



Questioning the legality of bitcoins in India

Noah D'Mello, August 22, 2016



It has been eight years since the implementation of bitcoins, but the issues of its legality have not yet been resolved.

With the advent of bitcoin, digital cryptocurrency has ushered in a whole new wave of payments. But whenever something new comes in the scene, there are more sceptics than believers. Eight years on and bitcoin sceptics are still plentiful, the biggest being the Reserve Bank of India. Let us examine why the legality of this form of digital cryptocurrency has more nays than ayes.

In the current scenario, the RBI does not regulate the usage of bitcoins in India, but it is keeping a keen eye on this currency.

On December 2013, the RBI issued a [statement](#) cautioning “the users, holders and traders of Virtual currencies (VCs), including Bitcoins, about the potential financial, operational, legal, customer protection and security related risks that they are exposing themselves to.”

Among the central bank’s various concerns, the RBI said that since bitcoins are stored in an e-wallet, which is not created by or traded through any authorised central body, it is prone to

“losses arising out of hacking, loss of password, compromise of access credentials, and malware attack.”

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Echoing this sentiment, Arvind Sahay, Professor of Marketing and International Business at IIM-Ahmedabad, said that the recent bitcoin hack worth \$65 million at Binfinex is making people think. “Suddenly, people are not so sure if bitcoins are that secure as it claims to be,” he said.

But keeping the security issues aside, various research and legal organizations say that just because there are no laws governing bitcoin distribution in the country, it doesn't mean that it is illegal.

According to a [research paper](#) by PSA Legal Counsellors, a Delhi-based law firm, even though bitcoins are not authorized, there is enough scope for them to be legalized under different legislations.

For example, the research paper says the following: “As per the Foreign Exchange Management Act, 1999, currency is defined as ‘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’.

According to the definition, RBI has the power to include bitcoins within the definition of currency. Currency other than ‘Indian currency’ is termed as ‘foreign currency’, and regulated by foreign exchange laws. Most likely bitcoins can be governed by foreign exchange laws.”

Related: [WaterAid raises funds worth 1,000 Swedish crowns via Bitcoins](#)

Nishith Desai Associates, which have advised startups, entrepreneurs, and investors on bitcoin practices, in a 2013 [whitepaper](#) said that in the current framework, bitcoins are legal in the country.

“The Government of India ought to recognize bitcoin as an opportunity and harness this opportunity for the social and economic betterment of the nation. As the Internet represented an opportunity, bitcoin too represents an opportunity which, as highlighted by various eminent commentators, can help in decentralization of economic power, greater financial access and ultimately, break down socio-economic barriers,” the research said.

Bitcoin exchange platforms in India also agree that its illegality is a perception, which needs to be changed.

Sandeep Goenka, co-founder of Zebpay, a Singapore-based bitcoin exchange platform, said, "There is a perception that bitcoin is illegal. This is a myth which needs to be broken. Bitcoin is legal in most developed countries in the world like USA, EU, and Japan. Even in India, bitcoin is legal as per all existing Indian laws. This perception has been a challenge but is changing fast as awareness is spreading."

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