

CRYPTOCURRENCIES: AN ANALYSIS OF VARIOUS WORLD VIEWS AND INDIA'S POSSIBLE FUTURE

Written by *Jennifer Dsilva*

4th Year BA LLB Student, School of law, Christ (Deemed to be University)

ABSTRACT

The growth of cryptocurrency in the world today has brought up several questions with regard to their use. It is seen that different countries have taken various approaches to deal with cryptocurrencies. Some have decided to legalise the same and have managed to accommodate them into their existing legal systems, while other countries, sceptical about their use has outrightly banned them, punishing those who use the. Then there are still a few countries that have remained undecided on the matter, making cryptocurrencies in such countries neither legal nor illegal. India is one such country and since the legal stance of cryptocurrencies is not stated, people still use the same for several purposes and there are certain issues arising out of it as well. In order to take a stance on this matter, this issue has been brought before the Supreme Court of India to decide on the same. But looking at other countries, the reasons for making the same legal and illegal are relevant when deciding the possible legal future of cryptocurrencies. Here we will examine the stance of different countries, not only whether cryptocurrencies are recognised or not but the way in which it is recognised and how they looked at around the world. Also considering the possibilities of how cryptocurrencies can be accommodated in current Indian legislations and cryptocurrencies possible future in India.

Keywords: Cryptocurrency, Bitcoin, Commodity, Asset, Legislation

INTRODUCTION

In today's world e-commerce has grown to a great extent, and now people who once saved their money in e-wallets and have taken part in online transactions have started to have interests in virtual currencies. Virtual currencies have only been in existence for nearly a decade now and the main reason for such currencies to appear was to make transactions possible without a middleman. These transactions are done with certain complex technology to protect ones transactions and they find better ways of protecting people's information since there is no central body for the same. Yet cryptocurrencies are seen as something a little different than currencies, since it is not recognised properly, there are several questions that arise with regard to cryptocurrency, mainly whether it can be considered a currency or not, since it is used as a means of exchange. But it should be understood that means of exchange is not enough for something to be considered as currency, since it was observed throughout history, at times assets were used as a means of exchange and has specific intrinsic value, for example like gold and coins. The use of cryptocurrencies either as a means of exchange or as an investment is seen, but the problem that concerns a lot of people they are not sure of how this system works, how their cryptocurrencies are protected both from being accessed and from being scammed. So to understand the working if cryptocurrencies and how their transactions take place will help in understanding how this new form of exchange without a middleman works also how new form of exchange is viewed around the world.

AN UNDERSTANDING OF CRYPTOCURRENCIES

With the development of virtual transactions and e-wallets the concept of virtual currencies or cryptocurrencies have also come into the picture. The working of such cryptocurrencies are not as simple as it may appear. Understanding the system which governs such currencies is important when talking part in transactions. In order to understand the working if such currencies and certain features which are resulting in such a system, the working of bitcoins will be considered. Bitcoins, one of the, most famous cryptocurrencies which exist today is a peer to peer exchange system, not backed by any government and has no regulatory body.¹ The

¹Anders Laursen and Jon Hasling Kyed, Payment Systems, VIRTUAL CURRENCIES, DANMARKS NATIONALBANK MONETARY REVIEW, 1ST QUARTER, 2014
http://www.nationalbanken.dk/en/publications/Documents/2014/03/Virtual_MON1_2014.pdf

use of bitcoins are complex and attractive to both traders for several reasons. There have also been a rise in several other cryptocurrencies, one which will be discussed in regard to understanding the working of cryptocurrencies.

Bitcoin was first started by a group under the name of Satoshi Nakamoto in the year 2009, which was made to enable easy transactions across borders. Bitcoin is said to be “simply a chain of digital signatures (i.e., a string of numbers) saved in a “wallet” file.”² It is understood from this statement that certain technologies are involved when dealing with bitcoins. To start bitcoins can be bought and sold by anyone across the globe seeing as the same is available in cyberspace. The wallets that are available can be accessed through digital signatures, and these wallets contain two keys, the public key and private key.³ The public key is the address to which another person can send bitcoins and private key is what is used by the wallet owner to send bitcoins. This system ensures anonymity in transaction by keeping the history of transactions by the same person recorded publicly but the parties to the transactions are kept anonymous. One such system is called blockchain which records the transactions in a financial ledger, this also keeps track of the amount of bitcoins a person has and to ensure fraud cannot occur.⁴ Since there is no centralised authority blockchain technology ensures proper protection and record of assets, their movement and so on.

Bitcoins can be procured either by mining them, purchasing them or even selling something and accepting them. Mining is the process by which every transaction of cryptocurrency is carried out in order to create a new block. The individuals that take on such an undertaking are known as miners, who are rewarded in cryptocurrency for appending these blocks. There also could be a problem arising from this as different miners can be in competition seeing as they are paid in cryptocurrency for their service. Also it can be noted that the amount which is

² JONATHAN B. TURPIN, Bitcoin: The Economic Case for a Global, Virtual Currency Operating in an Unexplored Legal Framework, *Indiana Journal of Global Legal Studies*, Vol. 21, No. 1 (Winter 2014), Indiana University Press pg: 335-368

³ Joshua Baron, Angela O'Mahony, David Manheim and Cynthia DionSchwarz, the Current State of Virtual Currencies National Security Implications of Virtual Currency, JStore, RAND Corporation. (2015) <https://www.jstor.org/stable/pdf/10.7249/j.ctt19rmd78.8.pdf?refreqid=search%3A39c98de5bd643deffd609a024d0473a9>

⁴ DBS Group Research, Understanding Blockchain Technology And What It Means for Your Business, DBS Asian Insights SECTOR BRIEFING 19, February 2016
file:///C:/Users/Admin/Downloads/SECTOR-19-001-blockchain-lowres.pdf

used to apprehend these blocks would not suffice when paid in cryptocurrency.⁵ Bitcoins can also be acquired is to purchase them through exchanges, trading physical currency for virtual ones depending on the exchange rate. And it is also possible for people to conduct business transactions in exchange for bitcoins, since in this system, being able to view the customer's transaction record will give traders the surety of payment by the customers during these transactions.

So far the topic of bitcoin has been dealt with but along with this currency there have also been several other virtual currencies that have risen including litcoin, ripple and so on. And since blockchain technology was only applicable to bitcoins, such currencies have come up with their own technology with certain modifications.⁶ Some include the use of technology to give even more anonymity that bitcoin offers, a different mode of validating transactions and so on. These cryptocurrencies are fast growing and are getting more advanced as time goes by, bitcoins find themselves as the centre of attention since this particular cryptocurrency is used the most in today's society. Now since there is an understanding of cryptocurrencies and how they work, it is different countries who now can decide their stance on cryptocurrency, whether it's the currency of the future or a dangerous investment.

CRYPTOCURRENCY: AN ASSET OR COMMODITY

The working of cryptocurrencies has been explained, yet which category can such currencies come under law is a question. Since the term currency exists in the same, and the same is used as a means of exchange, yet the value of these currencies keep changing. The main three features of any currency is that it is a medium of exchange, it has store of value and it is a unit of account.⁷ Though through cyberspace cryptocurrency can be considered as a medium of exchange for goods and services but this is only when both the parties have agreed on the

⁵ JONATHAN B. TURPIN, Bitcoin: The Economic Case for a Global, Virtual Currency Operating in an Unexplored Legal Framework, *Indiana Journal of Global Legal Studies*, Vol. 21, No. 1 (Winter 2014), Indiana University Press pg: 335-368

⁶ JONATHAN B. TURPIN, Bitcoin: The Economic Case for a Global, Virtual Currency Operating in an Unexplored Legal Framework, *Indiana Journal of Global Legal Studies*, Vol. 21, No. 1 (Winter 2014), Indiana University Press pg: 335-368

⁷ Ramis Jamali, CFA, Sherwin Li, P. Eng., Rodrigo Pantoja, cryptocurrency, digital asset class of the future – bitcoin vs ethereum?, Ivey Business School
https://www.economist.com/sites/default/files/economist_case_comp_ivey.pdf

medium of exchange, which is bitcoins instead of money. When dealing with the store of value it is seen that bitcoin is only worth what the market deems it. Also since it's not globally recognised and several countries have disputing views on it, only when these cryptocurrencies have been converted into currencies used in the world they have value. Cryptocurrencies can be considered as a unit of account, yet because it does not have any centralised body there can be a difference in different exchanges, also its unpredictability can also be an issue when determining its unit of account. As stated above it is difficult for cryptocurrency to be considered as a currency and hence different countries have recognised cryptocurrencies in different ways.

For now, it's best to look at two countries that have recognised bitcoins but in different ways, the USA and South Korea. According to the USA cryptocurrencies come under the category of commodity under the Commodity Exchange Act, 1936. The Commodity Futures Trading commission is an independent agency which administer the CEA. It was stated by the chairman of the Commodity Futures Trading Commission in 2014 that bitcoins should fall under its jurisdiction also determining that bitcoin is not a currency. There was an order passed by this commission stating that "Bitcoin and other virtual currencies are encompassed in the definition and properly defined as commodities."⁸ The South Korean Courts does not recognise cryptocurrencies as a commodity but as an asset, this was seen in a recent 2018 judgement which stated that "virtual currencies have no physical entity and cannot assume an object standard value."⁹ In case of USA its seen that cryptocurrencies were seen as a commodity because its stated under the CEA that the definition of a commodity includes "all services, rights, and interests (except motion picture box office receipts, or any index, measure, value or data related to such receipts) in which contracts for future delivery are presently or in the future dealt in."¹⁰ Hence seen that anything that could result in a contract for future delivery and so cryptocurrency comes under the same. Yet in South Korea the status of cryptocurrency is now based on the courts understanding and judgement and so it can be assumed that in order to

⁸ Matthew Kluchenek, BITCOIN AND VIRTUAL CURRENCIES: WELCOME TO YOUR REGULATOR, Harvard Business Law Review, 2016
https://www.bakermckenzie.com/en/media/files/people/kluchenekmatthew/ar_na_mkluhenek_bitcoinvirtualcurrency_2016.pdf

⁹ Arnab Shome, South Korean Top Court Defines Bitcoin as Asset in Landmark Ruling, News (Cryptocurrency), 31/05/2018 13:01 GMT
<https://www.financemagnates.com/cryptocurrency/news/south-korean-top-court-defines-bitcoin-asset-landmark-ruling/>

¹⁰ COMMODITY EXCHANGE ACT, 1936 § 9

regulate this different countries might recognise cryptocurrency differently in order to bring it under their legislations.

INTERNATIONAL STANCE IN CRYPTOCURRENCY

It was considered that virtual currencies would be useful as a mode of exchange, yet the way in which these currencies work do have some technical issues. From the recognition of certain cryptocurrencies within a countries legal system, to certain technology which monitor's these transactions, ensuring fair trade and to avoid possible fraud. Since such currencies have become a recent trend in business transactions, where businesses accept payment through the same, in cases of any mal practise if this is not recognised by a certain country, then no legal remedy will be available to him. There are also problems with regard to money laundering through virtual currencies, dark web activities and difficulty in tracing transactions resulting in possible tax evasions. These are some of the few concerns that arise, along with certain technical issues which will be discussed later, yet the recognition and legalisation of such currencies, certain countries have seen benefit while other countries have banned the same in fear of possible misuse, while the rest are taking a wait and see approach.

First, it's best to understand the countries that have recognised cryptocurrencies, mainly bitcoins. Some of the countries that have recognised and legalised bitcoins are the USA, Canada and Japan. To begin, different countries have brought bitcoin under their ambit though different legislations, in the USA bitcoins are viewed as property. In the year 2015 bitcoins were brought under the ambit of the Commodity Exchange Act, and further rules relating to the same is seen under the Commodity Futures Trading Commission.¹¹ These two formally defines bitcoins as a commodity and not as property, putting bitcoins in the same category as metals, yet these bitcoins can be used for purchase and sale. In Canada too bitcoins are recognised as a commodity by the Canada Reserve Agency in 2013 and the users of bitcoins will have to tax regarding the same.¹² For bot coins to be recognised in Canada the same has to

¹¹ Matthew Kluchenek, BITCOIN AND VIRTUAL CURRENCIES: WELCOME TO YOUR REGULATOR, Harvard Business Law Review, 2016
https://www.bakermckenzie.com/en//media/files/people/kluchenekmatthew/ar_na_mkluchenek_bitcoinvirtualcurrency_2016.pdf

¹² Global Legal Research Directorate Staff, Regulation of Bitcoin in Selected Jurisdictions, The Law Library of Congress, January 2014

be registered under the Financial Transactions and Reports Analysis Centre. This system helps track bitcoins to an extent, while bringing such transactions to light by registering them. The same was followed by Japan by recognising bitcoins that are registered under Japan's Financial Services Agency and enacting the Crypto Currency Act in Japan to regulate these cryptocurrencies properly.¹³ These countries have looked at the positive side of cryptocurrencies and have begun to regulate the same yet there are several countries that are sceptical regarding this and hence have taken harsh stance on banning them.

Some of countries that have banned bitcoins are China and Bangladesh, which we will be looking into. The People Bank of China has recently been issuing several regulations in relation to cryptocurrency in order to stop the trade. In the year 2017, China has banned Initial Coin Offerings, which is a fundraising process for businesses, also any activity in relation to fundraising with the use of cryptocurrency has been banned.¹⁴ The main concern for banning bitcoins and other cryptocurrencies in China is the fear of possible fraud which could result from the same. In Bangladesh bitcoins and other cryptocurrencies are banned in the year 2015, this is seen under the Anti-Terrorism Act 2009 and Money Laundering Prevention Act, 2012.¹⁵ Mainly the country seen bitcoins as a problem as the same can be used for activities like money laundering, funding terrorist activities and so on. This was issued by the Bangladesh Central Bank explaining that bitcoin is not an authorised and legal currency in any other country in the world, hence the same is not to be used. These are some of the major concerns seen by such countries yet there are countries who have not taken a proper stance in cryptocurrency, though the use of bitcoins are on the rise. These countries might not have out rightly banned these virtual currencies but they have issues warning stating that trading with the same is at a person's own risk. The approach of these countries is mainly, to wait and see how these currencies are developing, used and so on. Bitcoins have only been around for the past decade and hence there are still a lot of unexamined areas regarding this.

<https://www.loc.gov/law/help/bitcoin-survey/regulation-of-bitcoin.pdf>

¹³ Kazuyuki Shiba, Enforcement of Japanese Law on Crypto Currency and Future Issues, Institute of international Monetary affairs, 2017

https://www.iima.or.jp/Docs/column/2017/0410_e.pdf

¹⁴ Greg Pilarowski and Lu Yue, China Bans Initial Coin Offerings and Cryptocurrency Trading Platforms, CHINA REGULATION WATCH 1, Pillar Legal, September 21, 2017

<http://www.pillarlegalpc.com/en/news/wp-content/uploads/2017/09/PL-China-Regulation-Watch-Cryptocurrency-2017-09-22.pdf>

¹⁵ RICK D., Bangladesh: Trying Yet Failing to Curb Cryptocurrency Use, FEBRUARY 20, 2018, 12:45 AM <https://www.newsbtc.com/2018/02/20/bangladesh-authorities-trying-yet-failing-curb-cryptocurrency-use/>

It's seen that some of the main concerns with regard to cryptocurrency is that such a system can be used for money laundering and other illegal purposes. Since cryptocurrency ensures anonymity the proper tracking of the same is not easily possible, though as stated certain countries require their bitcoin transactions be registered in order for the same to be recognised. Yet there are still some issues as the bitcoin transactions that are registered are the only ones that are seen and hence the true amount of bitcoins in a person's wallet is not known. Also since transactions can happen on an international level with this money laundering can take place across borders and even illegal transactions. Also another problem that can arise is with regard to taxation, since the total amount of bitcoins is difficult to find due to anonymity, it's difficult to calculate the amount of tax based only on transactions. Also problem would arise in regard to the proper use of cryptocurrencies, mainly in relation to foreign exchange and the proper amounts for cryptocurrencies. Each country has their concerns when dealing with such a system yet the growing use of cryptocurrencies and hence to protect their citizens and even regulate the flow of income in their economy.

CRYPTOCURRENCY AND INDIAN LEGISLATION

Seeing that India is one of the countries which has not legalised cryptocurrency, yet at the same time has not made them illegal, the India legal system is looking for a way to recognise these cryptocurrencies. In India cryptocurrencies are not recognised by any legislation, the RBI (Reserve Bank of India) has also refused to recognise the same, also issuing strong warnings against the risks if using cryptocurrencies.¹⁶ Yet because of the current trend there are many Indians who use and have even invested in cryptocurrencies. As seen above there are several countries that have not recognised cryptocurrencies but have not made them illegal either, one such country with such a stance is India. But with the growing use of this currency, it was considered to try and bring bitcoins under the ambit of an Indian legislation. There were several Indian legislations that were looked into mainly the Foreign Exchange Management Act, 1999 (henceforth referred to as FEMA) and the General Clauses Act, 1897. There are also several other legislations that are to be noted when considered if cryptocurrencies are assets.

¹⁶ RBI cautions users of Virtual Currencies against Risks, RBI Press Release, Dec 24, 2013
https://rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=30247

The Indian Coinage Act, 2011, under Section 2(a)¹⁷ which is a coin made of metal or any other material, which is a legal tender. Within its explanation it states that coin does not include e-money which is issued by banks, financial institutions or post offices. Though it is understood that virtual currencies are not considered as currency and it is seen that cryptocurrencies would not be included under the definition of coin in this legislation. Also another definition that could be looked into is the FEMA definition of currency, ““currency” includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank.”¹⁸ Under this definition it’s clearly seen that cryptocurrency cannot be considered as currency, not just because of the proper scope set up by this definition yet also stating that the same must be notified by the RBI. Hence it’s seen that under these legislations cryptocurrency cannot be considered as currency, as also stated by the RBI’s instructions.

Now looking at the scope of bringing cryptocurrency under property it’s seen under the General Clauses Act under Section 3(36) talks about movable property,¹⁹ which states that it includes any property except immovable property. Also according to the judgement given in the case of Central Warehousing Corporation v. Central Bank of India Ltd.²⁰ it was stated that movable property under the General Clauses Act can also include money. Though cryptocurrency can be considered as a form of money, it’s mostly considered otherwise, here as a movable property.²¹ Also looking at the Securities Contracts (Regulation) Act, 1955, it states that the central government can declare any instrument as a security,²² its seen that in most instances stated that only the declaration and notification from the central government or the RBI can bring cryptocurrency into which ever category it seems fit and so a Supreme Court petition filed in 2017 pleading the recognition of bitcoins.

The petition has pleaded that bitcoins be recognised as they are an urgent issue which needs to be addressed, a proper committee be set up which will deal with the regulatory mechanism of bitcoins and this particular committee should consider the prohibition or regulation of other

¹⁷ The Indian Coinage Act, 2011, § 2(a)

¹⁸ Foreign Exchange Management Act, 1999, § 2(h)

¹⁹ General Clauses Act, 1897, § 3(36)

²⁰ Central Warehousing Corporation v. Central Bank of India Ltd, AIR 1974 AP 8

²¹ Sannat Chandna, Legality of Cryptocurrency in India, IndiaCorpLaw, <https://indiacorplaw.in/2018/02/legality-cryptocurrency-india.html>

²² Securities Contracts (Regulation) Act, 1955, § 2(h) (iia)

cryptocurrencies. It was stated under the writ petition filed that there are possible cyber-attacks which could result in ransom being given through bitcoins, also despite the RBI's warning there are still a large number of people using cryptocurrency and has not reached five lakh downloads. It is seen because of that that several authorities under FEMA, Money Laundering Act and even the income tax department are unable to track these transactions since there is no regulatory authority for this. Though at first bitcoin had found trouble with regard to trust and acceptance, in time it has grown to have a nationwide acceptance. Today there are several different types of cryptocurrencies, its important now just to look at bitcoins alone but it's important to prepare for the future. India's silence in this issue, neither legalising nor banning them has caused such a petition to be filed. It's important to understand the advantages that could come from legalising cryptocurrencies and even the possible problems that could arise, with possible solutions to it.

PROS, CONS AND POSSIBLE SOLUTIONS AFTER RECOGNITION

As seen in the previous paragraphs, that certain countries have recognised cryptocurrency and India's neutral stance on the same has caused certain pleas to be made regarding proper regulation of the same. There are possible problems which could arise if cryptocurrency is recognised at the same time it could do a lot of good toward the Indian citizens. Now it's time to look into the possible pros and cons of recognising cryptocurrency in India while keeping in mind the recommendations seen in the petition. First looking at the main positives of legalising cryptocurrency is the transparency, speedy transactions and personal data protection. Some of the main disadvantages which will be discussed are possible cyber-attacks, possibilities of money laundering and volatility.

Before discussing the advantages, its best to understand that the possibility if recognising cryptocurrencies as a currency under Indian legislation is not much, yet bringing cryptocurrency under the ambit of assets or property can be looked into. Mainly the stance of the RBI will be taken into consideration in such circumstances and will do what seems fit. Now coming to the first advantage of regulating cryptocurrency, which is transparency.²³ It is seen

²³ Flamur Bunjaku,, Olivera Gjorgjeva-Trajkovska, Emilija MitevaKacarski, CRYPTOCURRENCIES – ADVANTAGES AND DISADVANTAGES
<http://eprints.ugd.edu.mk/18707/1/Cryptocurrencies.pdf>

that through certain technology like blockchain and mining which track transactions also giving a public record of transactions. This was mainly done to ensure a certain fraud cannot happen, when a person tries to use the same bitcoin twice. Though this gives transparency for transactions it does not show the parties to the transaction. This hence protects the person and his personal information from being published. Yet there are still some concerns arising, when asked how Indian transactions can be tracked in this case, there can be a certain body which keeps tracks of these transactions. Not only with the technology yet also by registering the transaction for the same to be recognised in India, the technology that can be used to enable these transactions and even follow them can be used in such cases.

Another advantage which is very attractive towards traders is speedy transactions, it is seen that once the transaction is done the same is transferred immediately.²⁴ Some transactions which take place otherwise would require payment to be done later and at times the transaction could take time to be processed. As stated above since there is transparency in transaction, a person cannot use the same bitcoin twice and so the fear of non-payment will not be there is traders who accept bitcoins. Also since the transaction is done quickly the payment too is done quickly, by transferring the bitcoins as soon as possible. Due to the development of technology with the quick speed of transactions it's considered a better way for business to go forward without being tricked or facing a delay in payments. When particular business that have registered to trade in bitcoins in India, it would result in proper tracking if growth of business and even at times foreign transactions (as a result of trade) which would help keep a good track of the economic growth as well.

Another feature which is personal data protection is part of the transparency, as explained the transactions are recorded publically but not the parties to the transactions. This is a very useful feature, protecting the person's private information from the public also promoting security of the same.²⁵ This hence promotes anonymity the same can be curbed with the help of technology, as previously stated the transactions that would be registered in India will be monitored. By doing so this can help in tracking money laundering, illegal transactions and so

²⁴ Bitcoin and Analytics Assessing the opportunities and vulnerabilities of the cryptocurrency marketplace, Deloitte Financial Advisory Services LLP
<https://www2.deloitte.com/content/dam/Deloitte/us/Documents/deloitte-analytics/us-da-currency-of-disruption-04022015.pdf>

²⁵ GEORGE CORNEL DUMITRESCU, Bitcoin – A Brief Analysis of the Advantages and Disadvantages, Institute for World Economy, ROMANIA
http://www.globeco.ro/wp-content/uploads/vol/split/vol_5_no_2/geo_2017_vol5_no2_art_008.pdf

on. The proper technology will help keep the anonymity of transactions and at the same time in required cases would be able to track the source of different transactions. This would help motorizing the proper amount of tax which is due, foreign transactions and even track illegal or unregistered transactions. These are the main advantages that could result from the legalisation of cryptocurrency, yet there are some problems as stated above will now be explained.

The first problem would be that since cryptocurrency is in cyberspace there are problems that could arise with regard to cyber-attacks. With the growth of technology, it's seen that the chance of cyber-attacks has increased, also since bitcoin transactions are publically recorded the people with proper technology can get access to an individual's wallet. One of the basic scams seen in cryptocurrency is Ponzi schemes, this type of schemes ensure returns to old investors by receiving funds from new investors.²⁶ Though it can be easily assumed that with technology these scammers can be traced one better precaution is to educate cryptocurrency holders on the red flags which can be seen in these schemes and different types of fraud which can occur, no minimum investor qualification, no proper returns or difficulty in payment, unregistered investments and so on. Also it's important to recognise these possibilities of fraud and the same should be brought under legislation enabling the victims to proper compensation. There should also be proper investigation methods and with proper technology in order to combat these schemes and to protect the users of cryptocurrencies.

The next problem is in relation to money laundering, this could be a problem due to the anonymity of persons during transactions, yet the main problems arise with regard to international transactions²⁷. Though the possible solutions for this was stated above, with the use of proper technology there are still some possible problems which can be dealt with the use of proper technology. This will help in tracking proper records of money and the proper use of it, ensuring illegal activities which are done online can be traced. Yet this is still an issue especially when dealing with foreign transactions, as seen that in certain countries this fear has caused them to outrightly ban the same, yet certain countries are trying to formulate a legislation in order to curb this issue. In such cases there should be proper laws ensuring that

²⁶ SEC's Office of Investor Education and Advocacy, Ponzi schemes Using virtual Currencies, USA Securities and Exchange Commission

https://www.sec.gov/investor/alerts/ia_virtualcurrencies.pdf

²⁷ Joshua Baron, Angela O'Mahony, David Manheim and Cynthia DionSchwarz, the Current State of Virtual Currencies National Security Implications of Virtual Currency, JStore, RAND Corporation. (2015)

<https://www.jstor.org/stable/pdf/10.7249/j.ctt19rmd78.8.pdf?refreqid=search%3A39c98de5bd643deffd609a024d0473a9>

such criminals do not get away with such activities. Hence the recognition of cryptocurrencies would bring Indian citizens who use cryptocurrencies under the watch for money laundering. Since one of the major advantages is anonymity, this could be used to the advantage of certain people, by investing in foreign countries or not even registering their transactions. Also another problem regarding tax evasions, this would be a result of anonymity and so people can spend their money without being noticed and even could avoid tax which could result from business activities using cryptocurrencies. Even though certain technology could track these transactions it would be difficult in a heavily populated country like India to track each and every transaction.

Now dealing with a huge issue in regard to cryptocurrencies which is volatility, since the bitcoin market is new and small, it fluctuates a lot.²⁸ The volatility of these cryptocurrency markets is a lot and since there is no regulatory body watching over the same there are unpredictable changes which result in major losses by many who use these cryptocurrency. The major players who buy and sell these cryptocurrencies, many a times have these markets in the palm of their hand and their sale or purchase would shift the market of these currencies drastically. Hence it is important to ensure there is a regulatory body which does not govern, but keeps a watch over these markets and try to ensure a certain amount of predictability. This would also help those who wish to invest in such markets and also ensure that the market would not fluctuate as much by tracking the major investors and ensuring the consequences of their decisions are not borne by the public at large. This could be done by proper regulations by different countries and proper co-ordination between them, ensuring that cross border transactions do not affect the public. This is a possible solution yet there still would be certain problems with regard to the tracking of such transactions yet a proper regulatory body to oversee such markets would be considered. Though such a problem cannot be curbed by India alone there could be international regulations and even time could play an important role in ensuring market stability. This would be as a result of a proper and stable system and also even more developed technology to monitor and improve these markets.

²⁸ Samantha Douma, BITCOIN: THE PROS AND CONS OF REGULATION, Universiteit Leiden, 12 June 2016
<https://openaccess.leidenuniv.nl/bitstream/handle/1887/42104/Bitcoin%20The%20Pros%20and%20Cons%20of%20Regulation.pdf?sequence=1>

CONCLUSION

As explained above the different reasons as to why certain countries have certain different approaches when dealing with cryptocurrency, seeing the positives and negatives there is still a way to control and protect the people who use this system. Though India is sceptical on this matter the urgency to recognise the same is seen with the petition filed in the Supreme Court of India. It is also important to look at the other approaches taken by other countries to legalise cryptocurrencies either as a commodity or as an asset. This hence gives ideas and even guidance to how this system should properly be regulated. After properly understanding the working of how these transactions take place, it will help in creating proper regulation and laws to govern these actions, including having professionals in the field help regulate, track and even investigate into such matters. And so legalisation of the cryptocurrencies is very important for the above reasons and to bring India up to date with the current trends in e-commerce and bring Indian citizens under certain laws pertaining to the same giving both protection and remedies for the same. The development of the cyber world resulting in many aspects of our daily lives going virtual has now brought an important aspect and the proper legislation and proper action pertaining to these cryptocurrencies would help India in dealing with new world trade and businesses, also bringing the proper development to India with regard to cryptocurrencies.