



Boarding the Crypto-Flight

This article is based on “[Crypto Opportunity](#)” which was published in the Indian Express on 18/11/2021. It talks about the need for the regulation of Cryptocurrency in India.

Recently, the [RBI](#) Governor, once again, raised concerns over [cryptocurrencies](#) with reference to **macro-economic and financial stability**. Due to the same reasons, the central banks of various countries have stood against the legitimisation of cryptocurrencies; the case being the same in India.

However, considering the nature of cryptocurrencies, **restrictions on such transactions may end up having the opposite effect**, pushing them beyond the realm of scrutiny and making it harder to enforce the law in case of felony.

Currently, the cryptocurrency market is worth over three-trillion-dollars. India cannot and should not have to exclude itself from such a huge opportunity, rather create effective provisions for the regulation of the same.

Crypto and Chaos

- **Lack of Global Consensus:** Globally, there is **no uniformity in the regulatory approach towards cryptocurrencies**. Countries are grappling with questions over the appropriate regulatory framework, and are opting for different approaches.
 - On one hand, countries like **Cuba and El Salvador have permitted Bitcoin as legal tender**.
 - **Iran** too saw the potential of cryptocurrency in helping circumvent sanctions, and encouraged “mining”, provided the resulting tokens are sold to the central bank.
 - On the other, **China has imposed a blanket ban** on all crypto transactions and mining.
 - Other countries that have banned the trading, holding, and mining of cryptocurrency include **Bolivia, Nepal, North Macedonia, and Indonesia**.
- **Status of Cryptocurrency in India:** At the moment, there is no legislation that covers cryptocurrencies in India owing to the fact that it is still not illegal.
 - In India, the RBI had barred all banks from dealing in cryptocurrencies in 2018, however, **[this ban was struck down by the Supreme Court in 2020](#)**.
 - Most recently, the Prime Minister of India chaired a **meeting regarding the management of the cryptocurrency** sector which arrived at a consensus that steps taken by the government in the field of cryptocurrency should be **progressive and forward looking**.
 - The government is **likely to introduce a Bill on cryptocurrencies** in the **[winter session of Parliament](#)**.

Associated Concerns

- **Legitimate Concerns Over Cryptocurrencies:** These concerns stem from the fact that there is **no underlying asset and no benchmark to assess their values against**. Moreover, cryptocurrencies are extremely volatile in nature.
 - The **lack of awareness, transparency and clarity** puts the money of the investors, most importantly, retail investors, at risk.
 - This industry which holds so much of capital is **not monitored or regulated in India**.
 - How cryptos are being advertised was also a concern raised in the meeting held by the Prime Minister.
- **Ambiguous Perspectives Regarding Crypto:** It greatly varies how a country views cryptocurrency; as a currency, an asset or a commodity and how it is classified will in turn determine the regulatory architecture.
 - The Indian government is likely to introduce a Bill on cryptocurrencies in the winter session of [Parliament](#) and it could classify crypto exchanges as [e-commerce platforms](#).
 - However, this will **raise questions about who would be the appropriate regulator**.
- **Banning Crypto, An Unwise Solution:** Although the central bank is right to advise caution, an **outright ban is not a prudent way forward**.
 - Considering the nature of cryptocurrencies, restrictions on such transactions may end up having the opposite effect, pushing them beyond the realm of scrutiny and making it harder to enforce the law in case of felony.
 - The **very purpose of the ban will be defeated**.
- **Ban is Contradictory to Existing Provisions:** Banning cryptocurrency will also contradict the **Draft National Strategy on Blockchain, 2021** of the MeitY, which hailed block chain technology as transparent, secure and efficient in putting a layer of trust over the internet.
 - It is **quite ironical to promote blockchain**, a part of the technology-driven innovation **while stifling its ancillary, crypto assets** instead of currency

Way Forward

- **Regulatory Framework for Crypto:** A regulatory framework needs to be urgently framed.
 - The apparatus will need to **deal with myriad aspects of cryptocurrencies**, sale, purchase as well as intermediaries like exchanges and trading platforms.
 - The government **must identify the associated risks, and create the appropriate regulatory architecture** to address them.
 - **Regulation can aid in monitoring the** [money-laundering](#) and [terror-financing](#) issues and also prevent scams.
- **Investor Protection:** While sophisticated investors may not need guidance, **retail investors need to be cautioned about cryptocurrencies** and the volatility associated with them.
 - An efficient regulatory framework will **provide accountability** as also a grievance redressal mechanism for investors.
- **Structuring the Unregulated Space:** What India needs at this moment is structuring the unregulated space of cryptocurrency rather than banning it. It will create a safeguard for retail investors.
 - Moreover, it will also **prevent the India-based crypto companies from moving out of the country**, so there will be no flight of capital.
 - It will **create a healthy ecosystem for India and Indians to explore emerging technologies** and become leaders and innovators in this space.

Conclusion

- **Cryptocurrency is an inevitability:** it cannot be banned or walled out through any meaningfully enforceable mechanism. A blanket-ban on crypto would be both impractical and over-restrictive.
- It becomes imperative for the government to **bring forward legislation that understands the vision of the technology**, takes into account the inputs of all stakeholders, and enables citizens to enjoy the benefits that entail with this new-age technology.

Drishti Mains Question

“Regulation of cryptocurrency is now necessary in India to offer the investors a degree of protection, ensure compliance with norms, provide clarity with regard to taxation and enable citizens to enjoy the benefits of this new-age technology”. Discuss.

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