

BITCOINS: THE UNEXPLORED LEGAL AND ECONOMIC DIMENSION OF VIRTUAL CURRENCY

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ABSTRACT

Bitcoin is a digital currency that enables instant payments to anyone, anywhere in the world. Bitcoin uses peer-to-peer technology to operate with no central authority: managing transactions and issuing money are carried out collectively by the Network. Bitcoin is also the name of the open source software which enables the use of this currency. It has been continued to be used to be purchased for the illegal substances and furtherance of crimes throughout the world. Bitcoins are not issued by a Central Bank or authorized by a government unlike traditional currencies are the main risk factor. It certainly possesses an upside over traditional currencies for online transactions and turns out to be a lucrative choice. As a result, government must derive new methods to regulate such currencies without attacking law abiding citizen of the country. The author primarily ventures into a quest to understand the limitation barred by law both at a national and international platform for using such currencies. Also considers a very enlightening its ultimate evaluation even its drastic effects on the world economy.

INTRODUCTION: VIRTUAL CURRENCY IN THE ELECTRONIC AGE

Since the inception of the digital age, pundits have hailed for virtual currencies as the future of our civilization's money. While it may be difficult to imagine a cash-less society, it's important to understand that money is merely an agreement to use something as a medium of exchange. The function and purpose of cash is therefore assigned by our cultural and social systems, not any intrinsic value. So as our society evolves, and our physical and digital economies converge,

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how does our monetary system evolve along with us? Whether exchanged via virtual worlds, social games, or mobile apps, virtual currencies hold real implications for our global economy, fundamentally altering how we conduct transactions with one another.

Technological advancement has coincided with currency reform throughout human history. The advent of writing in early Mesopotamia provided new ways to number commodities, forming the basis of accounting. Machine-minted coin production in the industrial age brought England out of a reliance on precious bimetal and towards a sustainable monetary system. And the personal computer of the information age enabled more convenient transactions through e-commerce and credit card processing. We now find ourselves in a hyper-connected digital world, with start-up entrepreneurs and corporate giants all competing to shape the manner in which we exchange 21st century goods and services.

To better understand the virtual currency landscape, we might observe four broad trends emerging: mobile fiat currency, corporate value currency, virtual world currency, and peer to peer currency. Although the nuances of these categories may blend together, I draw distinctions at their core function -- why and how the currency is created, circulated, and adopted.

VIRTUAL WORLD CURRENCY

Virtual world currencies circulate within internal virtual world communities. Accumulating fictional money helps improve one's experience of the game, whether that be by acquiring accessories, weapons, land, or \$330,000 space stations. In 2009, Americans spent \$620 Million dollars in the virtual world industry. Second Life, one of the largest virtual world platforms, collected \$144 million in Q2 of 2009, a higher GDP than 19 countries. These massively-multiplayer-online games (MMOPGs) are usually based off subscription fees or virtual goods sales and are designed primarily for leisure, play, and entertainment.

Buying virtual goods signal players' social standing, showcase their virtual identity, and open more doors for experience. Yet in-game currency takes time to earn. In World of Warcraft, "virtual workers" spend long hours performing monotonous tasks in order to accumulate gold, level up their characters, and sell the avatars for real money. Such "gold farming" raked in an estimated \$3.0 billion dollars in 2009, indicating how virtual world currencies can turn into real money profits.

PEER TO PEER CURRENCY

Peer to peer currency is driven by networked communities and serve as an alternatives to centralized bank currency. It has gained momentum alongside Local Exchange Trading Systems (LETS) and time banks, which have provided complimentary currencies for the past 30 years. The most notable digital form of currency is Bitcoin, a system operated by computing networks that collectively encrypt, verify, and process transactions, almost like a Bittorrent for cash. Bitcoin has distinct advantages over banks - it's open source, non-national, always available, stable in supply, and policed by its users rather than an organization. At the same time, a security breach in summer 2011 compromised hundreds of accounts and led to the theft of approximately \$500,000 dollars' worth of virtual money. Since then, Bitcoin's biggest challenge has been to regain public confidence in its security and sustainability.

Peer to Peer currencies approach how they store value in different ways. The pricing rises and falls based on a basket of currencies, commodities, and carbon components rather than being tied to a single currency like the dollar. Ripple, a decentralized open source payment method, positions everyone as a banker; people issue credit to each other based on real-life relationships. Once again, the goal is to shift ownership of money away from centralized banks and towards everyday citizens.

Other peer to peer communities trade, swap, and barter goods and services without a medium of exchange. These "collaborative consumption" platforms range from housing, to skills, to free time, to recyclables. Swap.com is the largest of these communities, facilitating trade of over 1.5 million personal items. While there are advantages to standardized currency, collaborative consumption holds tremendous environmental promise, helping people save money, save resources, and strengthen a community through sharing.¹

Bitcoin² is the world's first digital like-cash currency. Bitcoin – A decentralized, peer-to-peer(P2P) network-based virtual currency– provides a venue for individuals to generate, transfer,

¹ Aaron Smith, *Future of Money: Classifying Virtual Currency Systems*, available at <http://bigthink.com/hybrid-reality/future-of-money-classifying-virtual-currency-systems>, as viewed on May 10, 2015

² How Bitcoins work ?, available at www.bitcoin.org as viewed on May 1, 2015

launder, and steal illicit funds with some anonymity. Bitcoin offers many of the same challenges associated with other virtual currencies, such as WebMoney, and adds unique complexities for investigators because of its decentralized nature. Bitcoins are exchanged peer-to-peer just like cash, making it the Internet's trusted currency.

HOW BITCOINS ARE USED ?

Anyone can use Bitcoin just like any other currency and as an investment for the future. Bitcoin is an excellent investment as it is inflation proof but it is vulnerable to illogical buying causing non-sustainable price hikes but if you can buy at a low you certainly can make serious money in the future. Like any other investment more so in this than in any other risk that it suddenly becomes worthless. You can also use Bitcoin to buy stuff over the internet just like any other type of currency. This page will show you which all websites accept payment in Bitcoin. Anyone can use Bitcoin to support your favorite cause like Wiki leaks or the occupy protest where PayPal refuses transfer donations.³

Bitcoin is a digital currency that enables instant payments to anyone, anywhere in the world. Bitcoins are issued by Bitcoin miners. These miners are people who use processing of their computers to issue new Bitcoins. Anyone can become a miner you have to Bitcoin mining client. The Bitcoins issued by you can be transferred to your Bitcoin Wallet i.e. Bitcoin Client. Rate of production of Bitcoins is governed by initial design by Satoshi Nakamoto such that rate of overall production decreases as more Bitcoins are mined. Mining can be done by users who have some unused processing power or by dedicated Miners who have computers with serious processing power as a means of making money.

There are generally two types of currency from a legal perspective, there is legal tender and legal currency. Legal tender is simply currency that cannot be refused in the fulfilment of a debt. Legal currency is currency that is recognised by the government as a legitimate manner to pay for goods and services. In most countries legal currency and legal tender are one and the same, but there are some exceptions. For example, in most of the UK the Bank of England notes are legal tender, but in Scotland only coins are legal tender, there are notes issued by several banks,

³Referred from <https://en.bitcoin.it/wik> as viewed on May 1, 2015

which act as legal currency. The same applies for Northern Ireland. It is also common to see economies with a weak local currency to accept international money as legal currency.

The picture is clearer in the European Union⁴. The EU has implemented a legal framework for the regulation of electronic money. The Electronic Money Institutions Directive 2009/110/EC defines electronic money thus (paraphrased for clarity):

1. electronically, including magnetically, stored monetary value;
2. as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions;
3. the transaction is an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;
4. which is accepted by a natural or legal person other than the electronic money issuer.

If a payment system fulfils these requirements, then it is considered electronic money, and only electronic money institutions can issue electronic value. There is a high threshold for an electronic money institution, as the EMI would have to fulfil quite a lot of requirements. The idea behind this stringent regulation is evident, as what is taking place is the issuing of value into the economy. In my opinion, Bitcoin would definitely meet the legal definition, which would mean that in order to work in Europe it would need to be declared an electronic money institution, otherwise it is operating outside of the regulatory framework.

STATUS OF BITCOINS IN FOREIGN COUNTRIES AND IN INDIA

A currency exchange that specializes in virtual cash has won the right to operate as a bank. Bitcoin-Central got the go-ahead thanks to a deal with French financial firms Aqoba and Credit Mutuel. The exchange is one of many that swaps bitcoins, computer generated cash, for

⁴Whether Bitcoins are Legally recognized?, <http://www.technollama.co.uk/is-bitcoin-legal/> as viewed on May 1, 2015

real world currencies. The change in status makes it easier to use bitcoins and bestows national protections on balances held at the exchange.⁵

Bitcoins, and the global network of computers that supports them, first appeared in 2009 and since then it has become a very widely used alternative payments system. Many people "mine" the coins by participating in that network and a growing number of web stores and online firms accept bitcoins as payment. One bitcoin is currently worth about £8 (\$13).

Under European laws, the deal means Bitcoin-Central becomes a Payment Services Provider (PSP) that has an International Bank ID number. This puts it on an equal footing with other payment networks such as PayPal and WorldPay. As a PSP it will be able to issue debit cards, carry out real-time transfers to other banks and accept transfers into its own coffers.

The deal was a "significant" step towards legitimacy for Bitcoin, said Vitalik Buterin, technical editor of Bitcoin magazine. Before now, he told , it had been hard for novices to get started with bitcoins. The links that Bitcoin-Central, and other exchanges who have also applied to be PSPs, will have to the global banking system will make that much easier as it will become possible to transact with a bitcoin account just like any other bank account.⁶

It also means, he said, that deposits held at Bitcoin-Central would be backed by the same compensation laws and schemes that apply to cash held in other bank accounts. However, he said, this protection only applied to balances held in euros rather than bitcoins.

The move could convince many organizations and businesses to start accepting bitcoins as payment. The more we see governments and banks being willing to deal with Bitcoin, the more comfortable a lot of organizations are going to be making the step forward themselves.

With respect to the subject we do not consider Bitcoin as currency as per **the Indian Paper Currency Act 1910**, Sec. 2(a)⁷ and (b)⁸ Clearly explains the Bitcoins does not accrue to be a currency so under this purview, the petitioner has not violated any kind of foreign trade and

⁵Discussion on the exchange of BITCOIN, <https://en.bitcoin.it/wik> as viewed on May 10, 2015

⁶ Virtual cash exchange becomes bank, <http://www.bbc.co.uk/news/technology-20641465> as viewed on May 1, 2015

⁷In this Indian Paper Currency Act, "universal currency- note" means-(a) a note of the denominational value of five rupees, ten rupees or fifty rupees.

⁸ (b) a note of any other denominational value which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

exchange laws and various RBI regulations and it is also not amounting to offence under the Prevention of Money Laundering Act.

As per the recent **Coinage Act 2011**, its Sec.2 (a)⁹ Also clearly states in its explanation regarding exemption from of E-money whose decentralized form is Bitcoins. It does not possess any characteristics of a valid currency. Bitcoin is not a currency, it is a private scrip. It is not legal tender in any jurisdiction and is not issued by a monetary authority for the purposes of establishing the money supply of an economy.

Similarly, we also refer to Legal Maxim “Nulla poena sine lege” which means no penalty without prior legal authority. This maxim applies clearly to this issue which is circumstantial. Nulla poena sine lege is a legal principle, requiring that one cannot be punished for doing something that is not prohibited by law. This principle is accepted as just and upheld by the penal codes of constitutional states, including virtually all modern democracies. It is related to the principle of "nullum crimen, nulla poena sine praevia lege poenali", which means penal law cannot be enforced retroactively.

In *Vinay Singh V. State of U.P.*¹⁰, It was accepted that the legal principle is very just and also similarly in *Abu Salem Abdul Qayoom Ansari Vs. State of Maharashtra and Anr.*¹¹

RISKS FOR BITCOIN¹²

Even though there are great advantages, there are risks as it is for any investment or currency more so in this than in any other. The main risks are:

1. It can suddenly become worthless if users go away from Bitcoin to a new kind of digital currency.

2. Even though only 21 million Bitcoins are to be issued, large scale hoarding can cause inflation. In this situation a holder buys most of the Bitcoins in the market thus creating a

⁹ “Coin” means any coin which is made of metal or any other material stamped by the Government or any other authority empowered by the Government in this behalf and which is a legal tender including commemorative coin and the Government of India one rupee note.

Explanation- For the removal of doubts, it hereby clarified does not include the credit card, debit card, postal order and e-money issued by the bank, post office or financial institution.

¹⁰ AIR 2012 SC 2840, 2010 (58) BLJR 1353, 2010 (4) Cri 54(SC), JT 2010(10) SC202,

¹¹ (2011) 11 SCC 214, (2011) 3 SCC (Cri) 125, 2010(58)BLJR1353, 2010(4)Crimes54(SC), JT2010(10)SC202.

¹² Referred from <http://bitcoinme.com/> as viewed on May 10, 2015

artificial shortage. A shortage of Bitcoins means that the price of a Bitcoins increase .This in turn means anybody buying new Bitcoins will have to pay a premium. Now if the hoarder releases the Bitcoins it simulates the release on new Bitcoins into the market causing inflation. Those who bought into the Bitcoin during the high can stand to loose a lot of money.

3.Even though there is immense anonymity assisted with Bitcoin there have been reports that it is not quite so and identities of people who donated to WikiLeaks through Bitcoin have been Identified.

4.Another problem is the security of place where you keep store Bitcoin Wallet. It has been reported that malware have designed to steal Bitcoins from wallets and were successful in doing so,some were designed high jack your processor and use it for mining.If you have money in an online wallet there is a risk that is scam and stand to lose a lot money.In the past BitcoinMean online wallet survive it was even endorsed by the developers of Bitcoin but the Bitcoins stored on the service disappeared and the website stopped replying to emails.But later the owner said that it was due to a hacking attack on the website.This risk obviously includes places where you Bitcoins as is also for example Mining pools or Currency Exchanges.

5.Another grave risk for Bitcoin understood when a hacker hacked into Mt.Gox the largest Currency Exchange with 90% market share during the time and simulated a massive sell off and driving the exchange rate to 0 took thousands of Bitcoins. Here the Price of the Bitcoin fell from 30\$ to 0\$ in single day which then stabilized to few dollar.For those owned Bitcoins at the time,they were faced with huge massive losses.

Laws about Bitcoin are in a gray area today across the world. The studied documents from the Reserve Bank of India's public repository surrounding virtual currencies and prepaid solutions.¹³

A person may come across the need to purchase them through Fiat Currencies (INR, USD, GBP, etc). Purchasing any e-currency and loading to an e-wallet is regulated by the RBI. Although Bitcoin is in no way related to this, I wanted to see how close I could get to any laws that could present a roadblock.

¹³Master Circular on Combating of Financing of Terrorism and Obligation under PMLA, 2002, RBI Notification No.RBI/2013-14/94, available on https://rbi.org.in/scripts/BS_ViewMasCirculardetails.aspx?id=8179 as viewed on May 10, 2015.

The RBI regulation on Prepaid Payment Instruments¹⁴ in India defines a lot of areas. After understanding the documents of RBI's guidelines and Rules, could find the only roadblock based on regulation.

In order to enter into the market; fiat is needed to purchase Bitcoin. Fiat will fade away as more people adopt Bitcoin. Until that frictionless free flow between consumers and merchants is made possible, this is a problem area for Bitcoins entry into India. It can be overcome through:

- Donations and sponsorships. There are enough Smartphones to cause this market to explode in any sponsor's favor.
- Sell Services and goods for Bitcoin. Programming Skills, etc.
- Mining is too expensive at this stage, unless you have the latest and best equipment. Electricity is not expensive in India.

Even if, IP's can be tracked when Bitcoin is used for Foreign Exchange, they can be easily anonymized through the Tor Wallet. Since it is a true P2P (Peer to Peer/ Person to Person) currency, it is impossible to regulate in a population using Bitcoin as a token of value to trade. The logistics to monitor a mass population is not feasible.

They will help to understand more about the Banking Regulations in India and help solve some problems. India's closed currency banking system is rival to none. The banks have maintained a lot of public faith in urban areas and have reached a lot of people in this 1.5B population landscape. India has an unbanked population of 41% according to RBI statistics.

COMPARISON OF STATUTORY VIOLATIONS IN INDIA WITH EU AND UNITED STATES

Whether It Violates Foreign Exchange Management Act 1999?

As in India, regarding the issue of Foreign Exchange Management Act 1999¹⁵ getting violated there has been clear breach of money laundering has taken place not expressly but implied under

¹⁴ Eligibility -Only banks which have been permitted to provide Mobile Banking Transactions by the Reserve Bank of India shall be permitted to launch mobile based prepaid payment instruments (mobile wallets & mobile accounts).

the S. 3, 4, 7 & 13. Now for the applicability of all these sections it is very essential to prove that Bitcoins is a “Foreign Currency” .In Sec. 2(m) of FEMA which clearly states “Foreign Currency” means any currency other than Indian currency irrespective of having or not having any kind of political dominion authorizing it.

The Characteristics of Bitcoins are almost similar to any other Liquid domestic currency except that it is untraceable and is not governed by any central authority. These key differences between a domestic and digital currency makes way for unaccounted money that gushes into the the Economy through such transactions. Even though the legislation may not have passed any specific law regarding these decentralized non-fiat currency such as Bitcoins, it is implied by interpreting the statutes.

Bitcoins is famously used for drug smuggling, purchasing weapons and terrorism due to its main feature of no record of transactions and lack of traceability by anyone. The restriction so laid in the Ss. 3¹⁶ and 4¹⁷ of FEMA are in clear contravention while regarding Bitcoins coming under the purview of “foreign exchange” and holding “foreign currency”. The anonymity of bitcoins is

¹⁵Herein after referred as FEMA.

¹⁶ 3. Dealing in foreign exchange, etc.- Save as otherwise provided in this Act, rules or regulations made there under, or with the general or special permission of the Reserve Bank, no person shall-

(a) deal in or transfer any foreign exchange or foreign security to any person not being an authorized person;

(b) make any payment to or for the credit of any person resident outside India in any manner;

(c) receive otherwise through an authorized person, any payment by order or on behalf of any person resident outside India in any manner.

Explanation.- For the purpose of this clause, where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorized person) without a corresponding inward remittance from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorized person;

(d) enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person.

Explanation.-For the purpose of this clause, "financial transaction" means making any payment to, or for the credit of any person, or receiving any payment for, by order or on behalf of any person, or drawing, issuing or negotiating any bill of exchange or promissory note, or transferring any security or acknowledging any debt.

¹⁷ 4. Holding of foreign exchange, etc.- Save as otherwise provided in this Act, no person resident in India shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India.

sign for threat as there is no one's control on the flow of bitcoins as there will be extreme imbalances of accounts.

The Foreign Exchanges so stated are at Mt. Gox are very much at hike position today but the accounts handling can deal upon millions stored in the e- wallet. The very aspect to carry about the foreign exchange has limits to the current aspect in India is a clear violation of the provisions of law.

In the United States, where most of the Bitcoin action seems to be taking place at the moment, only the US Dollar is legal tender (31 U.S.C. § 5103). Similarly, only the Mint and the Federal Reserve can produce coins and currency, which are the only means of legal tender. Title 31 of the US Code does not seem to make the distinction between legal currency and legal tender, so to me both are one and the same (please comment if this is not the case). This is corroborated by several official documents that indicate clearly that only the USD is allowed as the official currency of the United States. According to the FBI "it is a violation of federal law for individuals, or organizations to create private coin or currency systems to compete with the official coinage and currency of the United States. It would seem that Bitcoin would not fall under definitions of securities and commodities either (see here for a discussion on these). So Bitcoin is not legal currency in the United States."¹⁸

Similarly with European Central Bank¹⁹ which is apparently worried that the digital currency bitcoins could ruin the reputation of central banks. According to Bloomberg²⁰:

"An increase in the value of bitcoin, the world's largest online currency, may fuel concerns that virtual money could undermine the role of central banks."

The chart of the day shows that bitcoin has more than doubled in the past 12 months, strengthening to \$16.37 from \$5.88, according to data from Mt. Gox, the world's largest bitcoin exchange. The money, issued by a decentralized network of computers, has recovered after falling to \$2.14 in November 2011 from a high of \$29.58 five months earlier. Greater demand

¹⁸ About Bitcoins, available at <http://www.quora.com/Bitcoin#> , viewed on 3 July 2015.

¹⁹ Hereinafter referred as ECB.

²⁰ Bitcoin's Gains May Fuel Central Bank Concerns: Chart of the Day, available on www.bloomberg.com/news/2013-01-28/bitcoin-s-gains-may-fuel-central-bank-concerns-chart-of-the-day.html, as viewed on 3 July 2015.

for virtual currencies could have a negative impact on the reputation of central banks, according to a report published by the European Central Bank in October last year. Since the report was released, bitcoin has risen more than 55 percent against the dollar and use of the currency has surged.

Bitpay Inc.²¹, a bitcoin payment processing company that recently raised \$510,000 in an investment round, this month announced that the number of companies using its services has increased almost 50 percent to more than 2,000 since November, when blog management firm WordPress.com said it would accept the digital currency.

'I think the ECB obviously is concerned, and it's not reputational,' said Steve Hanke, a professor at Johns Hopkins University in Baltimore who helped to establish new currency regimes in countries such as Argentina and Bulgaria. 'I think it's a competitive threat. Maybe virtual currencies will be so convenient that they will pose a threat because of their ease of use.'

Virtual currencies 'could have a negative impact on the reputation of central banks' if their use grows considerably, the Frankfurt-based ECB said in its research paper. 'This risk should be considered when assessing the overall risk situation of central banks.' (emphasis added)

Professor Hanke is of course 100% correct. It has absolutely nothing to do with the reputation of central banks; it has everything to do with competition. Central banks are monopoly issuers of currency. Bitcoins threaten that monopoly, not least because the currency, although fully digital, is actually sounder than the confetti produced by central banks (and reportedly absolutely safe from counterfeiting as well). You read that right, it is a sounder currency, for the simple reason that the number of bitcoin units that can be created is strictly limited by the algorithm underlying the creation process.

Moreover, governments all over the world just hate bitcoins because their encryption allows for perfectly anonymous payment. They are the digital equivalent of cash in this respect. Nowadays governments are eager to trace every movement of money in the economy and want to put an

²¹Referred from www.bitpay.in

end to all financial privacy (usually under the pretext of the war on terror, in Europe also because they are bankrupt and want to grab every euro in taxes they can find).²²

Cash bans are often discussed, but since government officials themselves need something untraceable that can be used for bribes and various slush funds (of certain alphabet agencies involved in the international drug trade), respectively a conduit that can be used to make tax payer funds magically disappear (see the trillions of dollars that have disappeared without a trace in the Pentagon/war racket), we think that cash is ultimately not in danger -- although its use by "normal" citizens may be restricted by law, as has already happened in several European countries the governments of which are insolvent. That was done in order to put obstacles in the way of the shadow economy. Of course there would be no shadow economy if taxation were not at levels that amount to highway robbery. Moreover, it will be impossible to eradicate it anyway.²³

Bitcoins are probably less useful for the particular applications mentioned above (bribes, slush funds, etc.), but they do represent competition for central bank issued money and they definitely are a thorn in the establishment's side. Expect more attacks on the currency to emerge.

Whether it violates Prevention of Money Laundering Act 2002?

The Prevention of Money Laundering Act main aim is to prevent money laundering and to provide confiscation of property derived from or involved in, money laundering and for matters connected therewith or incidental thereto. Since there has been no trace of the source of currency while liquidating these Bitcoins into Indian rupees. Black money that is circulating in the economy gained through illegitimate means being converted to white money making them to happen gained through legitimate means is Money Laundering. As per the statute, exempting the excuse of having no expressed provisions of law in such cases but it is quite inferable.

The Sec. 3²⁴ of this act clearly states whoever directly or indirectly attempts to indulge or knowingly assist or knowingly is a party or is actually involved in any process or activity

²²Andres, *Is Bitcoin Legal ?*, available at <http://www.technollama.co.uk/is-bitcoin-legal/>, last seen on 5th July 2015.

²³Supra 7.

²⁴ 3. Offence of money-laundering.—Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected [proceeds of crime including its

connected with the proceeds of crime and projecting it as untainted property shall be guilty of money laundering.

Bitcoin until and unless has specific guidelines in a backdrop of which RBI regulates the currency will remain to be illegal as per the current aspects of laws prevalent in India.

As per the reports so recorded from FBI's first Criminal and Cyber intelligence assessment related to Bitcoin. In January 2012 the Counterterrorism Division disseminated an intelligence bulletin that explored the potential to conduct illicit financial transactions using Bitcoin. Disseminated FBI intelligence products on other virtual currencies include: (U) Cyber Criminal Exploitation of Electronic Payment Systems and Virtual Currencies, dated 23 February 2011 and (U) Cyber Criminal Exploitation of Real-Money Trading, dated 8 June 2011, both of which discuss cybercriminal misuse of virtual currencies for money laundering.²⁵

CONCLUSION

While Bitcoin is a distinct virtual currency, the overarching analytic judgments in this intelligence assessment about the use of virtual currencies by criminal entities are consistent with these previous intelligence products. Throughout the paper, the term "Bitcoin," when capitalized, refers to both the open source software used to create the virtual currency and the P2P network formed as a result; "bitcoin" using lower case refers to the virtual currency that is digitally traded between users.

Bitcoin is able to skirt much of the Indian law concerning currencies because of its digital nature. Although, case law on securities may be able to define a bitcoin as a "security", subjecting bitcoins to sweeping regulation and other anti-fraud provisions, there are other legal issues which may arise over time, including tax evasion, and money laundering.

Especially considering it as security the regulation is not even pointed out by regulating authorities like SEBI. Such virtual currencies can run a parallel economy which can certainly hamper the growth of the economy at a large scale than imagined. These practices can be

concealment, possession, acquisition or use and projecting or claiming] it as untainted property shall be guilty of offence of money-laundering

²⁵Bitcoin Virtual Currency: Intelligence Unique Features Present Distinct Challenges for Deterring Illicit Activity, available at http://www.wired.com/images_blogs/threatlevel/2012/05/Bitcoin-FBI.pdf, last seen on 5th July, 2015.

enormously be used for antinational purpose like terrorism too. Thus, new laws and instrument must be formulating to tackle such virtual currencies.

