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**THE EVOLUTION OF BLOCKCHAIN AND  
CRYPTOCURRENCY LEGISLATION IN INDIA:  
REGULATIONS, CHALLENGES AND  
FUTURE PROSPECTS.**

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**ABSTRACT**

The technological development and changes in the market opened gates for the payment industry which gave scope to virtual digital assets and virtual currency. Cryptocurrency falls under the broader category of virtual currency giving digital representation of values, tokens, and other digital assets using blockchain technology and cryptographic techniques. Some well-known cryptocurrencies include Bitcoin, Ethereum, tether, and others with a volatile market, and secure transactions, allowing access to the global financial system. These cryptocurrencies operated by blockchain technology with a decentralized network have scalability and technological challenges. It has a problematic side which includes usage for illicit activities like money laundering, terrorist financing, frauds, scams, market manipulation, energy consumption, and regulatory risks. After demonetization in the year 2016, India was introduced to the Unified Payments Interface (UPI). Since then, the digital payment, and digital currency market in India has experienced many changes with mixed regulatory developments, activities, and interests. The status of cryptocurrency in India is dynamic as initially in 2018 Reserve Bank of India prohibited financial institutions from providing services associated with cryptocurrency, later this was overturned by the Supreme Court in 2020. Whereas in the recent budget 2022, it was discussed that they are not recognized as legal tender in India but are subjected to capital gains tax and introduced Cryptocurrency Bill 2021 in Lok Sabha which is still in process. Considering all these aspects it is unclear about the status of legality or illegality of cryptocurrency along with the hype, evolving stances, and mixed signals. This paper will look at the need for proper legislation

associated with the regulations on the blockchain and cryptocurrency in India to get clarity on the status of cryptocurrency and how it can be beneficial.

**Keywords:** Blockchain, Cryptocurrency, Regulations, Legislations, Reserve Bank of India, Financial Institutions

## Introduction

Blockchain technology has become a revolutionary force in the era of digital transformation, providing efficiency, security, and transparency across a broad spectrum of different sectors. From finance and supply chains to healthcare and governance, blockchain technology is the cornerstone of the digital revolution and has continuously reshaped numerous spheres. Fundamentally, blockchain is a decentralized ledger system that keeps track of transactions across multiple devices in a way that prevents data from being changed after it has been recorded. Blockchain's unchangeable structure fosters confidence among users<sup>1</sup>.

India's crypto narrative began modestly, mirroring global trends. The early 2010s saw the advent of Bitcoin and a nascent interest in digital assets. However, without clear regulatory guidelines, the Indian crypto ecosystem operated in a nebulous space, characterized by enthusiasm but tempered by uncertainty<sup>2</sup>.

The Indian government is still in the process of drafting rules specifically pertaining to virtual currencies. However, it has updated existing laws, such as the Prevention of Money Laundering Act, to apply to digital assets. But this emerging technology is evolving faster than the current legal frameworks, especially in India. This is where blockchain legislation becomes crucial. Government regulations and the stances made by the Reserve Bank have a significant influence on the development of cryptocurrencies in India<sup>3</sup>. The country's adoption and use of cryptocurrencies in the future will depend on how these regulatory components progress.

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<sup>1</sup> Ganesh, V. (2023) Exploring the legal challenges of regulating virtual currencies - legal Vidhiya, Legal Vidhiya -. Available at: <https://legalvidhiya.com/exploring-the-legal-challenges-of-regulating-virtual-currencies/> (Accessed: 10 December 2023).

<sup>2</sup> Contributor, G. (2023) Financialexpress, Regulating the unregulated: India's crypto journey amid global developments - Blockchain News | The Financial Express. Available at: <https://www.financialexpress.com/business/blockchain-regulating-the-unregulatedindias-crypto-journey-amid-global-developments-3172634/> (Accessed: 06 December 2023).

<sup>3</sup> Briefing, I. (2023) India announces amended rules for prevention of money laundering, India Briefing News. Available at: <https://www.india-briefing.com/news/india-prevention-of-money-laundering-rules-2023-key-provisions-new-reporting-obligations-27347.html/> (Accessed: 25 December 2023).

As the world struggles with all aspects of blockchain technology, India, with its vast technological potential and growing digital economy, Acknowledges the revolutionary possibilities of blockchain technology, the country has set out to create legislation that combines protecting consumers' interests with promoting innovation. As technology advances across sectors, the absence of clear regulatory guidelines can lead to ambiguities, potential misuse, and missed growth opportunities. Furthermore, typical legislative frameworks frequently fall short due to the decentralized nature of blockchain, requiring creative solutions served specifically to India's distinct socioeconomic structure<sup>4</sup>.

## Methodology

The research adopts a historical, descriptive, and analytical approach. Historically, it traces the evolution of blockchain legislation in India, emphasizing pivotal moments like the 2021 BILL. Descriptively, it outlines cryptocurrency's legal status, India's stance in the global crypto market, and facets of Digital India and UPI transactions. Analytically, the study evaluates the pros and cons of cryptocurrency, existing regulations, and taxation implications, and underscores the imperative for a comprehensive legal framework.

### I. What are Blockchain and Cryptocurrency?

Blockchain is a unique kind of decentralized ledger system that operates without a central authority and guarantees safe and open digital transactions. For industries like banking and finance, its decentralized nature offers heightened security, scalability, and reduced costs, making it invaluable. Blockchain is a transparent ledger that facilitates safe transactions and provides a platform for trading digital coins in the world of cryptocurrencies. In India, cryptocurrencies are treated as capital assets and are thus liable to capital gains tax even though cryptocurrency is not recognized as legal tender in India, it is viewed as a capital asset, making it subject to capital gains tax. Specifically, India's Income Tax Department deems crypto income as capital gains, and the tax rate is determined by how long the asset is held<sup>5</sup>.

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<sup>4</sup> Into the unknown: Why the future of India's crypto ecosystem looks blurred (no date) Forbes India. Available at: <https://www.forbesindia.com/article/take-one-big-story-of-the-day/into-the-unknown-why-the-future-of-indias-crypto-ecosystem-looks-blurred/79161/1> (Accessed: 06 December 2023).

<sup>5</sup> Desk, S. (2023) Blockchain and cryptocurrency laws in India, Vakilsearch. Available at: <https://vakilsearch.com/blog/blockchain-cryptocurrency-laws-regulations-2023-india/> (Accessed: 07 December 2023).

Regulation-wise, India remains cautious. Cryptocurrency is not considered legal tender, and the Reserve Bank of India (RBI) has cautioned against its risks. The RBI previously prohibited banks from crypto dealings, but this was reversed by the Supreme Court in 2020, signaling potential legalization prospects. While owning and trading digital currencies is not outlawed, The RBI's order prohibiting the provision of services connected to cryptocurrencies places limitations on cryptocurrency mining. All things considered, India's stance towards cryptocurrencies exhibits a combination of caution and expectation, with regulatory clarification still pending<sup>6</sup>.

## II. Current State of Blockchain Legislation in India

India's blockchain legislative landscape is currently in a state of changing and evolving. No separate law solely governs blockchain yet, but the government is actively exploring frameworks to regulate the technology and its applications, particularly around cryptocurrency<sup>7</sup>. India does not have a specific law governing cryptocurrencies or blockchain technology. Instead, the regulatory landscape is shaped and created by various advisories, circulars, and guidelines issued by different regulatory institutions, primarily the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI). The absence of specific legislation has led to uncertainties, with stakeholders eagerly awaiting clear directives<sup>8</sup>.

### Status of Cryptocurrency in India: legal or illegal

The legality of the cryptocurrency in India has been a hot topic in the recent times. However, the approach towards this has been dynamic considering all the decisions taken by the Government of India. The Inter-Ministerial Committee established in November 2017 gave a report suggesting a complete ban on private cryptocurrencies. Later Reserve Bank of India (RBI) in April 2018 released a circular about cautioning users of virtual currencies (VCs)<sup>9</sup>. It cautioned the holders, users, and traders of VCs which also includes bitcoins. Through that RBI advised that “The

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<sup>6</sup> Cryptocurrency in India: What is the Govt's stand, legal status, its future (2021) Business Today. Available at: <https://www.businesstoday.in/latest/corporate/story/cryptocurrency-in-india-what-the-govt-stand-legal-status-its-future-296570-2021-05-20> (Accessed: 08 December 2023).

<sup>7</sup> Azadi Ka Digital Mahotsav (no date) Press Information Bureau. Available at: <https://www.pib.gov.in/PressReleaseDetailm.aspx?PRID=1777711> (Accessed: 09 December 2023).

<sup>8</sup> Anand, N., Agrawala, P. and Das, D. (2023) Blockchain & Cryptocurrency laws and regulations: India: GLI, GLI - Global Legal Insights - International legal business solutions. Available at: <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/india> (Accessed: 06 December 2023).

<sup>9</sup> Desire, L. (2023) Cryptocurrency in India: A legal perspective and current status, Legal Desire Media and Insights. Available at: <https://legaldesire.com/cryptocurrency-in-india-a-legal-perspective-and-current-status/> (Accessed: 09 December 2023).

Reserve Bank of India advises that it has not given any license/authorization to any entity/company to operate such schemes or deal with Bitcoin or any virtual currency. As such, any user, holder, investor, trader, etc. dealing with Virtual Currencies will be doing so at their own risk”<sup>10</sup>. Consequently, the expansion of the cryptocurrency industry in India was impeded since exchanges need banking institutions to send and receive funds<sup>11</sup>.

The committee along with the report submitted a draft bill on ‘Banning of Cryptocurrency & Regulation of Official Digital Currency Bill, 2019’ which highlighted positive aspects of distributed-ledger technology (DLT) and risks associated with them like volatility in prices and recommended banning of cryptocurrencies, imposing fines and penalties for carrying any activity connected with crypto in India<sup>12</sup>.

Trading platforms for cryptocurrencies responded by submitting a writ petition to the Supreme Court. In the matter of ‘*Internet and Mobile Association of India v. Reserve Bank of India*<sup>13</sup>’, the apex court in its judgment was of the view that complete prohibition of cryptocurrency trade and indirect elimination of VC exchanges from the country’s industrial setup was not an appropriate measure and exceeded the bound of reasonableness. This struck down particular RBI circulars but did not comment on the legality or illegality of VCs.

The Finance Ministry in Lok Sabha introduced ‘Cryptocurrency and Regulation of Digital Currency Bill, 2021’ (the “New Bill”) aiming to ban all private cryptocurrencies and introduce a Central Bank Digital Currency (CBDC)<sup>14</sup>. Later considering the increase in transactions in virtual digital assets along with the magnitude and frequency of the transactions, the finance minister Nirmala Sitharaman, in the Union Budget 2022 introduced taxation on Virtual Digital Assets

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<sup>10</sup> (2017) Reserve Bank of India. Available at: <https://www.rbi.org.in/commonman/English/Scripts/PressReleases.aspx?Id=2152#:~:text=The%20Reserve%20Bank%20of%20India%20advises%20that%20it%20has%20not,so%20at%20their%20own%20risk> (Accessed: 10 December 2023).

<sup>11</sup> Qureshi, M. (2022) A look at Cryptocurrency’s journey so far in India, The Indian Express. Available at: <https://indianexpress.com/article/technology/crypto/cryptocurrency-in-india-a-look-at-the-regulatory-journey-of-cryptocurrencies-7648767/> (Accessed: 10 December 2023).

<sup>12</sup> Inter-ministerial Committee on Virtual Currencies submits its report along with draft Bill ‘banning of cryptocurrency & regulation of official digital currency bill, 2019’ (2019) Press Information Bureau. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1579759> (Accessed: 26 December 2023).

<sup>13</sup> *Internet And Mobile Association V/S Reserve Bank of India* (2020 SCC Online SC 275)

<sup>14</sup> Bill on cryptocurrency, regulation of official digital currency under Finalisation: Finmin (2021) The Hindu BusinessLine. Available at: <https://www.thehindubusinessline.com/money-and-banking/cryptocurrency/bill-on-cryptocurrency-regulation-of-official-digital-currency-under-finalisation-finmin/article37946900.ece> (Accessed: 26 December 2023).

(VDAs). The income from the transfer of VDAs will be taxed by 30% and no deduction concerning expenditure or allowance while computing such income, except the cost of acquisition<sup>15</sup>.

However, the fact that cryptocurrencies are taxed does not mean that they are fully legal, and there are currently no operating regulations for them. Cryptocurrency traders are still waiting for the government to investigate this issue and publish a bill containing all the regulations governing cryptocurrency transactions and mining in India<sup>16</sup>.

### Existing Regulations

There are periodic discussions regarding the introduction of a "Crypto Regulation Bill" by the government. Presently, blockchain activities fall under the purview of existing regulations: the Companies Act of 2013 mandates companies involved in blockchain to disclose virtual digital assets (VDAs) in their financial reports. Meanwhile, under the Income Tax Act of 1961, earnings from VDAs face a 30% tax rate, accompanied by a 1% TDS for transactions above 50,000 INR. Moreover, the Prevention of Money Laundering Act (PMLA) and the Foreign Exchange Management Act (FEMA) are potential instruments against crypto-related financial offenses. On the regulatory front, the Reserve Bank of India (RBI) has adopted a guarded approach, barring banks from direct crypto dealings while concurrently exploring the development of a Central Bank Digital Currency (CBDC) initiative.<sup>17</sup>

Even in the absence of a dedicated law. Notably, the Inter-Ministerial Committee (IMC) Report on Virtual Digital Assets (VDAs) in 2021, spearheaded by the Finance Ministry, suggested a regulatory framework for VDAs rather than outright prohibition. The report advocated for the formation of a Digital Currency Regulatory Authority (DCRA) and the potential introduction of a Central Bank Digital Currency (CBDC). Furthermore, during its G20 presidency in 2023, India emerged as a frontrunner in advocating for international collaboration on cryptocurrency regulation, underscoring the importance of a measured and harmonized global approach.

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<sup>15</sup> Cryptocurrency tax introduced in budget 2022. details here (2022) mint. Available at: <https://www.livemint.com/budget/transfer-of-virtual-digital-asset-to-be-taxed-at-30-fm-sitharaman-in-budget-2022-11643697549830.html> (Accessed: 26 December 2023).

<sup>16</sup> Yadav, A.K. (2021) Cryptocurrency in India: To ban or not to ban, SSRN. Available at: <http://dx.doi.org/10.2139/ssrn.3803471> (Accessed: 26 December 2023).

<sup>17</sup> Singh, A. (2023) Making sense of India's new crypto rules, CoinDesk Latest Headlines RSS. Available at: <https://www.coindesk.com/policy/2022/02/21/making-sense-of-indias-new-crypto-rules/> (Accessed: 11 December 2023).

### III. Cryptocurrency and Regulation of Digital Currency Bill, 2021

The 'Cryptocurrency and Regulation of Digital Currency Bill, 2021' bill was introduced during Parliament's winter session in Lok Sabha, under this bill the issues associated with banning decentralized cryptocurrencies are mentioned. It prohibits all private cryptocurrencies in India. The Ministry of Finance said that any regulations or prohibitions imposed by law will only take effect following extensive international cooperation in assessing the advantages and disadvantages and developing a uniform taxonomy and set of criteria.

Under this bill the crypto-assets are recognized under a regulatory framework, aiming to reduce unauthorized trading of private crypto-assets. It also applies legislation like the Prevention of Money Laundering Act, 2022 to deter terror financing activities. This will aid the implementation of RBI's imposed CBDC as legal tender in India. However, there are drawbacks like cryptocurrency trading and the application of blockchain technology will be deprived of their important feature which is decentralized Finance (DeFI). These crypto-assets and trading of cryptocurrencies will be limited to Indian exchanges, unable to maintain private crypto wallets. There are no regulatory frameworks for crypto and digital assets<sup>18</sup>.

### IV. Analysis of the Impact of Existing Legislation on Blockchain Technology in India

India has approached blockchain technology with an umbrella of evolving laws, policies, strategies, and regulations. With the 2021 release of the National Strategy on Blockchain, India envisioned a geographically distributed blockchain infrastructure, aiming to offer "blockchain as a service". Yet, this enthusiasm is balanced by the Reserve Bank of India's (RBI) concerns about macro-financial risks associated with Virtual Digital Assets (VDAs). In its 2023 report, the RBI underscored challenges like consumer protection, financial stability, and the unique risks posed to emerging economies. The regulatory landscape has also expanded to address cybersecurity.

#### CERT 2022 directions

CERT-In's 2022 (Computer Emergency Response Team) directions mandated rapid reporting of

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<sup>18</sup> Tambe, N. (2023) All you need to know about India's crypto bill, Forbes. Available at: <https://www.forbes.com/advisor/in/investing/cryptocurrency/crypto-bill/#:~:text=The%20Cryptocurrency%20Bill%202021%2C%20is,market%20of%20cryptocurrency%20in%20India>. (Accessed: 26 December 2023).

cyber incidents related to blockchain and VDAs, emphasizing the criticality of information security. Concurrently, the RBI's introduction of the e-rupee, India's Central Bank Digital Currency (CBDC), marked a significant stride. With successful pilot tests involving numerous banks and millions of users by mid-2023, the e-rupee exemplifies India's intent to harness digital currencies for efficiency and innovation<sup>19</sup>.

### **Money Laundering, Taxation, and Digital Lending in the VDA Space**

Concerns around money laundering prompted the Ministry of Finance to extend the Prevention of Money Laundering Act (PMLA) to entities dealing with VDAs. The move empowers authorities to scrutinize encrypted transactions, underscoring the government's intent to ensure transparency and accountability. Taxation, too, has been a focal point. The 2021 amendments to the Income Tax Act introduced a nuanced taxation regime for VDAs. While non-fungible tokens found inclusion, certain closed-system instruments were excluded. The implications, including a 30% tax on VDA transfers and guidelines for peer-to-peer transactions, reflect the government's attempt to balance innovation with revenue considerations.

Digital lending, an ancillary but significant domain, saw the RBI voicing concerns over unregulated digital lending platforms. The central bank's recommendations highlight the government's broader concerns about financial stability and consumer protection in the digital realm<sup>20</sup>.

### **Parliamentary Dialogue and debates**

Parliamentary inquiries have further illuminated the government's stance. While acknowledging the potential of blockchain and Web3 technologies, the government has stressed the need for international collaboration in regulating borderless cryptoassets. Notably, investigations into evasion cases and illicit activities involving cryptocurrencies emphasize the government's vigilance against malpractices. In essence, India's legislative landscape for blockchain technology

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<sup>19</sup> Indian Computer Emergency Response Team (CERT-IN) releases faqs to address queries on cyber security directions of 28.04.2022 (no date) Press Information Bureau. Available at: <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1826388> (Accessed: 12 December 2023).

<sup>20</sup> Joseph, S. and Desai, Y.K. (2022) India's new regime for Taxing Virtual Digital assets, Bloomberg Tax. Available at: <https://news.bloombergtax.com/daily-tax-report-international/indias-new-regime-for-taxing-virtual-digital-assets> (Accessed: 13 December 2023).

reflects a delicate balancing act<sup>21</sup>. While the nation recognizes the transformative potential of blockchain and digital assets, regulatory measures aim to mitigate associated risks, ensure financial integrity, and safeguard consumer interests. As India navigates this intricate regulatory maze, the implications for blockchain technology are multifaceted, shaping its adoption, innovation, and integration into the broader digital economy<sup>22</sup>.

## V. India's Position in the Crypto Global Market

India's relationship with cryptocurrency is a fascinating dichotomy. On the one hand, it boasts the world's second-largest crypto market by transaction volume, a testament to its tech-savvy citizens' passionate adoption of digital assets. On the other hand, the regulatory environment is still unclear, with an inconsistent framework of current standards and a lack of specific legislation creating a cloud of doubt for the sector.

There is still uncertainty about the legality of cryptocurrency mining in many places due to the fragmented global legislative environment around cryptocurrencies. While nations like Israel subject mining to business taxation, organizations like the U.S.'s FinCEN categorize cryptocurrency miners under money transmitter restrictions. While the United States and Canada have a favorable stance on cryptocurrency mining, only a small number of countries have explicitly banned it<sup>23</sup>.

### Legal Status of Cryptocurrency in Other Countries

As the cryptocurrency trade has a global reach its legal status is different around the world. Countries like the United States, Singapore, Australia, Japan, and others have spoken about its legality<sup>24</sup>.

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<sup>21</sup> Ribes, P. (2023) Transforming governance for the digital era: Exploring government approaches to blockchain and Web3, Lucidity Insights. Available at: <https://lucidityinsights.com/articles/government-adoption-of-blockchain-and-web3> (Accessed: 22 December 2023).

<sup>22</sup> Blockchain technology has the potential to transform government, but first, we need to build trust (no date) World Bank Blogs. Available at: <https://blogs.worldbank.org/governance/blockchain-technology-has-potential-transform-government-first-we-need-build-trust> (Accessed: 16 December 2023).

<sup>23</sup> Editor\_4 et al. (2021) Cryptocurrency in India: An unregulated haven for money laundering? SCC Blog. Available at: <https://www.sconline.com/blog/post/2021/09/28/cryptocurrency-in-india/> (Accessed: 26 December 2023).

<sup>24</sup> Bajpai, P. (no date) Countries where bitcoin is legal and illegal, Investopedia. Available at: <https://www.investopedia.com/articles/forex/041515/countries-where-bitcoin-legal-illegal.asp#:~:text=Despite%20its%20use%20for%20buying,it%20illegal%20to%20use%20Bitcoin.> (Accessed: 23 December 2023).

When it comes to ‘The **United States**’ cryptocurrencies are not considered legal tender but cryptocurrency exchanges are legal and the regulation varies by state. Similarly in **Singapore** Cryptocurrencies are not legal but tender but their exchange is legal and requires registration with the Monetary Authority of Singapore.

In ‘**Australia**’ the status of cryptocurrency and its exchange is legal and it is treated as property, it must be registered with AUSTRAC (Australian Transaction Reports and Analysis Centre). They have also announced plans to introduce a new licensing framework that would enable consumers to safely purchase and sell crypto assets in a regulated environment.

In **Japan**, the cryptocurrencies and their exchange status are similar to that of Australia but it requires registration with the Financial Services Agency. It is considered as world’s most progressive regulatory climate for crypto and recognizes Bitcoin and other digital currencies as under the Payment Services Act (PSA). Its future regulations aim to include new security protocols and new obligations for crypto service providers to inform or report suspicious activities.

In **China** cryptocurrency exchanges are illegal and cryptocurrencies are not a legal tender. China banned all domestic crypto mining and outlawed cryptocurrencies in September 2021. China’s central bank is working to introduce official cryptocurrency and completed pilot tests for e-CNY digital currency<sup>25</sup>. This implies that it is important to emphasize the regulations and some countries may not have specific laws addressing their status.

## VI. Positive and Negative Aspects of Blockchain & Cryptocurrency

Blockchain technology plays an essential role in the cryptocurrency system, it is decentralized and secures the record of cryptocurrency. As a coin has two sides in the same way blockchain and cryptocurrency which are interrelated with each other have both advantages and disadvantages<sup>26</sup>.

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<sup>25</sup> Cryptocurrency regulations around the world (2023) ComplyAdvantage. Available at: <https://complyadvantage.com/insights/cryptocurrency-regulations-around-world/> (Accessed: 26 December 2023).

<sup>26</sup> Budhi, V. (2023) Council post: Advantages and disadvantages of Blockchain technology, Forbes. Available at: <https://www.forbes.com/sites/forbestechcouncil/2022/10/20/advantages-and-disadvantages-of-blockchain-technology/> (Accessed: 24 December 2023).

**Advantages:**

- It supports immutability unlike traditional data by following the CRUD (create, read, update, and delete) model. It makes it impossible to replace or remove the recorded data and prevents tampering within the network. Since it creates an irreversible audit trail, it is simple to track the network changes.
- Transparency of the blockchain makes the public trust the network as it is decentralized and individuals cannot verify the data.
- Because blockchain technology is not centralized, it is unaffected by censorship. Thus, the network cannot be stopped by any one authority, not even governments<sup>27</sup>.
- These make cryptocurrencies easier to transfer funds directly between two parties without the involvement of any third party. It can also be used to generate returns.
- Streamlining remittances is another benefit as it makes cross-border transactions faster and accessible.

**Disadvantages:**

- Its speed and performance are one of the negative aspects since blockchain technology carries many operations related to cryptography.
- This is costlier compared to the traditional database which requires proper planning and execution from the businesses.
- Data that has been recorded using blockchain technology cannot be easily modified; instead, it is necessary to rewrite the codes in each block, which is costly and time-consuming.
- Cryptocurrencies suffer from price volatility so investments require accurate price monitoring.
- The pseudonymous nature can be problematic in some cases as it keeps track of financial transactions.
- Popularly used for illegal and nefarious activities like money laundering, illicit purchases, and purchase of drugs on the dark web, used by hackers and criminals.

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<sup>27</sup> Budhi, V. (2023) Council post: Advantages and disadvantages of Blockchain technology, Forbes. Available at: <https://www.forbes.com/sites/forbestechcouncil/2022/10/20/advantages-and-disadvantages-of-blockchain-technology/> (Accessed: 26 December 2023).

- Crypto mining requires considerable energy sometimes it can be as much as a whole country requires<sup>28</sup>.

## **VII. Need for the legal framework for the regulation of Blockchain and cryptocurrency in India**

Considering all the above aspects and the rise in investments in unregulated digital assets, upward trend since 2020. Over 1.5-2 crore Indians have reportedly invested in cryptocurrencies, with the asset class surpassing \$10 billion in November of this year, according to data from multiple local cryptocurrency exchanges. The nation is known to invest more frequently in gold and other safer assets, but the increasing number of people adopting cryptocurrencies points to a change in the country's investment paradigm<sup>29</sup>.

The revenue in the cryptocurrency market is projected to reach US \$277.7m in the year 2023 and the number of users is expected to amount to 328.80m users by 2028<sup>30</sup>. Acknowledging the rise in future and current market size, users there is a need for a legal framework to secure consumer protection. It can enhance investor confidence in the crypto market and curb usage for illegal activities making. The regulations can establish rules or guidelines for the taxation of crypto transactions and contribute to revenue generation.

The legal framework can encourage innovation and technology development, it can make India more competitive in the global market. The regulations can include risk mitigation measures considering the cryptocurrency market's volatility. They can impact a country's monetary policy and financial stability. It can also align India with International standards facilitating cooperation with other countries. All these things show the need for the regulation of Blockchain and cryptocurrency in India for a balance between innovation and the protection of users.

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<sup>28</sup> Frankenfield, J. Cryptocurrency explained with pros and cons for investment, Investopedia. Available at: <https://www.investopedia.com/terms/c/cryptocurrency.asp> (Accessed: 26 December 2023).

<sup>29</sup> Moneycontrol.com The journey of Cryptocurrencies in India, Business News Today: Stock and Share Market News, Economy and Finance News, Sensex, Nifty, Global Market, NSE, BSE Live IPO News. Available at: <https://www.moneycontrol.com/msite/wazirx-cryptocontrol-articles/the-journey-of-cryptocurrencies-in-india/> (Accessed: 26 December 2023).

<sup>30</sup> Cryptocurrencies - India: Statista market forecast (no date) Statista. Available at: <https://www.statista.com/outlook/fmo/digital-assets/cryptocurrencies/india> (Accessed: 26 December 2023).

## VIII. RBI's Stance on Cryptocurrencies and Blockchain

Initially, in 2018 a circular restricted banks from dealing with crypto-related entities, citing concerns about market integrity and money laundering. However, the Supreme Court's 2020 intervention deemed this directive arbitrary, revitalizing India's crypto landscape. In response, the RBI clarified banks could serve crypto businesses, yet consistently issued warnings about crypto risks, from volatility to cybersecurity threats. Concurrently, the RBI has embarked on Central Bank Digital Currency (CBDC) explorations, envisioning a digital rupee. While cautious about private cryptos, the RBI views blockchain optimistically, acknowledging its transformative potential in sectors like trade finance and identity verification.

## IX. Prospective Legislation and Its Implications for Blockchain in India

India is on the cusp of a significant legislative overhaul targeting the digital realm. With a focus on internet governance, data protection, and cybersecurity, the government aims to create a conducive environment for digital businesses<sup>31</sup>. Key legislations on the horizon include:

1. **National Data Governance Framework Policy (2022)**: Introduced by MeitY, this draft aims to modernize data management, paving the way for repositories of non-private data crucial for AI and blockchain sectors<sup>32</sup>.
2. **National Cyber Security Strategy**: Drafted by the National Security Council Secretariat, this strategy seeks to address India's evolving cybersecurity challenges comprehensively<sup>33</sup>.
3. **Digital Personal Data Protection Act (2023)**: Replacing the previously withdrawn Data Protection Bill of 2019, this Act emphasizes safeguarding personal digital data, ensuring a secure digital ecosystem<sup>34</sup>.

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<sup>31</sup> Hitachi, Ltd. (2023) Blockchain technology: Empowering India's growth in unprecedented ways, Social Innovation. Available at: <https://social-innovation.hitachi/en-in/knowledge-hub/leadership/blockchain-technology/> (Accessed: 24 December 2023).

<sup>32</sup> Draft for discussion - Ministry of Electronics and Information ... Available at: [https://www.meity.gov.in/writereaddata/files/Draft%20Data%20Centre%20Policy%20-%2003112020\\_v5.5.pdf](https://www.meity.gov.in/writereaddata/files/Draft%20Data%20Centre%20Policy%20-%2003112020_v5.5.pdf) (Accessed: 24 December 2023).

<sup>33</sup> National Security Council secretariat organizes the 2nd edition of the National Cyber Security Exercise 'Bharat NCX 2023' for government organizations, public and private sector to strengthen India's cyber posture of India's critical sector (no date) Press Information Bureau. Available at: <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1966198> (Accessed: 24 December 2023).

<sup>34</sup> Cyril Shroff, A.G. (2023) The DPDP bill overview: A new dawn for data protection in India, India Corporate Law. Available at: <https://corporate.cyrilamarchandblogs.com/2023/08/the-dpdp-bill-overview-a-new-dawn-for-data-protection-in-india/> (Accessed: 25 December 2023).

4. **Digital India Act:** This proposed legislation intends to unify existing IT laws, regulate emerging technologies like AI, and incorporate feedback on blockchain and Web 3.0. It underscores the government's commitment to creating a robust regulatory framework for the digital domain.

These upcoming legislations highlight how crucial it is for blockchain companies operating in India to conform to changing regulatory environments. As India positions itself for digital transformation, the blockchain industry must remain vigilant and adaptable to navigate the changing legislative terrain<sup>35</sup>.

## X. Recommendations for Legislation in India's Blockchain

### Landscape

- India should consider a holistic regulatory blueprint, including a structured approval process for Initial Coin Offerings (ICOs) and mandatory licensing systems for trading platforms. This will ensure transparency and protect investors from fraudulent activities.
- Fostering collaboration and stakeholder engagement is crucial, with inclusive dialogues with industry experts and stakeholders.
- Clarity on cryptocurrency taxation is essential, as it should be treated as capital assets.
- Regulatory sandboxes can help innovators and startups pilot blockchain solutions, meeting regulatory standards while fostering technological advancement.
- Embracing global collaborative frameworks, such as Singapore or Switzerland, can provide valuable insights into global best practices and technological innovations.
- Public awareness and empowerment can be achieved through education initiatives and public awareness campaigns.
- Comparative insights from countries like Japan and Malta, as well as China, can provide a richer perspective on the regulatory landscape in India.
- India's unique socio-cultural and economic fabric offers a fertile ground for blockchain's transformative potential.

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<sup>35</sup> Bureau, B.N.D. (2023) Draft Digital India Act will regulate emerging technologies to protect citizens: Rajeev Chandrasekhar, BusinessLine. Available at: <https://www.thehindubusinessline.com/info-tech/draft-digital-india-act-will-regulate-emerging-technologies-to-protect-citizens-rajeev-chandrasekhar/article66960829.ece> (Accessed: 25 December 2023).

## Conclusion

India is at a pivotal point in its journey with blockchain and cryptocurrency, as it is one of the world's fastest-growing digital economies. The country recognizes the potential of these technologies but faces challenges due to their association with volatile digital assets like cryptocurrencies. The evolving nature of India's stance, from initial caution to recent legislative initiatives, demonstrates its commitment to fostering a secure and innovative digital ecosystem. The upcoming legislative initiatives, such as the National Data Governance Framework and the Digital Personal Data Protection Act, signal India's proactive steps towards harmonizing its digital laws. These efforts, combined with ongoing parliamentary dialogues and international collaborations, suggest a maturing regulatory environment. Understanding India's dynamic regulatory landscape is crucial for stakeholders, innovators, and investors in the blockchain space. A clear, balanced, and forward-looking regulatory framework will ensure consumer protection, financial stability, and innovation, fostering a vibrant digital economy for all. India can foster a vibrant blockchain startup ecosystem by prioritizing inclusion, ensuring security through a robust cybersecurity framework, and incentivizing innovation through fiscal incentives and research grants, driving both technological and economic growth.

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