



# BITCOIN'S PRICE SURGE AND VOLATILITY: A STRONG CASE FOR LEGAL AND REGULATORY CLARITY



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During the period of last one year, the exchange rate of Bitcoin<sup>1</sup> has shot up at a dizzying pace starting from US \$ 606 on September 27, 2016 to peaking at US \$ 4,912 on September 01, 2017 before slumping to US \$ 3,910 on September 26, 2017.<sup>2</sup> On March 03, this year, the price of Bitcoin touched US \$ 1,293 after rallying to new highs for four consecutive days and it was the first time when the value of one Bitcoin in monetary worth, surpassed the value of one ounce of gold which, at that time, was trading at US \$1,230 an ounce.<sup>3</sup> The remarkable resurgence in the price of Bitcoin is attributable to many factors, including monetary, fiscal and political ones. A strong demand for Bitcoin world over, fluctuations and deepening uncertainties in currency markets worldwide – coupled with a series of major global political events, from the Brexit to election in France and Germany – have all contributed to the surge in Bitcoin price.

The ontology of money – its form and functions – is based on social conventions and arrangements on what constitutes a mutually agreed upon and acceptable arrangement of currency. Today, money has become increasingly abstract to the point where physical currencies constitute only a fraction of the money in existence. The world was introduced to the Bitcoin, when, on October 31, 2008, somebody under the nom de plume 'Satoshi Nakamoto' introduced a new electronic currency system which was fully peer-to-peer with no trusted third party as intermediary. This system was a non sequitur from classical currency system as used and understood by the mainstream society and financial institutions.<sup>4</sup> In a clever way, Nakamoto conceptualised a system of online exchange of monetary equivalence using encryption, allowing two willing parties to exchange 'tokens of value' without sharing any information about themselves or their financial accounts. The transaction of

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'tokens' was intended to take place outside the traditional banking structure, facilitating transfer of digital money directly to each other—peer to peer.

On the issue of legal status of Bitcoin, there is no global consensus on the specific set of laws or regulations that govern Bitcoins' transactions, investment, or remittances. The law on Bitcoin varies from country to country and the regulatory framework on Bitcoin in different countries is either fragmented or non-existent and in most cases still evolving. In some countries, Bitcoin can be used for trading and purchasing while in some the use of Bitcoin is either banned or restricted.

In China, on September 15, 2017, Chinese authorities came cracking down on the cryptocurrency business and ordered Beijing-based cryptocurrency exchanges to cease trading. The whole exercise is being viewed as an attempt by Chinese authorities to limit the risks to consumers into a highly speculative market that has grown rapidly this year.<sup>5</sup>The move saw a dramatic decline of 32 percent in the exchange rate of Bitcoin, from its peak of US \$4,912 earlier this month to US \$ 3,320 on September 15, 2017.<sup>6</sup>

### **Legal and Regulatory Aspects of Bitcoin in India**

In India, the regulatory environment for Bitcoin is still fragmented which is inhibiting the emergence of an explicit legal framework capable of addressing and resolving the full gamut of issues related to Bitcoin. On December 24, 2013, The Reserve Bank of India issued a cautionary circular on the risks of using, holding and trading in virtual currencies (VCs), including Bitcoins regarding the potential "financial, operational, legal, customer protection and security related risks that they are exposing themselves to".<sup>7</sup>

On February 1, 2017 the RBI again reiterated the cautionary message to potential users of bitcoins and other virtual currencies that it (the RBI) does not regulate and has not licensed any virtual currencies in India.<sup>8</sup> On March 1, 2017 RBI Deputy Governor R. Gandhi voiced concerns over financial, legal and security-related risks associated with the use of virtual currencies.<sup>9</sup> It is estimated that as of August 2016 (pre-demonetisation), the number of Bitcoin users in India stood at 50,000 and growing. New Bitcoin exchanges have cropped up in India such as BTCXIndia, Coinsecure, Unocoin and Zebpay and this can be seen as an assertion of growing popularity of Bitcoin in India.<sup>10</sup>

The lack of regulatory structure and oversight is causing uncertainties and perplexities for both: the users and law enforcement agencies. The Income Tax department in India is in the midst of serious contemplation over how to impose tax on Bitcoin miners in India in the long run. However,

until RBI comes out with clear guidelines, Bitcoin regulatory mechanism will not be fully aligned with the overall goal of regulating its exchange, transfer and trading and protection of individual's interests.

The evolution of Bitcoin as a peer-to-peer decentralised virtual currency network caught the imagination of common folks and criminals alike. The three most worrisome features of Bitcoin ecosystem that impinges on national security are: facilitation of anonymous transactions, immunity from seizure and total lack of control by any financial institution or central authority. The significant tactical advantages, which law enforcement agencies might be able to garner in understanding and mapping out acrimed syndicate or terrorist organization by tracing the trail of money, will be lost with the increased use of Bitcoin. Some of the inherent qualities of Bitcoin such as guaranteed anonymity, unbridled cross-border transferability and unconditional acceptability may prove to be conducive for cyber criminals to operate and expand their criminal enterprises, and for terrorists in furtherance of terrorist activities within and beyond national borders. There is a pressing need to enunciate and formulate new strategies for regulation of Bitcoin and other virtual currencies to mitigate the threat to the country's national security and financial interests.

*(Disclaimer: The views and opinions expressed in this article are those of the author and do not necessarily reflect the position of the Centre for Air Power Studies [CAPS])*

**Keywords:** Digital currency, cryptocurrency, Bitcoins, Digital money regulation

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<sup>1</sup> Bitcoin refers to the entire currency system and bitcoins are the basic units of the currency in Bitcoin system.

<sup>2</sup> Blockchain info, "Bitcoin Stats Bitcoin currency statistics", <https://blockchain.info/stats>

<sup>3</sup> Anthony Cuthbertson, "Bitcoin just became more valuable than Gold. Why does the price keep rising?", *Newsweek*, March 03, 2017, <http://europe.newsweek.com/bitcoin-price-explained-gold-china-value-currency-563277?rm=eu>, accessed September 26, 2017.

<sup>4</sup> Paul Vigna and Michael Casey, *The age of cryptocurrency: how bitcoin and digital money are challenging the global economic order*, (St. Martin's Press: New York, 2015), p. 35.

<sup>5</sup> David Fickling, "Bitcoin isn't crazy enough yet", *The Economic Times*, September 21 2017, <http://economictimes.indiatimes.com/markets/stocks/news/bitcoin-isnt-wild-and-wacky-enough-yet-to-make-a-good-hedge/articleshow/60783142.cms>, accessed September 26, 2017.

<sup>6</sup> Ibid.

<sup>7</sup> Reserve Bank of India, RBI cautions users of Virtual Currencies against Risks, [https://rbi.org.in/scripts/BS\\_PressReleaseDisplay.aspx?prid=30247](https://rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=30247)

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<sup>8</sup> Arnav Joshi, "Bitcoin: Can RBI ignore the elephant in the room?", *The Economic Times*, March 03, 2017, <http://economictimes.indiatimes.com/small-biz/money/bitcoin-can-rbi-ignore-the-elephant-in-the-room/articleshow/57446968.cms>, accessed September 26, 2017.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

