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CRYPTOCURRENCY AND CRIMINAL LAW — CAN INDIA'S EXISTING LEGAL FRAMEWORK HANDLE CRYPTO FRAUDS?

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ABSTRACT

Over the last decade, the adoption of cryptocurrency in India has significantly increased, which has resulted in a surge in crypto-related fraud and financial crime. According to the Global Crypto Adoption Index of 2025 conducted by Chainalysis, India now ranks first globally, yet its legal framework, which was enacted before the digital asset era, has struggled to keep up the pace with this rapid increase in cryptocurrency fraud. This article aims to examine whether the existing laws, including the Bharatiya Nyaya Sanhita (BNS), 2023, the Information Technology Act (IT), 2000, and the Prevention of Money Laundering Act (PMLA), 2002, are adequate to address crypto fraud, thereby identifying key gaps and suggesting the need for a regulatory and legislative framework that specifically deals with crypto-related frauds.

Keywords: Cryptocurrency, Crypto Fraud, Financial Crime, BNS, PMLA, IT Act.

INTRODUCTION

The rise in cryptocurrency has been one of the major financial developments of the 21st century. Cryptocurrencies are virtual digital assets which are recorded on a decentralised public ledger known as blockchain. These rely on a peer-to-peer network that operates without any intermediary or third party. It allows two willing parties to transact among themselves directly, without relying on any third party.[1] In India, the Income Tax Act, 1961, under Section 2 (47A),

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[1] Kumar Rishav & Divya Venugopalan, *The Digital Era: Cryptocurrency and Its (In)Efficient Taxation and Regulation Policy*, II HPNLU JTL 92, 93 (2023).

defines a Virtual Digital Asset (VDA) as "any token or code or information or number, that is generated through cryptographic means or any other means, which provides a digital representation of a value exchanged with or without consideration and that can be transferred, stored or traded electronically."[2] The rise in adoption of cryptocurrency has both good and bad sides, with the good side representing the millions of retail investors participating in the digital asset market.[3] At the same time, this rise has increased crypto frauds, which include Ponzi schemes, phishing attacks, fraudulent exchanges, etc., which have caused financial harm to the Indian investors and ultimately to the Indian economy. Several scams have come to light, one of them being the GainBitcoin scam, classified as a Ponzi case, which highlights the losses faced by the investors and the complexities involved in such matters due to their expansive nature, which also raises a critical question as to whether the existing legal framework of India is well-equipped to handle the emerging cryptocurrency frauds.[4] This article mainly aims to highlight that these existing laws, though they offer a partial response, leave gaps that remain, and hence, a legislative framework that is dedicated to dealing with such fraud is urgently needed.

UNDERSTANDING CRYPTO FRAUD: TYPES AND TRENDS

Before analysing the legal framework, it becomes important to understand what a crypto fraud actually looks like in practice as it takes many forms with each form posing different challenges.

i. PONZI AND INVESTMENT SCHEMES:-

In these schemes, the fraudsters promise the customers or investors high returns on their investments, thereby using those funds to pay the earlier investors whom they had promised the same thing, rather than generating actual revenue out of that investment. Examples include BitConnect and PlusToken, where both defrauded their investors out of billions of dollars

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[2] Income Tax Act, 1961, § 2(47A), No. 43, Acts of Parliament, 1961 (India).
[3] Shikha Dhiman & Abheyshek Jamwal, *The Legal Landscape of Cryptocurrency in India: Challenges and Prospects*, 11 INT'L J.L. 100, 100-101 (2025).
[4] Tripurari Renuka, *Cryptocurrency Fraud: Legal Challenges in India*, RECORD OF LAW (May 23, 2026, 9:29 PM) https://recordoflaw.com/cryptocurrency-fraud-legal-challenges-in-india/.

before they were exposed.[5] In India, the GainBitcoin scam is a prime example of these types of schemes.[6]

ii. PHISHING AND IDENTITY THEFT :-

In this, the attackers impersonate the legitimate cryptocurrency exchanges or wallets with an aim to steal the login information and private keys of the investors. This is commonly done through website spoofing, email phishing, etc., where these scammers create fake profiles of well-known cryptocurrency influencers to promote fake giveaways fraudulently.[7]

iii. RUG PULLS:-

It involves two types, hard rug pulls and soft rug pulls and is a form of exit scam, where the developers create a new digital asset or a DeFi project, attract significant investment by promoting it, and after collecting a good number of funds, they deceptively withdraw all liquidity, thereby leaving investors with worthless tokens.[8]

iv. MONEY LAUNDERING:-

Money laundering through cryptocurrency involves three steps. First is converting the illicit cash into crypto, then using mixers, tumblers, cross-chain transfers, etc., to hide the illicit conversion and ultimately converting the crypto into a fiat currency by legitimate channels, which is a clear-cut example of white-collar crime. Such transactions are further facilitated by dark webs, which provide a platform or a marketplace for such illicit transactions, which makes it difficult to trace these criminal activities. [9]

THE EXISTING LEGAL FRAMEWORK GOVERNING CRYPTOCURRENCY FRAUD IN INDIA

[5] Varsha Rameshkumar, *Cryptocurrency Fraud: Legal Challenges in India*, VII IJLLR 1737, 1739 (2025).
[6] Renuka, supra note 4.
[7] Rameshkumar, supra note 5, at 1738-1739.
[8] Id. at 1740.
[9] Id. at 1742.

i. BHARATIYA NYAYA SANHITA (BNS), 2023:-

Earlier, the crypto frauds were governed by the Indian Penal Code (IPC), 1860, which was replaced by BNS in 2023. The provisions of BNS apply to these frauds when it involves deception, cheating, forgery, breach of trust, or impersonation. Section 318 of BNS[10] deals with cheating and dishonest inducement, Section 316[11] deals with criminal breach of trust, Sections 336-340[12] deal with forgery in cases involving falsified transaction records and Section 61[13] deals with criminal conspiracy. The courts have recognised cryptocurrency as property, which is capable of being owned, enjoyed, dishonestly induced, etc.,[14] with a recent example of the Madras HC in 2025, where it recognised cryptocurrencies as property under Indian law.[15] However, formal recognition is still due, which makes it difficult to apply these provisions without proper statutory recognition.

ii. INFORMATION TECHNOLOGY (IT) ACT, 2000:-

The IT Act acts as a primary statute in cases of cybercrimes and crypto fraud cases. Section 66C[16] deals with identity theft, Section 66D[17] involves punishment for cheating caused by personation by using computer resources, which is directly relevant to phishing and fake exchange frauds, and Sections 43[18] and 66 deal with unauthorised access and hacking of digital wallets. However, the IT Act does not directly apply to cryptocurrencies.[19]

iii. PREVENTION OF MONEY LAUNDERING ACT (PMLA), 2002:-

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[10] Bharatiya Nyaya Sanhita, 2023, § 318, No. 45, Acts of Parliament, 2023 (India).
[11] Bharatiya Nyaya Sanhita, 2023, § 316, No. 45, Acts of Parliament, 2023 (India).
[12] Bharatiya Nyaya Sanhita, 2023, § 336-340, No. 45, Acts of Parliament, 2023 (India).
[13] Bharatiya Nyaya Sanhita, 2023, § 61, No. 45, Acts of Parliament, 2023 (India).
[14] Renuka, supra note 4.
[15] Subham Sourav & Sakhi Sharma, *Anchoring the Intangible: Madras High Court's Landmark Ruling on Cryptocurrency as Property and Trust*, LIVE LAW (May 24, 2026, 9:29 PM), https://www.livelaw.in/articles/madras-high-court-cryptocurrency-judgment-rhutikumari-vs-zanmai-labs-analysis-311720.
[16] Information Technology Act, 2000, § 66C, No. 21, Acts of Parliament, 2000 (India).
[17] Information Technology Act, 2000, § 66D, No. 21, Acts of Parliament, 2000 (India).
[18] Information Technology Act, 2000, § 43, No. 21, Acts of Parliament, 2000 (India).
[19] Information Technology Act, 2000, § 66, No. 21, Acts of Parliament, 2000 (India).

The Government in 2023, through a notification, officially extended PMLA to activities involving cryptocurrency, including the exchange between VDAs and fiat currencies, the transfer and safekeeping of VDA and other financial services related to VDA offerings. It also mandates that the Crypto exchange service providers must adhere to KYC norms, which require them to collect proper and valid documents of the customers and ensure enhanced due diligence.[20] There are certain limitations as well, such as Section 3 of the PMLA[21], which deals with money or assets earned through an illegal activity. However, crypto transactions do not include physical money, but rather a digital code, which makes it difficult to identify which crypto asset falls under the aspect of illegal under the act. Moreover, the act only comes into play when a crime has been committed and does not specifically punish crypto fraud by itself.[22]

iv. BANNING OF UNREGULATED DEPOSIT SCHEMES ACT (BUDSA), 2019:-

When the fraudsters collect deposits by guaranteeing higher returns and when such activities meet the requirements of "unregulated deposit schemes" under the BUDSA, then the act comes into play, as it has been critical in dealing with pyramid scams involving cryptocurrencies.[23]

v. REGULATORY MECHANISMS:-

a) RBI-

The RBI banned cryptocurrency transactions in 2018, which was later struck down by the Supreme Court in 2020, in the case of Internet and Mobile Association of India v. Reserve Bank of India[24], on the ground of proportionality, highlighting that imposing ban on cryptocurrencies was a disproportionate measure where the government itself had not banned virtual currencies an also that RBI did not show the actual harm caused by cryptocurrency transactions to its entities.[25]

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[20] Aryan Khandeparkar, Regulation of Cryptocurrency by Indian Law and Agencies, 7 IJFMR 1, 6-8 (2025), https://www.ijfmr.com/papers/2025/3/IJFMR250346742.pdf.
[21] Prevention of Money Laundering Act, 2002, § 3, No. 15, Acts of Parliament, 2003 (India).
[22] Khandeparkar, supra note 20.
[23] Renuka, supra note 4.
[24] Internet & Mobile Association of India v. Reserve Bank of India, (2020) 10 SCC 274.
[25] Rishav & Venugopalan, supra note 1, at 101.

b) THE FINANCE ACT, 2022-

This act introduced a 30% tax on income obtained from transferring the VDAs under Section 115BBH of the Income Tax Act, along with 1% TDS under Section 194S. It also does not permit any set-off losses from these transfers against any other income.[26]

KEY GAPS IN THE EXISTING FRAMEWORK

i. ABSENCE OF A DEDICATED STATUTE:-

The absence of a specific statute dealing only with cryptocurrency matters is the main cause of ambiguity. As no statute specifically and comprehensively defines the term cryptocurrency in the context of criminal law, it becomes difficult to prosecute, which results in authorities stretching the provisions of various other acts which were on the first hand not designed to address issues related to crypto frauds, for instance in the cyber hack of WazirX, one of India's leading cryptocurrency exchanges, the Enforcement Directorate (ED) took actions against WazirX, where the crypto-based layering was framed as money laundering, which shows that the enforcement agencies are applying the provisions of an act to a matter which requires a separate legislation.[27]

ii. DIFFICULTY IN TRACING:-

Since the blockchain transactions are pseudonymous, they involve fraudsters who use mixers and tumblers, privacy coins, foreign exchanges, VPNs, etc., which makes it difficult for the authorities to trace them. Without proper technical expertise, there is a risk of the investigation collapsing, even in genuine cases.[28]

iii. ABSENCE OF REMEDIES TO VICTIMS:-

[26] Id. at 103.
[27] Renuka, supra note 4.
[28] Id.

There is no specific civil or regulatory framework under which the victims who have suffered fraud can seek restitution. While the Consumer Protection Act, 2019, applies to unfair trade practices, it has not been extended to cover digital assets as well.[29]

iv. JURISDICTIONAL ISSUES:-

Since the crypto transactions occur worldwide, it becomes difficult to determine which country has the jurisdiction to try the matter in case of any fraud committed with its citizens or by its citizens.[30]

THE WAY FORWARD

The gaps identified above clearly point towards the enactment of a specific legislation, particularly dealing only with matters relating to cryptocurrency. The "Banning of Cryptocurrency and Regulation of Official Digital Currency Bill", first proposed by the Subhash Chandra Garg Committee in 2019, has been listed in Parliament on multiple occasions, but it remains pending and unenacted.[31] Several other steps, such as the establishment of a specialised Digital Asset Regulatory Authority (DARA), which handles matters relating to policymaking, enforcement, etc., and proper technical expertise to handle blockchain transactions, with training given to officers to handle such matters, making them capable of dealing with transactions involving foreign currencies, are urgently required.[32] Lastly, it is important to test new cryptocurrencies to flag any regulatory changes to make it safe to use and also to conduct large public awareness campaigns to educate investors about all such scams, as prevention is always better than a cure.[33]

CONCLUSION

The new era of the digital world keeps on evolving continuously, with cryptocurrencies playing a pivotal role in it. India, with a top ranking and numerous investors, must also evolve and

[29] Rameshkumar, supra note 5, at 1743.
[30] Id.
[31] Rishav & Venugopalan, supra note 1.
[32] Khandeparkar, supra note 20.
[33] Muffliha Sadaf & T. Vaishali, *Crypto Crimes: Legal Challenges and Regulation of Cryptocurrency in India*, 5 IJRPR 3930, 3933-3934 (2024).

bring new laws which deal with these digital assets. Though the current legal framework, including BNS, IT Act, PMLA, BUDSA, etc., offer temporary recourse, it is important to understand that these laws were not enacted to address matters relating to cryptocurrencies; they were not built for a digital asset era. Though they can be amended to extend their provisions, as crypto adoption deepens and fraud cases related to it are increasing, it has become utmost important to enact a dedicated legal framework that only deals with crypto matters, ranging from particularly defining what a cryptocurrency is, to giving measures to the victims to gain recourse when fraud occurs by using these digital assets. Until then, the answer to whether India's existing framework can handle crypto fraud must remain, only partially and inadequately.