and its uses like Block chain technology. And the Block chain technology can also be used for banking, voting mechanism, real estate processing platform and more.

## **XI. NEW INDIAN CRYPTO REGULATION AND FOREIGN EXCHANGE GET BANNED**

1. In India there is a change in the name of cryptocurrency. In Indian it is called as crypto asserts and it is not going to use as currency in India only as an assert and that’s how the crypto assert name given.

2. Private cryptocurrency will not be banned and it will be brought under regulation of cryptocurrency.

3. The reason behind the regulating the cryptocurrency is the government does not want cryptocurrency to go into the hands of dark net.

4. Securities Exchange Board of India (SEBI) is the committee which frames rules and regulations in the share market. Hence the cryptocurrency will also be regulated by SEBI, to frame rules.

5. In few countries the cryptocurrency was allowed as a legal tender, but in Indi, it will not be regulated as legal tender.

6. Basically, the cryptocurrency is used for the payment in purchase of goods, instead of using real cash or money. But in India it is prohibited, because it is said that the cryptocurrency will not be used as currency or legal tender in India.

7. Recently the Reserve Bank of India (RBI) has proposed on issuing of Central Bank Digital Currency (CBDC), which is again a digital currency like cryptocurrency, but the nature of that currency is entirely different from cryptocurrency, and it is not included in the regulations made for cryptocurrency.

8. It is also mentioned that there will be a time limit allocated for all the crypto asserts to come under the regulation before the due time or date.

Regulations were generally created to bring a systematic process in the subject matter and also to protect the people as well as the system from being cheated or misrepresented by the frauds.

So, in this digital system of transactions, there is more possibility of being hacked and other illicit activities. Especially in the system of cryptocurrencies, it became a hub to store black money in the form of money laundering for example sale and transfer of real estate purchased with laundered funds.

Secondly, regulations were formulated to avoid anti-terrorism. The government says that, if there are no regulations in digital system of transactions then these kinds of illegal activities will lead to terrorist activities because the terrorism would be financed outside the ambit of law and government because they do not have any idea about the amount and number of investments made in the cryptocurrencies, which money could be later turned from black to white. Thirdly is investment bubble. Since the cryptocurrency has the value only based on the speculation without any legal backing, that is when it creates an investment bubble, and once there is an investment bubble, the greater the investment bubble, the rate of risk will be higher, because basically the cryptocurrencies are not in a set, they are not regulated neither under Reserve Bank of India (RBI) nor under Securities and Exchange Board of India (SEBI) and that why we are in need of separate law for this.

## **XII. MONEY LAUNDERING**

Money laundering is a large sum of dark or black money or currency which is obtained or earned through illegal activity like drug selling, sexual related crimes, child trafficking etc., which turned to be white and the same has deposited into a legally sanctioned bank. Money laundering is often referred to a term called “dirty money” which turns out to be “clean”. Definition of Money laundering in United Nation Office of Drug and Crime (UNODC). It has been addressed in UN Vienna 1988 Convention and stated in Article 3.1 which defines as “The conversion or switch of belongings, understanding that such belongings is derived from any offence(s), for the reason of concealing or disguising the illicit origin of the belongings or of helping any character who’s worried in such offence(s) to steer clear of the prison outcomes of his action” The definition of Money Laundering beneath Prevention of Money Laundering Act, 2002 (PMLA) as “the offence of directly or indirectly attempting to indulge or knowingly assists, or knowingly being a party or being actually involved in any process or activity connected with the proceeding of crime including its concealment, possession, acquisition or used and projecting or claiming it as untainted property.

Crypto coin is meant to make it clean for criminals to conduct unlawful transactions. In any case, the degree of coins used through Bit-coin is peanuts contrasted with the multi-trillion greenback machine of illegal exchanges that undergo traditional banks every year. There are numerous motives why cryptocurrencies are used to facilitate money laundering, however the

major cause is anonymity. Individuals and crook groups can mask their genuine identities via way of means of the use of exceptional aliases and pseudonyms, basically permitting transactions to be carried out anonymously. Moreover, crypto currencies do now no longer should pass through a regulated financial institution or may be a third party. Instead, cash may be moved freely and independently while not having the motive or legitimacy of the transactions verified. While exchanges are probably recorded on a block-chain, and the document is freely accessible, the records may be of limited use to regulation authorization without understanding the real characters of the executing parties. Another motivation at the back of why virtual sorts of cash are liable to unlawful tax avoidance is the commercial enterprise is not all round managed, bringing approximately a temperamental size of the saying of suspicious movement. Crypto currencies aren't issued via way of means of economic establishments and are consequently now no longer challenge to the identical regulations. Individuals can alternate crypto currencies freely without the want of a economic intermediary, whilst crypto money exchanges also can be used to assist money laundering activity.

### **XIII. TERRO FINANCING**

Firstly, the United Nations Stated a definition on Terrorism in its provision as “Criminal acts intended or calculated to provoke a state of terror in the public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them. Later when it comes to Terror Financing, it is the process of providing or collecting, soliciting of funds through illicit source in an intension to support terrorist groups or organizations. In simple terms, it is an act of providing funds or facility to terrorist acts.

The information of the method of transferring and shifting cash has frequently been unnoticed and whilst denying the information that how this is probably capable of disrupt. On the turn side, researchers and mostly policy makers spotlight the reassesses of terrorist investment or honestly at a subsequently level they placed recognition at the objects that terrorist put many into for example guns and assaults, Nonetheless, motion of money is accomplished in a completely formal manner and it within side the enter method. Terrorist aside from in which they are primarily based totally and in which assaults may also occur. All distinguished terrorist businesses must be successful sufficient to transmit cash from its major supply to that of the sure operational localities in which it has been required for you to make all of it extra effective. These cash transfers are viable susceptible locations that the government may take advantage of extra efficiently disrupt terrorist businesses.

The usage and adoption towards the cryptocurrency are increasing day by day, while increasing, the usage of those virtual cost switch structures for terrorist financing functions has now no longer been observed on a massive scale. A few net-primarily based totally appeals for monetary help of terrorist organizations have sought donations withinside the shape of Bitcoin or different cryptocurrencies. These “donations” have joined only small quantity of coins. The normally detrimental physical/environmental situations found in conflict zones (e.g., Loss of electricity, net access, violence, loss of sources to buy, etc..) inhibit cryptocurrency use. Crypto forex may be used immediately for terrorist financing for its anonyms nature additionally wherein the nations have regulated and legalized the cryptocurrency it will be used after laundering for the cause of crook and illegal activities.

Amid fears that the religious movement establishment in Afghanistan, may also to boot flip to cryptocurrencies to finance its operations, virtual exchange platform Coinbase has explicit that transactions associated with terrorist finance in 2020 created up abundant but 0.05% of all illicit interest delineated and extended approach abundant but 1 Chronicles of all interest withinside the crypto space in 2020.

#### **XIV. LAWS AND LEGAL ANALYSIS ON CRYPTOCURRENCY**

##### **(A) Prevention on Money Laundering via Indian Laws**

In India, there is no specific laws to stop Money Laundering Crimes but, there are few regulations has been enforced in India to take control against the money laundering, which also supports to prevent money laundering. Few are, the regulation of SEBI - Security and Exchange Board of India has framed and provided a set of rules and regulations for the intermediaries and investors in the “security market” by KYC to take action against money laundering. The second regulation is Reserve Bank of India (RBI), it gave a guideline on anti- money laundering to various banks, non-banking institutions and finance institutions and asked them to follow it to protect and prevent them from money laundering activity. Thirdly the Insurance Regulation and Development Authority of India (IRDAI) as also prescribed a guideline on anti-money laundering and anti-terrorism financing to certain categories of insurers. Another most important regulation is Central Bureau of India (CBI). It is the special police department to investigate on crimes and offences in these activity like money laundering. In CBI Economic offences Wings does the role of investigation on these cases.

Income Tax Department is also one of the important regulations established to prevent and avoid money laundering, by imposing tax on Indian residents on undisclosed foreign income and assets. Income Tax Department authorised Government of India under Income Tax Act, 1961. The powers of IT department were further enhanced by the Black Money (Undisclosed

Foreign Income and Assets.) Registrar of Company: As per the guidelines made by the FATF and in constant with adjustments of jurisdictions along with the Russian union and the UK, a brand- new requirement has been added beneath the Companies Act, 2013, requires each Indian Enterprises to record with the Registrar of Companies a go back of enormous useful proprietors within side the enterprise. The Black money undisclosed Foreign Income and Assets and imposition of Tax Act, 2015: This Statute became enacted to address black cash current within side the shape of undisclosed overseas profits and property. Its units out the manner for handling such profits and property and to offer for imposition of tax on any undisclosed overseas profits and asset held out of doors India. It empowers the government to impose tax on undisclosed overseas profits and property at a charge of 30%. Non-disclosure of overseas profits and property is penalized extra closely on the charge of 100% of such tax, similarly to the 30% tax. Fugitive Economic Offenders Act, 2018: This is the act which applies to fugitive monetary offenders i.e. people towards whom a warrant for arrest when it comes to sure offences, consisting of offences below the PMLA, has been issued with the aid of using any courtroom docket in India, and who has left India which will keep away from crook prosecution or being abroad, refuses to go back to India to stand crook prosecution. The act empowers government to connect any assets for which there may be a cause to trust that the assets is proceeds of crime or is an asset or benami assets owned with the aid of using a man or woman who's a fugitive monetary offender, and that's being or is probable to be treated in a way which may also bring about the assets being unavailable for confiscation. PMLA is the first and foremost law in India, to deal with money laundering. The main aim and focus of this legislation are to reduce the use of happening of crime and prevent money laundering. This Statute also provides punishment on violation of provisions in this legislation, which is inclusive of imprisonment of up to 10 years and seizure or confiscation of tainted property. Especially it highlights on few chapters and sections of this act they are, The Chapter IV of the Act offers with the responsibilities of Banking Companies, Financial Institutions, and Intermediaries. They are to keep data of transactions of the prescribed nature and value, grant it to the director, confirm and keep of data of the identification of the clients in prescribed manner. In Chapter V of this Act it offers with summons, searches and seizures, and is the supply of very huge powers. In section 16 of this act, it states that it empowers the authority to perform a survey of the premises wherein he has motive to trust that offence of cash laundering has been devoted. The powers conferred are much like 133A of the Income Tax Act. And also, in section 17 of the act empowers the director wherein he has affordable notion that is to be recorded in writing, that any character has devoted any act of cash laundering, or is in

ownership of proceeds of the crime or is in ownership of data referring to cash laundering, to authorize any officer to look premises, capture file or belongings found, make stock and have a look at character on top of things on oath.

## **XV. LIST OF OFFENCES UNDER PREVENTION OF MONEY LAUNDERING ACT**

The commission of any of the crimes listed in Part A and Part C of the PMLA Schedule will be subjected to the provisions of the law. The following are some of the acts and offences that may be subjected to PMLA: The Indian Penal Code, the Narcotics Drugs and Psychotropic Substances Act, the Prevention of Corruption Act, the Antiquities and Art Treasures Act, the Copyright Act, the Trademark Act, the Information Technology Act are all listed in Part A.

Part B defines crimes that are classified as Part A but have a monetary value of Rs 1 crore or more. Part C deals with cross-border crimes and demonstrates the commitment to combating money laundering across international borders. Mutual Treaty: India has stated to go into mutual help agreements with different nations as well. In 1977, the Indian authorities entered into an extradition treaty and mutual help settlement with Russia. Mutual help agreements facilitate the research of money laundering operations in those nations via way of means of compelling the manufacturing of a big selection of facts frequently critical in money laundering prosecutions. This settlement will no question show beneficial in destiny investigations, given the developing quantity of narcotics smuggled from India via Eastern Europe.

The Indian authorities help a local convention on money laundering, bringing collectively some of the nations of Southwest and Southeast Asia. The convention became the made from a joint attempt among the Indian authorities, the Global Program towards Money laundering, and the United Nations International Drug Control Program. One said goal of the convention became to boom dedication inside the place to fight money laundering via way of means of introducing the vital countermeasures. The convention additionally sought to sell the harmonization of home strategies. The truth that India became one of the co-sponsors of the convention demonstrates to its neighbouring nations its willpower to fight money laundering. Many organizations have extensively criticized the Indian authorities' tasks in growing its anti-money laundering regime, mainly for the position the authorities intend to assign to banks. In requiring banks to document all transactions that exceed a sure restrict or that seem suspicious, Indian banks will ought to get rid of greatly modify their lengthy mounted subculture of financial institutions secrecy. In truth, simply all nations which have enacted complete anti-money laundering regulation have considerably decreased a person's proper to economic privacy<sup>7</sup>.

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<sup>7</sup> Apar Gupta, Commentary on Information Technology Act with Rules, 6.Regulations, orders, Guidelines, reports and Policy Documents ,2015, Lexis Nexis United Nations Office on

## **XVI. PREVENTION OF TERROR FINANCING**

Combating the Financing of Terrorism (CFT) is one of the preventive measures taken to prevent terror financing. The Combating the Financing of Terrorism is a fixed of presidency laws, regulations, and different practices which might be supposed to limit get entry to investment and monetary offerings for the ones whom the authorities designate as terrorists. By monitoring down the supply of the finances that aid terrorist sports, regulation enforcement can be capable of save you a number of the ones sports from occurring. The CFT is otherwise called as Counter Financing of Terrorism our Countering the Financing of Terrorism. The UNODC 20 works at the felony elements of countering the financing of terrorism, consisting of selling the ratification of the applicable usual felony instruments, specifically the International Convention for the Suppression of the Financing of Terrorism (1999) , and the implementation of those world-wide standards. This involves opinions of home rules to make certain right criminalization of offences associated with the financing of terrorism and legislative drafting, growing the ability of crook justice and cops to investigate, prosecute and adjudicate terrorist financing through the supply of specialized education on troubles associated with unique research techniques, freezing, seizing and confiscating terrorist assets, and strengthening nearby and worldwide cooperation towards the financing of terrorism.

Terrorists use exclusive techniques to finance their sports and cover the re assets in their price range, so economic regulators and regulation enforcement have to use loads of strategies to trap those criminals. The price range might also additionally come from criminal re assets which include valid businesses, authorities funding, and spiritual or cultural organizations, or from unlawful re assets, which include drug trafficking, kidnapping, and authorities' corruption. The price range might also come from an unlawful supply however seem to return from a criminal supply, through money laundering.

The Money Laundering and terror financing are regularly linked. When regulation enforcement is capable of locate and save you money laundering activities, it can additionally be stopping the ones budget from getting used to finance acts of terror. Combating cash laundering is fundamental to CFT. Instead of seeking to capture a crook plotting or committing an act of terrorism through different means, police officers may also deal with the hassle from the cash facet through pursuing the waft of investment that helps the activities.

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Drugs and Crimes, 1997 - <https://in.one.un.org/>

7.. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

8.someone who has committed a crime or has been legally convicted of a crime. Criminal, felon, malefactor, outlaw.



CFT guidelines contain investigating and studying suspicious monetary flows and the ordinary surveillance and series of big quantities of records concerning transactions throughout the economy. CFT efforts may also awareness on charities, casual banking activities (inclusive of hawala), and registered cash carrier businesses, amongst different entities. However, maximum CFT guidelines and rules through necessity practice widely to whole populations and monetary markets.

## **XVII. OTHER LAWS**

### **(A) Cyber Crime**

The term cybercrime has not defined or stated in any law or statute. Cyber-crime is generally a criminal activity which targets a computer or computer network or network-based devices<sup>8</sup>. It is also called computer crime, because it uses computer as an instrument to do illegal activities. The term cyber is a colloquial language relating to information technology, internet and virtual reality<sup>9</sup>. The cybercrime involves fraud, trafficking, stealing identity, money laundering, violating privacy, hacking, etc. Cybercrime by itself does not have any law, but has a supporting statute to define and penalize the cybercrimes. They are Information Technology Act, 2000 and Indian Penal Code Act 1860.

### **(B) Taxation**

First, as it was stated earlier, cryptocurrencies have no legal tender in India. There is no ban nor approved by the government and this condition puts government in difficult position to do procedure in exchange and regulation of cryptocurrencies. Since cryptocurrency is also a source of profit, the law of taxation applies to cryptocurrency as well. But the provisions in Taxation are currently unclear relating to cryptocurrency. The Central Board of Taxation says that, whosoever gains profits from Bitcoin investment or Cryptocurrency investment, they are liable and bound to pay taxes.

The primary fear of government not regulating the cryptocurrency in India is what if the value of the top most cryptocurrency Bitcoin falls down to the value of zero. Since the values of the cryptocurrency regardless of the coin maintain varies that is unpredictable. The upward thrust and fall of the foreign money are due to the rising of different new cryptocurrencies that is in any other case referred to as altcoins. So, to save you the autumn of the price Bitcoin it wishes

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<sup>8</sup> Dr.Talat Fatima, Cyber crimes, EBC reader, 3<sup>rd</sup> edition

<sup>9</sup> Anirudh Rastogi, Cyber Law: Law of Information Technology and Internet

8.Cybercrime - cybercrime, also called computer crime, the use of a computer as an instrument to further illegal ends, such as committing fraud, trafficking in child pornography and intellectual property, stealing identities, or violating privacy.

9. The Central Board of Direct Taxes is a statutory authority functioning under the Central Board of Revenue Act, 1963

to be preserved. The minting of recent bitcoins should be confined for it to have any price. More bitcoins in movement might imply that taking part traders can fee extra for goods, and therefore, every bitcoin might have the ability to shop less, correctly devaluating it. To keep away from devaluation, new bitcoins are mined into lifestyles primarily based totally or sure at the same time agreed guidelines. The quantity of bitcoins being issued for every mining hobby is halved each 4 years.

### **XVIII. INTELLECTUAL PROPERTY RIGHTS FOR RIGHTS AND ROYALTIES**

As day by day the usage of cashless transactions, card less payments, decentralised shares are being made, the usage of technology is high, so the common people prefer to use intangible things over tangible ones. In this digital era everyone started to hold many things such as documents, cash, and ATM card in the digitalised version. Hence it's neither a good thing nor a bad. Good is that people will be aware of technology, and they find it easy to carry necessary thing in the digital version but the bad thing is that there is threat of being hacked, stalked, stolen, infringement etc. So the IP guarantees that block chain for the rights and royalties through following measures;

1. Unique management of intangible things – the reuse of commodity in block chain technology  
To the assigned monetary value
2. Reduction in peer-to-peer network – when the values are shared the transaction steps  
During licensing and contract management process gets reduced.
3. Alerts third parties – small contracts automates dependent transactions alerts third party and calculate the financial obligation.
4. Transparent ledger – a shared ledger, the audit functions which repeats for multiple times happens on time. And it also has self-service reporting and integration with IT systems.

### **XIX. CONCLUSION AND SUGGESTION**

Based on the above findings, it has been discussed the risk factors underneath in the usage of cryptocurrency and how far its vulnerability is. And stated few preventive measures to avoid the risk factor of money laundering and terror financing. Various organizations and committee have given numerous guidelines to prevent the act of money laundering and terror financing like CFT, PMLA, IT department, CBI, etc., Fortunately, these provisions and conventions literally helps us in being exploited to these cybercrimes. So, in that case why don't the government take a step to create or have a regulation with the help of those RBI and SEBI guidelines or to use specific or selective provisions in preventing the major two cybercrimes? This would form a good remedy for the crimes against cryptocurrency at least as a temporary

solution for the crypto users or crypto owners to take sufficient preventive measures against the exploitation of crimes, until a perfect or proper regulation has been created by the Indian government with the official approval. The IP life cycle of the future will make sure assets are attributed to creation and product innovation.

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