



Cryptocurrency Regulation and Financial Sovereignty: A Comparative Legal Analysis of India and United States

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ABSTRACT

Cryptocurrency has emerged as a disruptive financial innovation that challenges traditional regulatory systems across the world. Built on decentralised blockchain technology, it enables peer-to-peer transactions without reliance on centralised authorities, thereby raising fundamental legal questions relating to control, accountability, and enforcement. Governments have responded in different ways, reflecting their economic priorities and institutional capacities. India represents a jurisdiction marked by regulatory caution, where policy decisions have evolved through administrative action and judicial intervention. In contrast, the United States has adopted a more active approach, regulating cryptocurrency through multiple agencies and judicial interpretation, although without a unified legislative framework. This paper undertakes a comparative analysis of cryptocurrency regulation in India and the United States. It examines key issues such as legal classification, taxation, anti-money laundering obligations, and investor protection. The study highlights the challenges faced by both jurisdictions in balancing innovation with regulatory control. While India's approach suffers from uncertainty due to the absence of comprehensive legislation, the U.S. system faces difficulties arising from overlapping jurisdiction and fragmented governance.

The paper argues that an effective regulatory framework must combine clarity, flexibility, and institutional coordination. It concludes that India should adopt a structured legislative approach informed by global best practices, while ensuring adaptability to technological developments. Such a framework would promote innovation, enhance investor confidence, and maintain financial stability in the evolving digital economy.

Keywords: Cryptocurrency, Blockchain Regulation, India, United States, Digital Asset

1. Introduction

The expansion of cryptocurrency has introduced a fundamental shift in the operation of financial systems by enabling decentralised transactions that function independently of traditional banking institutions. Unlike conventional currencies issued and controlled by sovereign authorities, cryptocurrencies rely on distributed ledger technology that records transactions across a network



of computers without centralised verification.¹ This structural difference reduces reliance on intermediaries and allows individuals to transfer value directly, thereby challenging the established regulatory assumptions that underpin modern financial governance. The absence of a central authority complicates the application of existing legal frameworks, which are typically designed to regulate identifiable institutions operating within defined jurisdictions. As cryptocurrency transactions often occur across borders and involve pseudonymous participants, regulators face difficulties in ensuring compliance, enforcing legal obligations, and addressing risks such as fraud, market manipulation, and illicit financial flows.² These challenges are further intensified by the rapid pace of technological development, which continuously introduces new forms of digital assets and financial instruments that do not fit neatly into traditional legal categories. Consequently, governments are required to reconsider their regulatory strategies in order to accommodate innovation while safeguarding economic stability and public interest.

India and the United States illustrate two distinct approaches to addressing these regulatory challenges, reflecting differences in policy priorities and institutional frameworks. In India, the regulatory response has been characterised by caution, with authorities initially issuing warnings regarding the risks associated with virtual currencies before implementing restrictive measures aimed at limiting their integration into the formal financial system.³ This cautious approach was subjected to judicial scrutiny in *Internet and Mobile Association of India v. Reserve Bank of India*, where the Supreme Court emphasised the need for proportional regulation and the protection of constitutional rights.⁴ In contrast, the United States has adopted a more active regulatory strategy, relying on multiple agencies to apply existing legal principles to cryptocurrency and related technologies⁵. This approach allows for flexibility and adaptation but also results in a fragmented system characterised by overlapping jurisdiction and regulatory complexity. A comparative examination of these jurisdictions provides valuable insights into the strengths and limitations of different regulatory models, highlighting the importance of achieving a balance between innovation and control. By analysing the legal frameworks, enforcement mechanisms, and policy developments in both countries, this paper seeks to identify key challenges and propose a coherent regulatory approach that promotes technological advancement while ensuring accountability and financial stability.

¹ Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System* (2008).

² Financial Action Task Force, *Guidance for a Risk-Based Approach to Virtual Assets* (2019).

³ Reserve Bank of India, *Press Release on Virtual Currencies* (2013).

⁴ *Internet and Mobile Association of India v. Reserve Bank of India*.

⁵ U.S. Securities & Exchange Commission, *Framework for “Investment Contract” Analysis of Digital Assets* (2019).



2. Conceptual and Legal Nature of Cryptocurrency

Cryptocurrency represents a form of digital value that operates through cryptographic systems and decentralised networks, fundamentally differing from traditional monetary instruments issued by sovereign authorities. These digital assets rely on blockchain technology, which functions as a distributed ledger recording transactions across multiple nodes, thereby ensuring transparency and security without centralised control.⁶ This decentralised architecture eliminates the need for intermediaries such as banks, allowing users to engage in peer-to-peer transactions with reduced costs and increased efficiency. However, this very feature introduces legal complexity, as conventional regulatory frameworks are structured around identifiable entities and centralised oversight. The absence of a governing authority complicates issues of accountability, particularly in cases involving fraud, system failure, or unauthorised transactions. Moreover, the pseudonymous nature of cryptocurrency transactions limits traceability, making it difficult for regulators to enforce compliance with financial laws and prevent illicit activities such as money laundering and terrorist financing.⁷ As a result, the legal characterisation of cryptocurrency becomes a critical issue, influencing how regulatory authorities design and implement governance mechanisms.

From a legal perspective, cryptocurrency does not conform to a single established category, leading to varied interpretations across jurisdictions. In some contexts, it is treated as a form of property due to its investment characteristics and capacity to generate economic value, while in others it is considered a commodity or even a security depending on its functional attributes⁸. This lack of uniform classification creates regulatory uncertainty, as different legal regimes impose distinct obligations regarding taxation, disclosure, and compliance. The challenge is further intensified by the evolving nature of digital assets, which now include tokens designed for specific utilities, governance participation, or financial derivatives within decentralised ecosystems. Regulators must therefore adopt flexible approaches that can accommodate these variations without compromising legal clarity. Additionally, the borderless nature of cryptocurrency transactions raises questions of jurisdiction, as multiple legal systems may claim authority over a single transaction.⁹ This necessitates international cooperation and the development of harmonised standards to address cross-border enforcement issues. A coherent legal framework must therefore balance the need for innovation with the imperative of regulatory control, ensuring

⁶ Satoshi Nakamoto, Bitcoin: A Peer-to-Peer Electronic Cash System (2008).

⁷ Financial Action Task Force, Virtual Assets and Virtual Asset Service Providers Guidance (2019).

⁸ Internal Revenue Service, Notice 2014-21 (U.S. Tax Treatment of Virtual Currency).

⁹ International Monetary Fund, Global Financial Stability Report on Digital Assets (2021).



that cryptocurrency can function as a legitimate component of the financial system while minimising associated risks.

3. India's Regulatory Framework

India's regulatory approach toward cryptocurrency has developed gradually, reflecting a combination of caution, institutional hesitation, and evolving policy priorities. In the initial phase, the Reserve Bank of India issued public advisories warning users about the risks associated with virtual currencies, particularly emphasizing concerns relating to volatility, consumer protection, and the absence of legal backing.¹⁰ These advisories, although not legally binding, indicated a clear reluctance to integrate cryptocurrency into the formal financial system. The situation intensified in 2018 when the central bank issued a circular prohibiting regulated entities from providing banking services to cryptocurrency businesses.¹¹ This measure effectively restricted market operations by severing access to essential financial infrastructure, leading to a significant decline in domestic trading activity. The decision was justified on the grounds of protecting financial stability and preventing misuse of digital assets for illicit purposes. However, critics argued that the restriction lacked proportionality and failed to consider the potential benefits of technological innovation. This phase of regulatory action demonstrated the state's preference for risk containment over market development, highlighting the absence of a comprehensive legislative framework to address emerging digital financial technologies.

A turning point in India's cryptocurrency regulation occurred with the Supreme Court's decision in *Internet and Mobile Association of India v. Reserve Bank of India*, where the Court examined the validity of the banking restriction imposed by the Reserve Bank of India.¹² The judgment held that the measure was disproportionate and violated the constitutional right to carry on trade, emphasizing that regulatory action must be supported by empirical evidence demonstrating actual harm. Following this decision, cryptocurrency exchanges regained access to banking services, leading to renewed market activity and increased investor participation. Despite this judicial intervention, India has not enacted a dedicated statute governing cryptocurrency, relying instead on indirect measures such as taxation and anti-money laundering compliance. The introduction of a specific tax regime treating cryptocurrency as a virtual digital asset reflects partial recognition of its economic significance, while simultaneously imposing strict fiscal obligations on transactions.¹³ Additionally, regulatory authorities have extended anti-money laundering requirements to cryptocurrency service providers, mandating compliance with customer

¹⁰ Reserve Bank of India, Press Release on Virtual Currencies (2013).

¹¹ Reserve Bank of India Circular, DBR.No.BP.BC.104/08.13.102/2017-18 (Apr. 6, 2018).

¹² *Internet and Mobile Association of India v. Reserve Bank of India*

¹³ Finance Act, 2022, No. 6, Acts of Parliament, 2022 (India).



verification and reporting standards.¹⁴ Although these measures enhance oversight, they do not resolve the fundamental issue of legal classification, leaving the sector in a state of uncertainty. A coherent legislative framework remains necessary to provide clarity, ensure investor protection, and support innovation within the digital asset ecosystem.

4. Cryptocurrency Regulation in the United States

The United States has developed a distinctive approach to cryptocurrency regulation that relies on the application of existing legal frameworks rather than the enactment of a single comprehensive statute. Regulatory authority is distributed among multiple agencies, each exercising jurisdiction based on the functional characteristics of digital assets. The Securities and Exchange Commission evaluates whether a cryptocurrency qualifies as a security, while the Commodity Futures Trading Commission treats certain digital assets as commodities subject to derivatives regulation.¹⁵ This multi-agency structure allows regulators to address different aspects of cryptocurrency activity, including investment, trading, and market conduct. However, the absence of a unified legislative framework creates complexity, as overlapping jurisdiction often leads to inconsistent regulatory interpretations. Despite these challenges, the United States has demonstrated a willingness to engage actively with cryptocurrency markets, using enforcement actions and administrative guidance to shape regulatory standards. This approach reflects a broader policy objective of integrating digital assets into the financial system while maintaining investor protection and market integrity.

A central component of the American regulatory framework is the application of judicial principles to determine the legal classification of cryptocurrency. The test established in *SEC v. W.J. Howey Co.* plays a crucial role in identifying whether a digital asset constitutes an investment contract and therefore falls within the scope of securities regulation.¹⁶ This principle has been applied in enforcement actions such as *SEC v. Ripple Labs Inc.*, where the classification of digital tokens was contested, highlighting the complexity of applying traditional legal standards to emerging technologies.¹⁷ In addition to securities regulation, the Internal Revenue Service treats cryptocurrency as property for taxation purposes, requiring individuals to report gains and losses in accordance with capital gains tax rules.¹⁸ Anti-money laundering obligations are enforced through the Financial Crimes Enforcement Network, which requires cryptocurrency exchanges to

¹⁴ Prevention of Money Laundering Act, 2002 (India).

¹⁵ Commodity Exchange Act, 7 U.S.C. § 1 (1936); Securities Act of 1933, 15 U.S.C. § 77a.

¹⁶ *SEC v. W.J. Howey Co.*

¹⁷ *SEC v. Ripple Labs Inc.*

¹⁸ Internal Revenue Service, Notice 2014-21 (Virtual Currency Guidance).



comply with reporting and customer identification requirements.¹⁹ While this layered regulatory system provides a degree of clarity through judicial interpretation and administrative action, it also generates uncertainty due to fragmented oversight. A more coordinated approach could enhance consistency and reduce compliance burdens, ensuring that regulatory objectives are achieved without hindering technological innovation.

5. Comparative Legal Analysis

A comparative evaluation of cryptocurrency regulation in India and the United States reveals fundamental differences in regulatory philosophy, institutional structure, and legal certainty. India's approach is characterised by caution and incremental adaptation, with policy decisions often emerging through executive action and judicial intervention rather than comprehensive legislation.²⁰ This has resulted in a framework that permits cryptocurrency activity but lacks clear legal classification, creating uncertainty for investors and businesses. In contrast, the United States has adopted an active regulatory model that integrates cryptocurrency into existing legal systems through enforcement and interpretive guidance.²¹ Although this approach does not rely on a single unified statute, it provides greater clarity by defining the legal status of digital assets within established regulatory categories such as securities and commodities. The difference between these approaches reflects broader policy priorities, with India emphasising risk containment and financial stability, while the United States prioritises market development and innovation alongside regulatory oversight. These contrasting strategies highlight the complexity of designing an effective framework for a technology that transcends traditional legal boundaries.

Another significant distinction lies in institutional coordination and enforcement mechanisms. In India, regulatory authority is primarily concentrated within a limited number of institutions, leading to a more centralised but less dynamic system. The absence of a dedicated regulatory body for cryptocurrency further complicates governance, as responsibilities are distributed across existing agencies without clear delineation.²² In contrast, the United States employs a multi-agency framework in which different regulators oversee specific aspects of cryptocurrency activity, allowing for specialised expertise but also creating challenges related to jurisdictional overlap.²³ This fragmentation can result in inconsistent regulatory interpretations, yet it also enables a more responsive approach to technological developments. Both jurisdictions face difficulties in balancing innovation with regulation, particularly in addressing issues such as

¹⁹ Financial Crimes Enforcement Network, *Guidance on Virtual Currency* (2013).

²⁰ Ministry of Finance, Government of India, *Statements on Virtual Digital Assets* (2022).

²¹ U.S. Securities & Exchange Commission, *Enforcement Actions on Digital Assets* (2020–2023).

²² Reserve Bank of India, *Regulatory Position on Cryptocurrencies* (2021).

²³ Congressional Research Service, *Cryptocurrency Regulation in the United States* (2022).



investor protection, market volatility, and cross-border transactions. However, the comparative analysis suggests that a hybrid model combining the clarity of structured legislation with the flexibility of adaptive enforcement may offer a more effective solution. Such an approach would allow regulators to respond to emerging risks while supporting the growth of digital financial technologies.

6. Legal and Policy Challenges

The regulation of cryptocurrency presents a range of complex legal and policy challenges that affect both India and the United States, particularly due to the decentralised and rapidly evolving nature of digital assets. One of the most significant issues is the absence of a universally accepted legal classification, which complicates the application of existing regulatory frameworks.²⁴ Cryptocurrencies exhibit characteristics of multiple asset classes, functioning as mediums of exchange, investment instruments, and technological utilities within decentralised ecosystems. This hybrid nature creates uncertainty regarding which laws should govern their use, leading to inconsistent regulatory treatment across jurisdictions. In addition, the pseudonymous structure of blockchain transactions poses difficulties for enforcement agencies attempting to monitor financial activity and prevent misuse.²⁵ The lack of transparency in identifying transaction participants increases the risk of illicit activities such as money laundering, terrorist financing, and tax evasion. Regulators must therefore develop mechanisms that enhance oversight without undermining the fundamental features of decentralisation that make cryptocurrency attractive to users. Achieving this balance requires careful policy design that integrates technological understanding with legal principles.

Another critical challenge lies in ensuring investor protection while maintaining an environment conducive to innovation. Cryptocurrency markets are characterised by high volatility, speculative behaviour, and limited disclosure requirements, which expose investors to significant financial risks²⁶. In many cases, individuals lack sufficient knowledge to assess the risks associated with digital assets, making them vulnerable to fraud and market manipulation. Regulatory authorities must address these concerns by implementing safeguards such as disclosure standards, licensing requirements for exchanges, and mechanisms for dispute resolution. At the same time, overly restrictive regulation may drive innovation toward unregulated or offshore markets, reducing the effectiveness of domestic oversight. The cross-border nature of cryptocurrency transactions further complicates enforcement, as different jurisdictions may apply conflicting legal standards to the same activity²⁷. This highlights the need for international cooperation and the development of

²⁴ Financial Stability Board, Regulation, Supervision and Oversight of Crypto-Assets (2022).

²⁵ Financial Action Task Force, Updated Guidance for a Risk-Based Approach to Virtual Assets (2021).

²⁶ World Bank, Global Economic Prospects: Digital Finance and Crypto Markets (2022).

²⁷ International Monetary Fund, The Rise of Digital Money and Cross-Border Regulation (2021).



harmonised regulatory frameworks that can address global challenges. Both India and the United States must therefore navigate these issues by adopting policies that protect investors while supporting technological advancement, ensuring that regulation evolves in response to the dynamic nature of the cryptocurrency ecosystem.

7. Reform Strategies and Future Framework

The development of an effective regulatory framework for cryptocurrency requires a careful balance between innovation, investor protection, and financial stability. In India, the absence of comprehensive legislation has created uncertainty, which can be addressed through the enactment of a dedicated statutory framework that clearly defines the legal status of digital assets.²⁸ Such legislation should establish precise classification criteria, distinguishing between different types of cryptocurrencies based on their functional characteristics, including payment tokens, utility tokens, and security tokens. A well-defined classification system would enable regulators to apply appropriate legal standards while reducing ambiguity for market participants. In addition, the creation of a specialised regulatory authority or a coordinated inter-agency mechanism could improve oversight by ensuring that responsibilities are clearly allocated and enforcement actions are consistent. Regulatory sandboxes may also play an important role by allowing controlled experimentation with blockchain technologies, thereby promoting innovation while maintaining regulatory supervision. By adopting a structured yet flexible approach, India can create a regulatory environment that supports technological advancement while addressing potential risks associated with digital assets.

In the United States, reform efforts should focus on enhancing coordination among regulatory agencies and reducing jurisdictional overlap that often leads to inconsistent interpretations of cryptocurrency laws.²⁹ A unified legislative framework could provide greater clarity by consolidating regulatory authority and establishing consistent standards for classification, taxation, and compliance. This would simplify the regulatory landscape for businesses and investors, reducing compliance costs and encouraging participation in the market. Additionally, both India and the United States should prioritise international cooperation to address the cross-border nature of cryptocurrency transactions.³⁰ Collaborative efforts through global organisations can facilitate the development of harmonised regulatory standards, enabling more effective enforcement and reducing opportunities for regulatory arbitrage. Policymakers must also invest in technological infrastructure and capacity building to enhance their ability to monitor and regulate digital assets effectively. By integrating domestic reforms with international coordination, governments can

²⁸ Ministry of Electronics and Information Technology, Government of India, Blockchain Strategy Report (2021).

²⁹ Congressional Research Service, Cryptocurrency Regulation: Federal Policy Considerations (2023).

³⁰ Financial Stability Board, Global Regulatory Framework for Crypto-Asset Activities (2023).



create a comprehensive regulatory framework that supports innovation while ensuring accountability, thereby positioning themselves to manage the evolving challenges of the global cryptocurrency ecosystem.

8. Conclusion

The regulation of cryptocurrency presents a complex challenge that requires balancing innovation with the need for legal certainty and financial stability. As demonstrated through the comparative analysis of India and the United States, differing regulatory approaches reflect distinct policy priorities and institutional frameworks. India's cautious strategy has prioritised risk mitigation but has resulted in a fragmented and uncertain legal environment that may discourage investment and innovation. In contrast, the United States has adopted an active regulatory model that integrates cryptocurrency into existing legal structures through enforcement and judicial interpretation, providing relatively greater clarity while simultaneously creating complexity due to overlapping jurisdiction. Both systems illustrate the inherent difficulty of regulating a decentralised technology that operates beyond traditional legal boundaries. The absence of a universally accepted classification further complicates the development of consistent regulatory standards, highlighting the need for a more coherent approach. Effective regulation must therefore address issues such as investor protection, market integrity, and compliance without undermining the technological advantages that cryptocurrencies offer.

Looking forward, the future of cryptocurrency regulation will depend on the ability of policymakers to adapt legal frameworks to evolving technological realities while maintaining a balance between control and innovation. India has the opportunity to develop a comprehensive legislative framework that provides clarity and fosters confidence among investors, while the United States can benefit from greater coordination among regulatory agencies to reduce fragmentation. Both jurisdictions must also recognise the importance of international cooperation in addressing cross-border challenges, as cryptocurrency transactions frequently transcend national boundaries. By adopting a harmonised approach that combines clear legal definitions, effective enforcement mechanisms, and support for technological advancement, regulators can create a sustainable environment for the growth of digital assets. Ultimately, the success of cryptocurrency regulation will depend on the ability to integrate innovation within a structured legal framework that ensures accountability, protects investors, and promotes long-term financial stability in the global economy.