



Adopting Crypto currency in Pakistan; an Analysis of Legal and Regulatory Approaches of Pakistan Comparable to Global Best Practices

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Abstract: This article has examined the legal framework and status concerning crypto currency in Pakistan. It has highlighted the associated issues that Pakistan is facing like other developing countries. It has discussed the examples of other jurisdictions who have best standards and practices that are appreciable in regulating digital currencies and provides a crypto-friendly ecosystem. It highlights the necessity of recognizing and regulating crypto currencies in Pakistan. This study analyzes the situation of legal and regulatory framework of Pakistan and offer recommendations for reforms in the laws governing financial structures and cyber-crimes in Pakistan and suggested ways of promoting best practices by taking guidance and lessons from international standards and approaches.

Keywords: Crypto currency, Pakistan, Innovation, Technology, Legal and Regulatory Framework, International Standards, Best Practices, Legal Issues, Digital Currencies, Virtual Assets.

1. Introduction

Crypto currency nowadays is a well-known transformational and innovatory notion which has been advancing hastily in the contemporary world of automation (Lee and Low, 2018). This term "crypto currency," which is an amalgamation of the words "crypto" which means encryption and "currency" characterizes the unconventional and imaginative type of digital asset or virtual currency that has piqued the curiosity and shifted the attention of individual, institutions, and all the intergovernmental and intra governmental departments around the globe (Kachan de Freitas Soares, 2020). Crypto currency is often addressed and commonly discussed as 'digital currency or virtual currency' These kinds of currencies derive benefit from cryptographic strategies to secure dealings of transactions and directs the origination of fresh units. It primarily relies upon block chain technology, DAOs and incorruptible, and stable digital record to over decentralized systems (Zhang, 2022). This wide array of currencies brings to the fore interests and legal as well as regulatory challenges of all nations across the globe, including Pakistan. Some very common name of such currencies includes the Bitcoin and Ethereum (Bratspies, 2018).

Crypto currency is utterly a novel concept, entirely based on innovational mechanism of exchange of money or security, executing transactions, and investment. In recent times, crypto currency has prompted an effect on value of conventional paper money (Nair, 2018). This form of digital currency or asset is intrinsically different from traditional currencies in the market that are accessible to the customers (Sathya, 2023). This virtual currency has further classification in multiple domains e.g some are centralized and some are decentralized, whereas some are convertible and some are non-convertible (Lewis, 2018). The centralized and convertible includes the example of gold, while the

decentralized and convertible includes examples of Ethereum and Bitcoin. Likewise, the example of centralized non-convertible virtual currency includes game currency (Wilson, 2019).

1.1 Problem Statement

To scrutinize the current legislative and regulatory framework concerning crypto currencies in Pakistan, focusing on its legal status, challenges and opportunities associated with it by comparing it with global standards and best practices for recommending enforcement mechanism, unique strategies and approaches for consumer protection and to gauge and suppress the associated risks and get the maximum benefit out of these currencies by adopting a supporting legal framework.

1.2 Objectives of the Research

- a) To review the adequacy of the Pakistan's legal regime with reference to its nature, scope and significance of crypto currencies.
- b) To debate upon the current challenges faced by competent authorities in controlling illegal activities associated with crypto currencies.
- c) To analyze the impact of lack of regulation on crypto currencies.
- d) To extract the possible solutions by taking guidance from global best practices, to the ambiguously resolve issues by Pakistani relevant authorities.

1.3 Main Legal Questions

- a) What is legal status of 'Crypto currency' in Pakistan's legal regime with reference to its nature, scope and significance?
- b) How effective is the current legal and regulatory framework for 'crypto currencies' in Pakistan?
- c) What efforts have been made by law-enforcement authorities for adequate legal regime for regulating crypto currencies in Pakistan?
- d) What is lacking in existing legal regime that leads to misunderstanding of law?
- e) What is the way forward towards the adequate legal regime of crypto currencies regulation in Pakistan?

1.4 Significance of the Study

The on-going research is substantial for the reason that it has the elements of progression and growth to make an impression upon bureaucratic and legislative decisions and extend recommendations over the approaches to address and manage legal apprehensions attributed to crypto currency in Pakistan (Meraj and Mir, 2021). Currently, the legal status of such digital currencies is not clear in Pakistan. This research intends to clarify this point and also suggests the strategies to channelize dispute resolution related to crypto currencies in Pakistan (Bhardwaj, 2018). This investigation not only identify grey areas in the legislative and regulatory framework of Pakistan which need improvement but also suggests practical steps to enhance and encourage the proper usage of crypto currencies to derive the maximum benefits out of them. This study will highlight the points that are necessary to follow to create a balance between the innovation and regulatory protections pertaining to crypto currencies in Pakistan (Khan and Atiq, 2023). Moreover, it has followed a comparative analysis method to point out crucial aspects regarding recognition of these virtual currencies by taking guidance and lessons from global best practices and Policies to enhance monitory and enforcement mechanisms (Baloch and Ghouri, 2023). As these currencies also poses a threat of illegal activities in the country, this research will explore the necessary measure to control such activities like money laundering and terror financing etc. In a nutshell, this research gives us insight to rethink and reshape crypto currencies laws in Pakistan ensuring clarity, recognition, accountability and confidence of the investors in order to compete and conform to international standards.

2.1 Approaches Followed to Define Crypto currency

In order to define the crypto currencies, generally two different approaches or strategies are followed. These two approaches include, firstly, bracketing it with pre-existent facets of legal and legitimate authority (e.g assets which are non-documented, Forex (foreign currencies exchanges, merchandise, etc.), that betokens the necessity to initiate development of special and fastidious legislation that reflects the unique hallmarks of crypto currencies as a substitute of relevant object. Secondly, crediting and acknowledging the "crypto currencies" as radically distinct, uncommon, extraordinarily innovative object of legal authority (Lansky, 2018),

2.2 Legal-Status of Crypto currency in Pakistan

In the existing scenario, the legal status of crypto currencies does require clarification. There is still a need to be regulated officially by the state government (Partanen,2018). This research paper aspires to study and scrutinize the legal challenges posed by the usage of crypto currencies in Pakistan and analogize it with international benchmarks and customs. General public of Pakistan shown greater interest in crypto currencies especially these two i.e Bitcoin and Ethereum (Small, 2015). In spite of the fact that these virtual currencies attract the populace, at the same time there is unfamiliarity with these and there is inability to a greater degree to easily comprehend what crypto currencies are? How it works? What are the prospective threats and opportunities inextricably linked to their usage (Hassan, 2022). Adopting cashless payments or cyber payments not merely advances financial operations but also configure the track of digital assets forging ahead in the future (Ali,2022). As reported by statistics data inquiry, the summative value of cashless or digital payments foreseen to skyrocket to wondrous and breathtaking \$ 6.752,388 million (US) in 2021, with 12.24% year-on-year increase (i.e growth per annum) (Patel and Shrimali, 2021). Anticipated usage of such virtual assets and currencies is a noteworthy facet or perspective of its societal appositeness. Modern innovations are stimulating paradigm shift in countless industries. Enabling business enterprises to better designed their marketing strategies to bespeak the demands of the stakeholders or industrialists (Sultan and Latif, 2024). Another climacteric attribute of crypto currencies are their representation and usage in aiding illegal operations such as ‘smuggling of drugs’, selling and buying of weapons, and black money (money laundering) (Anika, 2019). The security forces, more specifically law and order-enforcement authorities believe it hard to completely monitor such illegal events and actions as a consequence of the scattered and untraceable character of digital-currencies. The continually developing techniques harnessed by such established mafias or criminal gangs created difficulties for law-enforcing authorities to hamper these illegal courses of actions. Bearing in mind absence of any federal enactment or lawmaking on the subject or virtual currencies or crypto currencies and possibility for unreasonable or unconscious-able regularization descending from apportioning jurisdiction to various institutions, it could be contended that the government of Pakistan is not ready to provide subsistence and contribution towards expansion of this distinct category or afford protection to the stakes of its people/citizens (Gill and Ditta, 2022).

The distinctiveness and individuality of crypto currency as fiscal or commercial document/medium and inadequate attention by federal government of Pakistan has upsurge wide array of frets around the digital currencies. More expressly and categorically, the state government in Pakistan one way around may disregard or otherwise incorrectly make conversation with the two dominant legislatorial and compliance obstructions which the Bitcoin trading business is confronting. Consequently, so as to determine which administrative or controlling authority must be at helm of crypto-based activities, the GoP has not as of yet coined a legal definition for the crypto-currencies.

Over and above that, this area up to the present time is in its nascent, up and coming stage, some groups of people are taking unfair advantage of its non-regulation and non-codification and lack of controlling and monitoring mechanisms by double-dealing, tricking and scamming with the customers. In addition to this, right from the initiation (i.e. *abovo*) of this industry, there had also been myriad of incidents of sham and bogus transfers; digital or e-wallet service frauds, causing sacrifice of billions of dollars to the customers. The uncertainties and dangers cliqued with digital currencies encloses instability in the market (constantly fluctuating and volatile), absence of regulatory framework, and threat of illegal activities, progress and advancement which yield to massive loss for the end users. These dangers and enormous losses are quit alarming for us. Due to the fact that, SBP (State Bank of Pakistan) was apprehensive and concerned about unauthorized illegal financing and fiscal backing of terrorist organizations, all digital currency related or crypto-based transfers and transactions were banned and forbidden by law in 2018. In spite of everything, this embargo was retracted in the year 2020 and GoP has been in consideration of controlling virtual-currencies industry in the country (Hassan and Hussain, 2022). On account of the facts that these currencies are not centralized and untraceable they are turning out to be more welcomed and appreciated in China and Russia. These dynamics could perhaps appeal to citizens of those countries where governmental ignorance, inadvertence and boundless, unbridled corruptions is common and routine matter. Accepting the fact that it is not clear what actually makes up to crypto currency in Pakistan, the recognition and discussions about virtual currencies and assets are rapidly growing (Saeed and Sial,2023).

In congruence with a poll carried out in the year 2021, profoundly beyond 6% of Pakistani people were identified to either own or had held digital currencies whilst above and beyond 80% of people found unfamiliar with such currencies to the extent that even if these existed (Jaffar,2021). All things considered, with the aim to guide people taking well-informed actions about spending money in bitcoin trading and other crypto currencies, enhanced

knowledge and understanding in respect of risks and advantages of crypto currencies continues to be required. This research paper will go over with a fine-tooth comb and scrutinizes all the possible challenges and limitations in legal and regulatory framework in order to suppress illegal trading supported by crypto currencies and tries to leave no stone unturned. The research will also draw attention to diversified methods and procedures that may be used by law-enforcement authorities for countering these crimes, exempli gratia covert operation, computational forensics and secret surveillance for information gathering.

2.3 Legal issues of Crypto currency in Pakistan

As we have discussed earlier that concept of digital currency is getting popular in Pakistan too. With this growing trend of popularity and development, these digital currencies also brought an imminent threat and dangers of various cyber-crimes which like all other developing countries, Pakistan is also facing. In this section we will focus on the main legal issues that Pakistan needs to cope with. Pak coin was created initially in the year 2015 referred as 1st ever crypto currency of Pakistan, since that time the payment methods have seen remarkable innovation. As a consequence of its puzzling and sophisticated mechanics, these virtual currencies are still autonomous but unaided and non monitored, which results in regulatory issues. Subsequently, the FBR (Federal-Board-of-Revenue) and SBP prohibited the use of these currencies in 2018 on the basis of its expanding admiration in tech industry and its regulatory challenges. Regardless of other debates, the probable gains from crypto currency especially in economic growth of Pakistan like extended income options and opportunities and autonomous nature is difficult to be neglected. Pakistan also got the advice from the notable figure, i.e IMF Chief to not overlook the digital currencies amid customer choices. Conversely, SBP and FBR both have ceased trading of virtual currencies and their usage in the economic deals thus not recognizing their status (Iqbal & Raza 2019).

The Government of Pakistan also has similar stance as of SBP and FBR and it has also brought a strict stance against Pak-coin and other globally authorized currencies like one-coin, bitcoin etc., and blame them as a root cause of tax-evasion and other tactics of money laundering. If GoP clarifies the legal status of crypto currencies with well-protected and secure administration along with all-inclusive efficacious legal regime, Pakistan can make the most benefit out of this innovation and do wonders as the other countries in the world are getting benefits and gains. With greater opportunities comes the greater risks too, Pakistan is also facing the same but this scenario could be overcome through strong legal and regulatory framework. The other most famous associated challenges with crypto currencies include identity theft, fraudulent transactions, illicit activities and lack of consumer protections, which make these currencies more susceptible. The autonomous and destabilize nature are also the major concerns in controlling these virtual currencies (Bukhari & Mustafa, 2022). To compete against the menace of manipulation, deceptiveness, and criminal activities, the SBP essentially formulate legal framework for crypto currencies supplementary to regulatory framework and policies of law-enforcement agencies. Another smart option is smart contracts and agreements, which are basically autonomous agreements based on blockchain technology and it gives more control in the hand of clients over their invested money (Amna Yasir 2021).

2.4 Legal Status of Digital Currencies around the World

In Nepal, these digital or virtual currencies are banned from being recognized and codified under law in its National Constitution. In Australia these currencies are not considered as any kind of ‘financial-product’, therefore, it need not to be licensed (Risal, 2021). The coin of Brazil, precisely named as Niobium Coin (NC) of Brazil is not considered to be an investment (Portelina, 2021). Furthermore, when we talk about Canada, this state ranks at 2nd position in global rank for installation of bitcoin ATMs, but they have imposed taxes over it if such currencies are used for a trade purpose. Mexico and Malaysia were also reluctant to accept digital currency as a legitimate currency and officially denied recognition in Mexico (Alam & Zamani, 2019).

The US approach towards regulation of crypto currencies is a blended one, in which CFTC and SEC plays a meaningful role. SEC identified and declared some digital currencies as ‘Securities’ and Initial Coin Offerings (ICOs) are evaluated for infringements and illegalities. The FCEN (Financial Crimes-Enforcement-Network) implements know your customer (KYC) protocols and accountability guidelines for bitcoin corporations in conjunction with AML (anti-money laundering) and CFT (countering the financing of terrorism) enactments. The knotty state-level regulative sphere made it hard to proceed and being tracked (Cheah & Fry, 2015). In Japan, bitcoin has been recognized as a legitimate mode of payment and it shows a positive standpoint on regulation of e-money in Japan. The FSA (Financial Services Agency) added the last touches by providing licensing of valid bitcoin trading mechanism, corroborating AML standards and KYC protocols. This preemptive arrangement, in parallel with assets

gain and digital safety as well as security, has catalyzed the awareness and understanding of crypto currencies through regulatory oversight, monitoring and administering (FSA, 2017). When we discuss about the regulation of crypto-currencies in Switzerland and Singapore, we got to know about the positive and advance stance by both the nations and Switzerland has more progressing approach toward innovative technologies and their regulation along with AML and investor safety standards. The EBA (European-Banking-Authority) and FATF (Financial-Action-Task-Force) both have determined in the direction of developing scrupulous, careful and in-depth whys and wherefores of these digital currencies and assets. Monetary Authority (MA) of Singapore has designed two-tier scheme of regulation for e-payments and digital tokens (Lindsay, 2022). Some EU states are observant of the fact that these virtual currencies can easily be used for sponsoring the small to high level illegal events and activities e.g terror financing. They are of the view that law-enforcement authorities need to devise laws and regulation based on thorough risk analysis and identification and preventive measures to tackle these threats linked with cyber-crimes. The other prime requisite is the protection of consumers and investor and it also requires law that specifies transparency, accountability and risk disclosure. Another necessary and mandatory requirement includes the strict verification and compliance of ML (money-laundering) and TF (terrorism financing) standards and protocols for the investors to safeguard this whole financial structure. To encourage and stimulate the growth of these evolving digital currencies, there is a need to allow and validate the experiments, administrative sandboxes and show adaptable and flexible response toward this continuously progressing digital arena (Hacker, 2018). Keeping an eagle eye on far-reaching progress of bitcoin and other such digital currencies, intergovernmental and intra governmental cooperation and coordination is needed. For example, Nepal could have emerged as leader in promoting adaptable ecosystem for recognition of digital currencies and related transactions as of 2024. PSA (Payment Services Act) of Singapore is an appreciable legal framework for regulating these digital currencies and bringing uniformity and clarity amongst various institutions and nations. Likewise, innovative and advance legal and regulatory framework of Switzerland provides and promotes collaborative efforts between financial agents and controllers in specific bilateral investment agreements, standards for countering money laundering and terrorist financing, that indicates a crypto-friendly stance of the state.

3. Conclusion

Pakistan being developing country faces grave challenges such as instability, economic loss due to illicit activities that ends at terrorism, money laundering, white collar crimes, human trafficking, poverty etc. In such critical situation it is actually hard to consider to legislate upon or to regulate on new niche like crypto currencies either in the form of currency, security or commodity. The article focuses on essential matter of course for a rational, well-informed and stable outlook that strike a fair balance among domestic and international benchmarks that it would be possible to be wary of associated threats with regulation of crypto currencies. This research brought to the attention and stresses upon the hardships and complexities in regulating this swiftly progressing digital financial system and also reiterates the exigency of unambiguous and clearer definitions and all-inclusive legal and regulatory system of control and monitoring that would be cautious of constantly and rapidly progressing character of crypto currencies. The existing structure of both legal and regulatory domain could provide a foundational basis for all the above-mentioned developments but in order to design a more develop, modern, flexible and adaptable ecosystem we need to adopt the international best practices and take guidance from the lesson learnt by those nations in order to learn our lesson specially in areas like AML and CFT compliance, investor protection and tech-neutral rules and regulations. This investigation also discussed the SBP's, law-enforcement agencies, lawyers and prosecutor's role to tackle legal challenges posed by crypto currencies in Pakistan in order to regulate and recognize them. It came to the conclusion that unauthorized and illicit events downturn necessitates wide-ranging universal arrangement of laws and well-planned execution and implementation by the concerned authorities such governmental services, intelligence bureaus, regional influential personnel along with AML and CFT regulations. The practical and possible alliance amongst legal divisions and bodies of Pakistan and International institutions and departments could significantly lessen terrorism and such intense and severe crimes and will also bring peace and harmony within the nation and worldwide and also promotes economic growth of the country. Therefore, Pakistan is in dire need of some innovational advancement and progression in legal domain particularly in legislative system and also necessitates trained officers, training and awareness sessions, seminars, workshops and conferences to control associated challenges. The complete investment fortune could transform if GoP come to regulate crypto currencies in the digital financial-market as it is well imagined that crypto currency is one of the revolutionary innovative technologies of the 21st century. A number of nations has earlier recognized the crypto currencies whether as security or currency, few of them at the present time are of the mind of regulating it and use it in routine commerce activities and transactions. Taking into

consideration the current global scenario, Pakistan government and regulatory bodies should focus on controlling and regulating digital currencies and assets as a form of investment. The debates on its extreme volatile nature is just a form of poor perception now, as this domain is developing very quickly and those who have expertise are well aware of the fact that it has strong potential in the near future. Therefore, there is a need to legislate on this area and also a need of creating awareness among people who are solely relying solely on banks for a large number of years as without help of central banks, governing bodies, and other relevant authorities' help, this target would not be possible to achieve.

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