

Cryptocurrencies

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It is evident that the attention to cryptocurrencies is increasing expeditiously. With the recent increases in Bitcoin's value, the world has already had its first Bitcoin billionaires and companies accepting payments in Bitcoins. Despite this intense interest in cryptocurrencies around the world, legal questions regarding the cryptocurrencies are remained unanswered.

The Birth of Cryptocurrencies

The most famous and wanted cryptocurrency, Bitcoin was first introduced towards the end of 2008 and became fully functional in the beginning of 2009. Bitcoin, a project to get rid of the governments' interventions on the national currencies, through all those years, now used wide-spread all over the world. New cryptocurrencies today are also slowly gaining momentum and those, at least, are seen as a brand-new way of investment.

Bitcoin's network relies on Blockchain which is a shared public ledger where all confirmed transactions are included. Blockchain's integrity is enforced with cryptography, making the system anonymous. Transactions in Bitcoin are realized as a transfer of value between Bitcoin wallets which keeps a *private key* that is used to sign transactions. This also prevents third parties to alter the transactions.

In addition to its anonymity and security, Bitcoin's most important advantage to the

traditional currencies, as claimed, is that the value of the Bitcoin cannot be intervened through supplying more Bitcoin to the market.

Even though, Bitcoin and cryptocurrency were not welcomed and approved at first, now more people each day are willing to exchange through cryptocurrencies. This attention to the cryptocurrencies may change the way people trade and nature of financial transactions in the near future.

Nevertheless, this possible change and the increase in popularity of cryptocurrencies require some legal questions to be answered and addressed.

Legal Regulations on Bitcoin

Because of certain characteristics of Bitcoin such as the anonymity and untraceable transactions, the countries' approach to the Bitcoin differs and Bitcoin's legal status varies depending on the country.

Whereas certain countries such as United States, Canada and many others chose to try

to establish a regulatory framework for cryptocurrencies, some other countries such as Indonesia, Thailand and Vietnam define cryptocurrencies as illegal. On the other hand, Japan, in the beginning of 2017, accepted Bitcoin as a legal currency.

On a separate note, in its report of July 25, 2017, U.S. Securities and Exchange Commission also concluded that blockchain tokens sold by a certain organization are securities and subject to U.S. Securities Law. Even though, this decision does not apply to all blockchain tokens, it suggests that the regulators would accept cryptocurrencies as securities.

In addition, very recently in Ukraine, a bill drafted to regulate cryptocurrencies has been submitted to the parliament. This bill suggests that National Bank of Ukraine would be the regulator of cryptocurrency market in Ukraine and also provides the cryptocurrency owners with the right to choose how to dispose of their currencies which includes exchanging for other coins or for goods and services.

As for Turkey, there are no legal regulation prohibiting the use of Bitcoin or accepting Bitcoin as a legal method of payment. Under the Law no 6493 regarding the Electronic Money Establishments, it is also not possible to accept Bitcoin as an electronic money as it is not under the control of or issued by one person or an establishment in the first place. Therefore, it would not be possible to supervise Bitcoin under this law as well. Likewise, Banking Regulation and Supervision Agency also stated that Bitcoin with its current structure and functioning cannot be accepted as an electronic money.

Consequently, due to the current legal gap, Bitcoin is not accepted as illegal in Turkey and the use of Bitcoin would not raise any legal consequences.

Even though there would be justifiable concerns regarding cryptocurrencies, with the fast development in technology and science, it is evident that the prohibition of cryptocurrencies would not provide any benefit and resolve possible problems. Moreover, because of the global structure and functioning of Bitcoin, legal regulations on national levels also would be short of solving or remedying these concerns. In this regard, it is necessary to build a legal system through international agreements to regulate cryptocurrencies.

Main Issues

Main issues regarding the use of cryptocurrencies are taxation and money laundering.

Because of Bitcoin's anonymity, it may be used to hide assets and evade taxation. It is much easier through Bitcoin to bring in money and cash it out in the country, evading taxes. However, Bitcoin income can also be declared depending on the country's tax laws. As cryptocurrencies may be classified as an asset not money in some countries, taxation may differ.

For example, in United States, cryptocurrencies are accepted as an asset and therefore subject to taxation. In United Kingdom, profits from the trading of cryptocurrencies are also subject to taxation.

On the other hand, in Turkey, as cryptocurrencies are not officially accepted as an asset or money, the debate whether they would be subject to the taxation is going on. However, in case the trade of cryptocurrencies is carried out as a profession and/or commercial activity, it should be accepted that such income would be subject to the taxation.

With regard to the VAT, in case the trade through cryptocurrencies are accepted as a barter, such transactions may be also subject to VAT. Nevertheless, without any official definition of cryptocurrencies in Turkey, the transactions through cryptocurrencies would not be subject to VAT.

The second key problem with regards to the cryptocurrencies is money laundering as some countries such as Bangladesh bans Bitcoin under money laundering laws. As Bitcoin provides an opportunity to transfer money within seconds and without any monitoring, it is widely argued that Bitcoin may be used to launder money. Even though large-scale money laundering is risky through Bitcoin because of its public Blockchain ledger, it is still possible to use Bitcoin for such illegal purposes.

There are also other issues regarding Bitcoin such as large-scale thefts, lack of legal protections and frauds where the unregulated nature of Bitcoin does not help in resolving these issues. Therefore, it is considered that international and unified regulations would help in resolving such issues.

Advantages and Disadvantages of Cryptocurrencies

As mentioned above, cryptocurrencies have many advantages along with some social and economic disadvantages.

The main advantages of the cryptocurrencies are that (i) there is no central organization controlling the market circulation and no intervention to the market, (ii) as it is not physical, it can be moved very easily, and (iii) anonymity of the system.

It must be noted that these advantages of cryptocurrencies also raise concerns for regulatory authorities as those may be used for illegal purposes.

There are also certain disadvantages of cryptocurrencies that are (i) hardship in retrieval of digital wallets in case of loss, (ii) the risk of technical glitches and (iii) no possibility to retrieve the loss in case of fraud.

However, such disadvantages may also be overcome through legal regulations providing necessary remedies for such situations.

Conclusion

The interest in cryptocurrencies is increasing fast and such interest does not seem to be disappear soon. Along with this, there is also a risk that cryptocurrencies may be used for illegal purposes such as money laundering, tax evasion or even drug trafficking. With all those risks at bay, prohibiting the use of Bitcoin through

national regulations would not help in eliminating these risks. As the technology and science moves forward fast, the law must keep up with it. Therefore, developing an international and unified system is required to overcome and resolve the issues regarding the cryptocurrencies.



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