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Digital Personal Data Protection Act, 2023: A Critical Analysis

Samreen Ahmed¹ and Dr. Mohammad Nasir²

ABSTRACT

India's first cross sectoral law on privacy—The Digital Personal Data Protection Act, 2023 (DPDPA), was anticipated to create a robust legal architecture for data protection. It is the culmination of numerous iterations, expert committee recommendations and was enacted in the backdrop of Apex Court's recognition of the right to privacy as a fundamental right under Article 21 of the India Constitution, with right to informational privacy as its subset. However, the legislation in its final shape as it stands today law has restricted its protective ambit to the personal data only, overlooking the broader aspects of data protection. This paper critically reviews the DPDPA, 2023 and the proposed Rules, highlighting the grey areas and their implications for individuals and business entities. It argues that beneath the rights this law is projected to protect lies a labyrinth of leaking valves, exposing its inherent weakness.

The Act falls short on multiple fronts, including its limited scope, excessive exemptions to the government, and failure to provide exhaustive protective measures. By adopting a narrow approach to privacy, the Act overlooks the challenges posed by the evolving digital landscape. This paper critically reviews the privacy regime of India, specifically in the context of the DPDPA and the Rules framed thereunder.

Keywords: Data Privacy, Digital Personal Data Protection Act, Personal Data Protection, Privacy Breach, Privacy Regime.

INTRODUCTION

The Digital Personal Data Protection Act, 2023 (DPDPA), marked a watershed moment in the trajectory of privacy law in India. It is the first ever cross-sectoral law on personal data protection. It had a gestation period of approximately half a decade to be in the shape as it stands today, albeit unenforced. It is believed to be an outcome of the Apex Court's directive to the Union government to formulate “a carefully structured regime” for protecting individuals from the privacy harms from state and non-state

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actors. The court in *Puttaswamy* (2017) observed, “*Informational privacy is a facet of the right to privacy. The dangers to privacy in an age of information can originate not only from the state but from non-state actors as well. We commend to the Union Government the need to examine and put into place a robust regime for data protection. The creation of such a regime requires a careful and sensitive balance between individual interests and legitimate concerns of the state.*” The DPDPA signifies a shift in law and policy towards institutionalising privacy as fundamental right, even when it awaits enforcement.

The judgment cemented the right to privacy (RTP) in India by recognising it as a fundamental right protected under article 21 of the Indian Constitution and right of informational privacy as its subset. The court laid down three conditions that should be fulfilled by any incursion of privacy, namely, legality i.e., a legislative mandate, legitimate state aim, and proportionality (Kanwar & Manish, 2023). Taking this as the vantage point, the paper critically reviews the privacy regime envisioned for India under the DPDPA and the Rules framed thereunder.

METHODOLOGY

This study traces the origin and evolution of the data protection law in India employing the doctrinal method. The pre-legislative developments that propelled the law making (DPDP Act) were analysed to determine whether the provisions of the enacted law and their underlying legislative intent withstand the anvil of the RTP in the digitalised world. Other than weighing against the principles of “purpose limitation” and “data minimisation,” the paper also analyses the implications of removing the distinction between sensitive and non-sensitive personal data, and the repeal of Section 43A of the Information Technology Act, 2000, to assess whether the new regime is responsive to the challenges of a digital and data-driven society.

THE TRAJECTORY OF THE MAKING OF PRIVACY LAW IN INDIA

Prior to 2017 judgment, various attempts were made to enact a comprehensive privacy law for India. In 2006 the “Personal Data Protection Bill” was introduced in the Parliament. It had a limited scope confined to the protection, use and disclosure of personal data. It kindled debates on the concerns pertaining to the personal data: misuse, unauthorised sale and use for business purposes.

The Information Technology Act, 2000 was already in existence dealing with matters pertaining to digital transactions and data, when attempts at a separate data protection legislation were made. Subsequently, the Information Technology Act, 2000 (IT Act) was amended without any debates in the Parliament. However, later some provisions inserted by the Amendment were struck down and held as unconstitutional by the Apex Court. Section 43A (compensation for failure to protect data) was also inserted by this Amendment. It marked the first concrete step towards statutory protection of data. It mandates body corporates dealing with data to adopt reasonable security measures (Kessler, Ross, & Hickok, 2014).

In 2010, approximately two years later, an “Approach Paper for a Legislation on Privacy” was published on the website of the Department of Personnel and Training (DoPT). Drafted by group of privacy experts, the paper aimed to furnish a “*conceptual framework that could serve the country's balance of interests and concern on privacy, data protection, and security...*” It reviewed laws pertaining to privacy prevailing in thirteen jurisdictions and gave recommendations for India’s privacy regime (Rahul Matthan & Group of Officers, 2010), primarily focusing on data protection. The document defines privacy (for the paper’s purpose) as “the expectation that confidential personal information disclosed by any individual to Government or non-Government entity should not be disclosed to third parties without consent of the person and sufficient safeguards need to be adopted while processing and storing the information.” Significant observations include:

1. In India we do not have a culture of privacy.
2. An increasing trend of centralization of governmental databases.
3. Privacy concerns emanating from the Unique Identification project.
4. Increasing collection of personal data by private sector entities.
5. India’s approach to privacy regulation was kind of ‘hybrid’ a mix of statutes and soft laws.

The following year (2011) witnessed four significant developments in this regard. A Press Information Bureau release stated that the government proposed to bring a law for protecting against breach of individual’s privacy by unlawful means. Secondly, newspapers reported that in the aftermath of the Niira Radia Tape controversy, the Government of India drafted ‘Right to Privacy Bill, 2011’ with the objective of creating a statutory right to privacy. However, owing to the internal disagreements between the stakeholder

Ministries, the Bill could not see the light of the day. The DoIT through the Official Gazette published the IT Rules, 2011. These Rules incorporate some principles of the OECD Guidelines, albeit to an extent only. They include “collection limitation, purpose specification, use limitation and individual participation”. In the latter part of the year, the Planning Commission of India (now NITI Ayog) constituted an Expert Group (chaired by Justice AP Shah) to study the privacy legal regimes in various jurisdictions and to examine their relevant policies.

The Group submitted its Report in 2012, comprehensively analysing the SPDP Rules, 2011. The Report outlined nine “National Privacy Principles” which were to be applied across all sectors for harmonizing law and policy. These principles were proposed to be adhered by all data controllers and any person aggrieved by non-compliance was to be provided an adequate remedy. The Report also identified key features for a model privacy law: “(i) technological neutrality and interoperability with international standards, (ii) multi-dimensional privacy, (iii) horizontal applicability, (iv) conformity with privacy principles, and (v) co-regulatory enforcement regime.” Notably, some recommendations of the Report were included in the then proposed Draft Privacy Bill.

Years later in 2017, MeitY constituted (Srikrishna, Sundarajan, Pandey, Kumar, Moona, Rai & Krishnen, 2018) Committee to “examine issues related to data protection, recommend methods to address them, and draft a data protection Bill”. Based on the recommendations (although partially) of the Committee, the Personal Data Protection Bill, 2019 was introduced in the Parliament. However, it was sent to the Joint Parliamentary Committee (JPC) which after extensive consultative process of over 2 years and clause by clause examination of the proposed law released its report in 2021. In midst of it, in July 2020, (Gopalakrishnan, Ghosh, Verma, Katragadda, Kumaraguru, Singh, Narayanan, Dayasindhu & Matthan, 2020) Committee of Experts released its report on the Non-Personal Data Governance Framework.

The revised report of the JPC (November 2021) proposed 81 amendments to the original Bill and recommended significant expansion of the scope of law—protect both personal and non-personal data. Set to be tabled in the budget session of 2022, the draft Bill garnered much criticism from stakeholders, especially, business, as unreasonably inclined towards the interests of the State. Thus, the Bill was withdrawn from the Parliament in August 2022. In the thick of the uncertainties around the data protection law,

the MeitY in February (2022) released the Draft India Data Accessibility and Usage Policy, with the objective of capitalising the value of public sector data. The primary objective of this Policy was to recognise open data—defined as a dataset that is freely accessible for use, reuse, and redistribution by anybody, as a valuable public resource and to address the current barrier in data accessibility. In November 2022, MeitY published the Draft Bill for public consultation. Approximately a year later in August 2023, the DPDP Bill was passed by the Parliament. However, the enacted law has stark differences from the version of the Bill released for public consultation.

Notably, a cursory glance at the trajectory of the development of privacy legislation in India, at various junctures, appear to suggest that India requires only robust data protection law, while at other instances, there appears a necessity for a more comprehensive law recognising the RTP.

DISCUSSION

“The development of automatic data processing, which enables vast quantities of data to be transmitted within seconds across national frontiers, and indeed across continents, has made it necessary to consider privacy protection in relation to personal data”, reads a paragraph in the preface to the (OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, 2002). It aptly underscores the ubiquitousness of processing of personal data in private and public sectors, the complexities of cross-border data transfers, propelled by the rampant digitalisation of the economy and emphasises on the need for a protective legal architecture. Data inherently possesses value, which is further enhanced when shared, resulting in the creation of substantial efficiency. The contemporary digital environment is characterized by the fact that almost every task undertaken by a person involves data transaction of one kind or the other. The IoT is credited to have ushered new entities in the market industry: entities dealing with data—processing, collecting and/or processing personal data as an integral element of their business model. For instance, the Indian Supreme Court also noted that many companies outsourcing services and operating online are all dependent on data. “‘Uber’, the world’s largest taxi company, owns no vehicles. ‘Facebook’, the world’s most popular media owner, creates no content. ‘Alibaba’, the most valuable retailer, has no inventory and ‘Airbnb’, the world’s largest accommodation provider, owns no real estate”, the court noted in *Puttaswamy* (2017) judgement. Nonetheless, all these companies

deal with personal data as part of their B to B and B to C transactions. These global trends find sharp resonance in India, where demographic and technological shifts have significantly expanded the scale and complexity of data generation and use.

The estimated population in India was approximately 1.43 billion in 2023. This figure is expected rise to 1.5 billion by 2029 (United Nations, 2024). Notably, the median age in India was 27 years old in 2020 making India a vast reservoir of youth population—contributing to proliferation of smartphones, social media and e-commerce. The (Ericsson, 2024) Mobility Report estimates that India's mobile traffic data will reach approximately 264 exabytes annually by 2025. In 2017, India had around 340 million users, surpassing the USA, which had 223 million users. By 2040, the users of smartphone are anticipated to reach approximately 1.55 billion (Statista, 2023). With increasing technological proliferation more data will become vulnerable to breach. Given this exponential growth in data and its vulnerabilities, it becomes essential to scrutinize the adequacy of India's current legal framework, particularly the DPDPA. This paper seeks to outline the grey areas of DPDPA highlighting their potential consequences for individuals and businesses.

The Act regulates collecting, storing, processing, and transferring individuals' personal data within the digital landscape. It is asserted to have been drafted with the backdrop of the Indian aims and aspirations. Nevertheless, it has raised many eyebrows. (BS Web Team, 2023) reported, "Experts have noted a "sense of panic" among companies concerning the timelines stipulated by the legislation." *The Economic Times* reported that even big tech companies are grappling with and facing severe challenges in ensuring compliance under the new law (Indo Asian News Service, 2023). (Bal & Kashyap, 2024) suggest that approximately 85% of data fiduciaries had begun preliminary deliberations on compliance, which was marred by the absentia of DPDP Rules which were expected to constitute the very substance for various provisions' implementation. The notification of the draft Rules in January 2025 came a sigh of relief for them, albeit short-lived.

The draft Rules aim to provide guidance on the operationalisation of the parent Act, breathing life and spirit into the recurrently used phrase 'as may be prescribed' in the Act (26 times). It's being hailed as a landmark in India's data governance regime, though underneath its projected intentions lay a labyrinth of provisions requiring closer examination.

EXCESSIVE BURDEN ON DATA FIDUCIARIES

This Act applies to data fiduciaries¹ and those entities “who collect or process data for various reasons including, amongst others, financial, social security benefits, medical records, insurance claims” (Nidumuri and Shetty, 2020). Companies having trans-national operations were complying with international principles of data protection with the DPDPA law in force, they’ll have to identify the solution for navigating complexities arising from the conflicting provisions of the two law.

The Act mandates data fiduciaries to ensure the correctness of data, thus these entities shall now have to cautiously safeguard the personal data of individuals even when it is in the hands of third parties they hire (outsourcing). A herculean task would be safeguarding data available with the companies or shared by them prior to the enactment of the DPDPA. To ascertain and document ‘why’ and ‘how’ the data was obtained, the ‘duration’ for which it has to be retained, who has ‘access’ to such data and trace ‘third parties’ who may have become privy to such data would be difficult.

INTIMATING DATA BREACH TO THE DATA PROTECTION BOARD

Section 7(2)² of the Act requires the data fiduciaries (DF) to report to the Data Protection Board (DPB) within 72 hours (except when the DPB extends time on DF’s written request) all actions that they have undertaken and mitigate the risk posed by breach and the remedial measures undertaken

1 Section 2(i) of the DPDP Act reads as “Data Fiduciary means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data.”

2 Section 7(2) of the DPDP Act, 2023 provides that “on becoming aware of any personal data breach, the Data Fiduciary shall intimate to the Board, —

- (a) without delay, a description of the breach, including its nature, extent, timing and location of occurrence and the likely impact”;
- (b) “within seventy-two hours of becoming aware of the same, or within such longer period as the Board may allow on a request made in writing in this behalf,”—
 - (i) updated and detailed information in respect of such description;
 - (ii) the broad facts related to the events, circumstances and reasons leading to the breach;
 - (iii) measures implemented or proposed, if any, to mitigate risk;
 - (iv) any findings regarding the person who caused the breach;
 - (v) remedial measures taken to prevent recurrence of such breach; and
 - (vi) a report regarding the intimations given to affected Data Principals.”

to prevent recurrence. Although a welcome step, it is practically impossible for the data fiduciaries to gather much information within the given time-frame.

OPENINGS IN THE PROTECTIVE VALVE

Noting down online available data on paper makes it offline, as the processing will be non-automated, making it beyond the remit of the DPDPA. The Act also does not include in its ambit processing of data by individuals for domestic or personal purposes.

Exacerbating the situation further, the 2023 Act ignores the recommendation of the JPC to omit the definition ‘harm’ which was present in the prior iteration, i.e., PDP Bill, 2019, as including “(i) mental injury, (ii) identity theft, (iii) financial loss, (iv) reputational loss, (v) discriminatory treatment, and (vi) observation or surveillance not reasonably expected by the data principal”. The Bill mandated data fiduciaries to take steps to mitigate such harms but the enacted law omits such a mandate, thereby negatively impacts companies dealing with data.

‘PERSONA’ AND ‘DIGITAL’ ONLY

In reading the RTP as a penumbra right under Article 21, the Apex Court did not outline the ambit of the right or ascertain its applicability to only a particular kind of data. Unlike European Union’s GDPR, the DPDPA does not extend its protective cover to the non-personal data, non-digital personal data and anonymised data.

The Preamble of the Act explicitly mentions ‘personal digital data’, indicating the ambit and scope of the law are confined to ‘personal’ data, which is digitized. A cursory glance clarifies that the law presumes that the risks of breach of privacy exist only in the processing of personal data—data which identifies an individual (Section 2(t)). The fallacy lies in the assumption that only personal data has the potential to identify an individual. The anonymised data can be de-anonymised and may be combined with personal data to make specific inferences about individuals. The Act could have included a provision imposing pecuniary penalties on data-processing entities indulging in deanonymization or reidentification of anonymized data.

REASONABLE SECURITY SAFEGUARDS

Crucial aspects like ‘obfuscation’ and ‘masking’ have been overlooked by the legislators. They are not defined in the Act. Absence of definition

makes implementation mechanism ambiguous and gives much discretion to the data fiduciaries, thereby increasing the risk of data breaches.

EMPLOYEE PRIVACY

Employees' control over the data and information their employer gathers and processes about them is known as informational privacy in the workplace. This includes handling personally identifiable information gathered from tools, technologies, and equipment used in the value-creation process, hiring and employee management. Employee's control over their employment directly affects their "rights" and "protections" (Wang & Bai, 2024). Often, the organization's business objectives and the employee's right to privacy are at odds. The law ought to perform the task of balancing out.

The Act places employers under a statutory duty to safeguard data by earmarking them as data fiduciaries, but distressing is section 7(i), which permits non-consensual processing of employee's data for legitimate purposes including 'purposes necessary for employment'. A purpose is deemed legitimate merely by being related to employment. The open-ended phrasing of this provision, creating room for arbitrary use and exploitation. The purposes should have been illustrated as a list considering the sensitivity of the data. The Act nowhere clarifies or defines 'relatedness' as to what kind of relatedness with employment will attract exemption under this subsection. The examples of purposes listed in sub-section (i) include, "*corporate espionage, maintenance of confidentiality of trade secrets, intellectual property, classified information or provision of any service or benefit.*" These purposes pertain to the requirement of legal confidentiality and the corporation's intellectual property rights. (Ravindran, Panda & Jauhar, 2023) argue that these purposes could be taken as valid grounds for prosecution of a person in case of violation of statutory or contractual rules on confidentiality but cannot serve as valid grounds for violation an individual's privacy. Hence, the purposes pertaining to confidentiality and IPRs should be deleted. Arguably, closed list that does not include these purposes would have been appropriate.

For safeguarding data, non-consensual processing should be sparingly allowed, restricted only to cases where obtaining an employee's consent is not feasible or appropriate. The Act should furnish data principal, the choice to opt out of such processing. Arguably, the bargaining power disparity between employers and employees warrants legal protections for the less advantaged, i.e. employees. For instance, an airline stewardess may be asked to furnish

her children's and her parents' personal details. Children's data can be taken for legitimate use for employment benefits, but collecting parents' data by the airline does not appear legitimate, where they are not dependants. To avoid the risk of losing job, the stewardess will furnish her parents' personal data.

Similarly, the group companies inevitably share data amongst their constituent companies. The shared data often includes the relevant employee data for salary standardization. The company should have a legitimate interest in sharing such data; otherwise, it can attract implications under the Act (Guha and Tiwari, 2022).

Another instance could spur from the mandatory submission of PAN and Aadhaar number by employees for inclusion in the payroll with the employer and social security schemes in India. The employers often outsource services and share personal data with private agencies and organizations. This sharing of personal data must be in compliance of the guidelines laid down by the Apex Court in (*Puttaswamy* 2019). These guidelines are in form a check and balance mechanism to minimise the sharing and processing of such sensitive information. Given the open-ended exception under the DPDPA, the employer may claim that the data sharing with a third party is within the purview of employment purposes. Although, the third-party partners are crucial in a business ecosystem but they pose significant challenges to a reliable, secure, and strong digital future. Statistics suggest data mishandling, (World Economic Forum & Accenture, 2024) found in a scrutiny of 49 countries, including India that 41% of the firms experienced a significant breach in the previous 12 months; uniformly, a third party was believed to have caused it.

Notably, with reference to the non-consensual processing for the purposes of employment, the Srikrishna Committee had also suggested that it should be confined to cases where giving consent requires unreasonable efforts on the part of the employer.

GOVERNMENT EXEMPTIONS

The SC in *Puttaswamy* (2017) held that “any infringement of the right to privacy should be proportionate to the need for such interference.” Nonetheless, the Act extends pervasive powers to the union government, including the power to exempt itself from the remit of certain provisions for the purposes mentioned under section 17(2). Such sweeping exemptions to the State concerning data processing can potentially violate the fundamental

RTP of an individual. Also, the law does not enumerate the time limit or any procedural safeguard, in this context. The State may access and process personal data and retain it for a period longer than required. Further, under the Constitutional scheme of fundamental rights ‘State’ (Article 12) includes “(i) central government, (ii) state government, (iii) local bodies, and (iv) authorities and companies set up by the government”. Fairness demands that such exemptions do not extent to entities other than those specified under Article 12. The DPDPA however, allows exemptions to be extended to any agency designated by the Central government. A member of the Pratap Jadhav chaired Standing Committee had given dissenting note on this provision. Nevertheless, the provision was retained in the Act.

Another crucial aspect is that the rights extended to the data principles¹ under the Act and the obligations imposed on the data fiduciaries fall flat during investigation, prevention or prosecution for offences. This is in violation of the constitutionally protected right against self-incrimination under Article 20(3). Moreover, the government agencies are not mandated to erase people's personal data on fulfillment of the required purpose—this impinges on the right to be forgotten. Under the guise of surveillance or investigation, state agencies can develop and collect the 360-degree profile of any individual—raising a serious question—whether the exemptions extended by the Act meet the proportionality test. Surprisingly, Act turned a deaf ear to the recommendations of the (Srikrishna et al., 2018) that “in case of processing on grounds such as national security and prevention and prosecution of offences, obligations other than fair and reasonable processing and security safeguards should not apply”.

The DPDPA is modelled on the EU’s GDPR, which provides similar national security and defense exemptions. However, the EU law has a check and balance mechanism, unlike the Indian law. For instance, under the UK Investigatory Powers Act of 2016 the processing of personal datasets in bulk by government agencies for either intelligence or/and law enforcement activities is preceded by a warrant by the Secretary of State (counterpart of Minister of Home Affairs in India) with a-priori approval of a Judicial Commissioner. Absence of mechanisms to meet markers of necessity and proportionality in Indian law is a classic case of sheer parliamentary oversight.

1 Under Section 2(j) of the Act, ‘data principal’ is defined as “Data Principal” means “the individual to whom the personal data relates and where such individual is— (i) a child, includes the parents or lawful guardian of such a child; (ii) a person with disability, includes her lawful guardian, acting on her behalf.”

Whether an individual's right to data erasure will have precedence over the data retention requirement of the government, is left answered by the Act.

FREE AND INFORMED CONSENT

The Act prescribes obtaining 'consent' from the data principal for processing of their personal data; it omits to prescribe the mode or mechanism for obtaining such consent or any safeguards as such. The draft Rules however, have specified that the consent seeking notice should include the list of purposes and the notice should be drafted in a simple and understandable language. The said notice must necessarily mention the details that are necessary for enabling the data principal to furnish informed consent. The Rules outline the information that should be furnished in the notice—

- (i) an itemised description of such personal data; and
- (ii) the specified purpose of, and an itemised description of the goods or services to be provided or uses to be enabled by, such processing;

However, as a general practise, data fiduciaries/processors obtain the consent primarily through online shrink-wrap or click-wrap agreements. (Kumar, 2022) highlights the problem with these agreements, as entities collecting the data are not under the obligation to explain the implications of data processing to the data principal giving consent. Tested on the anvil of Section 15 of the Indian Contract Act 1872, such consent may not be considered as "free" and thus, may be perceived as vitiated. Moreover, shrink-wrap agreements are modelled on the take-it-or-leave-it policy; from the standpoint of the Indian contract law, such consent is not deemed to be free. How such entities shall ensure free and informed consent will have to be ascertained in the due course.

Another concerning aspect is pointed out by (Shah, 2023). He argues that given the data's potential to travel, it can travel very fast and far, alienated from the subject itself, creating temporal and digital distance that consent becomes irrelevant, i.e., it is no longer required or possible to obtain. This prompts the need to pay heed to legal scholars' insistence that data must be considered an inalienable resource. The regulations governing the maximum distance data can travel without losing its consent and provenance must be revised to effectively operationalise the new data protection law.

CONSENT MANAGERS

Under Section 2(g) consent managers are a via media through which a person can "give, manage, review or withdraw" their consent given to the data

fiduciary. Given, the crucial role they play in data sharing, law should have comprehensively dealt with them. Rule 4 of the draft DPDP Rules provides for the manner of registration and obligations of the consent managers. No other provision addresses the issues of data misuse and breach by consent managers.

Additionally, it is pertinent to note here that under Indian law, the consent model has not been tested yet. A framework for consent managers has to be created, tested, and implemented throughout the business landscape. This necessitates integration of consent management framework with the consent architecture of the data fiduciary. Therefore, to avoid transgressions, entities dealing with data must inventory their datasets and determine who has access to them, where they are located, etc. Gap analyses and privacy impact assessments shall be required to determine their “readiness” to adapt to the new law. Particularly, companies with e-commerce verticals will face issues in processing data as the platform providers will be data controllers (Sur, 2023).

With the increasing need of consent managers and their significant role in the data processing and protection, experts predict birth of a new kind of company called ‘data companies’. The expanding network of such platforms/companies warrants a separate legal framework as the DPDPA does include them in its regulatory framework for such entities. The stakeholders may consider the legal framework proposed by the (Gopalakrishnan et al., 2020) Committee for regulating data businesses.

INADEQUACY OF REMEDY

The Act specifies the penalty for data fiduciary in case of a compromise or misuse, does not provide for compensation to the aggrieved data principal. It only stipulates leveraging fine on data fiduciaries, which the objective of putting a check on them. Under the section 43A of IT Act, 2000 which the DPDPA shall repeal, remedy of compensation in case of breach was provided for the individual whose data was breached.

SIGNIFICANT DATA FIDUCIARY

The definition of ‘significant data fiduciary’ is vague and ambiguous. The ambiguity was reasonably expected to be resolved by the Rules; but they are silent. They do not outline any criteria or threshold for qualifying as a significant data fiduciary, leaving it on the government to earmark any data fiduciary as ‘significant’.

REALISATION OF THE RIGHTS OF USERS

The autonomy of users is enhanced by the DPDPA, as it gives them the right to access, complete, correct, update as well as erase their data. But it does not prescribe the mechanism through which the rights are to be exercised. This has created a vacuum remains as even the Rules do not prescribe any *modus operandi* for making requests. They simply restate what Act lays down in paraphrased words. It is left on the discretion of the businesses (data processors) to identify the steps for user for making requests for exercising such rights. (Kakkar & Mohan, 2025) highlight that Indian courts have in a catena of cases asked Goggle to “de-list” certain links that feature on its public search engine. For clarity, the Rules could have specified the mechanism for such scenarios. Moreover, the Indian law does not explicitly define or extends the right to be forgotten to individuals.

THE AMBIGUITY AROUND THE PROTECTION OF CHILDREN’S DATA

With burgeoning digitisation, the susceptibility of breach of children’s personal data has increased manifold. In the contemporary era, the digital life of children begins long before their biological birth (Rana, Gandhi & Sharma 2024). The access and use of web and online services by children (minor below 18 years of age) results into collection and processing and often exploitation of this data. The DPDPA and Rules aim to address this issue.

The Rules in requiring the data fiduciaries to obtain parental consent for minor users, neglect the fact that the minor registering on their platform may not furnish the correct details of their parents or may impersonate.

Similarly, it is difficult for the data processors to verify whether the person identifying as parent is actually the parent of the child. Alternatively, the child may provide incorrect age to the website and evade the process of parental consent at all. The mechanisms for verifying the age claims shall have to be explored by the websites. (Kakkar & Mohan, 2025) point out a situation very common to the Indian families, the adults and children generally use the same device for accessing digital platforms. In such situations, the child can easily bypass the entire process or may use the device to implicate as parent and give consent.

The proposed Rules do not take into account the implementation difficulties. The law puts the platform under the duty to prevent the minors (under 18 years of age) from evading their radar. They have to verify the age

of every user invariably. The verification process is criticised by human rights activists. They perceive it as a potent threat to the freedom of expression.

Another dimension to this, is the literacy rate of India. Since, the literate population is quite low and lower is the proportion of people who are below digitally equipped. Only 20 percent of Indian parents can be expected to give 'informed consent' but the other 80 can only give assent, as they do not understand the implications of what they consent to.

It is suggested that India may, for the purposes of DPDPA, reduce the consent age, similar to EU and Korea where it is 16 years (reducible by States to 13) and 13 years, respectively.

THE FLAWED DESIGN OF THE DATA PROTECTION BOARD

Alok Prasanna Kumar (Kumar, 2022), a leading legal scholar, argues that considering the fact that the DPDPA is an offshoot of the Apex Court's recognition of informational privacy an off-shoot of RTP, therefore, the board established under this Act should be a "responsive regulatory body" independent and empowered to discharge its constitutional role (Mohamed, 2023). Enforcement of the data protection framework by a high-powered statutory authority was listed by the Srikrishna Committee as an essential principal of the data protection framework.

The Act left much for the Rules to provide; however, the Draft Rules contain nothing to strengthen or improve the capacity of the Board in order to make it a regulatory body India needs at this critical juncture. Additionally, pertinent questions with respect of the Board's constitutional validity and its capacity to implement to provisions of DPDPA remain unanswered in the Rules.

Further the institutional design of the DPB remains undefined. Although, it is unrealistic to expect any subordinate legislation to provide for the same, the parent Act should have taken care of it (Editorial, 2025).

The Act under section 27 prescribes the Board's composition and functions and outlines the procedure for their performance in section 28. The appointment, removal and eligibility criteria for appointment as Chairperson or members is also prescribed but a careful reading reveals the vagueness of provisions and over-dependence on the Rules.

1. The power of removal of chairperson and members vests with the central government but no procedure is prescribed for the same,

except for the provision of an opportunity of being heard before removal.

2. The qualifications for members/chairperson listed under section 19(3) are too broad to be of any guidance on what ought to be the board's composition.
3. The tenure of the functionaries is surprisingly very short, hence shall deprive them from developing any "meaningful capacity" in a nascent and fairly complex area of law (Ganesan, 2023).

Additionally, the Act divests the civil courts from jurisdiction over data protection matters (section 39) and repeals the provision of the IT Act, 2000 which provides for appointment of an "adjudicating officer" by the union government. Thus, under the new law, the Data Protection Board is the sole agency responsible for protecting the rights of a data principal in India, making it an important institution in the data protection landscape. The Board subsumes the powers of the adjudicating officer save the power to award compensation to the data principle for breach of data or leak. The key issues in the mechanisms envisaged for constitution and the functioning of the Board:

1. Rule 16 provides for the mechanism of appointment of the functionalities— Chairperson and the members through a Central government constituted search cum selection committee. The selection committee shall have officers of the government and two co-opted members who must be "experts" having practical experience in the domain area.
2. Section 19 (3) requires appointment of at least one member on the Board who is an 'expert in the field of law'. The search cum selection committee however entrusted with this task of appointment of a law person, is not required by the law to have legal expertise, save the Secretary in-charge of the department of legal affairs.
3. The premise of this requirement of Board having a legal member appears flawed as a person expert in law may or may not be an expert in adjudication. The law assumes that legal expertise includes adjudicatory expertise.
4. The final discretion in the matter of appointment of the chairperson and the members vests with the central government (Tiwari, 2025).
5. Rule 18 provides that procedure for board to carry out its functions, however the Rules do not lay down the procedure for holding inquiries (Kumar, 2025).

6. Rule 18 (9) prescribes that enquiries must be concluded within 6 months or 9 months (in case of extension).
7. In respect of “techno-legal measures” prescribed by the Act, the rules are silent and do not attempt to clarify the position. All they do is reproduce the contents of section 28(1) to state that the board may adopt techno-legal measures to conduct proceedings so that physical presence of the parties is dispensed with.

It is pertinent to note that the Srikrishna Committee recommended three major functions of the authority (now DPB) to be established under the Act: 1. monitoring, enforcement and investigation, 2. setting standards, 3. generating awareness. Under the scheme of the DPDPA Act and the Rules performance of the third function (generating awareness) by the Board, doesn't find any mention.

ACCUMULATION AND PENDENCY

Post-enactment of the Act, all data breaches will be adjudicated by the DPB only. Since the DPB has not been constituted yet, all cases of breach are left to hang in abeyance. This will naturally result in accumulation of cases, resulting in long pendency considering there is no time-bound mechanism of dispute redressal.

UNSPECIFIED ADJUDICATION TIMEFRAME

The time bound adjudication mechanism aspect seems to be hit by legislative oversight in the case of DPDPA and Rules. They do not specify any timeframe within which a complaint made by a data fiduciary to the Board has to be adjudicated upon by the Board. Absence of a time-bound dispute settlement mechanism similar to Insolvency and Bankruptcy Code, 2016, may become a significant roadblock for the ease of doing business in India.

CONCERNS REGARDING CROSS BORDER DATA TRANSFER OF DATA

DPDPA is modelled on the EU's GDPR but it diverges on various key facets. For instance, the GDPR contains specific provisions, permitting the transfer of personal data to third countries based on an assessment of adequacy and specified protective measures. In contrast, the DPDPA does not specify for any cross-border transfers.

The incoherent stand of the Act and the DPDP Rules, 2025 (draft) has created a problem for the companies operating in India, especially those based in the US. The Act adopts a blacklisting approach and permits cross border data transfers, except in cases of countries notified by the union government. Rule 12(4) states that data which is specified by the central government shall not be transferred along with the traffic data by the significant data fiduciaries (Parasnis, 2025).

The Reforming Intelligence and Securing America Act (RISAA) enacted by the USA in 2024 stands in direct conflict with the DPDP Rules, 2025 (draft). The US law expressly requires the US-based companies to share with the USA government all communications of data (including emails, texts, phone calls etc.) of foreign citizens availing their services. The legislative intent behind this provision is that such a measure is necessary for “national security” (Leo, 2024).

What will be the future course of American internet companies, will Indian government undertake measures like EU-US Privacy Shield or will stand firm on its defensive stand to protect the data of Indians from USA's snooping.

CONCLUSION

With the rapidly expanding technological interface, the herculean task of balancing the individual's RTP and the legitimate interest of the State ought to be performed by the law. The GoI took concrete steps towards building a legal framework for data protection. However, despite recommendations of expert committees and many iterations of the draft law, India could not enact a comprehensive data protection law. The DPDP Act, enacted in August 2023, is disappointing—failing to deliver on many counts. It is not exhaustive and has unreasonably excluded much from its remit.

Particularly, wide exemptions to the government and the unrestricted wording of legitimate purposes under section 7, requires to be amended. Since, the Indian privacy regime is nascent, naturally, it shall be people-driven. Thus, companies dealing with personal data must ensure capacity building to avoid data breach and consequent penalties.

Ironically, the Act was projected as a protective valve for the rights of data principals, but in practice, it imposes duties on them. Invariably, legislative uncertainty repulses investors—the non-enforcement of the Act, coupled with the delay in the notification of the final Rules, has negatively impacted the ease of doing business in India.

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Cold War 2.0 and Espionage

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ABSTRACT

The contemporary global politics has been marked by the Cold War 2.0 between the United States (US), China, and Russia, which are competing, rivalling, forming alliances, fighting proxy wars, expanding military might, influencing global politics, and forming blocs. The ideological struggle is missing, but the world is being divided between the US-led West (US, NATO, G7, and European Union) and the Anti-American-Axis comprising of CRINK (China, Russia, Iran, and North Korea). Hence, a few scholars have noted the Cold War dynamics and termed it “Cold War 2.0,” involving many aspects, including espionage, which has been a major feature of the Cold War. As the world has changed and competition has been witnessed in technical, defence, etc., sectors for superiority in domains such as land, air, water, outer-space, and cyberspace. Meanwhile, no country has abandoned its espionage agencies while they have enhanced dependence on the domain to extract first-hand information to ensure superiority in the interplay of power politics that has been the major feature of global politics as outlined by the realist thinkers of international relations. This paper seeks to examine the changing nature of espionage in contemporary global politics (Cold War 2.0).

Keywords: Cold War 2.0, Espionage, CRINK, United States of America, Russia, and China.

The Cold War is multi-dimensional and has various aspects like the “absence of direct war”, “political instability”, “world division into two blocs”, “threats, rivalry, alliances, hard power”, etc. Similarly, espionage is yet another dimension of the Cold War (Westad, 2018). In Cold War 2.0 various new things have been added to the domain such as technology, apps, fiber-optic cables, software, cyber, hacking, geospatial intelligence (GEOINT), signals intelligence (SIGINT), electronics, open-source (OSINT), “Foreign Instrumentation Signals Intelligence” (FISINT), communications intelligence (COMINT), human intelligence (HMINT), and social networking for monitoring and surveillance. However, the traditional character of espionage and spying has not changed and is utilizing tools of the 21st century. One example is many countries have not renounced or abandoned their intelligence

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agencies and are still working to gather inputs on strategic and security issues even though the actors have changed in the Cold War 2.0 i.e. Soviet Union has been replaced by the Russian Federation, while China and the US have become major ‘protagonists’ (Nalapat, 2023).

The traditional Cold War espionage depended on diplomatic missions, agents, double agents, and underground operations for intelligence and spying (Andrew, 1998). In Cold War 2.0, the traditional mechanisms have transformed and opted segments like technical and electronic to incentivize and help the operations. Espionage and spying agencies are now using digital applications, which have become App-based. The new spy Apps are ‘Pegasus’, ‘Shameware’, ‘Pinduoduo’, ‘Tik-Tok’, ‘Storm-0156’, ‘Turla’, ‘TwoDash’, and ‘Statuezy’ etc (Gan & Xiong, 2023). These applications steal data, download harmful files, copy information from phones and computers to monitor activities, and read private messages without authorization and consent from the users (Gan & Xiong, 2023). These Apps sell data to the government like recently Pinduoduo sold to the Chinese government (Gan & Xiong, 2023). These companies also gather data to predict preferences, interests, locations, photos, notifications, calendars, and habits of the users to allow the machines to predict and influence behavior (Gan & Xiong, 2023). Cold War 2.0 can be defined as “a state of intensive competition, political and economic, which yet fall below the threshold of armed conflict between states” (Luard, 1964). It is measured as 2.0 since the world is still in a state of constant conflict and strife while agencies are involved in maintaining perpetual peace without a direct armed conflict between the antagonists but the agencies fighting silently.

UNDERSTANDING ESPIONAGE

Espionage is an old practice of extracting state secrets using technical means and human resources to procure information (Beim, 2019). Few scholars look at it as “information and an organized system for collecting and exploiting it, is both an activity and a product of that activity” (Warner, 2002). It is an ‘organization collecting information’ while the US Congress defines it as a mechanism to acquire information on “people, places, things, and events—in foreign lands” (Andrew and Wark, 2020). Which are required “by the government for the conduct of its functions” (Andrew and Wark, 2020). John Ferris (1995) argued that “spying came to rival money, sex, and war” (Ferris, 1995, p. 88).

According to intelligence historian Christopher Andrew (2019), it is the ‘second oldest profession’ (Niruthan, 2019). The references to it are found in ‘*Rig Veda*’ (spies were known as *Spasa*), *Ramayana*, *Mahabharata*, and *Arthashastra*. These inscriptions have outlined how the spies should be used and build strategies through their network. In ancient Indian traditions, espionage had been a major organ of the State to help the king in warfare, administration, policies, strategic planning, and diplomatic strategies (Niruthan, 2019).

Espionage and spying agencies play a significant role in the country's defence and national security since countries maintain secrecy about their real capabilities. Secrecy is about certain ‘secrets’ —that is information confined to certain ‘subjects’ —which for the one in intelligence to be extracted and shared like a ‘currency’ that needs to be ‘traded’ (Lundborg, 2021, p. 444). Even though countries can make good relations with each other but intelligence agencies are always suspicious of each other's activities related to security and defence— as “there are friendly states but there are no friendly intelligence services” (Bennet, 2000). Many countries are still spying to extract information on domains such as military, finance, politics, etc to develop counter capabilities. Globalization and digitization have added new elements to national security, defense strategies, and espionage for gathering classified information. However, the profession of espionage violates Article 2 of the United Nations (UN) Charter as it calls for the ‘respect for sovereign equality of all states and prohibits the use of threat against territorial integrity’ (United Nations, 2025). In Cold War 2.0, agencies of the US, Russia, and China violate Article 2 of the UN Charter by undermining the principles of this article to extract information via espionage on other states by compromising their sovereignty and territorial integrity (BBC, 2014).

CHANGES IN ESPIONAGE FROM TRADITIONAL COLD WAR 1.0 TO 2.0

Espionage and spying have continued from Cold War 1.0 to 2.0. The world's most spying agencies emerged during the Cold War; for example, Central Intelligence Agency-CIA (USA- 1947), Inter-Services Intelligence (Pakistan-1948), *Aman* (Israel-1948), *Mossad* (Israel- 1949), *Shin Bet* (Israel-1949), ‘*Komitet Gosudarstvennoy Bezopasnosti*’-KGB (Soviet Union-1954), The *SAVAK*-Bureau for Intelligence and Security of the State (Iran-1957), RAW (India- 1968), *Mukhabarat* (Iraq-1973), *Teke* later ‘Ministry of State and Security’-MSS (China- 1983) emerged during this

period (Clawson, 2020 & The Economic Times, 2024). The traditional way of espionage has not changed and remains a fundamental national security and policy instrument. The relevance of espionage is the same as earlier and dependence on this has increased with substantial changes in character but the tactics remain the same. Nevertheless, the earlier Cold War marked the conventional way of spying via agents, double agents, and diplomatic missions that facilitated the profession of surveillance, monitoring, and infiltration to collect information using different techniques and gadgets (Braat and Jong, 2022).

The operations conducted during Cold War 1.0 were more clandestine unlike 2.0 where most information is available on the internet. The 1.0 saw the phase of ground operations via agents with language expertise unlike the 'Open Source' of the 2.0. The Cold War 1.0 was sophisticated as secrecy was highly maintained due to the lack of information on so many aspects; much of the information came at the risk of human life. This cost is similar to the 'coercive operations' conducted in Cold War 2.0. During Cold War 1.0 diplomatic missions functioned as bases for collecting information while recruits were ideologically driven and had language expertise (Lee and Lederman, 2018). A lot of features of Cold War 1.0 are still visible in Cold War 2.0—as one analyses the 'Manhattan Project' which originated during the Cold War and demonstrated the nuclear capabilities—can be understood as the hypersonic project of Cold War 2.0. Also, during 1.0, the AK47 rifle was the symbol of modern advancement in military technology along with outer-space initiatives; similarly, drone technology, hypersonic projects, and satellites symbolize the hard power conundrum of Cold War 2.0 i.e. Armenia-Azerbaijan War and Russia-Ukraine War. And now many agencies in the US, Russia, China, Türkiye, and Iran are working to develop a 'mini air force of drones' (Malhotra, 2021).

Apart from this, there were many agents during the Cold War 1.0 like Melita Norwood popularly known as Granny Spy, Ursula Kuczynski (Agent Soniya), Klaus Fuchs that worked in nuclear projects such as Tube Alloys, and Manhattan (Szasz, 1992 & Rossiter, 2017 & Macintyre & Valle, 2020). These agents passed on crucial information on nuclear to the Soviet Union for making a nuclear bomb (Rossiter, 2017). And helped in building the espionage network of KGB (Burke, 2013). The Granny Spy was later awarded the 'Order of the Red Banner' by the KGB (Burke, 2013). These agents wanted to establish a balance between the nuclear US and the Soviet Union as they believed that—a sole military power would become a dictatorship

like Germany hence there has to be another nuclear power to balance the equilibrium (Thorndike, 2020 and Rossiter, 2017).

During Cold War 1.0, soft power tools were also utilized by espionage agencies like the CIA for the evacuation of American diplomats during the Iranian Hostage Crisis. The Two CIA agents posed as filmmakers and smuggled six American diplomats out of Iran (Debusmann, 2023). Moreover, after the dissolution of the Soviet Union, the world was aware of the strategic significance of espionage as many countries had already established spying agencies. The US during the Unipolar stage strengthened itself in different regions and undermined many strategic considerations to consolidate its position and influence worldwide— whereas its rival Russia dismantled the KGB (Azrael and Rahr, 1993). American influence in the former Soviet territories and “NATO’s eastward expansion” brought Russia into the old espionage era to secure its interests (Mehrotra, 1998 & Shiffrinson, 2023).

RUSSIA AND ESPIONAGE

During the Cold War, the KGB regarded the US as the ‘main opponent’ of the Soviet Union. Even after the dissolution of the Soviet Union, the situation remained the same despite the Russian dissolution of the KGB (Bennet, 2000). Moreover, after the US and NATO expansion in the former Soviet territories, Russia replaced the KGB with ‘Foreign Intelligence Service’ (SVR) and ‘Federal Security Service’ (FSB). These agencies consisted of various state agencies for foreign intelligence and defend the Russian Federation from ‘external threats’ (Government of the Russian Federation, 2025). In the post-Cold War— both SVR and FSB remained anti-west and anti-American and focused more on ‘psychotropic means’ instead of coercive recruitment (Bennet, 2000). The FSB is a major agency for the national security of Russia and implements policies to defend and protect the state (Government of the Russian Federation, 2025a). Both agencies gather information on security, territorial water, technology, seas, innovations, internal sea water, natural resources, continental shelf, and exclusive economic zones while also being responsible for initiating counterintelligence (Government of the Russian Federation, 2025a).

Currently, Russian agencies see all activities in the former Soviet territories as propaganda of the CIA—to create influence against Moscow and its military capabilities (Bahm and Rice 2018, p. 9). For example, the removal of Viktor Yanukovich a pro-Russian president from Ukraine (Enraged Protesters Storm Ukraine Government Offices, 2014). Such

episodes have strengthened Russian espionage and made it have the same numbers of agents in SVR and FSB as were during the Soviet era (Bahm and Rice, 2018, p. 10).

US AND ESPIONAGE

It was the Cold War 1.0 that outlined the strategic significance of intelligence due to nuclear detonations, strategic alignments, surprises, and deterrence. For a very long US kept its espionage activities secret and did not declassify many materials until recently. The records of American intelligence activities came from the congressional committees, leaks, and when people involved spoke about their engagement and operations in old age, and released sensational facts of their involvement. They outlined that since the Second World War, the US and Western allies had access to “German codes”, which they “read” and utilised (Ferris, 1995). The intelligence agency (CIA) of the USA conducted clandestine operations in Iran, Albania, Guatemala, and Cuba. During this era, the US National Security Advisor had more influence on US strategy and diplomacy. The US Department of State released “Foreign Relations of the United States” in 1989, the paper (FRUS) which did not refer to the involvement of CIA in the overthrow of Mohammed Mossadeq (the then prime minister of Iran from 1952-54) such omission raised concern in the US Congress and academia hence orders were issued to release materials even related to CIA. As a result, thousands of documents were released that elaborated on the role of US intelligence in different countries (Garthoff, 2004).

During Cold War 1.0, the CIA of US intervened in Albania under Operation BGFriend to counter the rise of communist influence in Albania and decided to overthrow the government of Enver Hoxha via several mechanisms of actions (military), propaganda, collection of intelligence to initiate a revolt against his government (Savich, 2023). In Iran, it removed the democratically elected prime minister (Mohammad Mossadeq) since he nationalised the Iranian oil, which was a major blow to the British and American companies. The CIA denied these allegations but “publicly admitted its involvement” in 2013 (Wu and Lanz, 2019). During this era, the CIA destabilized the Iranian government after Mossadeq’s nationalization move and turned his image from economic and social reformer. The US bought the Iranian press and convinced the Shah of Iran by telling him that Mossadeq posed a threat to his regime, which instigated trials against Mossadeq, and he spent his life in house arrest (Wu and Lanz, 2019).

The US used espionage as a foreign policy tool to fulfil its national interest and secured the interest of 'United Fruit Company' (UFC) based in the US and removed the democratically elected government of Jacobo Árbenz Guzmán (the then president of Guatemala). The CIA launched "Operation Success" under the administration of John Foster Dulles and Richard Nixon to get rid of Arbenz (Schlesinger and Kinzer, 1999: XII-XIII). The reason for this was, the Guatemalan president had introduced land reforms which offered land to the landless people of Guatemala. Such initiatives threatened the US as they could ignite a wave of social movements in Latin America and posed challenges to UFC, an American company that exploited labor in Guatemala, since land reform could potentially affect their business. The company persuaded the U.S. government to change the government in Guatemala, with the CIA deemed most suitable to fulfil American foreign policy objectives.

The CIA declassified a document in 1995 on "CIA and Guatemala Assassination Proposal 1952-1954," which highlighted that the CIA had "directed covert operations" which aimed to "remove the government of Jacobo Arbenz Guzman from power in Guatemala," and efforts were made for the "disposal of key Arbenz government officials and Guatemalan Communists" (CIA, 1995). The CIA also "drew up a list of individuals for assassination" and held 'trainings' for 'assassinations' in Guatemala, and "conducted intimidation programs against prominent Guatemalan officials" (CIA, 1995). Another incident in which the US pursued its interests through espionage occurred during the 1960s when Dwight D. Eisenhower, then US President, instructed the CIA to "develop a plan for the invasion of Cuba and overthrow of the Castro regime" (US State Department, 2025). For which the CIA maintained a 'Station in Havana' and trained and recruited agents to procure secret communications (NAJFKLF, 2025: 1). It established a mechanism for delivering intelligence reports on Cuba after the breakdown of diplomatic ties.

A Brigade of '2506' was sent to the Bay of Pigs in Cuba on 17 April 1961 and was defeated by Fidel Castro in two days. The Cuban government openly sought ties with the Soviet Union, but despite this defeat, the espionage apparatus continued to operate in Cuba and provided reports about Cuba through US diplomats in Latin America and radio communications (NAJFKLF, 2025: 1). To continue its operations against Cuba, the CIA established a station in Miami and orchestrated 'Operation Mongoose' to remove Fidel Castro from power through military, psychological, intelligence,

propaganda, and political campaigns aimed at assassination (Castro) and undermining the communist regime in Cuba (US State Department, 2025). Nevertheless, both of these expeditions by the US failed, and Cuba enhanced its procurement of Soviet arms, which created dangerous tensions for both superpowers during the Cold War 1.0.

Throughout the 1960s and 1970s, the US also conducted espionage in Vietnam with operations such as 'Op-34 A', and the CIA collaborated with the Saigon government. It kidnapped individuals from North Vietnam to recruit them for spying and undermine the communist-backed country (CIA, 1974). The CIA worked tirelessly to eradicate the influence of Communism worldwide, and after the Soviet Union invaded Afghanistan in 1979 and occupied it, the CIA created the biggest intervention effort to drive the Soviets out of Afghanistan. It created '*Mujaheds*' and '*Al Qaeda*' through Pakistan and created a phenomenon of 'terrorism' (Feroz, 2021). Which later became the foreign policy element of Pakistan to secure monetary support from the US for the services.

ESPIONAGE IN COLD WAR 2.0: USA, RUSSIA, CHINA, ISRAEL AND TAIWAN

In the US during the Cold the number of civilians and military personnel in espionage was equal. Katherine L Herbig has stated that in the post-Cold War era in the US, "67 percent of spies have been civilians and only 33% have been members of the uniformed military" (Herbig, 2008). According to her, in the post-1990s 1990s more individuals in the US, not classically linked with espionage jobs like truck drivers, housewives, boat pilots, translators, have engaged in spying. More people had 'secret-level access' and only a few had 'top secret access' in comparison to Cold War 1.0 period. According to the World Economic Forum, Cold War 2.0 showcases two aspects i.e. cyber espionage and economic espionage between the US, Russia, and China (World Economic Forum, 2023). Global powers such as the US, China, and Russia are competing with each other to mark their influence in global policies and world order (Kumar, 2025a). And giving rise to competition and conflict globally by dividing the world into blocs, alliances and proxies for influence (Kumar, 2024 & Kumar, 2025a).

There are various espionage activities that the countries are undertaking in Cold War 2.0 to counter each other and create influence. The US as a great power has conducted spying activities on many countries. It was also the first to enact 'The Espionage Act' which made the gathering of defense

information illegal and prohibited backing of the enemy for its citizens. The US has given huge importance to spying and created the ‘Office of Strategic Service’- the first intelligence agency of the country to recruit people from academia, libraries, journalism, and scholars with language expertise to get documents, reports, records, and enemy publications to obtain information for intelligence analyses (Peiss, 2020, p. 1-4). The US intelligence apparatus consists of various agencies among them are the Defense Intelligence Agency (DIA), the National Security Agency (NSA), and the Central Intelligence Agency (CIA). They are very active overseas in building American perception for securing interests and operations for collecting information on technical, cyber, outer-space, military, and scientific developments worldwide (Office of the Director of National Intelligence, 2025).

The US launched ‘Operation Ivy Bells’ against the Soviets which lasted decades until Russian intelligence found the cable recording devices at various underwater Soviet channels (Swink, 2018). The US military intelligence stationed numerous devices at the Sea of Okhotsk to record communication and were supported by a “mini nuclear reactor” until the Soviets captured these devices in 1981 (Swink, 2018). With this operation the US wanted to know the real capabilities of the Soviets, not what they portrayed to the world. Nevertheless, the information gathered under this operation helped the US in negotiation for Strategic Arms Limitation Talks (SALT-II) (Swink, 2018).

The US agencies also target Fiber-optic cables to get strategic and communication inputs. These cables work as a “highway of global communication” and play a central role in global telecommunication, internet, data, financial stability, and energy supplies (Sakhuja, 2025 & Bhardwaj, 2024). Globally there is a ‘1.6 million kilometres’ —long network of fiber-optic cables comprising 600 wires worldwide (Sakhuja, 2025). This network is important for the internet and telecommunication while crucial for extracting information, surveillance, international communication, data, and gaining control over network infrastructure. In Cold War 2.0, spy agencies of the UK, US, China, and Russia target the Fiber-optic cables to access data that these cables carry (BBC, 2014 & Firstpost, 2024). Chinese agencies through the ship ‘Yi Peng 3’ recently voyaged to the Baltic Sea in order to access cables in the channels such as Estlink 2 (between Lithuania and Sweden) and C-Lion1(between Germany and Finland) to extract data (Sakhuja, 2025). On the other hand, with the destruction of the ‘Nord Stream’ infrastructure, the West fears that Russia might destroy underwater cable communications as

underwater submarine cable infrastructure carries nearly 95 percent of global data (Sakhuja, 2025). Due to this NATO and other countries have decided to strengthen their Fiber-optic cable infrastructure. According to a report US has tapped nearly 200 Fiber-optic cables to obtain data of nearly 600 million citizens every day (BBC, 2014). Taiwan recently also warned about the Chinese espionage on its underwater cable that led to an ‘internet blackout’ in the country— as a Chinese ship near Matsu Island damaged underwater cables belonging to Taiwan (Change and McCarthy, 2025).

In Cold War 2.0, the CIA spied on partners such as the EU and interrogated its internal computer networks and buildings to get information on its position on military and trade (BBC, 2014). At the same it did surveillance on citizens by going inside the servers of companies such as Google, Facebook, Yahoo, and Microsoft to obtain records of phones— to track communications (The Guardian, 2014 & BBC, 2014). It also intercepted phone calls of diplomatic missions, as per a report it targeted nearly 38 missions and conducted continent-wide surveillance (BBC, 2014). Moreover, US agencies also conducted nearly ‘61000’ hacking operations worldwide and targeted China (BBC, 2014). The major targets of its attack were Chinese businesses, public officials, and universities (BBC, 2014).

China meanwhile conducted ‘Operation Salt Typhoon’ against the US in 2022 whereby hackers from China conducted cyber espionage against nearly nine US telecommunication companies to intercept calls, messages, data, and information of various high-level economic, political, and government officials (Kapko, 2024 & Vicenza, 2024). This group hacked nearly ‘100,000 routers’ handled by major companies in the US such as Lumen, Verizon, and AT&T (Kumar, 2024 & Kapko, 2024). The Intelligence Committee of the US Senate considered this attack as the “most significant telecom hack in US history” (Kumar, 2024). Through this Chinese agency (MSS) got access to crucial infrastructure and data of millions of American citizens (Vicenza, 2024).

The intelligence agencies in the Cold War 2.0 have silently committed cyber espionage and counterintelligence on each other. The Israeli intelligence apparatus such as *Mossad*, *Shin Bet*, *Aman*, *'Lekem* (a science liaison office and intelligence-gathering unit), and the Center for Political Research under the Ministry of Foreign Affairs, Israel has added new segments to the domain of espionage in the Cold War 2.0—through their operations. These agencies recently came with ‘Pegasus software’ and showcased their military, scientific, strategic, and technical superiority in the recent pager attack

against the supporters and affiliates of Hezbollah and Iranian Revolutionary Guards Cooperation (IRGC). The Pegasus software is powerful spyware for surveillance and monitoring of individuals without the consent of the user. It also sent malware to nearly 1400 thousand users to 'extract information, emails, files, messages, etc (Pegg and Cutler, 2021). These agencies also conducted a cyber-physical attack against the Hezbollah affiliates in Lebanon by causing nearly 3000 casualties via a series of blasts in pagers, radios, laptops, cell phones, and car stereos (Bhattacharjee, 2024 & D'Cruze, 2024). Such instruments were used to dodge Israel's detection technologies but Israeli agencies deployed nearly '5000 devices' from suppliers in Hungary and Taiwan to attack Hezbollah meanwhile both supplier countries denied the involvement (Bhattacharjee, 2024 & D'Cruze, 2024).

In Cold War 2.0, China's intelligence agency MSS is creating propaganda and preparing the citizens through campaigns highlighting that the 'foreign spies' are increasing in China and are 'infiltrating' the country (Under Xi Jinping, China's Powerful Spy Agency Drastically Raises its Public Profile, 2024). It has blamed the US and the West for recruiting citizens for espionage in the country. In 2016 the country had already executed various citizens that it believed sold secrets to foreign countries (Under Xi Jinping, China's Powerful Spy Agency Drastically Raises its Public Profile, 2024). Such discourse highlights the worldwide espionage and spying for surveillance, information, monitoring, data, cyber-attacks, hacking, and underwater espionage conducted by intelligence agencies to ensure their countries access to data and information for further ensuring the influence and dominance worldwide.

EFFECTS OF ESPIONAGE IN COLD WAR 1.0 TO 2.0 AND TRUMP

The access to information has provided an edge to countries in the power politics, military strength, and strategic considerations to outsmart each other in soft and hard power assets. The case studies above have highlighted how espionage has impacted different regions worldwide. As plots and propaganda were arranged for the removal of governments not in line with the ideology of the superpower. The 1967 Six-Day War between the Arabs (Egypt, Syria, Lebanon, and Jordan) and Israel was fuelled by the intelligence shared by the Soviets and the US, which passed information that worked as an antagonism for the preventive strike by Israel (Ro'i and Morozov, 2008). This episode started the process of war and peace between Israel and the Arabs, with the Camp-David Accords. The Arab-Israeli issue is still not resolved because

of the intricacies involved following the information of the Soviet and US, and created distrust because of which so many actors from the region and the world got involved in the bilateral issue of Arabs and Israel. And now transformed into a spider-web of intelligence agencies, commanding the everyday life of the residents on both sides.

Another impact of espionage is visible on Iran-US Relations due to the hatred that the US attained after the document release of its involvement, especially its agency CIA, along with the MI6 of Britain, in Mohammad Mossadeq's removal from Iran. The US faced strong criticism, and the puppet regime backed by the US was removed under the Iranian Revolution by the people of Iran in 1979 and paved the way for theocracy in the country (Ansari, 1999). The US encountered the 444-day blockade of its embassy in Tehran and finally got the embassy officials and diplomats released with the help of Hollywood (Explained The storming of the US embassy in Iran, 2024). But the trust deficit has not been filled between Iran and the US till today and both are struggling with distrust over the nuclear aspirations of Iran.

The menace of terrorism also traces its route from the espionage operations of the US in Afghanistan via Pakistan in the 1980s, and the effects of which are still available today. As the US failed to control Afghanistan and, after 20 years of occupation, left the country and Kabul remains a "graveyard of empire" as US, with all its might, could not control Afghanistan and gave control to non-state actors before leaving the country. but the creator of Mujaheds and terrorist, Pakistan has started using terrorism as a policy to fulfil its interests and secure funding from the global institutions. Its intelligence agency, ISI, protects terrorists, i.e., provided refuge to Osama Bin Laden for nearly 10 years until he was assassinated by the US (US State Department, 2011). ISI shares information and uses terrorism as a policy to receive funding from the US and also from international organizations such as the IMF (IMF Loan to Pakistan Why the Latest Tranche Was Passed, 2025). The US, despite facing the 9/11 Terror Attack, has backed such funding at the crucial juncture. So, states Pakistan and the US, with their agencies such as ISI and CIA, are using espionage to fulfil their interest at the cost of morals, ethics, and humanity.

From ideological groups to multilateral groups the espionage has found its space as countries have not given up alliances and groupings. The continuity of the North Atlantic Treaty Organization (NATO) has created tussles and

wars in the world, as nations still compete with each other. For example, the Ukraine-Russia War since 2022 has highlighted the bloc politics and the role of espionage. Despite changes of administrations in the US from Barack Obama, Joe Biden, and Trump, the competence for forming groupings has evolved, and NATO has retained a special place in the security considerations of countries, as the rise of its membership has created a national security threat to countries, especially Russia. But Moscow has used espionage clandestinely to sustain its power and advantage, and the Russian agencies attacked the crucial data centres for information to know the real capacity and capabilities by weaponizing the information for warfare. In the Russia-Ukraine War, the “Unit 26165”, largely known as the “Fancy Bear” a military intelligence of the Russian Army has targeted IT sector, emails, internet connectivity, defence, cameras, transport etc of Ukraine, US, Romania, Poland, Netherlands, Greece, France, Czech Republic and Bulgaria (Western Countries Reveal Major Russian Cyber-Espionage Campaign, 2025).

The US under Donald Trump had understood the information and he himself kept many documents related to government despite leaving office, and became the first president in the US to be charged under the ‘Espionage Act’, as he kept 31 documents related to the national security of the US (Trump Faces 31 Charges Under the Espionage Act the Law Regulating Government Secrets, 2023). The world has changed but the war of agencies continues, and even leaders have realised the importance of information, but access to crucial information in the information era also creates problems for the leaders, as Donald Trump was accused of spying for Russia by “sharing crucial information with the Russian counterpart” (Trump Revealed Highly Classified Information to Russian Foreign Minister and Ambassador, 2017).

CONCLUSION

In contemporary times, the mechanism for procuring information has drastically changed as the world witnesses Cold War 2.0 between the US-led West and the anti-American axis. Both sides have avoided direct confrontation but have engaged through espionage agencies and proxies to balance power and gain the upper hand in this strategic rivalry. Meanwhile, reliance on technology and electronics for intelligence gathering has increased. Espionage and spying exhibit continuity from the traditional Cold War 1.0 to 2.0, with few tactical changes in surveillance and monitoring. However, Cold War 2.0 is heavily characterized by cyber espionage, economic espionage, cyber-physical espionage, data exploitation, artificial intelligence, software

tampering, hacking, fiber-optic cables, the internet, open-source platforms, and communication devices. States are competing technologically to outsmart one another, and new lethal conventional setups have emerged due to the weaponization of communication devices, such as pagers, mobile phones, and telephones, as seen during the Pager attack by Israel against Hezbollah and the IRGC.

The growing dependence on technical devices in the digital era, including systems like facial recognition, fingerprint systems, electronic chips, artificial intelligence, and drone technologies, has further redefined the espionage domain. Major businesses worldwide have developed new technologies that are not only lethal in the espionage realm but also pose dangers to humanity, such as neurochips (brain-computer interfaces) that can control human actions. The rise of technology has not deterred conventional setups from obtaining information, as data related to military operations is not available in the public domain. There is a significant data crunch in the sector because governments conceal their true capabilities. Consequently, countries continue to rely on traditional espionage methods through direct recruitment by agencies to gather intelligence from individuals, including ordinary civilians, through honey traps, social networks, favours, brainwashing, and social gatherings. In many cases, individuals are unwittingly recruited and share crucial details regarding locations, places, files, data, reports, and sensitive information with adversaries.

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The Ballot and the Brand: A Comparative Analysis of BJP and Congress Campaigns and the Marketing Imperative in Indian Elections

Madhav¹

ABSTRACT

In the digital age, marketing has transcended its traditional domain of commerce to become an essential tool in political communication and campaign strategy. This paper explores the increasingly blurred lines between commercial marketing and political campaigning, presenting a detailed analysis of how political parties in India, particularly the Bharatiya Janata Party (BJP) and the Indian National Congress (INC), use marketing principles to engage with the electorate. Drawing from the theoretical framework of political marketing, which includes elements such as branding, segmentation, positioning, communication, and crisis management (Ormrod, Henneberg, & O'Shaughnessy, 2013; O'Cass, 2001), the paper argues that electoral success is deeply intertwined with the effectiveness of a party's marketing strategy.

The BJP's rise to prominence and electoral dominance has been significantly aided by strong brand positioning, consistent communication, and strategic use of digital platforms. In contrast, the INC has suffered repeated electoral setbacks due to disjointed messaging, weak leadership portrayal, and failure to adapt to the evolving media and political environment. Case studies, such as the BJP's outreach to Pasmanda Muslims and the Congress's miscommunication around its NYAY scheme, highlight how misaligned or ineffective marketing strategies can alienate voters and damage party credibility. This paper concludes that in contemporary politics, marketing is not merely a supplementary activity but a central determinant of political success or failure.

Keywords: commerce, marketing, political communication, campaigning, digital platforms, electoral

INTRODUCTION

Over the years, we have seen a major growth in the digital platforms; social media has become one of the most popular ways of communicating, engaging or interacting with society. It is no longer just a platform for

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informal social interactions but has turned into a major marketplace where a large chunk of the population is its daily user. For businesses, these users are not merely just users of a social media platform, but they see them as their potential customers. Arguably when we talk about politics, In election we discuss about how various parties try to project their ideas and plans for the people in the form of a manifesto, which is similar to making an offer or invitation to buy a particular product as the fundamental aim of marketing in business is to satisfy the needs of the people while earning profit, similarly the political parties aim to satisfy or fulfil the demands of the people in best possible way, projecting themselves as the solution to their problem.

So, we must acknowledge that marketing is not just limited to the goods or services; it can be based around an individual who is himself a brand or a representation of an organisation (Saxena, 2011; Chakrabarti, 2014). The major question that arises here is whether, when there is a failure of a political party in its attempt to perform well in an election, it is also the failure of its political marketing campaign. To gain valuable insight regarding this question, we need to understand the current political environment and how the fundamentals of marketing are related to politics. To further understand the relation between politics and marketing, we would like to discuss the comparative case study between the way the Bhartiya Janta Party (BJP) and the Indian National Congress (INC) project themselves to the public and how the voters react to their promotional strategies.

MARKETING FRAMEWORK IN RELATION TO POLITICS

When we talk about marketing, the first thing that comes to our mind is related to the sale or purchase of goods. Since we learned about marketing, our focus has been on the commerce side of this term, whereas marketing has quite a universal application.

Political marketing has evolved into a sophisticated field combining traditional marketing techniques with political communication (Norris, 2000; Plasser & Plasser, 2002). In democratic systems, elections are competitive marketplaces where political parties function as brands, and voters act as consumers, making informed choices. This paper examines how a political party's inability to secure victory can be attributed to marketing failures such as weak branding, ineffective communication, and poor segmentation strategies.

As per the Theoretical Framework of Political Marketing, it applies

the principles of marketing to the political domain, including Branding, Segmentation, Positioning, Communication strategies, Crisis management, etc. The Fundamentals of marketing and politics to some degree go hand in hand, talking of brand, it is basically a symbol that the people resonate with, providing a particular quality of experience to its customers, so are the Political parties in today's date. Each political party has an ideology that they carry forward as their positioning in the eyes of the people, and people who align with those beliefs tend to vote for that particular leader or political party.

Another important aspect of marketing is the concept of segmentation; Segmentation basically focuses on dividing the population into different categories based on some common attributes or factors, thereby making it easier for the brands to target the customers accordingly (Ahmed & Jaidka, 2016; Kaul & Chaudhuri, 2018). India, being a home to a vast population coming from numerous ethnicities, makes it very difficult for any brand or political party to attract customers or voters with a single marketing strategy. It is almost impossible for one single strategy to work on the whole of India, as we go down from Kashmir to Kanniyakumari, everything starts to change, whether it is the language, beliefs, food, culture, education or the source of entertainment etc. So, to tackle this dynamic population effectively, marketers segment the market accordingly, and this is something that the political parties also must focus on. Talking of national parties such as the BJP and the Congress they try to align with local parties or leaders for the elections at places where they do not have strong control as it is important to connect with the locals so what these political parties do is they segment the market accordingly and then try pick a representative whose is close to the locals of that particular area or is of the same community, who form the most influential vote share in that region. It is very essential for the political parties to segment the population effectively so they can target the potential voters accordingly and devise a strategy that suits and attracts the majority of the voters of that particular area, thereby giving them a competitive edge over their competitors.

Communication is a major aspect of marketing, as the success of a marketing campaign depends on the fact that the message that a brand wants to convey has been understood by the potential customers in the same way the brand wanted it to be perceived by them (Chaturvedi, 2016; Kumar, 2021). If we focus on the 2020 advertising campaign of Tanishq, infamously known as “Ekatvam”, in which there was a Hindu woman who got married in a

Muslim family. In the advertisement, her in-laws organised a traditional baby shower showcasing harmony between Hindus and Muslims. For the brand, the thought behind this campaign was to promote communal harmony and acceptance of a culture of the female partner, though it wasn't perceived by the public as planned. Many accused this advertisement campaign of being a promotion of "Love Jihad", a term used to describe those Muslims who purposefully marry a non-Muslim partner for the sole reason of converting them to Islam. This controversy had a negative impact on Tanishq's sales, and they eventually had to withdraw their advertisement.

Similarly, in politics, communication plays a significant part; if the political parties are unable to put forward their thoughts and vision appropriately, then their potential vote bank won't respond to their appeals in the same way they expect them to. In 2024, Rahul Gandhi, a senior Congress leader, on his visit to the United States of America, participated in an interaction where he spoke about the reservation system in India, suggesting towards a more data-driven approach to ensure the system is able to provide true social justice. These comments of Rahul Gandhi were interpreted to be against the reservation system, making a majority of his supporters opposed his stand. For the Congress, it was a major issue as they had been dwelling over the caste politics for quite a long time, and any damage to their image as a pro-reservation party could have been fatal for their upcoming elections. BJP also pushed this issue by accusing Rahul Gandhi and the Congress party of undermining constitutional guarantees and misusing the feelings of the Scheduled Cast (SC), Scheduled Tribe (ST), and Other Backwards Class (OBC) communities. On facing a severe uproar from the people, Rahul Gandhi had to clarify his statements. In response to this controversy, Rahul Gandhi issued a formal clarification stating, "My remarks on reservation were completely misinterpreted and taken out of context. Let me make it clear that I, and the Congress party, fully support reservations. In fact, we advocate for a caste census to better implement these policies." To double down on the agenda, he further emphasised that if they came to power, they would explore increasing the reservations beyond the 50% limit.

All these corrective actions after you have identified yourself to be in crisis in politics and marketing are common, thereby making crisis management a crucial part of a successful campaign. For a successful endeavour it is important to identify and understand what the mistakes the party or a brand have made and how they can be rectified, and when the solution for the problem has been identified the party has to make sure that they implement

it with at most urgency as in case of any delay there are high chances of the emotions of the public is turning against the brand or a political party, which in future becomes very difficult to turn around in quick time and during this duration the competitor could make use of this situation to gain a competitive edge over you. So, both in politics and the business aspect, it is crucial to focus on the crisis management mechanism.

CURRENT POLITICAL LANDSCAPE

Over the years, digital media has evolved significantly, so has the marketing landscape because of it, making room for new creative ways for brands as well as political parties to reach or engage with their audience. One such platform is social media, where both the brands and the political parties have to be active to take advantage of the wide range of audience present on those platforms.

Politics in India has evolved from door-to-door persuasion to high-decibel multimedia marketing (Verma & Sardesai, 2014; Joshi, 2017). As elections become increasingly media-centric, marketing strategies—akin to those in consumer goods industries—determine how effectively parties connect with voters. In this context, the BJP and Congress present contrasting case studies. The BJP's rise over the last decade is as much a triumph of marketing as of ideology (Jaffrelot, 2015; Chibber & Verma, 2018). Conversely, Congress's electoral setbacks highlight critical lapses in strategic communication and brand positioning.

A major role in today's competitive political environment is played by the active forces of every party who have dedicated forces to work in a single direction of portraying a clean and positive image of their party in the eyes of the of public. To do so, these parties employ social media experts who are basically responsible for the safekeeping of the image of the party that they have created over the years and make sure the message or the belief for which the political party stands is clearly and effectively communicated. This is something that we also find in the field of business, where marketers have a team, PR agencies, which are responsible for the positioning of their brand, as it is crucial for any brand or political party that the customers or their potential voters have a positive image of them.

Talking of the BJP, we can see over the years they have represented themselves as a strong pro-Hindu party, raising various issues such as the Ram Janmabhoomi movement, which was something that was much opposed

by a majority of the Muslim community of India. Another one of the most opposed acts by the Muslim community was the Citizen Amendment Act (CAA), which provided a pathway to citizenship for a non-Muslim from Pakistan, Bangladesh and Afghanistan. Despite its Hindu nationalist image, the BJP has undertaken several initiatives aimed at the upliftment of Muslim communities, such as the Pasmanda Muslim Engagement, in which the BJP focused on Pasmanda Muslims who are known to be economically and socially disadvantaged. Danish Azad Ansari, a Pasmanda Muslim, was even nominated to the Uttar Pradesh Legislative Council and was also nominated as the Minister of State for Minority Welfare. The party also nominated Tariq Mansoor, former Vice-Chancellor of Aligarh Muslim University, as the national vice president. In Uttar Pradesh, the BJP government targeted economically disadvantaged groups, including Pasmanda Muslims. Under the Pradhan Mantri Awas Yojana (PMAY), many Pasmanda Muslims were allocated housing units. Despite these efforts BJP did not yield substantial support from the Muslim community (Pillai, 2020; Kumar, 2021). On conducting the post-election analysis, it was revealed that the BJP secured only around 10% of the Pasmanda Muslim vote in some constituencies, with even lower percentages in others. This drastic difference in welfare-to-vote relation may be subject to how the BJP has promoted itself as a party, even after they have made various efforts in favour of the Muslim community, due to their pro-Hindu image, the Muslim community hasn't given them their support.

Understanding the political structure of India might be complicated due to its diverse nature, but when we take business perspective to understand the above situation we can identify that the focus in this case may lie with positioning of the BJP, as they may be doing their part in the upliftment of the Muslim community and still are unable to receive satisfactory support from the community in the electoral polls clearly points towards the discussion of their positioning as a pro-Hindu party which throws off the Muslim community to vote in favour of the BJP as even though the BJP did good work in favour of them, the Muslim community see them be a party who are against the beliefs the Muslim community due to its pro-Hindu roots. Though India is a majority Hindu country, the Muslim population is growing at a fairly increasing rate, making the Muslim population hard to ignore, as in some states, they are a game changer from the electoral aspect. So, if the BJP wants to pursue some part of that vote share, they may have to change the way they portray themselves to the community.

Congress party, the party which has had experienced successful political journey over the years are finding it difficult to compete against the BJP in the current electoral contest, Questions has been raised about the leadership of the Party, Rahul Gandhi who is currently the face of the party has often been criticised over his leadership or inheritance of power from the family on the contrary Prime Minister Narendra Modi has often been praised for his bold leadership and strong stance in the country as well as in the International community. India, being a country of diversity in every aspect, may it be based on culture, caste, income, etc., but this country also runs on emotions, which in today's Indian political scenario is clear that the BJP under the leadership of Narendra Modi is able to connect more with the general people.

On analysing the campaign of the Indian National Congress (INC), we can identify the irregularities of the party over the years, which have hindered their chances of a successful political campaign. If we focus on the 2019 Lok Sabha elections, Congress had come from a successful campaign claiming victories in three key states, Chhattisgarh, Madhya Pradesh and Rajasthan, making their supporters optimistic for a more competitive Lok Sabha election.

The approach of the Indian National Congress (INC) was not satisfactory and seemed to be more of a hoax. The Manifesto that the Congress party has released having their flagship promise of the NYAY scheme which proposed an annual support of ₹72,000 for the poorest families was introduced only four days before the first polling phase which seemed more like a desperate measure taken by the Congress and this approach of urgency lacked credibility in the eyes of the public. The NYAY scheme in itself led to confusion among the people who mistook the scheme to be more of a judicial justice thing and not an economic support scheme (Farooqi & Bhushan, 2020; Bhattacharya, 2020). The failure of the Congress party to clearly communicate its plans raises a major question about the professionals employed by the party for this job.

Indian National Congress has often been criticised for having a neutral stand or sometimes an ignorant approach to the issues of the Indian Hindu community. The Muslim community of India prefer the Indian National Congress over the Bharatiya Janata Party, so it becomes evident that they do not want to hamper their Muslim vote bank. Due to this lack of acknowledgement by the Congress party towards the Hindu community's issues, a sentiment of dissonance amongst the Hindu voters often leads to voters opting for the BJP, which, on the contrary, has a clear stand. Due to

the complicated dynamics of the Indian political landscape, it is not possible for a particular party to keep everyone satisfied, but what can be controlled is the way they can portray themselves in the eyes of their target audience.

Politics or Politicians are often termed to be something which cannot be trusted, as more often than not, they tend to break their promises. The elections are fought on different fronts may it be on the grassroots or the online platforms due to the digital age and maybe in future something new becomes the new normal we cannot tell right now but thing which will remain constant is the message, The message which holds the true representation of a political party, it is the representation of the mission and the vision for which a party stand and aspires to achieve. This holds the essence of the party, which needs to be clearly communicated. Similarly, in the case of a brand, the identity of the brand must be clear in the eyes of its customer, making their brand a representation of their beliefs. This can be done through marketing, a successful marketing campaign can help achieve the set goals when planned and implemented correctly. On the contrary, if the marketing plans are not up to the mark or there is a failure in execution, they can very rapidly go against you and can also be the reason for the failure. Hence, whether it is a brand or a political party, marketing campaigns may work as a make or break, so it is something that has to be more focused upon, even in the political landscape, where we do not recognise its role that often.

CONCLUSION

The evolving landscape of Indian politics showcases a compelling convergence between traditional marketing and political strategy. As seen through the comparative lens of the BJP and the INC, the ability to market a political vision, build a resonant brand, and communicate effectively with segmented voter bases has become essential in securing electoral victories (Kaul & Chaudhuri, 2018; Saxena, 2011). The BJP's strategic use of media, cohesive brand identity, and proactive crisis management mechanisms have allowed it to dominate national discourse, despite controversial decisions or policies. Conversely, the Congress party's inconsistent messaging, leadership ambiguity, and lack of timely engagement with key voter segments have exposed it to electoral vulnerabilities—many of which can be directly attributed to marketing failures.

The cases of the NYAY scheme rollout and Rahul Gandhi's controversial comments on reservation underscore how critical clear and timely communication is in maintaining voter trust and alignment. Furthermore,

BJP's inability to convert welfare outreach into Muslim votes despite targeted campaigns also reveals how deeply entrenched perceptions and brand positioning can influence voter behavior—sometimes outweighing policy actions.

In essence, politics in the modern era is not solely about ideology or governance but about perception management, emotional engagement, and strategic communication—core tenets of marketing (Srivastava, 2015; Lal, 2016). Political parties, like brands, are judged by how they project their identity, how consistently they deliver on their promises, and how well they respond to crises. A political defeat, therefore, should not only be seen as a rejection of ideology but also as a failure of the marketing mechanisms designed to connect that ideology to the masses.

In this context, political marketing emerges as both an art and science, shaping not only electoral outcomes but also public sentiment and democratic discourse. Future campaigns must recognize this paradigm and invest accordingly in professional, data-driven, and emotionally intelligent marketing strategies to stay relevant in an increasingly competitive political environment.

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Remand Under BNSS: A Comparative Study with UK & US Laws

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ABSTRACT

The Indian criminal justice system underwent a significant transformation with the enactment of the Bharatiya Nyaya Sanhita (BNS), 2023, replacing the Indian Penal Code, 1860. Alongside, the Code of Criminal Procedure, 1973, was replaced by the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. This paper critically examines the evolution and modifications in remand provisions under the BNSS, particularly Section 187 read with Section 58, compared to the earlier Section 167 of the CrPC. It explores the shifting judicial interpretations on remand duration and police custody, highlighting the Hon'ble Supreme Court's recent relaxation of the 15-day rule. The paper also analyses divergent High Court decisions on the transitional applicability of BNSS in pending matters. Drawing comparisons with US and UK criminal law procedures, this paper seeks to provide a comprehensive understanding of remand jurisprudence and the legal implications of the new legislation on procedural safeguards and individual rights. While all three jurisdictions recognize the necessity of pre-trial detention for ensuring justice and public safety, the U.S. and U.K. demonstrate stricter timeframes and clearer judicial oversight. The U.K.'s bifurcation of remand into pre- and post-charge phases and the U.S. emphasis on swift hearings underline their focus on due process and individual liberty. In contrast, India's remand provisions, particularly the extension of police custody, raise concerns of potential misuse and imbalance of power. The article questions whether current Indian practices align with constitutional protections and international human rights standards, urging a re-examination of remand procedures to prevent encroachments on civil liberties and uphold the principle of "innocent until proven guilty."

Keywords: Remand, BNSS, Police Custody, Judicial Interpretation, Criminal Law Reform, Remand Laws, Pre-trial Detention, Human Rights

INTRODUCTION

Over the past couple of years, the Indian Parliament had been deliberating on the topic of overhauling the 3 major criminal laws in force in India—the

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India Penal Code, 1860 (IPC), the Indian Evidence Act, 1872 (IEA), and the Code of Criminal Procedure, 1973 (CrPC). In a historic move last year, i.e. in 2023, new bills were passed by both Houses of Parliament and received the President's assent by 25th December, 2023. The IPC was replaced by the Bharatiya Nyaya Sanhita, 2023 (BNS), the IEA was replaced by the Bharatiya Sakshya Adhiniyam, 2023 (BSA), and the CrPC was replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) (Universal's Criminal Manual, 2024). The new laws came into force on 1st July, 2024 (Abraham, 2024).

A perusal of the new laws shows that the essence of the respective previous legislations remains the same while certain major changes have been made in the new laws. One of the most obvious changes brought about is the change in the names of these legislations – using Hindi names. Apart from modernising the laws in force and updating the criminal justice system. Another objective was to symbolise the de-anglicisation of criminal law (Nambath, 2024). Changes within the legal provisions *inter alia* include the deletion of 'sedition,' replacing it with Section 150 that criminalises promoting of secessionism, separatism and armed rebellion, mob lynching and organised crime have been added while hate speech has been removed, making videography of seizures has been mandatory, and remand provisions have been altered to permit police custody beyond the 15-day limit (Nambath, 2024).

The present paper deals with the recent changes made to the remand provisions in the BNSS as compared to CrPC and a comparative study of the same regarding the US and US laws.

BNSS IMPLEMENTATION AND INTEGRATION

Before examining the new statutory provisions concerning remand, police custody, and judicial custody under the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), it is essential to contextualize the interpretative approaches adopted by various Hon'ble High Courts and the Hon'ble Supreme Court of India in harmonizing the procedural transition between the Code of Criminal Procedure, 1973 ("CrPC") and the BNSS in relation to pending matters (Mukherjee & Sinha, 2024). Given the considerable volume of pending cases initiated prior to the enforcement of the BNSS, there has emerged significant judicial discourse regarding the procedural regime to be applied by courts. Consequently, various High Courts have been compelled to engage with this transitional dilemma within their respective jurisdictions.

The Hon'ble High Court of Delhi in *Prince v. State (NCT of Delhi)*, 2024⁴ authoritatively held that a bail application filed subsequent to the commencement of the BNSS (i.e., post 1 July 2024), despite the FIR having been registered prior thereto, must be adjudicated in accordance with the BNSS rather than the CrPC.

A concurring interpretation was rendered by the Hon'ble High Court of Bombay in *Chowgule and Co. (P) Ltd. v. State of Goa*, 2024 wherein the Division Bench comprising Bharat P. Deshpande and Valmiki Menezes JJ. opined that while investigations initiated before 1 July 2024 must be concluded under the CrPC, any bail application preferred post-enforcement is to be governed by Section 482 of the BNSS.

In contrast, the Hon'ble High Court of Punjab & Haryana in *X v. State (UT of Chandigarh)*, 2024 adopted a divergent approach, holding that upon the coming into force of the BNSS, all proceedings—save for pending appeals, applications, revisions, and similar proceedings—must be conducted under the new legal framework, regardless of whether the matter was initiated under the previous enactments. The Court further clarified that any appeal, revision, or petition instituted after 1 July 2024 shall be governed by the BNSS.

The Hon'ble High Court of Kerala in *Abdul Khader v. State of Kerala*, 2024 similarly deviated from the Delhi and Bombay High Courts. Justice Sophy Thomas articulated that although a trial may have been conducted and judgment rendered under the CrPC, any appellate proceedings arising thereafter shall be regulated by the BNSS.

Endorsing the rationale of the Punjab & Haryana High Court, the Hon'ble High Court of Allahabad in *Deepu v. State of U.P.*, 2024 per Vivek Kumar Birla J., elucidated that where the offence was committed prior to the enforcement of the BNSS but the FIR was registered subsequently, the registration must occur under the Indian Penal Code, 1860 ("IPC"), while the subsequent investigation shall proceed in accordance with the BNSS. However, if the investigation had commenced and remained pending as of 1 July 2024, the procedural provisions of the CrPC would continue to apply until the stage of cognizance, after which the BNSS would govern.

The Court further affirmed that all trials, appeals, applications, or revisions instituted post-enforcement shall be conducted under the BNSS. In instances where a trial initiated prior to the enforcement concludes thereafter, any appeal or revision arising from such a judgment must be filed under

the BNSS. Additionally, the Court clarified that any challenge to criminal proceedings or charge-sheets before the High Court on or after 1 July 2024, even if the underlying investigation was conducted under the CrPC, shall be governed by the procedural framework of the BNSS.

REMAND: LEGAL CONCEPT AND PURPOSE

Cambridge Dictionary defines remand as sending someone who is accused of committing an offence away from the court until their trial begins (Jones, Roach, Setter, & Esling, 2011).

Merriam-Webster Dictionary (Merriam-Webster, 2024) defines remand as:

“the act of remanding something or someone or the state of being remanded: an order to return or send back someone or something the return of a person to custody pending trial or for further detention”

As per Wharton’s Concise Law Dictionary remand has been defined as to return from one court to another especially lower court or from a court to an administrative agency (Wharton’s Concise Law Dictionary, 2012).

Black’s Law Dictionary states remand is the act or instance of sending something (such as claim, claim or person) back for further action (Garner & Black, 2024).

From a perusal of the above definitions, it can be safely presumed that in the legal sense remand has two meaning – one is to return cases from the appellate court to the lower courts, and the other is to return or send back someone to the custody of an administrative agency or authority. The current paper will be dealing with the latter definition.

There are 2 main types of remand – police remand and judicial remand, with a third being added later i.e. transit remand.

Judicial Remand is where the Magistrate send the accused to a local jail or other facility under the supervision of the judiciary. The accused is under the supervision of the Magistrate.

Police remand is where the accused is sent by the Magistrate back to the police station. In such cases the accused is under the surveillance of the police.

Transit Remand is a sub-group of police remand and is usually practiced when the accused has been arrested outside the police jurisdiction. It is

meant to transport the accused from one place to another for the purpose of production before the court which had jurisdiction over the case (Wahab).

Until recently, the concept of remand was being dealt by under the CrPC under Section 167 read with Section 57. After the BNSS coming into force, remand is now being dealt with under Section 187 read with Section 58.

REMAND UNDER CODE OF CRIMINAL PROCEDURE

Before, the concept of remand was dealt with under Section 167 of the CrPC. Section 167 CrPC laid down that whenever a person accused of an offence is arrested, the police must produce that person before the Magistrate within 24 hours of such arrest. If it seems that the investigation cannot be completed within the 24 hours then his custody may be extended by the Magistrate, before the completion of the charge-sheet, upon an application made by the police requesting as such. This is also known as remand.

In *Manoj v. State of Madhya Pradesh*, 1999 the Court held that two requisites must be followed by the investigating officer when the investigation cannot be completed within 24 hours after arrest of the accused – to transmit a copy of the case to the nearest judicial magistrate and to forward the accused to such magistrate. Referring to Section 57 the court also laid down that no person arrested without warrant can be kept in custody for a period longer than 24 hours of such arrest. If such person was not produced by the police officer to the nearest judicial magistrate within 24 hours of his arrest, then his further detention would be invalid and would be held vitiated.

However, once the person has been presented before the Magistrate, and the latter has decided to extend the police custody of the accused, such remand cannot be granted for more than 15 days in total. After this the remand will be that of judicial custody rather than police custody.

In *State (Delhi Admn.) v. Dharampal & Ors.*, 1980 the court held that subsequent to the 15 days' police custody an accused can only be sent to judicial custody.

In *C.B.I. v. Anupam Kulkarni*, 2024 the SC held:

“The detention in police custody generally disfavoured by law. The provisions of law lay down that such detention can be allowed only in special circumstances and that can be only be a remand granted by a magistrate for reasons judicially scrutinised and for such limited purposes as the necessities of the case may require. The scheme of Section 167 is

obvious and is intended to protect the accused from the methods which may be adopted by some overzealous and unscrupulous police officers.”

The proviso states that a Magistrate may extend the detention or remand but for offence punishable with death. Life imprisonment or imprisonment for not less than 10 years the extension shall not be more than 90 days while for other offences it shall not be more than 60 days. Upon the expiry of said 60/90 days the accused shall be released on bail if he is ready and willing to furnish the bail (Code of Criminal Procedure, 1973, s. 167).

The 3-Judge Bench in Anupam Kulkarni, 1992 also held that the 60/90 days are to be calculated from the date of detention, not from the date of arrest.

The Hon'ble Supreme Court in Suresh Kumar Bhikamchand Jain v. State of Maharashtra, 2013 revised the interpretation of Section 167(2)(a)(ii) and held that default bail shall be granted to the accused irrespective of whether the court had taken cognizance of the police report submitted before it or not.

It was mandatory that in order for the Magistrate to authorise detention in police custody the accused had to be produced before the Magistrate not only for the first time but also subsequently every time, as long as the accused remained in police custody (Code of Criminal Procedure, 1973, s. 167(2)(b)).

Magistrates of Second Class could not authorise such detentions unless specially empowered by the High Court (Code of Criminal Procedure, 1973, s. 167(2)(c)).

In a proviso clause, which was added as an Amendment in 2009, it was laid down that a woman under 18 years of age would be detained in the custody of a remand home or recognised social institute only.

In a landmark judgment of Gautam Navlakha v. National Investigation Agency, 2021, a 3-judge Bench of the Hon'ble Supreme Court had included new terms - “house arrest” and “transit remand” – in the concept of Section 167 and held that an accused could be ordered to be held under house arrest by lower courts instead of judicial or police custody.

Amendment made in 1978 had added that if the investigating officer is a sub-inspector or above in rank, then in the absence of a Judicial Magistrate or Metropolitan Magistrate, the former was authorised to transmit the accused to the nearest Executive Magistrate instead. Said Executive Magistrate had

the power to grant police remand for a maximum of 7 days in aggregate subject to reasons given in writing for doing so. Section 167 (2A) also states that any extension of the detention period given by a competent Magistrate subsequently will include within its calculation the period of 7 days' detention authorised by the Executive Magistrate, i.e. the afore-mentioned 7 days will be a part of the period of 60/90 days' extended remand time. However, the Executive Magistrate must transmit the case with a copy of the diary entries related to the case to the nearest Judicial Magistrate before the expiry of the 7 days.

Sub-Sections (3) and (4) state that any police remand authorised under Section 167 by the Magistrate shall have reasons recorded by said Magistrate for doing so and said Magistrate (if not a Chief Judicial Magistrate) shall forward his reasons to the Chief Judicial Magistrate.

In *T. Jagdeeshwar and Anr. v. State of Andhra Pradesh*, 2003 the Hon'ble Supreme Court held that any extension of remand shall be accompanied by proper reasons and consequences mentioned by the investigating officer. If such a request is not made, remand should not be extended, and magistrate must inform the accused that he can be released on bail.

Sub-Sections (5) and (6) deal with cases that are to be dealt with as summons-case and the procedures to be followed in case the investigation of such summons-case does not conclude within 6 months. In such cases the Magistrate has the power to stop further investigations unless for special reasons and in the interest of justice. If investigation is stopped by the Magistrate and the Sessions Judge is of a different opinion then, on being satisfied on an application made to the latter or otherwise, that further investigation is necessary, then the Sessions Judge may vacate the previous order and direct further investigation subject to directions regarding bail and other matters.

In recent years, despite strict interpretations of the Hon'ble Supreme Court regarding remand, certain relaxation has been noticed. For example, in *V. Senthil Balaji v. State rep. by Deputy Director*, 2023 Justices Bopanna and Sundresh have held that the maximum period of 15 days of police custody is meant to be applied during the entire period of 60/90 days, as a whole. This decision of the Hon'ble Supreme Court has been in contravention of several judgments some of which are in fact binding in light of being a 3-judge Bench decision in *Budh Singh v. State of Punjab*, 2000 (Ramkumar, 2024a).

REMAND UNDER BNSS

As has been mentioned before, the BNSS was introduced to replace the current CrPC. Even though the CrPC has been repealed in light of the legislative step; in order to maintain order, it would still be applicable in certain situations. Section 531(1) of the BNSS states that the CrPC shall be considered repealed. However, in its saving clause under Section 532(2)(a), if any appeal, application, trial, inquiry, or investigation is pending prior to 1-7-2024, the same shall be disposed of, continued, held, or made, as the case may be, in accordance with the CrPC (Mukherjee & Sinha, 2024).

Before 2023, it was well-settled that the accused could be remanded to police custody only with the first 15 days of his presentation before the Magistrate after his arrest. Multiple decisions of the Hon'ble Supreme Court have affirmed this interpretation of the provision. In *State (Delhi Admin) v. Dharampal & Ors.*, it was held that the accused could only be sent to judicial custody after the 15 days' police remand (2024 SCC Online Bom 2501). In *CBI v. Anupam J. Kulkarni*, it was observed that there cannot be police custody beyond 15 days from the date of arrest (CRM-M-31808-2024).

However, a major change was brought about compared to the previous provision. Where before the accused could not be remanded in police custody after the initial 15 days of the investigation and arrest, now the said 15 days of police custody can be granted at any time during the initial 40/60 days out of the total 60/90 days' pre-chargesheet remand period.

With regard to this the new Section under the BNSS i.e. Section 187 reads as follows:

“(2) The Magistrate to whom an accused person is forwarded.....authorise, from time to time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding 15 days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided under sub-section (3)”

The current provision has led to certain ambiguities thereby creating a rift between expert opinions regarding the applicability of this section. Where previously it was limited to the initial 15 days after arrest it has now been extended to initial 40 to 60 days after arrest. Many experts have shared their fear that such a departure from the previous legislation gives the police greater opportunity to express their power as sub-section (3) clearly states the Magistrate may even extend the custody beyond the 15 days thereby giving rise to the apprehension that it can be extended up to more the entire 60/90

days as well. Not only this but the omission of the words “otherwise than in police custody” in sub-section (3) has created an ambiguity as to whether such further detention shall be under police remand or judicial remand thereby contributing to the above-mentioned apprehension (Gonsalves, 2024).

Further ambiguity can be seen in Section 187(2) wherein the words “in such custody as such Magistrate thinks fit” leaves it up to interpretation of the Magistrate as to whether to authorise police custody or judicial custody. Lack of specification has led many to believe that the 15 days mentioned in the new section is not a one-time detention rather the ambiguous language could just as easily be interpreted to mean a maximum of 15 days’ police remand followed by a day or more of judicial custody and then a further order for police remand with the maximum limit of 15 days; this process being capable of repetition for the initial 40/60 days, as the case maybe (Ramkumar, 2024b).

The BNSS was criticised by many experts who believed that the provisions enumerated in it were lacking in details and showed potential for being misused by authorities having malicious intent (Das, 2024). The Parliamentary Standing Committee on Home Affairs (Parliament of India, Rajya Sabha, 2023), in its report submitted the following:

“There is a concern that this clause could be vulnerable to misuse by authorities, as it does not explicitly clarify that the custody was not taken in the first fifteen days either due to the conduct of the accused or due to extraneous circumstances beyond the control of the investigating officer. The committee recommends that a suitable amendment may be brought to provide greater clarity in the interpretation of this clause.”

The Committee even received suggestions that the 40/60 days initial period provided for police custody be treated as an exception applicable only under certain conditions such as the accused is trying to evade the police, or extenuating circumstances beyond the control of the investigating officer. This order for extension of remand should only be granted if the police record its reasons for not being able to complete its investigations within the initial 15 days of remand (Kumar, 2024).

Another point of contention arises with regard to which Magistrate has the power to pass the remand order for the maximum period of 15 days and which Magistrate has the power to order further extension of the remand order. Wherein taking into consideration Section 57 and Section 167, it was clear that the nearest Magistrate only had the power to order remand for the

initial 15 days of police custody whereas the Jurisdictional Magistrate has the power to order for the extension of the remand order beyond the 15 days. In the current Sanhita however, there is no clarity as to the division of this power. This gives the nearest Magistrate not only the power to authorise the detention of the accused/arrestee for the maximum 15 days in police custody but also gives him power to further order police or judicial custody within the given initial 40 to 60 days (extendable to 60 and 90 days respectively).

On the one hand the Sanhita under Section 187(5) the second proviso states:

“...no person shall be detained otherwise than in “police station” under “police custody” and otherwise than in “prison” under “judicial custody” or a place declared as “prison” by the Central or State Government.”

On the other hand, Section 457 of the BNSS which states that the State Government has the power to decide in what place a person liable to be imprisoned or committed to custody shall be confined creates redundancy and confusion as to whether the confinement will be police or judicial custody (Ramkumar, 2024c).

US LAWS ON REMAND

The US laws have always given emphasis to human right especially the concept of freedom and liberty. That is not to say that this concept alone has been the driving force behind formulating their laws. concepts of arrests, warrants, summons, pre-trial detention (also known as reman in India) do exist and there have been time when preventive detention in the interest of justice and security, has outweighed an individual's freedom. The Hon'ble Supreme Court, interpreted that the US Constitution authorises preventive detention when the government's security takes priority over an individual's rights to liberty (United States v. Salerno, 1987).

The Federal Rules of Criminal Procedure lays down provisions for the procedure to be followed upon arresting an individual. It states that upon arrest, an individual must be brought before a Magistrate Judge or a State or Local Judicial Officer without any delay as per Rule 5(c), unless any statute otherwise provides (Federal Rules of Criminal Procedure, Rule 5, 1961).

It is pertinent to mention here that unlike in India, there is no time limit fixed for the appearance of the accused before the magistrate. There is no limitation of 24 hours provided.

As per Ruel 5.1(c), it has been laid down that the preliminary hearing after the initial appearance of the accused before the magistrate must be held within a maximum of 14 days if the person is in custody or 21 days if not. This is subject to extension one or more times upon showing of good cause, considering the public interest, and with the defendant's consent. However, if the defendant's consent is not given, then such extension is not possible on merely good-cause, rather one has to show extraordinary circumstances that are compelling enough for the court to grant custody (Federal Rules of Criminal Procedure, Rule 5.1, 1961).

Another difference that the authors have noted is that while in India remand is classified broadly into police and judicial, under the current Federal Rule, custody is mostly dependant on whether it would be federal or state/local in nature. There has been no distinction made as to whether the arrestee will be taken back into police custody or is there is any mechanism in place for judicial custody.

As per an article (Stevenson & Mayson, 2022) the authors have found out that pre-trial detention cannot extend beyond 24 to 48 hours (Ludwig & Mullainathan, 2021). Upon being brought before the magistrate, said magistrate has several options to choose from – releasing the arrestee upon their own recognizance i.e. a promise to return for trial, release the arrestee while implementing certain conditions of such release, or refusal to release the arrestee and instead extending the detention (18 USC § 3142, 1926). All this is of course non-arbitrary and subject to public safety and security and the arrestee propensity to thwart the laws.

Without going into too much detail, a bare perusal of these two laws shows that even though the concept of detention in both contemporaries – India and US are the same as regards remand – i.e. to prevent further harm to the society, to enable better investigation into the offence and the arrestee, and to enable proper justice. However, it can also be seen that where India has made efforts to bifurcate and distribute the powers and responsibilities between the judiciary and the executive, when it comes to custody, there is no such classification in the US laws. On the one hand it can be said that emphasis instead has been given to the arrestee's rights by the latter country by overlooking such classifications and instead focusing on holding the pre-trial hearings as soon as possible. On the other hand, it can also be said that this has led to ambiguity and potential for misuse of police powers no matter how short a time it may take. The authors would also like to point out

however, that the current Indian concept of extending the police custody to 40/60 days is no less concerning as here to police is being given substantial amount of power in its hands.

UK LAWS ON REMAND

The meaning of remand in the UK is similar to that of India i.e. it refers to the temporary detention of a suspect. The similarity in the definition however, ends here as in the UK remand can be ordered either before or after the suspect has been charged with offences, it can be imposed at any stage of the legal process (Makwanas, 2023).

Where in India one finds remand to be classified based on the jurisdiction, in the UK one will find that it has been classified based on the stage in which the legal proceeding is at – pre-charge remand and post-charge remand.

Pre-Charge remand in the UK is regulated by the Police and Criminal Evidence Act (PACE), 1984. As per this Act an arrestee can be held in pre-charge remand for not more than 24 hours, subject to extension in case of serious offences (Police and Criminal Evidence Act, 1984, §§ 41(1) & 42). Where one might find a semblance of similarity to India regarding the maximum limit of custody after the arrest, the difference can be seen in Section 42 of the PACE, 1984 wherein a Police Officer not lower than rank of Superintendent can extend this detention up to 36 hours while a Magistrate may do so up to a maximum of 72 hours (*Pre-Charge Detention in Terrorism Cases*).

A major difference in the very fundamentals of the two contemporaries that the authors would like to point out is that where in India the remand is for further investigation, in the UK the remand can be for the purpose of investigation as well as after framing of the charges of offence against the suspect/arrestee.

Following the requisite 24 to 96 hours of pre-charge custody, upon being charged with offences, the suspects are either released on bail in case of minor offences or held in remand for a longer period in case of serious offences. There is, however, no maximum period for which a suspect can be held in post-charge remand. This decision is dependent upon the magistrates of the court and is based on different factors such as the propensity to abscond or re-offend or tamper with the witnesses and evidences, etc. (Bail Act, 1976, Sch. 1).

In the humble opinion of the authors, at a single glance it may seem that the laws relating to Remand in India as well as the UK appear to be similar except for the terminologies. However, there are major differences in the essence of each country's incorporation of remand laws. The primary purpose of remand in the UK is to ensure that the accused is available. In India, remand is to ensure the carrying out of further investigation.

A particular aspect of remand in the UK that the authors appreciate as compared to in India is a much shorter and stricter time frame for pre-charge remand or, in India, what is known as police custody or police remand. This would ensure that the police are forced to complete the investigations without any inordinate, unnecessary delays and risking the destruction of evidences while at the same time are given more than just 24 hours to carry-out their investigation in a proper manner. The current ambiguity in the BNSS regarding the 15 days police custody as well the extension periods has opened up avenues for those with mala fide intentions to misuse their authority and power to evade justice.

CONCLUSION

The authors deem it imperative to underscore that international legal instruments, including the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, the *International Covenant on Civil and Political Rights* (ICCPR, 1966), and the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), have consistently reaffirmed the obligation to treat individuals accused of crimes with fairness, dignity, and respect for their inherent human rights.

In the Indian context, similar commitments are reflected in a range of statutory rules and administrative guidelines that emphasise the humane treatment of prisoners and undertrial detainees. Notably, the *Model Prison Manual* (Ministry of Home Affairs, 2016) sets forth detailed provisions to ensure the well-being and dignity of inmates, including entitlements to appropriate clothing, bedding, nutritious food, and hygiene (Model Prison Manual, Chapter IV, 2016, p. 20). These standards have been judicially recognised and read into the ambit of Article 21 of the Constitution of India — the right to life and personal liberty — by the Hon'ble Supreme Court of India, thereby conferring them with constitutional protection.

It is a cardinal principle of criminal jurisprudence that mere arrest or suspicion of involvement in an offence does not extinguish an individual's

fundamental rights. The presumption of innocence until proven guilty is a cornerstone of India's legal system. Accordingly, no stage of investigation or trial should be permitted to encroach upon or derogate from the fundamental rights of the accused, save in accordance with procedure established by law and under circumstances of compelling necessity.

In view of the foregoing, the authors conclude by raising a critical question: whether the contemporary practice of extending periods of remand — particularly police custody — is in consonance with the aforesaid principles of human rights and constitutional safeguards. Further, whether the conferment of such significant coercive powers exclusively upon the executive branch creates an asymmetry in the doctrine of separation of powers and poses a potential threat to the rights of ordinary citizens, thereby unsettling the foundational principles of our constitutional framework and democratic polity.

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Vedānta as the Basic Culture of India Through the Lens of Chakravarti Rajagopalachari

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ABSTRACT

Vedānta is one of the ancient Indian philosophies which is mainly based on sacred scriptures known as the Triple canonical text or Prasthānatrayī, i.e. Upanishads (Śruti Prasthāna), Gītā (Smṛiti Prasthāna) and Bāḍrayāna's Brahmasūtra (Nyāya Prasthāna). While Hinduism incorporates features of Indian culture, Vedānta provides the philosophical underpinning of Hinduism. Vedānta is universal in scope and applies to all countries, civilisations and religions. Chakravarti Rajagopalachari, also known as 'Rajaji' or 'C.R.', was 'an ardent patriot, an astute politician, an inclusive thinker, and one of the great statesmen modern India produced'. He drew inspiration for his ideas and actions from a deep love for the people and the Motherland, as well as a strong belief in our spiritual and cultural legacy. As Dr. Radhakrishnan said, Rajaji is "a part of our history". He has done a tremendous job by writing several books on Indian Culture. This paper aims to understand the concept of Vedānta as the basis of Indian Culture through the perspective of Chakravarti Rajagopalachari.

Keywords: Rajagopalachari, Culture, Hinduism, Vedānta, Ethics

INTRODUCTION

Vedānta is one of the ancient Indian philosophies established by Śaṅkara and subsequently influenced by other *darśanas*. Isayeva, in her book *Shankara and Indian Philosophy*, writes that "Vedanta emerged after India had passed through Buddhist temptation and was moving back towards the womb of Brahmanist Religion" (Isayeva, 1993). Vedānta, literally meaning the end portion of the Vedas, is interpreted as a school having its immediate source in the final portions of the Vedas, i.e., in the Upaniṣads (Swaroopa, 2024). According to orthodox philosophical schools, Vedānta is usually grouped with Mīmāṃsā and known as later or Uttara-Mīmāṃsā. In contrast to Pūrva-Mīmāṃsā, which also declared its close connection with sacred scripture, "Vedānta teaches not about rituals, rules and laws but about the integral sense of revelation" (Isayeva, 1993). Of course, modern thinkers did not invent

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Vedānta. As Torwesten writes in his book *Vedanta: Heart of Hinduism*, “They only simplified and modernised the ancient teachings of the Upaniṣads concerning the innately divine nature of man and pointed to the various yogic paths leading to the highest realisation of the self” (Torwesten, 1985). Among modern thinkers like Swami Vivekananda, Sri Aurobindo, Mahatma Gandhi and other spiritual teachers, Rajagopalachari was also an exponent of Indian culture and the philosophy of Vedānta.

Chakravarti Rajagopalachari (1878-1972), also called ‘Rajaji’ or ‘C.R.’, was “a great patriot, an astute in political acumen, an inclusive thinker, and achieved eminence as a statesman and administrator, writer and scholar that modern India produced” (Char, 1978). He was born in December 1878 as the “third and last child of father Venkatarya Iyengar and mother Singaramma, in a South Indian village called Thorapalli” (Gandhi, 1997). If we look upon the life and work of Rajagopalachari, we may divide it into four phases: first, as a lawyer and administrator in the early twentieth century; Second, as a freedom fighter during the freedom struggle of India, third, as a Politician after Independence; and lastly as an influential writer. That is why Jay Prakash Narayana ranked him “next only to Gandhiji in political wisdom and maturity and rightly regarded him as the Nestor of Modern Indian Politics” (Rajagopalachari, 1977). Even Mahatma Gandhi once called him his “Conscience-keeper” (Kripalani, 1993), and K. Thiagarajan called him “the conscience-keeper of India as well; the moral sentinel, the lodestar of intellectual integrity and the Bhishma of Modern India” (Thiagarajan, 1993). Antony Copley specifies him as a ‘moralist in Politics’ and ‘Gandhi’s Southern Commander’ (Copley, 1986). Ramchandra Guha in his book *Makers of Modern India* termed him as ‘The Gandhian Liberal’ (Guha, 2012).

In this paper, I have emphasised Rajaji as an influential writer. He was a literary giant. He had written numerous books concerning Indian Culture. He has been credited as the author of “*Ramayana, Mahabharata, Bhagavad Gita, Upanishads, Bhaja Govindam* of Adi Śaṅkarācārya, *Kural* of Thiruvalluvar, *Hinduism: Doctrine and Way of Life*”, and many other books related to politics. This paper deals with the various literature of Rajagopalachari in which he analysed the concept of Vedānta. Therefore, I have used the qualitative method, which follows the textual and contextual study of the concerned literature. Textual, to examine the content, structure and design of the text. In literary and cultural studies, textual analysis is a key component of research. It helps in connecting the element of text with contemporary times. To understand the ancient concepts and texts, contextual

methodology is important as we have to enter their social world using historical and psychological imagination. I have also used the method of content analysis as the article seeks to methodically examine content to draw insightful conclusions and patterns from the information. It helps us to fully comprehend the material by allowing to spot underlying themes, implicit messages, and hidden meanings.

Acharya J.B. Kripalani writes that “Rajaji’s literary ability, both in his mother tongue, Tamil and in English, is well known. He wrote not only on religious and philosophical subjects but also produced books for children” (Kripalani, 1993). He was the embodiment of our culture. He looked meek and inoffensive but had a strong will and determination. His work on Hinduism, including the Upaniṣads and the Bhagavad Gītā, is considered to be some of the best explanations of Hinduism. The book on ‘Hinduism’ is written in such a lucid style that even a layman can easily grasp the basic principles of Vedānta. It was “Rajaji’s conviction that Vedānta as a faith is suitable for modern times as it was for ancient India” (Kuppuswamy, 1993). He believed that people would be better able to comprehend India if they were aware of the fundamentals related to their philosophy and culture.

ON CULTURE

There are two schools of thought regarding the genesis of culture- the idealistic and the materialistic. According to the former, “the rishis of the Vedic Age caught a glimpse of certain ideas through divine inspiration or through their intuition which, in due course, took the form of an ideal suited to the social conditions and intellectual capacity of the community” (Husain, 2013). They attempted to realise this ideal in the Indo-Gangetic Valley’s physical surroundings, and in the process, they produced the institutions and concepts that comprised Vedic civilisation. The materialistic theory says that “the starting point of culture is the physical environment. In the first stage, factors such as climate, the material resources and the instruments of production used by a people put their particular stamp on man’s collective life. On this basis, they gradually reared the edifice of their religion, their philosophy, their social order” (Husain, 2013). Here, my purpose is not to resolve the dilemma among the philosophical thoughts to choose which one is correct as I agreed with the author Abid Husain who writes that “the evolution of culture is the result of the interplay of both the factors—the physical environment and the metaphysical ideas” (Husain, 2013).

According to Rajaji, “Culture is the sum total of the way of living built by groups of human beings and transmitted from one generation to another. People each with their own long history build up separate patterns of culture” (Rajagopalachari, 2015). Before dealing with the culture of India, he discussed the concept of culture in a general sense. He argued that “when we say an individual is cultured or uncultured, we don’t mean to say he or she is a good or bad person. The two things are different. Good is different from cultured. Culture is not literacy or the ability to play on the *Veena*. It has to do with general behaviour, speech and conduct and is different from the goodness and badness of the character” (Rajagopalachari, 2015).

On 13th Sept. 1953, Rajaji argued in an address to the Indian Committee of Cultural Freedom that “Culture is not just art or literature of dancing or music or painting as it prevails among people. It is the patterns of behaviour generally accepted by a people. Culture is far removed from freedom. No man of culture feels free. He imposes on himself all sorts of restraints. So then, the culture of people is the pattern of restraints that people have, as a whole, after trial and error, through generations, settled down to accept in the interest of social order and happiness” (Rajagopalachari, 1993). Accepting such limitations brings pride and happiness, and there is no anguish or bitterness. This is what sets culture apart from government regulation.

Every culture is founded on and associated with a specific concept. The idea of beauty was deeply ingrained in Greek society. The notion of law and order served as the foundation for Rome's culture. Rajaji writes, “The fundamental concept of self-control is the foundation of Indian culture. As outlined in the Upaniṣads and the Bhagavad Gītā, the method of life, the pattern of behaviour accepted as correct and esteemed by the people of India as worthy, by the common folk as well as by the enlightened, is the way of self-control” (Rajagopalachari, 1993). In recent times, the same has been emphasised by Mahatma Gandhi during the freedom struggle movement for India. Therefore, the concept of self-control, which recognises the existence and operation of a soul within and permeates the material world, is central to all Indian culture.

Rajaji writes, “All culture in India has been rooted in Vedānta. Whatever courage, heroism, self-sacrifice or greatness is to be found in our history or shown by men and women in India, sprang from the Vedānta which is in our blood and tradition” (Rajagopalachari, 2017). Vedānta remains the living essence and genius of the Indian people to this day. Both historically and currently, Vedānta is the taproot of Indian culture.

THE SOURCE OF VEDĀNTA

Vedānta is one of the ancient Indian philosophies which is mainly based on sacred scriptures known as the Triple canonical text or Prasthānatrayī i.e. Upaniṣads (*Śruti* Prasthāna), Gītā (*Smṛti* Prasthāna) and Brahmasūtra (Nyāya Prasthāna). While Hinduism incorporates features of Indian culture, Vedānta provides the philosophical underpinning of Hinduism. Vedānta is universal in scope and applies to all countries, civilisations and religions. Spiritual teachers like Śaṅkara wrote commentaries on the Brahmasūtra (known as Brahmasūtrabhāṣya), Bhagvad-Gītā and the ten principal Upaniṣads, such that people could understand the inherent meanings of these complex texts. These commentaries became the foundation of the school of Vedānta. In Indian Philosophy, there are many sub-schools of Vedānta. They are “Advaita (Non-dualism) by Śaṅkarācārya, Viśiṣṭādvaita (Qualified Non-dualism) by Rāmānuja, Dvaita (Dualism) by Mādhvāchārya” (Puligandla, 1997). Some others are ‘Dvaitādvaita (Dualistic Monism) by Nimbārka, Shuddhādvaita by Vallabhachārya and Achintya Bheda Abheda by Chaitanya Mahāprabhu’.

As Vedānta is derived from the Upaniṣads, the core teaching implies: “Man cannot achieve permanent happiness through physical enjoyment, wealth or the goods of the world, or even by elevation to happier realms above through the performance of sacrifices prescribed by the Vedas- the potency of which was a matter of implicit belief in those times. Happiness can result only from liberation, and spiritual enlightenment can liberate us by breaking the bond of *Karma* and uniting us with the ultimate being” (Rajagopalachari, 2022).

According to Rajaji, “the path of enlightenment runs through stages. The mantras of the Upaniṣads may appear to contradict one another in some places. But if it is remembered that the truth is taught by degrees, the contradictions disappear” (Rajagopalachari, 2022). There are no distinct cults in Vedānta that are centred on the worship of Visnu or Śiva. He further writes, “Controversies over who is the greater god or by which name the Supreme being should be adored do not find a place in it. In his treatises on Vedānta, Śaṅkarācārya uses the word ‘Nārāyaṇa’ to indicate the supreme being. In the *Śaiva-siddhānta* books, the final reality is called ‘Śiva’ names, mental conceptions of the deity for purposes of contemplation, the images of worship, and even the sound ‘Om’ are mere means to turn our hearts towards the supreme” (Rajagopalachari, 2022). Regardless of any denomination in which we are raised, Vedānta is the shared legacy of all Indians.

Rajagopalachari writes that “it is not the teaching of Vedānta that we should renounce the world. It is a mistake to identify Vedānta with retirement from life and social activities. Vedānta calls for renunciations of attachment, desires and passions, but not of daily duties in cooperative life. Vedānta gives us the soul force that will enable us to root out selfishness, egotism, attachment to pleasure and the horror of pain, and to dedicate our lives to the efficient performance of our duties” (Rajagopalachari, 2022). By following Vedānta, we can cultivate resolution and fearlessness to lead a truthful life.

BRAHMAN AND ĀTMAN

Two fundamental concepts revolve around Vedāntic thought, i.e., Brahman and the Individual soul. These two points converge as enlightenment progresses. According to the Upaniṣads, “Brahman is the substance of all existence- the unchanging reality, of which the world of change is a mere manifestation through names and forms. Ātman is the inmost self of man, the eternal, silent, imperishable witness of all change” (Puligandla, 1997). On the relation between Brahman and Ātman, “the sages declared that these two are not different realities, but are two different labels for one and the same unchanging reality underlying the changing world of phenomena, external as well as internal” (Puligandla, 1997). Here we find the highest level Upaniṣadic wisdom that discussed the Brahman: “*aham brahma asmi* (I am Brahma), *tat tvam asi* (That thou art) (Kena I.); *ayam ātmā brahma* (This Self is Brahman) (Bṛhadāraṇyaka I. iv.10); *prajñānam- Brahma* (Pure Consciousness is Brahman) (Bṛhadāraṇyaka II.5)” (Puligandla, 1997).

The first step in Vedānta is to firmly believe that ‘I’ am entirely different from ‘my body’. Man's life can only become one of unwavering truth and detachment when he achieves enlightenment and a strong conviction that there is a spirit within him that is apart from the body and the senses. If men attain that enlightenment, the world will be redeemed. The first clear understanding of the truth about the soul is important. For this reason, the Upaniṣads discuss the individual soul in numerous ways and not only the Pramātmā, the ultimate entity. Vedāntic life will naturally evolve once it is understood that the body is distinct from the individual who inhabits it. Here, Srinivasan writes that “Rajaji leaned towards Rāmānujan’s conception of the intimate relationship between body and soul on the one hand, and the universal and individual souls on the other” (Srinivasan, 2014).

Rajaji further discussed the realisation of the soul. To ‘see’ the soul, intelligence and enquiry are not enough. Goodness and purity of life are

necessary. The soul differs from the body's physical limbs and organs. There is no specific area of the body where it can be found. It penetrates both the mind and the body, and which enters the mind will not become distinct or known until it is clear. Seeing outside objects is one thing. Perceiving an entity that pervades and is concealed within our inner selves is a whole different process. Introspection by itself may enable us to analyse our minds. However, in order to see the soul, we must not only focus inward but also calm our minds and purge them of passion. Without detachment and purity, the medium is murky and what is, in a sense, hidden from view is invisible. It is not ignorance but desires and attachments that blind our vision. If this fact is understood, it will become clear why realising the soul within us requires leading a moral life and having a pure heart. Then, it will also be clear that the three paths—the road of enlightenment, the way of faith, and the way of good deeds—which are frequently mentioned as separate paths in orthodox Vedānta commentaries, are actually one and the same.

Therefore, to recognise the spirit that exists inside us apart from the body, the mind and senses must be appropriately brought under control. The effort to secure this is called by the oft-repeated but much-misunderstood term *Yoga*. If this stage is reached, we can 'see' the spirit that is inside of us. Vigilance is required to sustain the mental state attained via self-control and inner serenity. Like sunrise and sunset, the state of mind reached through *Yoga* appears and disappears, reappears and again disappears. Constant effort and unwavering alertness are essential for the path of yoga, otherwise, we lapse back, and the soul is lost in the body, and we take the one for the other as we did before.

DOCTRINE OF MĀYĀ

Rajagopalachari argued that "we had heard of the saying 'world is an illusion' by some Vedāntins. This does not mean that the world is not real. The world is real. All the teachers who taught about Māyā and God have lived their lives on the basis that the world is a reality" (Rajagopalachari, 2022). Ignoring the weak and hypocritical people who say one thing and do another, we can see that the great and virtuous Vedāntins who lived in the light of truth thought that this world, this life, and the rule of Karma were harsh truths. For example, Vivekananda discussed the concept of Māyā in his four lectures delivered in London in 1896 titled: "*Maya and Illusion, Maya and the Evolution of the Conception of God, Maya and Freedom, and The Absolute and Manifestation*" (Rolland, 2016). According to Vivekananda,

“Vedāntic Advaitism declares that Māyā cannot be defined as non-existence any more than that it can be defined as existence. It is an intermediate form between the equally absolute Being and non-Being” (Rolland, 2016).

Rajaji enquired about the doctrine that “when the Vedāntins said that all is Māyā, that everything is an illusion created by the lord, what does the teaching mean? When it is said that the lord is all, it means that he is the indwelling spirit that life lives. As the soul is to the body, so is the lord—the soul of all souls. Every movement of the individual soul is an activity of the lord. The lord is a reality and so are the souls that are permeated by him” (Rajagopalachari, 2022). The body is a reality, although the soul within the body gives its life. He further writes that “The doctrine of Māyā does not mean that everything is unreal and that we are free to act as we please. Life is real, and life is subject to eternal and unchangeable law. This and not unreality is the true implication of the Vedāntic doctrine” (Rajagopalachari, 2022).

Rajagopalachari further writes that “the soul which fills the body with life, and with the soul, the supreme soul which fills the individual soul and gives it its being, this according to Vedānta is the structure of life” (Rajagopalachari, 2017). Just as the soul gives the body its individuality, the ultimate being grants the soul the ability to act as a unique soul. In multiple births, the same soul inhabits multiple bodies. Despite the fact that the indweller, or *antarātman*, is one and the same, every soul has a unique identity and leads a life apart from others. This is called Māyā.

Our pleasures and sorrows, our distractions and desires, conceal the indwelling soul from our view. The *ātman* becomes altogether inaccessible to our intelligence. The spirit suffers no taint even though lying hidden amid a pile of contaminants. The turbid consciousness becomes clear if the mind is focused, the senses are subdued, and the heart is pulled away from outside objects. At that point, we start to perceive the soul as something actual and apart from the body in which it resides.

Rajagopalachari gave an example of sunlight and shadow to understand this concept easily. He writes, “Sunlight has no shape. It shines equally in all directions, i.e. similar to a supreme being. But shadows have shape. It is the obstruction to light that forms the shadow. The individual souls are the shadows that are caused in the path of the infinite light of the supreme being. As soon as the obstruction is removed, the shadow merges with the light. *Karma* causes the shadow, i.e. the separate being is the light. The shadow

takes shape as the individual soul. Although it is a fact that the light creates the shifting shadow, the shadow is as true as the light” (Rajagopalachari, 2017).

SALVATION

Rajaji writes, “*Moksha* or deliverance is the soul’s realisation of the supreme being. *Moksha* is not arriving in another world or place. When the mind is enlightened by the realisation that the soul and the indwelling Supreme soul are one, the shadow merges with the light. This is liberation” (Rajagopalachari, 2022). The term *Moksha* in Sanskrit means simply release. *Moksha* is a state of being. It is not a place, garden or world.

According to Advaita, "Liberation is the realisation of Brahman, which is infinite, real knowledge, ever-free, non-dual, and eternal bliss" (Balasubramanian and Revathy, 2012). The root cause of bondage is ignorance, which hides the true nature of Brahman-Ātman; liberation results from acquiring knowledge, which eliminates the underlying ignorance. A person who is fortunate enough to learn Brahmin knowledge from these scriptures will attain liberation from bondage. It is a well-known fact that when we lack information about something, we try to find out what we actually know about it. Consider the well-known situation where someone mistakenly believes a rope in front of them is a snake. Unaware of the true nature of the object before them, someone assumes it is a snake and starts to flee in fear. Only by learning about the object in front of him—a rope—can his ignorance be eliminated.

In order to clarify the relationship between the body, soul, and the supreme being, Rajagopalachari provided a few examples or techniques used by the great teachers. Here are a few examples: he writes, “The sun shines on the water. When the surface of the water breaks into ripples we see numerous little suns on the water. The individual souls are like the reflections of the sun in water. If there is no water, there will be no reflections. In the same way, the individual souls become one with the supreme on the removal of ignorance. To dispel ignorance and to obtain knowledge, we need purity, self-control and devotion” (Rajagopalachari, 2022). In other examples, he writes, “The soul is responsible for the body’s ability to function as a living being. It is the supreme being that endows the individual soul with its quality as a divine spark. Just as in this mortal life, body and soul can exist as one in happy combination, so also if the individual souls live in happy unity with

the supreme soul and without any imperfection, ignorance or distraction, it is *Moksha*” (Rajagopalachari, 2022).

Rajaji also looks at it another way. He writes that “The individual soul is only the shadow of the supreme universal soul. Ignorance is the cause of the shadow and of the impression that the shadow is different from the thing which produces it. This feeling of separation grows more and more through desire, attachment, anger and hatred. When the mind awakens, the two merge into one” (Rajagopalachari, 2022).

The enlightened soul is unified and absorbed in the supreme soul, similar to how all five senses merge and vanish in the soul during the night when we sleep. Various Vedāntic schools of thought, viz., Dvaita (Dualist), Advaita (Monist), and Visishtadvaita (Qualified Monist) philosophers, adopt several other forms of illustration. Though the method of illustration and teaching may differ, the Vedāntic life, which is the path of liberation advocated by all of them, is the same.

THE LAW OF KARMA

The body is a tool—a beautiful, magical tool—that, oddly, becomes inseparable from its master, the soul. Similarly, the soul is a tool for God, who resides within it and uses it for reasons we cannot understand or explain. The tool and the person who wields it are inextricably linked in this mystic relationship.

The doctrine of Karma taught in the Vedānta is that all things revolve in accordance with an unalterable law; it is incorrect to think of karma in terms of fatalism. The law of cause and effect is unchangeable; the effect is innate in the cause, like a tree in its seed; the cause carries the impact in its womb; every action has its designated effect. Vedānta teaches that destiny does not mean the surrender of effort or breakdown of faith in natural law. The unchangeable law of effect that follows prior causes is known as karma. This is how Vedānta and fatalism differ from one another. In the West, the pagan ideologies gave rise to fatalism.

When the follower of Vedānta says that “everything happens according to *karma*, it does not mean knowledge and human effort are vain and that human activity does not count. The word karma means work and in no ways refers to any mysterious pre-determination by an outer power” (Rajagopalachari, 2017). Rajaji quoted the words of Bharati (the national poet of the South) to explain the difference between the law of karma and fatalism, “yes, I agree it

is decreed. It is the decree of law that there is no happiness for the ignorant. It is the decree of law that if the law of health is neglected, disease must be endured” (Rajagopalachari, 2017).

Rajaji has also cited examples from the third chapter of Bhagvad-Gītā where Shri Krishna responds to Arjuna's questions rationally. Arjuna asked, “Why do men sin, knowing that sin is bad and not desiring to fall into it”? (Rajagopalachari, 2017). Rajaji writes that “The Divine teacher did not say that it was pre-determined by the karma of man’s previous births. But he said that the error in the person’s conduct results from the urge of desires, anger and hatred which wrap the person’s judgement and mislead him. The Divine teacher added that a person should put forth all his spiritual strength to fight and overcome these corrupting influences at the very start, and gave the assurance that the effort to resist will find success” (Rajagopalachari, 2017). This response is more rationalistic than even determinist scientific philosophers would provide.

The law of karma states that man evolves precisely in accordance with his deeds, and that death and transitioning to the next life do not alter this process. This is the most significant idea in Hindu philosophy, and it applies the rule of conservation of energy to the moral realm. Rajaji writes that “whether a man frees himself from the fruits of his past deeds or adds more links to the chains that bind him depends upon the way he lives. Past deeds or their effects hold one in their grip from birth, but the soul has freedom to act, and in the exercise of that freedom, it has the power to overcome tendencies and to strive for liberation. The process and effort can be extended over many births. We make for ourselves our opportunities, and the process goes on ceaselessly for better or worse and is carried on from birth to birth. The battle is as long as eternity, and the tedium is relieved by the lapse of memory with each death” (Rajagopalachari, 2017).

THE ETHICS OF VEDĀNTA

Rajaji writes that “if one understands the relation between the individual *ātman* and the supreme soul, thereafter the feeling of separation between one living being and other fades away” (Rajagopalachari, 2022). Achieving freedom from this sense of separation is not a process of knowledge, a gathering of information, but a change of state, something like waking from sleep. Therefore, the Upaniṣads promulgate “Arise! Awake! Arise!” Thus, realising that we all possess the ultimate soul is like rising from slumber. It is simple to wake up from sleep. However, waking up from the deep slumber

of worldly existence is not a simple task. It can be possible by changing our mental disposition entirely with the following steps: Firstly, the desire to wake up must surge in the heart. Secondly, to avoid reverting to the realm of distinctions, one must maintain constant attention to the mind. The external and internal senses must be controlled, and perpetual vigilance over one's mind is necessary, such that we do not slip back into the world of distinction.

The need for ethical principles is more necessary than before in contemporary times as we are becoming enslaved to our selfish motives and desires. Consequently, the focus has shifted from inward self to outward material happiness only. We seek temporary pleasure and do many things to obtain it due to ignorance. Anger, wrath, and grief are the results of not finding the pleasures we want or of temporarily obtaining them and then losing them. This intensifies our original ignorance of Egoism, the sense of "I", the possessive feelings of 'mine', the acquisitive need of 'for me', and the passion that results from this continuously increasing intensity are all made worse by this. As a result, we are flung farther and farther from reality. Purity and humility are essential to desist this egoism. We should sincerely bend our attention to the contemplation of the unity of life and foster the belief that the supreme soul is both within and around us.

Rajaji further writes, "The Gītā expands and explains the ethics of Vedānta. It emphasises that the activities of the world must go on. We should act so that the world can improve in the coming generations. Like good people who plant trees for their children and children's children, we should work to improve humanity by improving ourselves for future births, even though there may be no continuity of memory and identity of personality" (Rajagopalachari, 2017). If we don't, the world won't get better and better, which is what we should all aim for. The good man should complete every work related to his position in society. He keeps an internal spirit of detachment while doing things like others. He acts without self-interest in anything he does. He keeps his composure or maintains equilibrium of mind when faced with joy and sadness, pleasure and agony, and success and failure. It has been called '*Stithaprajna*' in the Bhagavadgītā. The good man is qualified for further progress by meditation and prayer. *Yoga* consists in thus living a dedicated life amid worldly affairs. Work should be done in a spirit of duty, and results should not be permitted to agitate the mind. This unselfish and detached attitude can and should be cultivated even when we are actively involved in the events of daily life. Continual practice of this attitude is the essence of Vedāntic life.

Rajagopalachari further quoted a paragraph from the beginning of the *Isavasya Upanishads*:

“Everything in the Universe abides in the supreme being realizing this, dedicate everything you do to that being. Cast off the desires that arise in the heart, the thought of possessing what is enjoyed by another. Joy comes by such renunciation of desire. Do your duties and go through the allotted span of life. In detachment lies the way for man to keep his soul uncontaminated, not otherwise” (Rajagopalachari, 2017).

Rajaji summarised the teaching of Gītā as he writes, “Vedāntin performs fully, carefully and conscientiously but without attachment, all duties devolving upon him as a result of birth or of events and circumstances, or arising out of the place he occupies in society. There is in truth no superiority or inferiority in the various duties allotted to individuals or groups in any social order, all being equally necessary of performance for the maintenance and welfare of society” (Rajagopalachari, 2022). They should all be performed in the spirit of unselfish cooperation, which ennobles and equalises all tasks. He lives a pure life, controlling his senses and managing his work, food, rest, play, and sleep.

Rajaji raises questions about “how can Vedānta produce any enthusiasm to be told that something will be fruitful in a future birth” (Rajagopalachari, 2022). He writes that “With the death, memories of this life end and also the teaching of Vedānta. But there is hunger in the soul that self-seeking and momentary pleasure cannot satisfy. The joy of right conduct is inherent in human nature. This stand can be confirmed by the inner feeling of every one of us, and by experience as well as all history, recorded and unrecorded” (Rajagopalachari, 2022). Although we don't know who will appreciate the wayside trees' shade, we nonetheless plant them in hopes that future generations of mankind will. Every such task brings us joy. The law of cause and effect, which extends to subsequent births, states that if we lead a Vedāntic life, evils will not proliferate, and the souls that will dwell in the future world will gradually advance to a higher stage.

Therefore, the objective of right living is twofold: one's own satisfaction and one's contribution to a better world. Vedānta's appeal stems from its emphasis on accountability for the future world. Social and civic cooperation permanently benefits the town or village where one is a citizen. Patriotism benefits the future generations of the country to which we belong. Vedānta is to ensure the well-being of the future world, which is currently being created.

If we live detached and dedicate our lives, society will be populated by better human beings.

VEDĀNTA AND THE NEW ORDER

Rajagopalachari has also analysed the concept of ‘Vedānta’ concerning the ‘The New Order’. Truth being one and indivisible, the prevailing contradiction in science, religion and politics is bound to harm social well-being. Science, Religion and Politics are very fundamental for any human being and country, and the development of any country will depend on better functioning in these three fields. Disharmony in fundamentals leads to doubt, pain, hypocrisy and frustration. The philosophy we hold, the laws of nature we are aware of, and the statecraft we employ should all be made to align and complement one another. He further states that “if we have real belief in truth and something of the courage and adventures of the earlier builder of human civilisation, we need not despair of achieving this” (Rajagopalachari, 2022).

In the olden days, there was not so much contradiction. One element that lessened the paradox was science's backwardness. Rather than causing conflict, men's fervent devotion to religion and philosophy helped them achieve enormous success. They were able to do this because they made no effort to hold opposing views. Today, science has expanded and gained acceptance on a far larger scale than in the past. The maladjustment is now more severe as a result. Regarding the conflict between religion and politics, the differences are much more pronounced than those between science and religion. Any philosophy or religion that deviates from contemporary science is inevitably false and hypocritical. Any misalignment between science and religion or between religion and statecraft must be fixed in order to develop a cohesive system of thought and emotion if we hope to ensure a solid foundation for human progress.

As old as civilisation itself, there is a religious philosophy in India that is remarkably consistent with science, despite how weird the claim may appear to outsiders. A code of ethics that can serve as a solid spiritual foundation for a fair social and economic structure has developed from that religious philosophy. Amazingly, Hinduism foresaw the evolutionary theory and the rule of law as men of science understand it. The Vedānta's God is not an anthropomorphic creation of human fancy. Divine Sovereignty is explained in the Gītā in language which anticipates and meets the difficulties that modern science raises against religious cosmology. The sovereignty of God

is exercised in and through the unchangeable law of cause and effect, through the laws of nature in all spheres. As Gītā says:

“All things abide in Me, yet behold the wonder, I stand apart and Nature works by herself. *Prakriti* brings forth the moving and unmoving without my interference”. (Gītā, IX: 4-10)

Rajaji writes, “A study of Upaniṣads will show that Vedānta has anticipated science by postulating that the universe has developed by a gradual unfolding of the power lodged within the primordial substance. In fact, the philosophy of Hinduism is nearer to the evolutionary and atomic theories of natural science and physics than the doctrines of any other religion” (Rajagopalachari, 2017). The Upaniṣads' emphasis on adherence to truth and unrelenting inquiry is its defining feature and what sets scientific research apart.

A planned Cooperative economy, in place of profit-motive and the so-called civil liberties of private competition, cannot rely solely even on the strongest external authority. We need a culture and a widely recognised code of spiritual values which work as a law from within. Without such spiritual control, mere material planning must need to culminate in widespread corruption and fraud. Vedānta and the ethic which follows from it and which is expanded and fully set out in the Bhagavad Gītā, are pre-eminently fitted to serve as the spiritual basis for planned cooperative community life, wherein each person must work to the best of their ability and receive what they need.

The Bhagavad Gītā teaches us to live our lives with the community's well-being as our sole concern and without regard for our own financial gain. It emphasized the equal dignity and sacredness of all labour. Indeed, the socialist philosophy in terms of religion is laid down uniquely in the Gītā. According to the Gītā, fulfilling one's assigned work is the fullest expression of worshipping God.

CONCLUSION

Rajaji was a rare combination of a saint and a shrewd man of the world. He was both “a man of thought and a man of action, an idealist as well as a pragmatist, an intellectual as well as a warm-hearted humanist” (Jatti, 1993). It has been accurately stated that few have surpassed his accomplishments in a wide range of fields, including politics, government, social service, religion, philosophy, and literature. His prudence stemmed from a “cultured” interaction with popular Hinduism, which sets it apart from others. For him, “Culture was about avoiding meanness, dishonesty and harshness; it was

about being large-hearted and considering the feelings of others” (Srinivasan, 2014). These are the values that should be possessed by any leader for developmental politics.

Undoubtedly, Vedānta is a part of our people's conceptual framework and a living philosophy of existence in India. Indians learn it from tradition rather than from studying books. Even though the Indian people may have been greatly impacted by foreign cultures and new aspirations, this spiritual nutrient has not dried up or decayed. Rajaji warns that we cannot rely solely on police officers and spies to protect the people if we want society to exert control over individual lives to achieve the above-discussed outcome. He has a firm belief that “Vedānta as conceived and developed in ancient India is faith particularly suitable for modern times” (Rajagopalachari, 1993). He further writes that we must develop a spiritual life that makes fulfilling our responsibilities enjoyable and functions as an internal law, which makes it simple to carry out laws imposed by the state. The teachings of the Vedānta, which have their roots in India's ancient traditions, can provide the cultural and spiritual foundation for a new and equitable way of living.

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Availability and Accessibility of Health Protection Policies in Jammu and Kashmir: An Analysis of Ayushman Bharat Pradhan Mantri Jan Arogya Yojana

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ABSTRACT:

Social Health Protection (SHP) is a human right to health, and India's Pradhan Mantri Jan Arogya Yojana (PM-JAY) is one of the world's largest informal sector-based SHP Policy (SHPP). Unlike other Indian states/UTs, PM-JAY was made "Completely Universal" in Jammu and Kashmir (J&K) in December-2020. This paper examines the availability and accessibility outcomes of this SHPP, based on a Mixed-Methods study of 300 Households and 30 Secondary-Stakeholders from Kashmir, J&K.

The paper argues that PM-JAY has significantly increased the availability of healthcare services across districts – hospitals, doctors, medicine, equipment and diagnostic-testing facilities. Provided treatment with respect and dignity and changed the utilization pattern towards specialized healthcare. While the private sector has contributed, the availability and reliance are more on public hospitals. All socio-economic, geographical and gender diversities have accessed PM-JAY, with higher proportion of vulnerable groups among benefitted, and no signs of access inequality. Notwithstanding, some scattered issues continue to persist. The paper contends that PM-JAY as a universal SHPP has demonstrated wider coverage and inclusivity in J&K. However, for large-scale and sustained availability and equitable access, strengthening registration system, deeper awareness generation and CSO engagement, quality control, and expansion of empaneled hospitals, public transport and ambulance service in far-flung Rural and Tribal areas needs to be prioritized.

Keywords: *Social Health Protection, Availability, Accessibility, Jammu and Kashmir.*

INTRODUCTION

Social Health Protection (SHP) is grounded in the human right to health and social security and SDG 3.8 (ILO, 2020; World Bank, 2021). It aims

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to achieve universal access for all by alleviating Out-of-Pocket Health Expenditure (OOPHE) and indirect health costs – losing savings, selling assets, and borrowing money (ILO, 2022). Globally around 400 million people lack access to essential health services, with a majority from low income and fragile countries (World Bank, 2015). Informal and unorganized workers, especially women, face a higher risk of falling into poverty due to unforeseen expenses (GIZ, 2020). This makes universal SHP coverage critical (Cotlear, Nagpal, Smith, Tandon, & Cortez, 2015). Most of the developing and fragile countries lack universal SHP, however, several of them have some form of Social Health Protection Policies (SHPPs) in place. The evidence suggests that they have achieved better health protection, increased labor productivity, and broken the cycle of ill health and poverty (Adlung, 2014; ILO, 2020), however, at the same time there are still many policy and research gaps to be addressed.

In India, SHP coverage was mostly formal sector-based until 2008 when Rashtriya Swasthya Bima Yojana (RSBY) was launched and extended as National SHPP to cover the unprotected informal population (Forgia & Nagpal, 2012; GIZ, 2020). Although the policy was large in reach, its financial coverage was only Rs. 30,000 per household (HH), limited to 5 HH members, and excluded some marginal groups (Gopichandran, 2019). Hence, RSBY was replaced by Pradhan Mantri Jan Arogya Yojana (PM-JAY) in 2018, with a target of 100 million poor families and an annual coverage of Rs. 500,000 to the entire insured family. It covers 1,393 procedures for secondary and tertiary treatment, with 3 days of pre and 15 days post-hospitalization expenses. This made PM-JAY one of the largest SHPPs in the world (Gopichandran, 2019). The initial evidence of PM-JAY (in Section 2.2) in a diversely populated country suggests mixed outcomes leaving a lot of scope of further research.

In Jammu & Kashmir (J&K) after RSBY, PM-JAY was also extended, but in December 2020 a landmark decision from the Prime Minister made it ‘Completely Universal’ – ‘universal coverage irrespective of economic background (rich or poor) and geographies.’ With this J&K became the first state/UT in India with such a SHPP. How has this “Completely Universal” SHP done in the politically fragile UT of J&K remains an unanswered question. This paper contributes to addressing these research gaps by examining the availability and accessibility outcomes and challenges of PM-JAY in J&K. Availability of PM-JAY across geographies and diverse groups, and healthcare facilities within PM-JAY empaneled hospitals. Accessibility

to different healthcare facilities to diverse social, occupational and gender groups, especially poor and vulnerable.

This paper is extracted from a larger study which used a Mixed-Methods Approach in data collection – based on Multi-Stakeholder Analysis, with a sample of 300 households and 30 other stakeholders from 5 villages and 2 Municipal Corporations of 2 districts (Srinagar & Kupwara) of J&K. Districts were selected purposively to get a holistic understanding of the region with Srinagar being the capital city and predominantly Urban, and Kupwara being a borderline area and predominantly rural and tribal. The HHs were selected through simple random sampling using the Census (2011) and village level data, and secondary stakeholders were selected using purposive sampling at various levels of administration. This paper is mostly based on results from HH survey. To get a holistic understanding of availability and non-availability, access and access-difficulties, 50% of the respondents were PM-JAY benefitted HHs and 50% non-benefitted HHs with equal proportions from Tribal, Rural and Urban Communities.

BACKGROUND

Availability and Accessibility – Global Overview

Availability

Availability is the first concern when it comes to SHP. The availability of SHP varies widely across countries and regions influenced by economic, political, and social factors. The key aspect of availability which has received considerable attention in SHP literature is – *Coverage*. Globally, significant disparities exist in the availability of SHP. High-income countries have comprehensive systems in place, often characterized by Universal Health Coverage (WHO, 2023). In low and middle-income countries, there is widespread agreement and interest that Universal SHPPs (USHPPs), mostly bottom-up non-contributory tax-financed policies, are important for achieving health protection goals as they guarantee everyone access to essential healthcare services and are relatively better than targeted approaches because of being administratively less expensive and free from local political challenges (Shriwise & Stuckler, 2015; Cotlear et al., 2015). Largely these policies are argued to have led to increased health coverage of the poor and vulnerable thereby protecting them from hazardous health financing (Adlung & Jutting, 2006). However, these countries often face challenges in providing adequate SHP due to limited financial resources, insufficient

healthcare infrastructure, and large informal sectors (World Bank, 2021). There is a growing concern that the commitment to USHP coverage is low and diminishing (ILO, 2014). The UHC index rose only by 3 points between 2015 and 2021, with no discernible change since 2019 (WHO, 2023).

There are also *gaps in promised vs actual legal coverage* of UHC. In some countries all people should by law have free access to health-care services – but they do not have such, because formal legal coverage remains low such as in many countries of Africa and Asia (ILO, 2011; 2018). Many UHC policies have focused on financial entitlements of population groups without a matched emphasis on the *equitable availability* and quality of healthcare supply, thereby undermining their effectiveness (OECD, 2019).

The literature also highlights *Infrastructural and Human Resource Availability*. The availability of a sufficient and skilled workforce as well as the necessary physical facilities, tools and supplies distributed geographically to cater to the entire population, are prerequisites for the effective delivery of SHP services (Penn, Mueller, Morgan, Fujisawa, Kallas, Beinassis, Barrenho, Vardugo, Constanza, Ramos, Kendir, Lafortune, Balestat, Canaud, Levy, Berchet, Thomson, Garcia, Haywood & Min, 2022; ILO, 2018). However, an estimated 30–36% of the world's population has no access to the services of adequate medical professionals, and low-income countries have the highest levels of such deficits (ILO, 2011). Countries such as Afghanistan, Djibouti, Pakistan, Somalia, Sudan, and Yemen have health workforce densities below the worldwide median of 49 per 10,000 people. Consequently, they face the greatest healthcare workforce related issues concerning UHC. There are also issues of malpractices in ensuring free care to the insured (WHO, 2010).

Some SHP frameworks face inadequacy of availability or *exclusion of some key* health issues including HIV/AIDS and mental health (Adlung 2014; ILO, 2020). Reports also suggest a *widespread lack of awareness* of rights and other practical difficulties (ILO, 2011; 2018).

Accessibility

After availability the next agenda in SHP implementation is ensuring access to all the needy which mostly includes the poor and vulnerable. The WHO (2017) believes that all people irrespective of income, age, race, ethnicity, gender, disability, and location should receive the needed promotive, preventive, curative, rehabilitative or palliative health service and protection. It is based on the principle of “leaving no one behind.” When

we look at the evidence on accessibility across the developing world, there is a universal agreement that SHPPs are contributing to removing socio-economic and other inequalities of access (ILO, 2021). However, studies also argue that design, financing, coverage, effectiveness, and/or geographical service imbalance, have failed several SHPPs in removing health inequalities for women, unemployed, informal workers, and rural populations (Cotlear, et al 2015; Adlung, 2014). The report of International Labour Organization argues that about 1.3 billion people worldwide, especially in the developing world, lack access to effective and affordable quality health care (ILO, 2008). Another report of International Labour Organization argues that high population coverage does not necessarily translate into equitable access, *gaps in coverage* disproportionately affect women and men with unstable or irregular incomes, and migrant workers and their families (ILO, 2018). The OECD report argues that not all health sector policies that are considered Universal are necessarily equitable or pro-poor to the fullest extent (OECD, 2019). The *rigid targeting systems* have left the near-poor exposed, thereby highlighting the need for a fully Universal system.

An inequitable access within relatively poor households, due to *geographical isolation* – living in rural and more scattered areas where public, NGOs, and private for-profit health services are sparse (Hsiao & Shaw, 2007). A report from World Health Organization, found that in Ghana also found that many people irrespective of socioeconomic status, living remotely did not have easy access to health facilities (WHO, 2010). While reflecting on premium payment based SHPPs, found that, there are persistent problems of social exclusion — communities' poorest members are not able to participate due to lack of *resources to pay the premium* (Jutting, 2002). Health user-fee exemption SHPPs have failed to help the poor to prevent or manage the risk of ill-health due to *limited government health budget* (Yates, 2006).

Availability and Accessibility – Overview of India and J&K

Availability

In India public SHP beyond formal sector has remained narrow, however, over the last two decades there has been a resurgence in the publicly funded SHP (Garg & Sharma, 2023). There is considerable evidence that the availability of SHPPs in India has *contributed to scaling-up health insurance coverage* for bottom-of-the-pyramid (ILO, 2014; Taneja & Taneja, 2016; Mishra & Manda, 2018), and led to extended coverage, *benefit package* and *hospital networking* (Sarwal & Kumar, 2020).

However, the same SHP model, especially the initial phase of PM-JAY, has come under a lot of criticism as well. Ghosh & Qadeer (2019) argue that the policy is in crisis due to *little public spending* which ultimately limits the services claimed. Also, the policy is following an *inefficient model* of India's healthcare system by focusing on secondary and tertiary healthcare and ignoring the primary healthcare system wherein most cases are treated. Further, it is based on a *faulty universal approach* incorporating only one segment of the population through an illogical insurance model. In a review report on Pradhan Mantri Jan Arogya Yojana, highlights that more than 70% of their study respondents reported a *lack of necessary facilities in their home state* as the primary reason for seeking treatment outside their state (Vitsupakorn, Bharali, Yamey, Wenhui & Kumar, 2021).

In the case of J&K, there is lack of comprehensive research in case of earlier SHPPs and PM-JAY. Whatever evidence available is mainly from grey literature (newspapers), which report that PM-JAY has covered all sections of society and protected them from financial risk and catastrophic health expenditure (Ahanger, 2020). A report in The Greater Kashmir, highlights that with increased availability, PM-JAY has treated 60,594 patients, in 218 empaneled hospitals, under 123986 claims with an expenditure of Rs. 60.12 crores (J&K households spend 44% from their own pockets on health, 2022).

Accessibility

In Indian SHPPs are argued to have enabled people to access the lifesaving care they need when sick without financial hardship. However, despite laudable progress over the past decades, right to health is not yet a reality for all in India (ILO, 2022b). Mishra & Manda (2018) found lower hospitalization rates of poor, SC, ST and disabled HHs, and higher morbidity rate among females, and argue that this unequal nature of healthcare system has limited the accessibility, affordability, and effectiveness of health insurance schemes. A continued intra-district and rural-urban disparities was found due to the uneven distribution of empaneled hospitals (Nandi, Schneider & Dixit, 2017). In case of PM-JAY, reports that policy does not reach a large segment of desired beneficiaries due to overly strict eligibility requirements and low enrolment (Vitsupakorn et al., 2021). In the article titled 'India's Aadhaar scheme and the promise of inclusive social protection', highlights that while the Aadhaar based system of registration offers the benefits of technology to India's SHP system, yet there are questions about uneven geographic enrolment mirroring inequality and under-provision with the least served

populations, regions and states being also the least enrolled. In the case of J&K there is no comprehensive evidence on the accessibility of PM-JAY (Bhatia & Bhabha, 2017).

Overall, this existing literature on availability and accessibility of SHP across developing countries, India, and J&K suggests some progressive outcomes but at the same time highlight several contextual, design, implementation as well as research gaps. The rest of this paper uses field evidence to highlight the contributions and challenges of PM-JAY as a Universal SHP Model in politically fragile region of J&K and its larger implications.

AVAILABILITY OUTCOMES OF PM-JAY IN J&K

PM-JAY is provisionally a USHPP in J&K available to all segments of the population irrespective of caste, income, occupation, gender, and geographical location. The policy provides free health service for secondary and tertiary treatments through various empaneled private and public hospitals. This section examines the availability outcomes and challenges of the policy using different parameters.

Geographical Availability

Having a legally mandated USHPP is one thing, but its actual availability across all geographies especially in the politically and geographically fragile region of J&K is a different and difficult task. The study purposefully targeted the Urban, Rural and Tribal areas within two districts of Srinagar and Kupwara, to examine whether all geographies are covered with equality in coverage.

The study which consisted of randomly selected 50% beneficiary and 50% non-beneficiary HHs found that the majority of these HHs have Ayushman Cards commonly known as Golden Cards. The non-beneficiary HHs have not availed the policy benefit because they did not have any such illness in the family or preferred not using PM-JAY services. Hence, becoming a non-beneficiary has no association with non-availability of the PM-JAY or political and/or administrative meddling. These findings reconfirm the fact that the availability of SHPPs has contributed to scaling-up health insurance coverage, as reported by Taneja & Taneja (2016) and Mishra & Manda (2018) at the country level. Also corroborate with the wider global evidence that USHPPs guarantee everyone access to essential healthcare services and

are free from local political challenges (Shriwise & Stuckler, 2015; Cotlear et al., 2015).

Further, not having a healthcare service available within a district, especially in far-flung districts such as Kupwara, can create several access blockages thereby non-utilization or healthcare migration. In inconsistent findings of one of the mentioned reports, found that lack of necessary facilities in the home state/district is the primary reason for seeking treatment outside their state, the study found that PM-JAY has been able to make healthcare services available within districts, as 80% of beneficiary HHs have availed treatment within their respective districts (Vitsupakorn et al., 2021). These results are consistent across social, occupational and gender groups. However, out of those who have not received treatment within the district, Tribal HHs constitute 24%, Rural 20% and Urban only 12%, (Table, 1). These reports of outside district treatment are mainly from Kupwara, which had only two public empaneled hospitals unit 2021, and one private hospital was empaneled after 2021. Moreover, some Tribal and Rural families have received treatment in Srinagar, because they had migrated there for work or were referred for treatment. While the expansion of empaneled hospitals in Kupwara has minimized the need of going for treatment outside the district, there is a need of more empaneled hospitals considering scattered nature of population. Broadly, these findings suggest that within-district availability of empaneled hospitals has significantly reduced the geographical hindrance to PM-JAY benefit.

Nature of healthcare Availability (Public or Private)

Unlike the World Bank (2021) findings, that USHPPs are caught in difficulties of limited financial resources and insufficient healthcare infrastructure, empanelment of several public and private hospitals within both the sample districts indicates that there is widespread availability of PM-JAY service and choice in J&K. On utilization, the study found that 66% of beneficiary HHs have availed treatment from public, 33% from private, and 3% from both public and private empaneled hospitals. The results are consistent across social, occupational and gender groups (Table, 1). The majority of beneficiary HHs accessing public hospitals, indicates more availability and reliance on government compared to private healthcare system. Interactions with the respondents within both the districts also indicated more trust in public compared to private empaneled hospitals.

Availability within Empaneled Hospitals:

Timely availability of beds

Often hospitals in developing countries are overcrowded and getting a bed for hospitalization on time remains a challenge. The study examined this issue and found that 99% of beneficiary HHs did not experience any difficulty in getting a bed on time. The results are consistent when examined across social, occupational, and gender groups (Table, 1). These findings suggest an ease in getting hospitalized whenever needed, and equitability of access irrespective of social, economic, gender background. These are also indicative of a well-functioning healthcare system that prioritizes prompt and efficient care delivery, as reported in the studies of Penn et al (2022) and ILO (2018) as well.

Availability of doctors, paramedical staff, and drug stores

The existence of an empaneled hospital has no value without having the availability of doctors for all the related illnesses, paramedical staff, and 24x7 PM-JAY drug stores, as provisioned in PM-JAY guidelines. The evidence shows that 98% of beneficiary HHs found doctors and paramedical staff available, and PM-JAY affiliated drug stores open 24x7. These findings are consistent across various social, occupational and gender groups (Table, 1). This ease of availability of doctors and paramedical staff for PM-JAY patients indicates a high level of commitment on the part of empaneled hospitals to ensure continued support and care to patients. The availability of 24x7 PM-JAY related drug stores in an empaneled hospitals indicates ease of access to essential and emergency medicines for patients under treatment. Looking from a bigger perspective these findings confirm that bottom-up non-contributory tax-financed universal policies are better than targeted approaches because of being administratively efficient and less expensive (Shriwise & Stuckler, 2015).

Availability of equipment, diagnostic tests, and referral facilities

Regarding the *equipments* (implants, lens, surgical equipment etc.), provided in the empaneled hospitals, 95% of the beneficiary HHs reported ease of availability. This finding is consistent across various social, occupational and gender groups. A few beneficiary HHs reported that all equipments needed for the treatment were not available in the PM-JAY affiliated drug stores and to get those, they were facilitated by the hospital administration.

However, 5% of the beneficiary HHs reported that the quality of equipment was not good (Table, 1). During the interviews all these HHs reported that the quality of lens implants in cataract surgery was not good.

Similarly, about *diagnostic tests*, 97% of beneficiary HHs reported that the facility was either available within the hospital or the hospital administration helped them in availing it from outside. This finding is consistent across various social, occupational and gender groups. However, 3% of the beneficiary HHs reported difficulties in getting all the diagnostic tests done (Table, 1) in private hospitals and highlighted the need of improvement in availability and quality. These issues of low-quality equipment and difficulties in getting diagnostic tests done, though reported by a small proportion of HHs, indicate what refers to as **malpractices** in ensuring free and quality care to the insured (WHO, 2010).

Emergency or normal *referral* is an important aspect of the healthcare in PM-JAY and the data highlights that 98% of PM-JAY beneficiary HHs were not referred from their original hospital. The results are consistent across social, occupational and gender groups. Only 2% of beneficiary HHs reported being referred from one hospital to another (Table, 1). The reason being that the specific treatment was not available in the first empaneled hospital which led to their referral to a district hospital or Srinagar city. The quality of referral was reported to be satisfactory and timely.

Availability of low-cost Treatment

To examine the experience of beneficiaries with the cost of availed PM-JAY treatment, expensiveness, and unnecessary procedures, Table–1 highlights that 97% of beneficiary HHs believed that treatment could not have been done with simpler procedures and lesser expenses. These findings are consistent across various social, occupational, and gender groups (Table, 1). These findings suggest a greater level of confidence among beneficiary HHs in the appropriateness and cost-effectiveness of the treatment they received under the PM-JAY.

A long-standing issue in SHPP discourse – lack of public awareness about their rights (ILO, 2011; 2018) continues to remain as one of the bottlenecks in PM-JAY implementation in J&K as well. The study found widespread lack of awareness. among HHs about 3 days pre-hospitalization and 15 days post-hospitalization cost being part of PM-JAY. Consequently, patients have incurred Out of Pocket Expenditure (OOPE) on medicines and tests before

and after treatment which were not counted in the insurance cover by the hospitals. The engagement of Civil Society Organizations (CSOs) in SHPPs usually plays an important role in awareness generation and mobilization, however, in consistent with the results of one of the mentioned reports, highlight that NGOs are sparse in geographically isolated locations, no engagement of CSOs was found in case of PM-JAY in the sample Districts (Hsiao et al., 2007).

Overall, these findings on availability within empaneled hospitals reinstate the results of Penn et al (2022) and ILO (2018), that the availability of a sufficient and skilled workforce, necessary physical facilities, tools, and supplies, distributed geographically to cater to the entire population, are prerequisites for the effective delivery of SHPP. However, at the same time they also highlight a few bottlenecks in facilities especially in case of private hospitals.

Changing Nature of Professional Healthcare Utilization

Dependence on unskilled and in-adequately trained staff for healthcare is one of the key concerns to USHP in developing countries (Penn et al., 2022; ILO, 2018), and addressing such challenge is one of the key agendas of PM-JAY. The study examined the healthcare utilization pattern changes due to the availability of PM-JAY and found that 89% of the beneficiary HHs were using professional healthcare services before the PM-JAY, and 11% have started using such services more often with the availability of PM-JAY. Before the enactment of PM-JAY they were mostly relying on the mercy of local medical shops or not adequately trained or relevant health care professionals. This includes Tribal and Rural (12% each) compared to Urban (10%), and Informal sector workers (13%) compared to Formal sector (6%), and Women (12%) compared to Men (11%), indicating that the culture of non-professional service usage was relatively more prevalent among vulnerable informal sector people before PM-JAY implementation (Table 1).

Table 1: Availability of PM-JAY Services

	Overall	Social groups			Occupational Sectors		Gender groups	
		Tribal	Rural	Urban	Formal	Informal	Male	Female
Where have you availed the PM-JAY service?								
Within District	80	74	74	88	75	80	73	87
Outside District	18	24	20	12	19	18	23	12
Both	1	2	2	0	3	1	2	0
Type of hospital visited for PM-JAY treatment.								
Public	66	66	50	84	64	68	68	65
Private	31	32	46	16	31	32	30	33
Both	3	2	4	0	6	1	2	2
Availability of beds when hospitalized.								
Easily available	99	98	98	100	100	98	98	100
Waited for bed	1	2	2	0	0	2	2	0
24X7 availability of doctors, paramedical staff and drug stores in the empaneled hospitals.								
Doctors	98	100	98	96	97	98	97	100
Paramedics	100	100	100	100	100	100	100	100
Drug Store	99	100	100	98	97	100	99	100
Availability of equipment, and diagnostic testing in the empaneled hospitals.								
Equipment	95	100	100	86	97	95	98	92
Diagnostic Testing	97	98	96	96	94	95	97	98
Instances of referral from one empaneled hospital to the other.								
Yes	2	2	2	2	6	1	2	2
Treatment could have been done with simpler procedures and lesser expenses?								
No	97	96	98	96	100	96	99	93
Availing healthcare from professional (doctors/specialists) after PM-JAY?								
Same as Before	89	88	88	90	94	87	89	88
More often than before	11	12	12	10	6	13	11	12

ACCESSIBILITY OUTCOMES AND CHALLENGES

Making PM-JAY “Completely Universal” in J&K is one of the key inbuilt policy design features for increasing accessibility to all without any socio-economic filters. This section uses different indicators to examine whether this universal nature of the policy and other related factors have eliminated accessibility barriers to PM-JAY.

Access to Registration of PM-JAY

The Golden Card is key for obtaining treatment under PM-JAY, hence in the entire policy process it holds a significant position. The study examined the registration and usage related access and access inequalities across sample and found that mass registration has taken place and there are no signs of inequality of access. All beneficiary and non-beneficiary HHs have one or more members registered under PM-JAY. While this is a good sign, interactions with sample HHs and Registration Centre Representatives (RCR), revealed several issues in the registration process, mainly related to the Aadhaar Based System which had also expressed skepticism at the beginning of the policy, considering complex spatial and social features of India states (Bhatia & Bhabha, 2017). The issues found include difficulty with the fingerprints of older people, delay in the preparation of cards which in some cases has taken up to 3 months, loopholes in the baseline data which leads to data mismatch, difficulty in adding new members, and name correction possible only after rejection of an existing card. Further, while RCR representatives mentioned that there is a fixed fee of Rs. 30 per application, all beneficiaries reported paying between Rs. 200 to Rs. 300 for getting a Golden Card.

The study did not find any cases of rejection of the Golden Card for the treatment from any group, which highlights the role of Golden Cards in ensuring a smooth and consistent implementation of healthcare protection through PM-JAY. The majority 98% of beneficiary HHs reported no incidence of non-acceptance, whilst 2% reported rejection due to data mismatch which was resolved after some days. This trend is consistent across social groups, occupational sectors, and gender categories (Table, 2).

Access of Treatment Across Socio-economic and Gender Groups

Looking at the accessibility across socio-economic and gender groups, the study highlights an extensive coverage of the policy across all these diversities, thereby, removal of gap between promised and actual legal SHP coverage and access, which according to the ILO (2011: 2018) has been a

concern in SHPP implementation in many African and Asian countries. In fact, the findings show a better coverage for poor and vulnerable within these socio-economic and gender groups, which is opposite to what Mishra & Manda (2018) found in RSBY that unequal nature of healthcare system has limited the SHP accessibility of poor and disadvantaged. When we look at the level of education, the sample represents all the possible groups among both beneficiaries and non-beneficiaries – Illiterate, Primary Pass, Middle Pass, Matriculate, Graduates and Above. However, within beneficiaries the proportion of illiterate and lower educated HHs is higher compared higher educated – Illiterate comprising 47%, Primary Pass 11%, Middle Pass 17%, High School pass 12%, 12th pass 7%, and Graduate and Above 11% (Table 2). The concentration of these illiterates and less educated HHs is higher among the poorer social groups – STs and Rural, which indicates that the policy has covered more educationally disadvantaged and marginal HHs in Kashmir.

Similarly, the status of ration cards shows a larger concentration of HHs from poorer economic backgrounds – Below Poverty Line (BPL), Antyodaya Anna Yojana (AAY) and Priority Households (PHH) among beneficiaries. In overall sample their proportion in beneficiaries compared to non-beneficiaries is – APL 25% compared to 34%, BPL 37% compared to 35%, AAY 15% compared to 14%, and PHH 22% compared to 17%. Except for a few outliers this trend is consistent across districts, social, occupational and gender groups (Table, 2).

The occupational and landholding status of a HHs plays a crucial role in understanding the economic status and thereby access to healthcare. When examined the study found 79% within the informal sector compared to 21% from the formal sector having received PM-JAY treatment. Breaking the informal sector further down, the most disadvantaged workers have higher participation rates such as Daily Wage Laborers 50%, Shopkeepers/Artisans 13%, Farmers 9%, Self-Employed 6%, and Drivers 1%. In the formal sector 15% constitute Government and 6% Private Employees (Table, 4.7). Similarly, the landholding variable shows that the policy has covered HHs from all different landholding backgrounds, however, the majority is from Landless (26%), and Marginal Holders 73% (Table, 2).

Overall, these findings highlight that PM-JAY in J&K has shown a significant commitment to the Core Principle of USHP - “Leaving No One Behind” (WHO 2017) and its Fundamental Objective – removing the socio-economic and other inequalities of access to healthcare (ILO, 2021).

Table 2: Access to PM-JAY

	Overall		Srinagar						Kupwara					
	Beneficiary	Non-beneficiary	Beneficiary			Non-Beneficiary			Beneficiary			Non-Beneficiary		
			Tribal	Rural	Urban	Tribal	Rural	Urban	Tribal	Rural	Urban	Tribal	Rural	Urban
Golden Card considered for free treatment (Beneficiary HHs)?														
Yes	98	--	--	--	--	--	--	--	--	--	--	--	--	--
Educational level across different groups.														
Illiterate	47	41	64	48	40	64	28	12	48	52	32	36	48	58
Primary level	11	7	16	4	12	8	0	4	16	8	8	0	12	21
Middle	17	18	12	24	4	12	24	16	16	20	32	28	20	8
10th	12	13	8	8	12	8	12	32	12	16	12	8	12	8
12th	7	9	0	8	20	0	16	12	4	0	8	8	0	0
Graduation & above	11	15	0	8	12	8	20	24	4	4	8	20	8	5
Occupation of household head														
Daily wage laborer	29	75	80	44	16	84	24	4	52	56	52	64	52	64
Shop keeper/artisan			12	4	48	0	8	36	2	4	4	4	16	0
Farmer			0	24	4	4	28	4	4	4	20	4	0	4
Self-employed			4	4	4	0	0	8	12	8	4	8	16	8
Driver			0	0	0	0	0	0	8	8	0	4	4	0
Government Job	21	25	4	12	18	8	28	28	24	20	12	12	8	12
Private Job			0	15	14	4	12	20	0	0	8	4	4	12
Landholding ownership														
No land	26	20	12	20	64	12	8	48	4	36	20	16	24	12
Marginal (< 1 hectare)	73	78	88	76	36	88	92	44	96	64	80	84	76	87
Small (1 to 2 hectare)	1	2	0	4	0	0	0	8	0	0	0	0	0	0
Ration Card holding.														
APL	25	34	8	16	48	28	36	48	24	28	24	16	56	17

BPL	37	35	36	44	0	40	44	4	48	32	64	48	28	50
AAY	15	14	24	16	0	20	8	0	24	28	0	32	12	12
PHH	22	17	32	24	52	12	12	48	4	12	12	4	4	21
Distance to closest empaneled hospital (Beneficiaries & Non-Beneficiary).														
0 to 5 Kms	19	--	--	--	--	--	--	--	--	--	--	--	--	--
6 to 10 Kms	18	--	--	--	--	--	--	--	--	--	--	--	--	--
11 to 15 Kms	15	--	--	--	--	--	--	--	--	--	--	--	--	--
16 to 20 Kms	16	--	--	--	--	--	--	--	--	--	--	--	--	--
21 to 25 Kms	14	--	--	--	--	--	--	--	--	--	--	--	--	--
Above 25 Kms	18	--	--	--	--	--	--	--	--	--	--	--	--	--

Treatment with Respect and Dignity

The access to healthcare facilities with dignity is an important element of human wellbeing, thereby a target of PM-JAY as well. The study examined the perception of respondents about whether they felt being treated with the utmost dignity, respect, and care in the empaneled hospitals and found that 97% of patients in beneficiary HHs have felt such. This finding is consistent across various social, occupational, and gender groups. Conversely, 3% of PM-JAY sample patients reported that the treatment was not dignifying (Figure, 1). While these findings broadly suggest that PM-JAY has imbibed the Golden Rules of SHP implementation in J&K – delivered with respect for the dignity and worth of patients (Development Pathways, 2019), they also highlight marginal but concerning issues of inequality in treatment and care.

Physical Access to Empaneled Hospitals – Proximity, Roads, and Transport

Proximity to Empaneled Hospitals

Being a difficult topography, the location of a HHs can create proximity challenges in access to PM-JAY, especially in far-off districts such as Kupwara and groups such as Tribal and Rural. The study examined the proximity to empaneled hospitals and associated challenges and found that in an overall sample 19% of the sample HHs have an empaneled hospital within 0 to 5 Kms from their residence, 18% within 6 to 10 Kms, 15% 11 to 15 Kms, 16% 16 to 20 Kms, 14% 21 to 25 Kms, and 18% within Above 25 Kms (Table, 2). However, when segregated across social groups a notable difference emerges. As shown in Figure, 2 only 2% of Tribal and 14% of Rural sample HHs

have an empaneled hospital within 0 to 5 Kms compared to 40% urban HHs. On the other extreme 36% Tribal and 12% Rural compared to 6% Urban HHs have the closest empaneled hospital more than 25 Kms away from home. These findings indicate that while in the overall sample a considerable number of HHs have PM-JAY healthcare facilities available nearby to their residence, there is a notable disparity between Tribal and Rural areas compared to Urban. The availability of empaneled hospitals in and around district headquarters has reduced barriers to access as mentioned in Section – 3.1. However, within districts there are physical limitations (distance) which create difficulties in access mainly for Tribal and Rural HHs and also in developing countries (Cotlear et al., 2015; Adlung, 2014; Hsiao et al., 2007). Such physical limitations of access are also found in India (Nandi et al., 2017).

Road connectivity and transport access to empaneled hospitals:

Often there is the availability of a healthcare infrastructure but a lack of roads to the facility makes it difficult for people, especially from far-off regions, to access the treatment. While examining the road connectivity the study found that in overall sample and across all the social, occupational and gender groups 100% HHs have road connectivity to the empaneled hospitals (Table, 3). These findings suggest that access to empaneled hospitals via roadways is nearly universal.

Having the road connectivity establishes that people can reach to hospitals, while, access to transport determines whether people they will reach on time or not, especially in case of a medical emergency. The majority (92%) of sample respondents have reported having transportation access to reach to the empaneled hospitals, and these results are consistent across social, occupational, and geographical groups (Table, 3). However, 8% of the sample respondents reported lacking such access, particularly among certain marginalized demographic groups (Table, 2). Ensuring equitable access to transportation for these HHs is crucial for reducing disparity in healthcare utilization.

When we look deeper into transportation access, it is surprising to note that there is a widespread lack of public transportation and/or ambulance service mainly across rural and tribal communities and people are heavily reliant on privately hired transportation, which at the time of an emergency is very costly, considering that PM-JAY does not cover the travel cost to

empaneled hospitals. The majority (71%) of sample HHs have reported using rented Sumo, 3% ambulance, and 4% conventional modes of horse riding or walking in case of a medical emergency. These results are consistent across social, occupational and gender groups (Table, 3). When segregated across social groups, the relatively advantageous groups have more access to their own transport compared to the disadvantaged such as 36% Urban, compared to 24% Rural and 6% Tribal HHs, and within occupational groups, 31% formal compared to 19% informal sector workers have reported using their own vehicle in case of medical emergency. Even the horse riding is mostly reported from few Tribal HHs (Table, 3). Overall, these findings indicate a huge disparity in the access to transport and a deficit of public transport, especially the availability of ambulance service in tribal and rural areas.

Table 3: Accessibility to Different PM-JAY Services

	Overall	Social groups			Occupational Sectors		Gender groups	
		Tribal	Rural	Urban	Formal	Informal	Male	Female
Road connectivity to empanelled hospitals (Beneficiaries & Non-Beneficiaries HHs).								
Yes	100	100	100	100	100	100	100	100
Transport availability to reach to the empanelled hospital (Beneficiaries & Non-Beneficiaries HHs)?								
Yes	92	94	82	98	86	93	91	92
No	8	6	18	2	14	7	9	8
Transport used during medical emergency (Beneficiaries & Non-Beneficiaries HHs).								
Ambulance	3	4	4	2	3	4	2	5
Own Vehicle	22	6	24	36	31	19	16	32
Rented Sumo/ car	71	88	72	52	67	72	81	55
Horse Riding/ Walking	4	2	0	0	0	5	1	8

CONCLUSION AND POLICY IMPLICATIONS

Unlike several SHPPs in the Developing World and especially in Politically Fragile Regions, as highlighted in Section-2, PM-JAY demonstrates progressive outcomes in J&K as far as the key SHP parameters of availability and accessibility are concerned. While corroborating with some and refuting some empirical literature on availability and accessibility

of SHHPs, as highlighted in Section–3 and Section–4, the paper mainly attributes this progress to PM-JAY’s design feature of being a “Completely Universal” SHPP in J&K. A role model for the rest of Indian states/UTs, where same policy, because of not being Completely Universal, is criticized for being a faulty universal approach incorporating only one segment of the population as well as for other developing countries, especially Politically Fragile Regions (Ghosh & Qadeer, 2019).

Availability

The paper concludes that SHPP availability has exponentially increased in J&K with the Universalization of PM-JAY since December 2020, as the policy has covered all geographical areas. The availability of empaneled (public and private) hospitals within the districts has removed several blockages to healthcare service availability, and with the increasing number of empaneled hospitals in districts the healthcare migration of people outside the district for treatment is decreasing. Interestingly, the reliance and preference towards government-funded healthcare system is more than private healthcare even in PM-JAY.

Regarding the availability of healthcare facilities within empaneled hospitals, the paper concludes that, in consistent with PM-JAY guidelines, there is generally timely and equitable availability of hospital beds, which is indicative of a well-functioning healthcare system that prioritizes prompt and efficient care delivery. There is 24x7 availability of doctors, paramedical staff, PM-JAY affiliated drug stores, equipment, and diagnostic testing facilities in most of the empaneled hospitals, ensuring continuous care for patients during hospitalization.

The paper also demonstrates a high level of confidence among beneficiary HHs in the appropriateness of the treatment under PM-JAY, as the majority believed that treatment could not have been done with simpler procedures and lesser expenses. For several poor and vulnerable HHs, PM-JAY has altered the treatment culture towards professional care, who were mostly relying on the mercy of local medical shops or not adequately trained or relevant health care professionals. It can be fairly contended that PM-JAY in J&K, has led to an increased health coverage of the poor and vulnerable thereby protected them from hazardous health financing (Adlung & Jutting, 2006).

Notwithstanding, like results of some earlier studies as highlighted in Section – 2, there are few small but concerning issues of non-availability

and poor-quality of equipment and diagnostic-testing facilities in private empaneled hospitals. Further, while basic awareness about the PM-JAY is there, comprehensive awareness about pre and post hospitalization coverage is almost non-existent, and engagement of CSOs invisible. These findings suggest room for improvement in availability – increasing the number of empaneled hospitals, strict monitoring on the part of the PM-JAY administration, comprehensive public awareness generation, and engagement of CSOs in implementation.

Accessibility

The paper concludes that PM-JAY has demonstrates a huge expansion in the registration process with both beneficiary and non-beneficiary HHs having Golden Cards, thereby no access inequality at the hospital gate with all Card holders allowed for treatment. Further, the policy has delivered on the core principle of SDGs and USHPP – “Leaving No One behind” (WHO, 2017), by reaching to all the socio-economic, geographical, and gender groups, highlighting the policy’s commitment to give access to all diversities within J&K. Notably, the higher proportion of illiterate and lower-educated compared to higher educated, BPL, AAY and PHH compared to APL ration card holders, informal sector workers compared to formal sector, and landless and marginal holders compared to small holders among beneficiaries, suggest the policy’s effectiveness in reaching to the poorest of the poor and vulnerable groups, thereby overcoming the concerns of disadvantaged exclusion from SHPPs in India (Mishra & Manda, 2018). Furthermore, the treatment with respect and dignity, which is usually one of the concerns in healthcare delivery, and a golden rule in the delivery of SHP has been addressed in PM-JAY in the case of J&K(Development Pathways, 2019).

Notwithstanding, there are some accessibility related bottlenecks in the policy process. The registration process is caught up with delay in preparation of Golden Cards, excessive charges, difficulty in fingerprints of the elderly, and issues with name changes and adding new members which need to be addressed. The access to empaneled hospitals via roadways is nearly universal, regardless of social, occupational, or gender factors, however, there is an issue of distance especially for Tribal and Rural communities, which highlight the need for widened distribution of empaneled healthcare infrastructure in far-flung areas, especially districts like – Kupwara, so that all people can have equal ease of access. Also, the heavy reliance on expensive privately hired transportation in the case of a medical emergency is a big concern

in Rural and Tribal areas. Equality of access to affordable transportation is crucial to reducing physical disparity in healthcare utilization. This demand strengthening of public transport system and making widespread availability of an ambulance service mainly in geographically distant areas. A fixed amount of transportation amount to and from the empaneled hospital can be added to PM-JAY insurance coverage to relieve people from such financial cost.

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Oman and India: Retracing Historical Voyages and Forging New Strategic Connectivity

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ABSTRACT

India anchored by the concept of the 'New idea of India' is gradually emerging as the spokesperson of the global south. With its new-found stature and recognition which has been cemented with the successful culmination of G20 under her presidency and the successful landing of Chandrayaan in the Lunar space, India is gradually voyaging more assertively in forging strategic relations with the world. Oman figures prominently in India's current strategic calculus and furthering its sphere of influence across the region. Maritime trade relations between the two civilizations are historic. Oman's strategic location with prominent ports like the ports of Muscat, Sur, Qalhat along the Arabian Sea, and the Gulf of Oman served as a gateway for all ships sailing across the Strait of Hormuz, the Indian Ocean and the Arabian Sea. Project Mausum launched by India in 2014 is one such project in which Oman's indispensable role, cooperation and collaboration is required. Project Mausum is a revisit of the past and an attempt to rekindle the lost age-old ties in understanding how the wind-system impacted and shaped the countries and communities connected by the Indian Ocean. This project is a counterbalance to China's "21st century Maritime Silk Route" in the Indian Ocean Region. This paper critically analyses Oman and India's new strategic initiatives and trade connectivity, by revisiting the old maritime trade and links and assessing the extent to which Oman can help India in fulfilling the objectives of Project Mausum. It will also study the potential limitations and challenges that may hinder the realization of these shared goals.

Keywords: India-Oman Maritime relations, 'New idea of India', Project Mausum, New strategic trade connectivity

INTRODUCTION

Oman and India historical trade relations

The historical contacts and relations between the Sultanate of Oman and the Republic of India date back to the early Bronze Age. As per historian Vogt, "Harrapan impact on the Oman peninsula started as early as the middle

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of the third millennium BC". On the Indian subcontinent, the Bronze Age began about 3000 CE, which marked the beginning of the Indus Valley Civilization. Archaeological discoveries indicate that because Harappa was situated beside the Arabian Sea, its inhabitants traded along the Red Sea. The upper Gulf region, encompassing Dilmun and Qalhat, has yielded a number of archaeological discoveries from ancient Harappa, including carnelian beads, pottery, coins with inscriptions, and shards with engravings in the Indus Valley script (Gosch & Stearns, 2007). These archaeological findings confirm that trade links persisted in the later Bronze Age between the Harappan colonies on the Makran coast. Furthermore, it also confirms that there were many other kinds of interactions, including commercial, economic, cultural, and religious exchanges, because of the close proximity and personal relationships.

The Sultanate of Oman, located in the southeast coast of the Arabian Peninsula, enjoys a high geo-economic and geo-strategic importance in international maritime trade (Donkin, 2003). The maritime history of Oman is rich with traces in historical discourses dating back to Yalainous (23-79 AD), who was one of the earliest Roman historians to have mentioned Omana (now Oman). The ancient Magan civilisation flourished in the present-day Sultanate of Oman and there are archaeological evidences that show close trading relations between Magan and the Meluhha¹ Civilisation i.e. the Indus Valley Civilisation as they were connected by a maritime route. Sohar represents the first millennium BC. The artefacts found in Sohar depicts that it was an important trading site and the findings of terracotta earthenware is suggestive of being imported from India. The finding of a small bronze statuette of an Indian girl in the port city of Salalah in the Dhofar province of Oman constitutes material evidence of a relationship between India and Oman (Pasha, 2022). Historical evidences and archaeological findings suggest of vibrant trade exchange between India and Mesopotamia during 2300 BC. Items like copper, carnelian, gold and ivory were on demand (Gosch & Stearns, 2007). The most recent archaeological excavations in Pattanam (Kerala) in 2020 have revealed a variety of tangible evidences for South India's trade links with Oman, at least from First century. (Cherian & Rocco, 2024).

Oman is India's Maritime Gateway to the Arab world and beyond. Oman's

¹Meluhha meant 'materials of great purity', also as 'many' or 'abundance' - a theme in harmony to a great degree with the type of merchandise which Magan shipped to Mesopotamia.

ports were important hubs for trade and trans-shipment to India. The principal transit ports were Omani ports such as Khor Rori, Qalhat, Sur, and Muscat until Ptolemy VII, the Hellenistic King of Egypt, encouraged traders to sail directly between Egypt and India.¹ Hippalus, the Greek, discovered a crucial development that reduced the importance of Omani ports- the use of the South-West monsoon winds. However, Oman had already established itself as the principal shipbuilding center in the Indian Ocean at that point.² By the beginning of the third century, there was increase in the sea movements in the Gulf which made the Omani ports very vital. Around the same time, the rapid spread of Islam under the Abbasid Caliphate helped promote trade. The Gulf and the Red Sea worked as two strong pillars of the Caliphate which otherwise were contesting waterways. By having a direct access to the Islamic empire, Oman enjoyed a special position in the trade. Around this period, trade with Malabar rose phenomenally. Besides commerce and trade of products from Malabar, the materials for shipbuilding especially teak wood was an essential item. Omani hulls and dhows were built from the teakwood. An important part of the East-West Indian Ocean trade was played by Oman. Carpenters from Oman would travel to India to construct ships using teak and coconut wood. The method of shipbuilding was done without using nails but with joints and pegs. This type of method is still found today in many ports of Gujarat, Mandvi, Veraval and Vanakbara on the island of Diu, where the same kind of traditional wooden ships are still being built today. It is undoubtedly the Omanis who have introduced the method of shipbuilding techniques to India. The architecture designs and type of designs have some similarity. The type of wooden roof structure illustrating details of the wall-painting in Ajanta Cave, datable to 5th century AD is also very similar to those of present Kerala (Shokoohy, 2018). Marco Polo in his accounts mentions Sohar and Dhofar (known at that time as al-Mansurah) as major centres of trade and Dhofar was a major exporter of horses to India. The trade in spices from India was one of Oman's major contributions to the Indian Ocean trade. During the period 750-1500 AD, Sohar, Qalhat, Sur, Kuriyat, Batinah, Matrah, Muscat and the smaller ports of Batinah coast were main ports which the Omani mariners controlled and shared maritime trade with India and rest of Asia. Oman's geographic location thus enabled Oman to play a major role in the India Ocean trading activity. It was primarily the

¹Shasir was the principal trade centre in Neolithic period and Dhofar of Oman was the link between Sumer, an ancient Egypt and India.

²Indian teakwood has been found at numerous Sumerian sites and also Sumerian inscriptions reveal evidences of shipbuilding in Oman and its trade in the Indian Ocean.

monsoon winds that eased sailors from Oman to make their voyage to India relatively smoother.

OMANIS IN MALABAR AND INDIANS IN OMAN: BUILDING PARTNERSHIPS

One of the most striking outcomes of this vibrant development of trade and commerce in Malabar was the migration of merchant communities from Oman. In Malabar, Omani Arabs gradually formed the aristocracy of the coast. They were undoubtedly the most influential foreign Muslim settlers along the Malabar Coast. Calicut served as the nerve center of Arab trade. For the Omanis, Calicut was known as the 'City of Truth.' Ibn Batuta, who provided the first detailed account of Omani settlements in various parts of Kerala, noted that trade on the Malabar Coast was dominated by people from Oman. Ezhimala, another major trading point in northern Kerala, also had an Arab settlement primarily composed of Omanis. Ibn Batuta's writings make it clear that the Qadi (judge) and Khatib (orator) in many coastal towns were from Oman. Scholars, Sufis, and traders played a significant role in spreading Islam to India. Batuta also noted the presence of Omani Sufi scholars involved in the Islamization of coastal peoples from the eighth century onwards.

Malabar ports were well connected with Hormuz, Dhofar, Aden, and Jeddah. According to K M Pannikar, these ports continued to be connected and in business up to the time when Vasco Da Gama arrived in Kerala in 1498. It is interesting to note that Ahmed Ibn Majid an Omani sailor guided the way to Vasco Da Gama from Malindi on the coast of East Africa to Malabar Coast in India. Several Omanis resided and did their academic pursuits from India. We have instances like Sultan Taimur bin Faisal who came to India in 1332. After his death, he was buried in Mumbai, India. We have the Mayo college in Ajmer, Rajasthan honouring the names by dedicating two halls in the name of Sultan Saeed bin Taimur and Fahd bin Taimur who studied there. However, the coming of the Portuguese was a turning point in the history of Malabar-Oman-Arab relations.

According to S.B. Miles (1966, p.35), it is been noted that a small Hindu temple at Qalhat around the 15th century was discovered. This can be concluded that there were Indian merchants in Oman around that period. Together with the Omanis, the Hindu merchants fought against the Europeans in which the role played by 'Narottam' an Indian merchant is known widely. There was cooperation and tolerance and they were allowed to build temples.

Around the late 18th century, the Portuguese influence declined, and also the three Islamic empires- Safavid, Mughal and Ottoman leading to “the shift of a considerable proportion of trade from Bandar Abbas and Basra to Masgat” (Risso, 1986, p.16). This allowed Oman and Omanis to gain monopoly over the Gulf bound trade. Simultaneously the Indian merchants in Oman were also growing affluent and influential to the extent that the Europeans and the Omanis were careful in their eating habits in the presence of their Hindu merchants. By the mid 18th century there were already four Hindu temples in Muscat (Kechichian, 1995, p.215). Among the three distinct Indian merchant communities in the late 18th and 19th century, it was the Liwatiyahs (Hyderabad, Sind) that tried to completely assimilate into the Omani society by adopting Arabic language and dress (Allen, 1984,). The other two communities were the Thatta Bhathias and Kutchi Bhattia. The contact between India and Oman waned during the first half of the twentieth century partly due to the two World Wars, the great depression of 1930 and also the domestic upheaval leading to the abdication of the throne by Sultan Taymur bin Faysal in 1932. It was the signing of the Treaty of Friendship, Commerce and Navigation in 1953 that rejuvenated the age-old relation between India and Oman.

A NEW IDEA OF INDIA AND ITS VISION

India has gradually achieved global recognition and has become the spokesperson of the global South, with the successful landing of Chandrayan in the lunar space, the successful culmination of G-20 with Ukraine issue smoothly deliberated among the world leaders, the inclusion of African Union in G-20. India’s remarkable fight against Covid pandemic with the largest number of its citizens getting vaccinated and also able to help other nations in need of vaccines has led the World Health Organisation (WHO) declare ‘a prepared India is a prepared world’. This newfound global standing of India according to Harsh Madhusudan and Rajeev Mantri is because of Prime Minister Narendra Modi, who under his leadership since 2014 corrected all the flaws committed by Nehruvian idea that dominated Indian polity for seven decades. According to them, it was the ethos of socialism, non-alignment and secularism that hindered India not to progress both at the domestic and at the global front (Madhusudan & Mantri, 2020).

The Modi doctrine is a foreign policy philosophy developed by Prime Minister Narendra Modi of India. It is based on the idea of “neighbourhood first” and “cooperation with all”. This philosophy seeks to promote peace and stability in India’s neighbourhood, while also engaging in economic

diplomacy with countries outside the region. Policymaking has considered Prime Minister Modi's own beliefs of India's place in the global system, as well as its spiritual and cultural foundations, which see the world as a family (*Vasudhev Kutumbakam*) and happiness for all (*sarve bhavantu sukhinah*). In his book, "The India Way: Strategies for an Uncertain World", External Affairs Minister (EAM), Dr. S. Jaishankar (2020, p.25) wrote – "Comfort with Europe has grown, but needs more insights into its increasingly intricate politics... This is a time for us to engage America, manage China, cultivate Europe, reassure Russia, bring Japan into play, draw neighbours in, extend the neighbourhood and *expand traditional constituencies of support*". (emphasis added). He also added, "the idea of Bharat is to have maximum goodwill and minimum adversaries." With this cumulative understanding, India seeks to achieve a developed nation when it celebrates 100 years of independence (*Amrit Kaal*) in 2047.

Keeping this in perspective, India revisited and reformulated many policies holistically and set-up corrective measures and programmes to fulfil its objective. Project Mausum was one of them.

PROJECT MAUSUM: A STRATEGIC PROJECT

Project Mausum launched by India in 2014 is "to explore the historical and cultural linkages between countries in the Indian Ocean region. The project seeks to promote greater cultural understanding and people-to-people exchanges between India and its neighbours, enhancing regional cooperation and stability" (Ministry of Culture, GOI, 2014). It is one such project in which Oman's indispensable role, cooperation and collaboration is required. There are early accounts recorded by Ibn Majid, and Portuguese Duarte Barbosa of sea routes undertaken from the coast of Oman following the south-west winds. Omanis were traditionally seafarers and were the experts in understanding the monsoon winds; the season when ships could sail. Understanding 'Mausum' the wind-system of the Indian Ocean region which enabled and shaped cultural interactions and exchanges between communities and countries in the age-old days still resonates today. This definitely carries strategic implications across the Indian Ocean, including the Gulf. Project Mausum is a revisit of the past and an attempt to rekindle the lost age-old ties in understanding how the wind-system impacted and shaped the countries and communities connected by the Indian Ocean. There are three specific strategic dimensions of this project. Firstly, it is to promote regional connectivity to enhance her global reach and foster cooperation with the old traditional allies.

Secondly, strengthening maritime security in the light of the impending threat of terrorism, piracy, smuggling in the sea lanes and straits that disrupts the economy. Since most of the trade is through seas and one nation itself cannot deal with this menace, collaboration with countries in strategic location like Oman is imperative. Thirdly, this project is a counterbalance to China's "21st century Maritime Silk Route in the Indian Ocean Region". By collaborating with its neighbours in all vital sectors and fostering people to people contact, limits its dependency on China. Considering the cordial relations between the two countries and with Oman's strategic location, it holds paramount importance for India to fulfill her objectives. Under Project Mausum, a joint sail voyage was conducted between India and Oman which underscores Oman's strategic significance in India's geopolitical calculus. Oman and India have often celebrated their millennia-old maritime links with various projects re-creating historical journeys. A joint sailing of the Royal Navy of Oman (RNO) and the Indian Navy was conducted in November 2015 to commemorate the 60th anniversary of Indo-Omani diplomatic ties. RNO's sailing vessel *Shabab Oman* along with the Indian Navy Sail Training Ship *Tarangini* undertook the voyage from Muscat to Kochi, tracing the ancient trade route between India and Oman.

MARITIME SECURITY: PARAMOUNT IMPORTANCE

The maritime space has emerged as the theatre for geopolitical competition. Multiple proactive initiatives straddling political, economic, security, technological and social domains both at the national level and at the international level has been undertaken. There are three vital reasons which made India become more engaged with the maritime security. As mentioned above, aiming to achieve a developed nation by 2047 as Harsh Pant (2009, p.282) stated, more activism both in diplomacy and military is required and it is going in the right direction. Maritime security and protection of sea lanes of communication (SLOCs) also got a rejig. Though maritime landscapes as India's strategic autonomy was always considered vital, but when it came to development, investment and collaborations, India was passive. Hence, India shifted under Modi, from 'maritime blindness' to 'matters maritime'. This is clearly shown, with India joining the Combined Maritime Force (CMF) a multinational naval force led by the US based in Bahrain.¹ India shies away from military alliances but in this case, India joined CMF in 2023 after

¹CMF-44 countries naval partnership with the aim to promote security, safety and prosperity across the "Red Sea, Gulf of Oman, Gulf of Aden and the Indian Ocean Region".

being an associate partner in 2022. CMF is not like NATO that works on the principle of collective security. It is more flexible. Its main goal is safety and security of sea lanes. India is also in the same page as PM Modi has flagged that the two main issues confronting the International community are terrorism and piracy. Since India has experienced its own share of terrorism in 2008 Mumbai attacks which emanated from the use of seas, India is serious of its efforts to build a strong maritime security apparatus. When it comes to piracy, India plays a very vital role in ensuring that the SLOCs are safe by deploying naval ships across the Gulf of Aden. In the recent past, the Indian Navy has been putting up a formidable fight against Somali pirates and rescuing crew members demonstrating its cooperation towards international community in combating piracy. Till the time of writing, the Indian Navy have operated 18 piracy incidents. The most recent is under Operation Sankalp, wherein the Indian Navy is unflinchingly giving its best to “secure the seas” which has been intensified due to the Israel-Hamas war (Sagar, 2024).

The economy of India is largely dependent on the Indian ocean region as all the major trade and commerce is done through the seas. 95 % of trade by volume, and more than 80% of crude comes through sea (Singh, 2021). It is therefore imperative that India protects and provides security to the Indian Ocean Region (IOR). The second reason is the China Factor. China's presence in the Indian Ocean has been growing and gradually and steadily marking her footprints in the Indo-Pacific region in a major way. China has now acquired the largest in many fronts like - naval force, merchant fleet, ship building industry, largest port , fishing fleet. By all accounts China has dominated the region and it is continuously striving to strengthen its presence by initiating various projects. One of the most significant initiative is the Belt and Road Initiative (BRI) which comprises of the Maritime Silk Road and the China-Pakistan Economic Corridor (CPEC). With China's access to ports in Gwadar (Pakistan), Colombo (Sri Lanka) and Djibouti (Horn of Africa), it has somehow encircled the Indo-Pacific region. Issues of militarization of South China Sea by China, restrictions in navigation and installing of naval platforms and ports in the Indian Ocean are some of the red flags for India's security. Diplomatically also China has been able to sway the Island countries –Maldives, Mauritius and Sri Lanka towards them. India was lackadaisical as it was rest assured that the island countries including Nepal and Bangladesh was under its influence and their security provider. However, the political equations have changed and India needs a dynamic practical diplomacy along

with strategic policies to reverse the situation. In April 2024, China deployed 3 vessels which are allegedly used for intelligence gathering. According to the US Department of Defence (2023), there are 370 Chinese ships and submarines, whereas India has only 29 surface combatants. There exists a huge power disparity. In the interim, working with other partners, helps India.

OMAN UNDER THE CALCULUS OF INDIA'S VISION

It is at this juncture that Oman figures prominently in India's current strategic calculus and furthering its sphere of influence across the region. With rich deep historical linkages and diplomatic relations that goes back more than 65 years, Oman and India convergence of interests and their vision of their country and for the global order shares similar values and perspectives. Considering the geostrategic location of Oman and in order for Project Mausum to come to fruition, the ports of Oman are one of the key assets that will take India to reach its targeted goals.

Oman has a very important role to play for India's maritime security and to preserve India's strategic interest in the Indian Ocean. It serves as an important interlocutor for India at the Gulf Cooperation Council (GCC), the Arab League, and the Indian Ocean Rim Association (IORA).

China is a threat and with its presence growing increasingly in the region in adherence to it "BRI (*Belt and Road Initiative*)"; India needs strategic engagement with Oman. China has established military base in Djibouti. India needs Oman in counterbalancing China's dominance and ushering security efforts in the Gulf of Aden. The Strategic partnership signed in 2008, between the two countries deepened their relations with Oman providing replenishment facility to India naval ships and drydocking. India trains approximately 150 Omani sailors annually, and the Sultanate has granted berthing rights to Indian navy vessels, which India highly values for conducting anti-piracy operations near the Arabian Peninsula and the Horn of Africa. Realising the importance of knowledge sharing, Oman and India signed MoU in May 2016 focusing on maritime security and coastal security in which regular interactions among the officers and emphasis on joint training as the main rationale. It is pertinent to mention that Oman is the first country in the Gulf with which all three branches of India's defense forces – Army, Navy and Airforce conduct joint exercises. The army exercise is called Al Najah, while the air force and the naval exercise are Eastern Bridge and Naseem-al-Bahr respectively. Oman's increasing maritime influence was underscored by National Security Advisor (NSA) Ajit Doval's when he visited the strategic Duqm port in

Oman on 26 June 2023. His visit undoubtedly underscores India's keen interest in establishing ports and freight corridors that connects Europe, Asia, and Africa. The statement by the Ministry of External Affairs (MEA, Press Release, 2023) succinctly states where Oman's position is in relation to India—it reads, “The visit by NSA reflects the strong bilateral relationship between India and Oman, the importance of the Sultanate of Oman as a key partner for India in the Gulf, and highlights India’s commitment to strengthening its strategic partnership with Oman”.

DUQM PORT, OMAN: AN ASSET FOR INDIA

Duqm Port in Oman is one of the largest Special Economic Zone (SEZ) in the Middle East and North Africa which is located approximately 550 kilometres from the capital Muscat. It is strategically located as it is close to South Asian nations like Pakistan and India and is easily accessible from East Africa. Since it is located outside the Strait of Hormuz in the middle of the Indian Ocean and global shipping routes, many nations are vying a piece of this port. In March 2019, the United States signed an agreement with Oman to grant U.S. military access to facilities and ports in Duqm and Salalah. The China-Oman (Duqm) Industrial Park, a major “*Belt and Road Initiative* (BRI)” project nearing its first phase of completion, exemplifies China’s interest in linking continents through logistics and infrastructure funded by Chinese investments. Oman joined the “BRI” in 2018, enhancing its importance as China’s first base station in the Gulf.

Against this backdrop, a designated zone has been allocated to India in the strategically significant Duqm port in Oman. This has bolstered the bilateral relations between India and Oman marking another transformative milestone. This development happened right on the heels of the visit of Sultan Haitham bin Tariq to New Delhi on 16 December 2023 which shows India and Oman on the same page. This development has furthered India’s influence within the western and southern Indian Ocean Region. It also empowers the Indian navy by assuming the vital role of a security provider amidst the soaring tensions in the Red Sea and western Indian Ocean. Acquiring an imminent presence in the Duqm port supports its effective role in anti-piracy operations across the region. Lately, India has been demonstrating its regional leadership by effectively countering threats posed by the Houthis in Yemen.

The unparalleled strategic location of Duqm offers India unparalleled access to key maritime routes, including the Gulf of Oman, Indian Ocean

and Arabian Sea. Furthermore, Duqm's strategic integration into a special economic zone seamlessly facilitates trade and commerce, thereby fostering India's economic interests and promoting shared prosperity. Duqm port is equipped with state-of-the-art facilities' such as comprehensive ship repair yard and an expansive dry dock. Duqm emerges as a vital hub for diverse maritime activities. Since the port is very close to Muscat, just 550 kilometres, it is viable for both India and African countries for easy access to market and commerce.

In essence, India's secured zone within the Port of Duqm not only underscores the nation's steadfast commitment to reinforcing maritime ties with Oman but also fortifies its strategic presence in the region. As geopolitical dynamics continue to evolve, India enhanced maritime capabilities bolstered by its strategic allocation, are poised to play a pivotal role in safeguarding regional stability and promoting sustainable economic prosperity.



Figure 1: Duqm Port (Oman)

(Viable for both India and African countries for easy access to market and commerce).

Revitalizing India's Maritime Sector

From 2015 onwards, India refocused its attention towards the maritime domain that was long neglected. Pronouncing the vision of SAGAR (Security and Growth for All Region) in Mauritius by PM Modi with the aim to enhance capacity building for the benefit of all in the Indian Ocean Region, India started a flurry of activities; like the International Fleet Review and global Maritime Summit in 2016 in which more than 42 countries participated. The outcome of the summit was the declaration of the Sagar Mala programme- a port development with a focus to modernize and upgrade India's maritime infrastructure. India has 12 major ports and 204 intermediate ports but it has been long languishing with outdated infrastructure and inefficient workforce. Under the Sagar Mala programme, construction of six major ports is in the offing. To enhance port operations, the Shipping ministry also launched the Project Unnati. Under the Sagar Mala programme, promotion of cruise tourism is one of the objectives including "development of coastal tourist circuits lighthouse tourism, a national maritime heritage museum at Lothal and an underwater viewing gallery at Beyt Dwarka." Maritime India Vision 2030 has been brought out by the Ministry of Ports and Shipping with the objective of "propelling India to the fore- front of the Global Maritime Sector". It is based on key guiding principles "analyse current and future challenges to define initiatives, drive innovation by utilizing latest technology, create time-bound action plan, benchmark to understand current standing and adopt best-in-class practices, address capability building and human resources, explore ideas to achieve Waste to Wealth" (Maritime India Vision 2030 Document).

Maritime relations reached another milestone when both countries signed a Maritime Transport Agreement on December 24, 2019, during EAM S. Jaishankar's visit to the Sultanate. This agreement which is the first of its kind with any Gulf country, allows India to expand its presence in the western Indian Ocean, the Persian Gulf, and East Africa. Many Maritime International Seminars are organised by India. One of which was MILAN-2024 by the Indian Navy at the Eastern Naval Command (ENC) base with the theme, 'Partners across oceans: collaboration, synergy, growth', "aiming to promote synergy and interoperability amidst the escalating global maritime security challenges". Such initiatives reaffirms all the more, the tireless diplomatic effort put forward vouching for inclusiveness and progress through peaceful means.

Since 2008, the Indian Navy has been supported by Oman in its anti-piracy deployments in the Gulf of Aden, and Indian naval ships are welcomed by Oman for Over Seas Deployments (OSDs) and Operational Turn Arounds (OTRs). In particular, Salalah has been the most preferred OTR destination of Indian Navy ships involved in counter-piracy patrols. This gives a unique historical continuity to the ancient links that existed when Dhofar was a bustling port having links with many Indian ports.

According to Rajeev Aggarwal (2024, n.p), Oman serves as the missing link to the IMEC (India-Middle East-Europe Economic Corridor) which is a connectivity project launched at the G20 Summit in New Delhi on 9th September 2023. However, before any of this project could be thoroughly examined, the Gaza War broke out on 7 October 2023 which brought the project to a halt. UAE, Saudi Arabia, Jordan and Israel which are part of the IMEC are caught in the midst of the war. The Houthi rebels in Yemen are targeting the ships and cargoes of Israel and its western allies that passes through the Red Sea. The ports in UAE which is the eastern corridor of IMEC is not a safe route as Iran has control over the Strait of Hormuz which can be used as a bargaining chip threatening to close the Strait. Rajeev Aggarwal thus opines that Oman gives the solution as its ports opens up into the Arabian Sea which evades any Iranian threat. Added to that, its ports have direct route and also the shortest to link to Indian ports.

Cultural interactions between Oman and India: Forging Ahead with Times

The people to people contacts greatly enhance and help strengthen the socio-cultural synergy between the two nations. The exchange of ideas, culture, religious beliefs, culinary, architectural designs and ways of life led to crosspollination in a major way that significant traces of it still lingers to this day. The Ibadi aspect of Islam resonates soundly within the Indian thought and in its foreign policy initiatives. Moderation and mediation with pragmatism is Oman's foreign policy hallmark and which has been resoundingly supported by India over the years since it established diplomatic relations in 1955. Traditional Omani Musars (head scarfs) are traditionally produced in Kashmir, India. Omani Zari works and wood carvings of Rajasthan are strikingly similar. The lungi (lower garment) worn by Mappilla men in Kerala and the robe worn by the Omanis are very similar and so is their Musars.

According to historical records, it is around 815-816 AD that the first Muslims appeared on the coasts of Malabar. In Cranganur or Kotunnallur

stands a small mosque called the Cheraman Jani claimed to be the earliest mosque founded in Malabar with the date 629-630 AD. Inscriptional evidences of the presence of Muslim trading settlements in Gujarat by 13 century is well established. The bilingual inscription in Arabic -Sanskrit of a mosque built by Nakhuda Firuz in Somnath (Gujarat) is a valid testament of their presence in Indian ports. Muslim Arab merchants played a vital role in Indian commerce as early as tenth century (Kooria & Pearson, 2018), Bhattias of Sind province are recorded to be one of the early settlers in Oman. Their deft skills in entrepreneurship contributed significantly in enriching regional trade and development gradually carving a strong political niche in Oman polity. Khojas-Indian trader community from Eastern India settled in Muscat and contributed in the development of Oman.

The vibrancy of the interactions and the strong socio-cultural connect directly strengthens Oman-India partnerships to this date. The Indian diaspora comprising of around 7,80,000 which is 20 percent of Oman population is definitely the direct link to further promote its friendship and showcase India's culture. Keeping this in mind, many events, programmes and cultural shows are organised under the aegis of the Indian Social Clubs based in Muscat, Salalah, Sohar and Sur. Yoga has become very popular in Oman and the celebration of International Day of Yoga witnesses huge participation. Oman-India Friendship Association November 2020 was established by Oman's Ministry of Foreign affairs. Its members include prominent Omani and Indian-origin businessman and it is expected that such associations will give further impetus to people-to-people and business-to-business ties.

The profound sense of brotherhood and good will was manifested when the Indian community donated a record total of 1327 units of blood during the 'Mega Blood donation Drive' organized during the 'Community service Fortnight' or 'Sewa Utsav' by the Embassy of India, commemorating India's 75 years of Independence scheduled from 31 March to 16 April 2022. This gesture of love was succinctly put by Ambassador H.E. Amit Narang when he stated that "this blood donation drive reflects the core Indian thought of 'SarveBhavantusukhinah', i.e working for the welfare of others and is line with the pious service-oriented spirit of the Holy month of Ramadan". He further "added that the extraordinary effort of the Indian community for blood donation showed their love for their Omani brothers and sisters and will go a long way in strengthening India-Oman friendship" (Embassy of India, Muscat, Press Release, 2022).

The preservation of the rich Islamic heritage by both the countries which in turn has led to the development of rich Arabic language and literature. Many Indian writings were translated in Arabic like the writings of Chanakya. Panchatantra was translated in 10th century by Ibn Nadim. Many literary prose was translated in Hindi. Rabindranath Tagore 'Gitanjali' was translated in Arabic. Likewise, the lives of the Omani rulers are well recorded and kept in the Khuda Baksh library in Patna. With the view to strengthen in this field, the Indian Council for Cultural Relations (ICCR) and Oman's Dhofar University signed a Memorandum of Understanding (MoU), in December 2023 for establishing ICCR Chair of Indian Studies- Hindi language. In the banking sector, for seamless payment and transaction, in October 2022, the Central Bank of Oman (CBO) and the National Payments Corporation of India (NPCI) signed a historic Memorandum of Understanding (MoU).

India and Oman signed an MoU on Cultural Cooperation in 2010. This is renewed every five years. The first ever 'Festival of India in Oman' was organised in 2016-2017. India's diverse culture, be it- dance, music, ethnic cuisine is showcased during this festival. The display of Islamic art calligraphy and exhibition of paintings is not confined to only one place or city but it was showcased in Muscat, Sur, Sohar and Salalah.

The Basic Law of Oman primarily allows freedom to worship. Adhering to this tenet, Oman do not discriminate anyone on the basis of religion and religious tolerance is what strongly binds the two nations together culturally. This is evident from the fact, that there are four Hindu temples in Muscat alone and records have shown that by 1760s, Hindus were permitted to build temples. Prime Minister Modi during his visit to Oman in 2018 visited the 125-year old Shiva temple which situated in Muscat.

Not only in the diplomatic, military and cultural aspect, but India and Oman have been cooperating and collaborating in the tourism sector where specifically cruise tourism and medical tourism were highlighted on the sidelines of the G-20 summit in 2023. One of the main reasons for Omanis coming to India for health check-up is due to its affordable and high-quality healthcare. Recognizing the potential of medical tourism, the government of Oman and India have taken step to collaborate in the healthcare sector. Memorandum of Understanding (MoUs) have been signed between the two countries to promote medical tourism and facilitate the exchange of medical expertise. These collaborations have led to streamlined processes for medical visas, making it easier for Omani patients to seek treatment in India. The Government of India is underway to bring out a policy to boost medical

tourism with subsidies and benefits for foreign nationals coming for medical treatment. As per 2019 report around 80,000 Omanis came to India seeking medical care (Al-Hashar & al- Zakwani, 2018).

Medical tourism from Oman to India is expected to flourish as the two countries' partnership deepens and challenges are addressed amicably, offering patients access to better treatment and creating opportunities for both countries to a better future. In the sphere of knowledge sharing, India initiates various programme like Indian Technical and Economic Cooperation Programme (ITEC). The ITEC is driven by the Indian philosophy of '*Vasudhaiva Kutumbakam*' - the whole world is one family. Under this programme India offers 14,000 slots for training to 160 partner countries. Every year, more than 100 Omanis from various ministries and government organisations participate in ITEC programs. Oman also host several road shows, art exhibition in Indian cities to promote Omani's rich heritage.

Partnerships is a central pillar of India-Oman relations. It is anticipated by the International Energy Agency that by 2040, Oman has the potential of becoming the world's sixth-largest hydrogen exporter with their target set as close to 3.75 million tonnes per year by 2040 (Benny, 2024). Considering the huge potential in exporting green hydrogen and ammonia, it has been notified by India's Parliamentary Committee on External Affairs about Oman's pivotal role in New Delhi's green energy ambitions and burgeoning trade partnership with the Gulf Cooperation Council (GCC) (Committee on External Affairs, 2024). With the global energy transition, and the drive for decarbonising the planet, it has become all the more urgent for nations to go for green hydrogen which is accessible, efficient and sustainable. India is not far away from this race and various investments and engagements with Oman on solar technology and green hydrogen is in progress. India's ACME Group, a company which operates globally sustainable and renewal energy is in the process of constructing a facility in Duqm, Oman for green hydrogen and ammonia project, making it the world largest prospective green hydrogen facility. Oman's active participation in regional initiatives, secondly its strategic investment in green hydrogen and thirdly making its full potential of its geostrategic location are some of the important steps that places Oman to be a leading player in the race towards a sustainable future.

CONCLUSION

In the last decade, there has been a significant change in India's outlook towards maritime management and maritime security. The domestic factor

and the geostrategic dynamics in the Indian Ocean Region and in the extended neighbourhood, with rising China spreading its footprints, have further accelerated the process for India to recalibrate its maritime domain. In order to fulfil the developmental objectives as outlined by India, Oman comes as a natural ally to help in achieving India's vision and at the same time achieving its own. As the saying goes, Old is gold and certainly it holds true for India and Oman relations. The civilisational links and the age-old relations cemented on the basis of mutual understanding, cordial relations and respect for each other have paved way for an enduring relationship. Oman's geostrategic location along with its Ibadi tradition of moderation, mediation and pragmatism have made the relation with India a time tested one.

Fostering bonds of maritime brotherhood across the oceans is the aim of both Oman and India. India-Oman Joint Vision Partnership for the Future adopted in December 2023 outlines a roadmap for a bilateral engagement, aligned with Oman's Vision 2040 under Sultan Haitham and India's development goals under Prime Minister Modi's *Amrit Kaal* vision. Both the nations' vision is in sync with each other, therefore it is the practical action that needs to be seen- the implementation and execution aspect. Lack of infrastructure, red tapism and geopolitical uncertainties are some of the hindrances. But if there is political will to do it, then the partnership of India and Oman looks promising.

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Tackling Cyber Crime Against Women in India: An Effort to Build a Resilient Society

Dr Shalini Prasad¹ & Dr Abhay Kumar²

ABSTRACT

In the digital age, we mostly rely upon the internet and data-based technology, which has positively revolutionised our lives by bringing a plethora of opportunities in the areas of health, education, and information and communication systems. Digital freedom instilled confidence to break orthodox barriers and explore various options that were earlier not easily accessible. Simultaneously, the evil side of digital technology has introduced new avenues for cyber threats and disinformation operations that can not only disrupt state politics and undermine trust between states but also violate individual rights of privacy and the right to life. In this scenario, the paper is an overall assessment of the rampant cyber-based crimes against individuals with special reference to women. Women are more prone to cybercrimes than men, and their issues are mostly unaddressed. It explores cybercrimes against women from a feminist perspective and discusses their impact on social life within the Indian context. The study revealed that women's targets are nearly imperceptible in the realm of domestic cyber-related laws and international cybercrime conventions. It critically analyses various initiatives and policies that the Indian government has developed over time and how these issues are addressed at the global level.

Keywords: *cybercrime, laws, information technology, victimisation*

INTRODUCTION

Telecommunication systems and computers are essential for digital voice and data transmission across international borders. This capability facilitates the open exchange of thoughts and ideas, fostering a spirit of freedom that empowers individuals to participate in their political processes. The accessibility of information technology and knowledge has greatly improved our daily lives. However, along with these advancements, negative consequences have also arisen, affecting society today.

As we entered the 21st century, there has been an emergence of new

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variants of threats. The main security challenges for individuals, states, and societies now go beyond traditional military forces. Today, the focus is on cybercrime. There is a concerning development with the increasing number of cybercrime incidents that specifically target women. To identify the rising trends, this research paper aims to identify cyber threats specifically affecting women and to evaluate various policies and initiatives at both national and international levels that promote a resilient system to counter these threats. It highlights the increasing incidence of crimes against women and examines the underlying causes and motives behind these acts. The paper concludes that women are particularly vulnerable in cyberspace and recommends a specific framework for addressing the limitations of India's cybersecurity policies and universal legal frameworks.

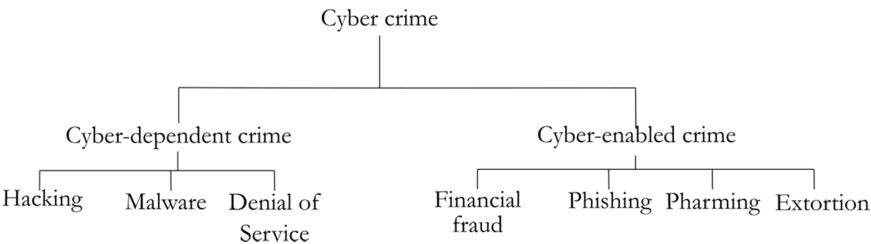
CONCEPTUALIZING CYBER-CRIMES

Cybercrime represents the intersection of criminal activity and technology, encompassing various illicit behaviours. Cybercriminals may perpetrate offences without direct interaction with their victims, often concealing their identities. Computers and data serve as both targets and instruments in these offences. McConnell International published a report on cybercrimes, which are defined as dangerous actions committed through or against a computer or network. Furthermore, computer crime can be characterised as using computers to facilitate either direct attacks on technological systems or the execution of traditional crimes (McConnell International, 2000).

Cybercrime can be categorised in two primary ways. First, it occurs when computer files or programs are accessed without authorisation, disrupted without consent, or when an individual's saved or stored information is stolen (Katyal, 2001). In the second instance, cybercrime manifests when computers are employed to commit traditional crimes, such as the creation or distribution of child pornography, or engaging in white-collar crimes like insurance fraud and copyright infringement related to popular songs (Katyal, 2001). These definitions collectively illustrate that "cybercrime" encompasses any criminal activity that is enabled by cyber technology.

"The UK's Crown Prosecution Service (CPS) categorises cyber-crimes into two broad categories: cyber-dependent and cyber-enabled crimes (CPS, 2020)". A cyber-dependent crime is a crime that can only occur with the help of a computer, its networks, or any variant of information technology or communication technology (McGuire and Dowling, 2013).

“Cyber-enabled crimes are traditional crimes, which can be increased in their scale or reach by use of computers, computer networks or other forms of information communications technology (ICT)” (McGuire and Dowling, 2013).



Source: (McGuire and Dowling, 2013).

It generally involves targeted invasions of computer networks aimed at stealing, altering, or damaging information and systems. Viruses, often referred to as dangerous code and worms, actively spread from one computer to another, causing significant disruption to their functionality and operations. This spreading action not only limits services but also has the potential to destroy networks through deceptive communications, ultimately rendering them completely non-functional.

There are many reasons why attacks happen. Attackers can include hackers who want to show their skills, criminals who steal credit card numbers, foreign spy services that acquire military or economic secrets, as well as terrorists who aim to cause damage to the security of the nation (Knop, 2008).

In simple language, cybercrimes can be defined as acts committed through information technology and the internet that aim to undermine an individual’s identity or violate their privacy, often through stalking or disrupting operations with malicious intent (Reddy & Reddy, 2008). Additionally, cybercrime encompasses the theft of intellectual property, which involves violations of patent and intellectual property rights, the disclosure of financial secrets, or espionage to obtain classified documents (Dayson, 2002). Examples of cyber-crimes include:

Hacking is an openly conducted online activity to uncover, manipulate, or exploit vulnerabilities in computer software. Where terrorists’ larger goal is to achieve their political objectives, hackers do not typically pursue political objectives. They primarily utilize methods to circumvent computer-generated

barriers: attacks on email, theft of computers, and the creation of viruses and worms.

A Distributed Denial of Service (DDoS) attack is a serious cybercrime that deliberately overwhelms computer servers, effectively making vital resources such as websites completely inaccessible to legitimate users. These attacks disrupt access, preventing regular users from reaching the targeted services. A prime example of this occurred in February 2000 when Michael Calce, known as “*Mafiaboy*,” executed a round of highly calculated denial-of-service attacks that successfully incapacitated major viable websites, including Facebook, Flipkart or (X)Twitter (Thomas & Hopper, 2008).

Phishing uses online correspondence like email or phone messages to lure victims to a fraudulent website. Once on the site, personal data may be collected, which can be used for financial fraud. Alternatively, the site might install malware, particularly ransomware, to facilitate extortion. These messages are often sent by the culprits who convince individuals to share their private information or visit a website while pretending to be legitimate organisations. While email is the most common medium for these scams, SMS and WhatsApp messages, known as “smishing,” are also occasionally used (Lallie, Singh, Lynsay, Jason, Arnau, Gregory, Carsten & Xavier, 2021).

Vishing, or voice phishing, involves illicit calls or voice messages that manipulate people into revealing confidential information like online details, including passwords, or any sensitive bank information. Scammers can misuse this information for illegal activities such as stealing not only money but also personal data. They often pretend to be from known organisations, such as the victim’s bank or any identified source. Mostly, they use toll-free numbers or voice over internet protocol (VoIP) technology to prove their credentials (Cisco, n.d.).

Ransomware is another kind of offence that breaks into a person’s data and information and demands an unusual ransom of any kind to reinstate access to the files and networks. Generally, once the attacker receives the payment, the attacked regain access to their data. However, if the ransom is not paid, the perpetrator may either disseminate the data on online websites or permanently disable access to the files (Baker, 2025).

A whaling attack is a specialised form of phishing aimed at high-profile individuals within an organisation, such as the Chief Executive Officer (CEO). The foremost objective of these attacks is to deceive the person into authorising substantial wire transfers to the attacker, thereby compromising

sensitive company information. They are more likely to be caught and prevented than standard phishing due to their targeted nature (Scott, Robinson, Ben & Clark, 2024).

Tabnabbing is one of the forms of phishing attack only but it specifically targets inactive tabs in your web browser. While the person is focused and working on the current tab, the link to a previous one can be hijacked, redirecting you from the intended website to a malicious site that closely resembles the legitimate one (Washington, 2023).

A man-in-the-middle (MITM) attack occurs when an attacker deciphers the connection between a user and an application. The goal is to involve in theft of personal data like online login credentials and the sensitive CVV numbers of credit cards and debit cards. Targets often include users of trade and finance, like online retailing sites, or any access that requires a password entry (Imperva, n.d.).

Pharming is a similar type of phishing. The attacker fools the operator by redirecting them to fraudulent websites by compromising the user device. This type of attack is inflicted by highly trained technical experts, and therefore, it happens less in numbers as compared to other crimes (Lallie et al., 2021).

To scam someone financially involves misleading individuals or organisations to obtain financial gain through various technological means. On the other hand, extortion involves compelling individuals to take certain actions, often related to financial transactions, through threats or coercion. It is important to raise awareness about these practices to better protect ourselves and our communities (Lallie et al., 2021).

One example of cybercrime is “swarming.” This happens when many people try to access a website simultaneously, causing it to crash. Swarming can also make email bombing campaigns more effective. Email bombing is when a hacker sends thousands of messages to overwhelm a target (Weimann, 2004).

After this thorough discussion, it is high time to accept that cybercrimes have been a threat for many years. However, as more people are using the Internet now and spend more time online, they are more prone to these cyber threats. The lockdowns have also added feelings of anxiety and confinement to this scenario. This situation has given cybercriminals more chances to trick people, make money, or cause problems. Electronic crimes have increased as our lives change and we rely more on the Internet. Cyber-crimes infringe

on people's privacy and make them vulnerable to advanced computer technology. The following section addresses cyber-crimes against women, emphasising how technology has created opportunities while also exposing them to significant vulnerabilities that impact their lives.

CYBER-CRIMES AGAINST WOMEN

The National Crime Records Bureau (NCRB), a division of the Ministry of Home Affairs, published a report detailing that “four out of every one lakh individuals are exposed to cybercrime in some form, and out of four, one is a woman” (National Crime Records Bureau, 2020). It also stated that, as of 2019, there was an “18.4% hike in cybercrime incidents overall in India, whereas cases of cybercrime against women increased by 28%” (National Crime Records Bureau, 2020).

This includes a constructive exploration of why women are disproportionately targeted in cyberspace and the strategies that offenders often use in these attacks. By examining these factors, we can work towards developing effective solutions and support systems that mitigate the impacts on women's mental and physical health. Fostering awareness and resilience in the online community is essential for creating a safer digital environment for everyone.

Cyber technology has emerged as a significant tool for perpetrating various forms of victimisation, now facilitated through digital channels. In particular, cyberspace has become the most extensive platform for the cruel harassment of women, as millions of online users can witness these acts. The main targets of cybercrimes occur through a range of digital platforms. These include sending fake links via email, public and private chat rooms like WhatsApp, social networking sites like Facebook or Instagram, to target women. The predominant reason for this kind of behaviour remains similar to that of the pre-technology era: to malign a woman's image and reputation and instil a sense of terror in her mind (Citron, 2009).

Victims of financial fraud are safeguarded by various laws that address identity theft, online scams, and anti-phishing measures. However, women who fall victim to these crimes often do not receive adequate assistance from the government, as their specific experiences are overlooked and overshadowed by broader trends in cybercrime (Citron, 2009).

The impact of victimisation is different for men and women. When a man's email or personal data is accessed and changed without permission, he

can usually move on by notifying the police and his friends. He may not face the same level of humiliation from society as a woman would. His situation is often seen mainly in terms of financial loss. In contrast, a woman who is victimised may face social ostracism. The online humiliation can be harder for her to handle, leading to shame and self-hatred. She risks being viewed sexually, and it can be much more difficult for her to restore her social and professional reputation. Men usually fall victim to hacking and phishing, but they experience less cyberbullying, harassment, or online defamation compared to women (Frank, 2009).

Here are some observations to support this: Cyberbullying and trolling can lead to sexual attacks on women, but this is not a common issue for men. In cases where men harm women, it is the women who suffer; however, when women harm other women, both the perpetrator and the victim experience negative effects.

Women's victimisation undertakes both physical and mental devastation (Dekeseredy, 2010). As society increasingly relies on the internet, the way people experience victimisation has shifted more toward emotional abuse. Instead of physical attacks, we now see high-tech emotional torment. Victims can feel brutalised, horrified, and even suicidal from this emotional abuse, which often affects women more than men.

Unwillingly, women may forcefully join pornography, sometimes without their knowledge, through voyeurism. This situation leaves them vulnerable and can lead to social isolation. Men are less often targets of such voyeurism compared to women. The main differences between male and female cyber victimisation are the reasons behind the abuse, the methods used, and the lasting effects on the victims (Halder & JaiShankar, 2012).

Cyberspace offers women a powerful platform to assert their rights, access information, and express themselves freely, often even anonymously. However, cybercrime has become a global issue, and women are frequently the primary targets of this emerging form of crime. The vulnerability and safety of women are significant concerns within criminal and penal law, yet women often remain defenceless online. Cybercrime against women has reached its heights and poses a serious threat to personal security (Chaudhary & Sood, 2024).

However, the existing measures and infrastructure to combat cybercrime, including the distribution of cybercrime police stations, may not adequately address the unique challenges faced by women victims (Gurumurthy, Anita

& Menon, 2009). This raises concerns about the effectiveness of the current response mechanisms in providing timely support, ensuring justice, and securing digital space for women.

Cybercrime against women encompasses various forms of social media harassment, stalking, identity theft, revenge porn, financial fraud, and other malicious activities specifically targeting women. These crimes not only violate individuals' privacy, safety, and emotional well-being but also contribute to gender-based violence and discrimination in the digital space. Women's unique vulnerabilities online require focused attention and concerted efforts to address these challenges effectively (Chaudhary & Sood, 2024). Below are some different types of cybercrimes against women.

CYBER CRIMES AGAINST WOMEN: HOW?

Cyberstalking: Cyberstalking is a method of using the Internet to harass and abuse someone online. A cyberstalker typically avoids making direct physical threats. Instead, they monitor their victims' online activities, tracking social media interactions to gather personal information. They have sufficient technical knowledge, which is used in various forms of verbal intimidation, issuing threats through messages and posts to instil fear and anxiety, leaving the victim feeling vulnerable and unsafe.

India reported its first case of cyberstalking in 2001, involving a woman named Ritu Kohli. In this case, the defendant stalked her for four consecutive days by illegally chatting under her name and using obscene and abusive language. He also shared her contact number with others, inviting them to engage with her, which resulted in her receiving numerous calls at odd hours. This harassment left her in a state of shock, prompting her to report the incident to the Delhi Police. Under Section 509 of the Indian Penal Code, the attacker was charged with damaging the modesty of a woman (Beliraya & Abhilasha, 2020).

Harassment through emails: It has been happening for years, much like harassment through letters. It includes actions such as blackmail, threats, bullying, and even deception via email. E-harassment resembles letter harassment but often creates additional problems when it is sent from fake identities.

Cybercrime has become one of the easiest and cheapest forms of harassment towards women. Women become easy prey due to their naïve knowledge and lack of technical expertise. It entails the use of online social

platforms to threaten, abuse, or send offensive messages and comments. A study conducted by the National Commission for Women reveals that 54.8% of women have faced incidents of cyber harassment (Sharma & Singh, 2018).

Defamation: Cyber defamation occurs when someone uses cyberspace to publish shameful content or sends it via email to others. This type of information is shared online, damaging a person's image and, consequently, harming their reputation (Mishra, 2018).

E-mail spoofing -This text typically describes an email that seems to originate from one source but is dispatched from a different one. Such emails can lead to financial losses and are a common method used in online scams. By altering specific properties of the email, such as its header, "From" address, "Return-Path," and "Reply-To" fields, malicious users can make the email appear to originate from someone other than the true sender (Mishra, 2018).

Trolling refers to the act of deliberately provoking disagreement, animosity, or arguments in online social networks. Trolls often target platforms like YouTube's online comment sections, forums, and chat rooms. Additionally, trolling can intersect with cyberbullying and may escalate into mob lynching, either virtually or physically. This can occur through various platforms, such as WhatsApp and Facebook, where large groups may bully individuals or communities based on their religious, racial, political, or national beliefs (Pathak & Tripathi, 2022).

Cyber Pornography: Cyber pornography is one of the heinous cybercrimes on the internet. This includes pornographic websites and magazines created with computers and the internet. Pornography means a projection of sexual acts, mostly through obscene or illegal websites in the dark web world of computers. It includes actions like downloading or sharing pornographic videos, pictures, and writings. The Indian Penal Code, Section 292, defines obscenity and addresses child pornography in Section 67B of the Information Technology Act, 2000 (Yadav, 2022).

Cyberbullying involves Cyberbullying is when someone uses technology to bully or intimidate others. It is a common type of online crime, especially affecting young girls and women. Cyberbullying can happen in many ways, such as making fun of the person by spreading false rumours, fake messages, or sharing private photos or videos. The Cyber and Media Cell of the Delhi Police surveyed that "forty per cent of cyberbullying victims in India are women" (Misra, 2013).

Revenge porn is a grave cybercrime that specifically targets women in India. It involves the unauthorised sharing of private and personal sexual photos and videos as a means of blackmail or personal grievances. A report from the Cyber Peace Foundation reveals a staggering 148% increase in revenge porn cases in India over the past year. This heinous violation inflicts severe mental and emotional trauma on victims and irreparably damages their reputations (Yadav, 2022).

Sextortion—a term derived from the words “sex” and “extortion”—refers to the act of using an individual's sexual imagery to blackmail or threaten them. In essence, it occurs when a person coerces another into taking undesired actions, such as sending additional compromising photos, maintaining contact, or transferring money, by threatening to release their sexual imagery. Victims of sextortion can be targeted by both online strangers and former romantic partners, who seek to harass, embarrass, and manipulate them (Thorn, 2024).

Cyber-financial fraud has become an increasing concern for women in India. The surge in online transactions has provided cybercriminals with new opportunities to exploit unsuspecting victims. This type of fraud encompasses various schemes, including phishing, credit card fraud, and other online financial scams (Yadav, 2022).

The term **morphing** refers to the means of using an image of a person, either from personal images shared online or taken by the individual, and altering its content with software. This software can be misused to create inappropriate images, particularly of women, by combining certain elements of the original picture with parts from other images (Seth, 2018).

Voyeurism: Section 354-B of the Indian Penal Code specifies that if any person peeps into the personal life engaging in any private act of another person and too without his/her knowledge is termed as voyeurism. Furthermore, if that image is shared online, it unequivocally constitutes a cybercrime (Seth, 2018).

Various behavioural factors contribute to victimisation, such as sour relationships, harassment by ex-partners, workplace rivalries, gender biases and chauvinism, unauthorised exposure to digital technologies, and a playful intent to enjoy online adult entertainment (Citron, 2009a). Additionally, the pursuit of monetary gains can also play a role (Bartow, 2009). Traditional society and a patriarchal attitude prevent many crimes from being reported (Beliraya and Abhilasha, 2020).

CYBER CRIMES AGAINST WOMEN: WHY?

Cybercrimes against women in India are a multifaceted issue and are shaped by several significant underlying factors. Gender-specific violence, patriarchal beliefs and a lack of awareness about cybersecurity.

Gender-based violence is one of the prime reasons contributing to the startling rise of cybercrimes aimed at women in India. Women are subjected to a range of violent acts, including domestic abuse, sexual harassment, and physical assaults that frequently spill over into the digital realm. In cyberspace, aggressors exploit technology to inflict harm, employing tactics such as online harassment, stalking, and blackmail against their victims. Disturbingly, in many cases, these perpetrators are individuals known to the victims, often intimate partners or even family members, who leverage their existing relationships to further perpetrate these crimes (Yadav, 2022).

Gender violence in Indian society can be attributed to deeply ingrained patriarchal attitudes that greatly contribute to the occurrence of cybercrimes targeting women. The society and the system reinforce patriarchal control, inflicting a culture characterized by misogyny, victim-blaming, and suppression. These discriminatory attitudes often expand into the digital domain, where women face online harassment, trolling, and various forms of abuse more than men. Those who dare to raise their voice against such harassment or violence often face negative repercussions by bringing shame to their families or communities to which they belong. This unsupportive response from family and society is also one of the important factors discouraging many women from reporting incidents of cybercrimes (Kapoor, 2023).

Additionally, a lack of awareness about cybersecurity plays a crucial role in the prevalence of cybercrimes against women in India. Many women lack basic knowledge in the protection of their data, such as creating strong passwords and being familiar with any online scams like phishing, ransomware, etc. This digital gap in understanding makes them vulnerable to any malware attack. Furthermore, women's awareness of privacy policies and safety tips for social media is also limited and influenced by prevailing power dynamics and societal norms, as many online issues are handled by males in the family. Gender and technology are interrelated due to many factors, such as traditional beliefs, educational background, and approach, with men typically demonstrating greater proficiency in computer usage due to more exposure to the outer world (Saha & Srivastava, 2014).

Women are often less informed or aware, or even if they know their rights, there is always an apprehension to fight, as the inaccessibility of the legal framework makes it harder for them to achieve justice for violations in cyberspace. The inadequacy of comprehensive cybersecurity policies and laws, especially for women, further complicates women's ability to seek justice and protection.

The issue of cybercrime was largely ignored until the first cybercrime convention held in Budapest in 2001. At the same time, international conventions and legislation in many countries have been established to protect society from the negative aspects of cyber technology. Even today, crimes like online bullying, stalking and defamation have not received full attention, especially from the perspective of women's victims. Despite women often being more likely than men to become victims of interpersonal cybercrimes, these issues remain inadequately addressed.

Online sexual crimes and abuses tremendously need stringent laws to combat them, but the real problem lies in the accountability of the offenders, who have mostly escaped due to the inappropriate execution of the laws.

A key step is to ensure that women are informed about their rights and the laws that protect them. Increasing awareness can empower victims and contribute to a safer online environment. Many women hesitate to report cybercrime due to fears of retaliation, ignorance of the First Information Report (FIR) process, or doubts about the effectiveness of legal remedies. The government needs to recognize that the rise in cybercrime and online victimization changes the nature of crime itself (Sanze, Catherine, Sheree & Helen, 2018).

The impact of the crimes turns out to be brutal and miserable for the women. Society predominantly blames women for issues related to digital violence, which exacerbates their struggles. This form of violence infringes upon fundamental human rights as outlined by both national and international provisions (Nigam, 2024). Various types of cyber abuse inflict detrimental immediate and long-term effects on an individual's whole psychological and mental well-being, physical health, socio-cultural engagement, and overall economic and social life. Victims of online harassment often encounter dramatic feelings of shame, exclusion, and ostracization (Citron, 2014).

Continuous exposure to cyberviolence can inflict a sense of fear and self-censorship, ultimately reinforcing and perpetuating male dominance. The survivors of such mental abuse experience results in withdrawal from

public spaces due to fear, depression, anxiety, trauma, and even self-harm (Balabantaray, Mishra & Pani, 2023).

BUILDING A STRONG RESILIENT SYSTEM: PREVENTION & PROTECTION

The internet has two main characteristics: it removes geographical barriers, allows users to connect anywhere, and provides anonymity. In India, two key laws address cybercrimes against women: the Indian Penal Code (IPC) and the Information Technology (IT) Act. The IPC serves as a general criminal law, defining various offences and their punishments. In contrast, the IT Act specifically targets issues related to information technology, including cybercrimes.

The IT Act 2000 (amended in 2008) and the National Cyber Security Policy (NCSP) of 2013 try to keep pace with the continuous changes in cyberspace, as the NCSP is now being updated and reorganised as the National Cyber Security Strategy. “The National Security Advisor within the Prime Minister’s Office. Apart from the NCSC, at present, cybersecurity issues are handled by different ministries at technical (MEITY), financial (Ministry of Finance-Mof), security (Ministry of Home Affairs-MHA) and defence (Ministry of Defence-Mod) levels” (Patil, 2021).

The Information Technology Act of 2000 (IT Act) serves as India's apex legislation for addressing cybercrimes. It was enacted to recognise electronic transactions and foster e-governance legally. The IT Act encompasses specific provisions aimed at combating cybercrimes against women, including electronic theft, stalking, trolling, etc. Additionally, the Act mandates the establishment of cybercrime investigation cells in each state to facilitate the effective investigation and prosecution of these offences.

INFORMATION TECHNOLOGY ACT, 2008 (AMENDED)

With the passage of time, the Indian government introduced several amendments to the Information Technology Act of 2000 in 2008. Sections 66 and 67, after amendments, made offensive messages illegal under Section 66A. Section 66 b punishes receiving stolen computers or communication devices through illegal means. Section 66C deals with identity theft and sets a penalty. Section 66D addresses deceiving a person by pretending to be someone else.

Section 66 e punishes for invading someone’s privacy. Section 66f punishes serious threats to national security, which is cyber terrorism. It

implies that when terrorists use cyber technology for their purposes, like recruitment, propaganda, etc. Section 67A sets punishment for sharing or publishing sexually explicit materials, and Section 67 b adds children under this purview. Additionally, it also established the Cyber Appellate Tribunal to hear appeals regarding decisions made by adjudication officers under the Information Technology Act.

The Indian Penal Code (IPC) addresses various laws in India. It handles crimes against women, including dowry, rape, or violence of any kind, and amendments have expanded its domain by adding voyeurism, cyberstalking and the sharing of sexually explicit material (Jain, 2017). Several ministers have also come up with their own system of combating cybercrimes.

The Ministry of Home Affairs (MHA) is authorised to monitor and combat cybercrimes. Under the aegis of the MHA, the “Cyber and Information Security Division” addresses issues related to cybercrimes and the implementation of the National Information Security Policy and Guidelines. The Intelligence Bureau (IB) plays a pivotal role in internal security information gathering in India, with a focus on monitoring cyberspace. Furthermore, the National Crime Records Bureau (NCRB) maintains detailed records of cybercrimes and incidents, supporting national crime data collection efforts (MHA, 2020).

The MHA is also the prime regulator of the Indian Cyber Crime Coordination Centre. This centre plays a crucial role in combating cybercrimes across India. Among its various components is the National Cybercrime Reporting Portal, a platform established to streamline the reporting of cybercrimes, those targeting women and children (MHA, 2020).

“In 2018, the Ministry of Home Affairs (MHA) launched the Cyber Crime Prevention against Women and Children (CCPWC) scheme” (MHA, 2018). This initiative provides financial assistance to states and union territories for the establishment of specialised cybercrime units focused on addressing cases involving women and children. Furthermore, the scheme also aims to set up dedicated cyber forensic laboratories in each state and union territory, enhancing the capability to investigate incidents of cybercrime.

The Ministry of Electronics & Information Technology (MeitY) supervises all policy matters related to information technology. It works in cooperation with “CERT-IN, the apex agency for cyber threats, along with other agencies like the National Informatics Centre, Centre for Development of Advanced Computing (C-DAC), Unique Identification Authority of India (UIDAI), and the Standardisation, Testing and Quality Certification Directorate. The

Ministry of Electronics and Information Technology (MeitY) has established Cyber Forensics Training Labs” in different cities, including northeastern states. These labs train police and judges on handling cybercrime and handling evidence (Beliray K & Abhilasha, 2020).

To empower Indians digitally and enhance the knowledge-based economy, the government launched Digital India. This programme underscores the significance of fostering digital competence and raising awareness about cybersecurity, especially among women and girls. It also includes efforts to improve the accessibility and quality of technological establishment and facilities, thus bridging the digital gap by enhancing access to technology for women (Yadav, 2022).

Ministry of Finance (MoF): “In 2017, Reserve Bank Information Technology Private Limited (Rebit) was created by the Reserve Bank of India (RBI)” as a subsidiary to provide its various information technology needs. Rebit was established to enrich the proficiency of RBIs in areas such as cybersecurity, which is essential for protecting sensitive financial data, as well as conducting thorough research and audits (Department of Economic Affairs, 2020).

The Indian government is making significant steps in enhancing law enforcement capabilities by implementing awareness programs, launching training initiatives, and advancing skills in cyber forensics. While progress is evident, there remains an opportunity to further counter the challenges posed by the growing scale of cyber threats in the everyday lives of people.

A significant problem lies in the no or poor reporting rate of cybercrimes against women. This behaviour can impede the state agencies from accurately assessing the frequency of cybercrimes against women and enacting laws to combat these crimes. The allocation of resources proved to be ineffective due to inadequate data and information.

To effectively address cybercrimes, it is essential to focus on resource allocation and provide law enforcement agencies with the specialised knowledge and advanced technology they need. Although current efforts face hurdles, such as resource limitations and staffing shortages, these challenges can be tackled with dedicated investments in training and tools. By prioritising these areas, we can improve the efficiency of investigations, enhance the overall response to cyber incidents, and work towards increasing conviction rates in cybercrime cases. With continued commitment and strategic initiatives, the future of cyber safety in India can be significantly strengthened.

While the Indian Penal Code and the Information Technology Act of 2000 and its several amendments offer legal provisions aimed at addressing such offences, their implementation and enforcement are inadequate. The ambiguities and inconsistencies in the interpretation and implementation of laws brought distinct outcomes for similar cases.

Cybercrime against women in India remains a grave and critical offence that must be dealt with stringently by law enforcement agencies. To combat these crimes, it is hindered by complicated challenges, which include inadequate resources, minimal reporting rates, discrepancies in the legal framework and unskilled handling of computer knowledge, which requires technical training and expertise. As mentioned above, capacity enhancement of law enforcement agencies and the judiciary remains the utmost importance. Lastly, every crime must be dealt with by eradicating ignorance among women and making them recognise their rights. (Pathak & Tripathi, 2012).

INTERNATIONAL FRAMEWORK: COMBATING CYBER-CRIMES AGAINST WOMEN

In 2000, the United Nations held the “Convention on the Prevention of Crime and the Treatment of Offenders” in Vienna, highlighting the necessity of stringent laws and universal prevention measures against cybercrime. This was followed by the European Council's adoption of the "Convention on Cybercrime" in Hungary in 2001, which defined cybercrimes as crimes against the secrecy and validity of information systems (Council of Europe, 2001).

Cyber-crimes are a global crime, and this Convention becomes the first international treaty to combat crimes undertaken with the help of the internet. It includes not only copyright violations, online fraud but also heinous crimes like child pornography and crimes undertaken on the dark web. The convention introduced the procedures and provided power to the state agencies to intercept data and internet networks (Council of Europe, 2001). India has yet to ratify the Convention on Cybercrime, which is the single international treaty aimed at combating cybercrime. Accepting this convention could significantly benefit the country by improving and aligning its national cybercrime laws with global standards (Rai & Bano, 2024).

In 2004, the United Nations (UN) established the Group of Governmental Experts (GGE) to address issues related to cybersecurity. However, this initial effort ended without significant progress due to disagreements among the three states: the United States, China, and Russia, which obstructed any consensus

on the proposal recommendations. In 2009, the second GGE process was convened, and its report, submitted in 2010, marked the necessity for the UN member states to inculcate cooperation with diplomatic tools and avoid the risk of cyberspace crimes. While countries acknowledge the importance of global issues like climate change, terrorism, and nuclear escalation, it is high time that they collaborate to combat emerging cyber threats and take action to avoid any cyber risk escalation. Consequently, a universal agreement or consent on cyber security remains elusive for the international community (Patil, 2015).

“The Global Commission on the Stability of Cyberspace and the Global Commission” on Internet Governance are actively working to define essential principles for reliable performance among states in the digital realm. They achieve this by bringing together a diverse group of stakeholders, including politicians, former diplomats, scholars, online rights advocates, and legal specialists. This collaborative approach aims to establish a framework that promotes stability and accountability within cyberspace (Centre for International Governance Innovation, 2020).

We can derive an analysis that not much has been done at the international level, even if cyber crimes are not limited to one country but encompass each country in this digital age. Although several initiatives are being taken at the regional level, like those by BRICS and Quad, adequate measures are still lacking at the universal level. A collective approach is needed to seriously discuss this crime, which not only violates an individual's human rights but also threatens the national security of the nation.

EFFECTIVE STRATEGIES FOR EMPOWERING WOMEN AGAINST CYBER CRIMES

The foremost strategy should be the use of Strong Passwords. The passwords should be strong and cannot be easily detected. It is also very necessary to maintain secrecy about their personal information. Social media should be used vigilantly, as the content is public and anything could become viral in a scratch of time. People should always be alert about phishing emails, vishing, and sharing any personal information in the public domain. There is an urge to keep the software up-to-date. It should be updated regularly, and an effective antivirus must be used (Gupta & Kapoor, 2018).

There is an urgent need for robust measures to enhance individuals'-particularly women's-abilities and capacities in the face of cybercrime. There

is a need for the development of a comprehensive response plan, establishing a cybersecurity improvement roadmap, enhancing detection and response capabilities, an effective legal framework, and actively fostering awareness through user education. It is critical to raise awareness among women about the careful and smart use of internet facilities and to train them on how to respond when they encounter cybercrime.

There is a critical necessity for knowledge and technical advancement to prevent harassment of women in India. To effectively counter cybercrime targeting women, not only are stricter legal reforms required, but a significant reform in the education system is also important, where the usage of computer technology and its negative consequences are also taught.

This change will successfully occur in collaboration with individuals, government agencies, non-governmental organisations (NGOs), and other stakeholders are significant to implement these necessary reforms. Women must be trained to learn and embrace preventive measures, such as exercising caution in sharing their private or personal photographs and videos online, staying vigilant in communications with strangers, and safeguarding passwords and other sensitive information that could be harmful to their security and privacy, (Kumar, 2019)

CONCLUSION

Cybercrime is an irrefutable threat that interrupts social order and inflicts significant damage. To effectively tackle this issue, we must establish a robust and resilient system of universal jurisdiction for cybercrime incidents, with unwavering support from both the international community and specific nations. We must establish an apex authority to oversee and enhance cybersecurity mechanisms within each country. Cybercrimes targeting women in India represent a formidable challenge that demands an immediate and unanimous response from the state, its enforcement agencies, technical skills and expertise, and most importantly, a well-versed, knowledgeable society. Through decisive collaboration and effective strategies, we can and must create an impregnable cyberspace for women in India.

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BOOK REVIEW

The New Icon: Savarkar and the Facts, Arun Shourie, Penguin Viking, New Delhi, ISBN: 9780143474333, Rs. 659, pp. 560, 2025

Arun Shourie's *The New Icon: Savarkar and the Facts* (2025) arrived at a time when India in its attempt to rethink its history narratives faced not merely politicization but also fierce contestation. Within this turbulent climate, Vinayak Damodar Savarkar is one of the most polarizing men of modern Indian history who emerged both as a totem of Hindu Nationalism and was also targeted for being a divisive figure as well as ideologically extremist at the same time. Savarkar's legacy is far from resolved and it is in this controversial territory that Shourie, a veteran sympathizer of the Hindu Right and a seasoned journalist known for his polemical writings, diplomatic prose and investigative edge, presents a selective commentary on the subject which goes against his agenda-driven claim of presenting the “truth” concerning the Savarkar’s legacy. In this respect, instead of presenting a balanced revaluation, Shourie's writing tends to slip into selective critique that is reminiscent of the very ideological biases it aims to criticize.

Whereas, this book claims to transcend the extremes of blind hagiography and outright demonization, it does not quite manage to do so. Shourie presents his work as a forensic examination of how a political myth is forged, but his handling of evidence is anything but always objective. Its attention to discredit the popular mythologization of Savarkar is a healthy one, but occasionally it slides into repetitive moral censure rather than continuous historical argument. In addition, while Shourie tries to question the iconography of Savarkar, he does so by using already famous documents and events like the clemency petitions and Savarkar's absence from the Quit India Movement without providing substantial new interpretations or debate over the deeper ideological underpinnings of Savarkar's appeal.

This review of *The New Icon: Savarkar and the Facts* will look at the book's central arguments, sources, and narrative tactics, with close attention to its selective employment of archival evidence, its methodological shortcomings, and its equivocal political position. By doing so, it also seeks to evaluate not only the worth of Shourie's contribution to the Savarkar debate, but also the wider implications of his book for India's contentious historiography.

Arun Shourie's approach in *The New Icon: Savarkar and the Facts* is styled as methodical, investigative, and seemingly based on close familiarity with primary sources. His method takes a prosecutorial form, with Shourie setting out not as an objective historian but as a political and moral analyst of a person he believes to be dangerously misrepresented. Whereas, the book purports to deconstruct myth-making using forensic examination, the methodology grounding the book is itself very much riddled with incoherence, cherry-picking of sources, and a polemical agenda which frequently undermines scholarly objectivity.

One of the main pillars of Shourie's research methodology is his reliance on Savarkar's own statements his speeches, writings, and autobiographical narratives. On initial appearances, this would seem methodologically sound, for it enables Savarkar effectively to bear witness against himself. But his method soon becomes reductionist as Shourie habitually extracts quotes and statements out of original context and presents them as clinching evidence of moral or political failure. By following this methodology, he oversimplifies the nuances of historical experience and leaves little room for interpretation that serious historical scholarship requires. While primary sources are undeniably crucial in this regard, Shourie's hyper dependence upon them in isolation to the larger historiographical debates or other readings results in the creation of a narrow understanding where Savarkar is guilty by his own admission, leaving little space for contradiction and interpretation. Shourie's fixation to archival evidence, particularly documents related to British colonial era, raises another set of concerns as they were produced by a colonial regime who was highly invested in discrediting Indian nationalists. This uncritical acceptance of colonial archives and cynicism towards Savarkar's nationalist intentions reveals a glaring methodological contradiction and biasness. His claim of historical objectivity gets nullified with this case of selective skepticism.

The other striking characteristic of Shourie's approach is the use of comparative analysis of Savarkar's actions with other figures from freedom struggle like Bhagat Singh, Subhas Chandra Bose, and Gandhi. However, these comparisons did not serve the purpose of exploration of ideological divergences, rather this approach has been used by Shourie as blunt instruments of moral condemnation. This approach draws unflattering contrasts – such as cowardice versus courage and compromise versus defiance – which discredits the need to place Savarkar in the complex realities of his time and presents his stand in a negative light. This methodological rigidity leans more towards Savarkar's ideological indictment rather than genuine comprehension of his ideas.

Shourie's inquiry also carries a prosecutorial edge. His skepticism is almost bordering on cynicism and has a tone of personal indictment. His relentless addressal of incidents like Marseilles escape or the mercy petition leaves no room for alternative interpretation and ambiguity. Through this framing, it appears that Shourie's interrogation is very much focused on deconstructing Savarkar's moral standing, rather than exploring the contextual and historical analysis of his time which together became a driving force that influenced Savarkar to take certain steps in a specific socio-political context.

In the *New Icon: Savarkar and the Facts*, Arun Shourie makes a biting ideological critique of Vinayak Damodar Savarkar, presenting him not just as a contentious historical figure but as a menacing ideologue whose worldview endangers the moral and democratic texture of India. Shourie positions Savarkar's variant of Hindutva as exclusionary, reactionary ideology—more focused on remaking the nation into a unified, majoritarian state than on freeing India from colonial rule. Although the ideological critique has persuasive force in its consequence, it is typically contaminated by rhetorical extravagance, selective presentation, and refusal to address the more expansive philosophical sources and mass appeal of Hindutva.

At the heart of Shourie's ideological analysis is his assertion that Savarkar's politics were motivated by in-depth anti-Muslim prejudice and a psychopathological loathing of the Indian National Congress, often to the neglect of any principled opposition to British colonial rule. Shourie's critique claims that Savarkar tactically aligned himself with colonial rule and other actors to disempower national unity, not for political astuteness but because of an abject devotion to building the narrowly conceptualized Hindu identity. He looks upon Savarkar's ideological scheme as a fundamental perversion of Hinduism an aggressive, ethnonationalist reshaping that sacrifices ethical self-reflection for the politics of fear and separatism. However, while Shourie is unsparing in his denunciation, he leaves little scope to comprehend the social fears and past hurts that lent Savarkar's ideology its appeal, particularly in a colonized and divided society. Another major axis of Shourie's criticism is the ideological comparison of Savarkar with that of Mahatma Gandhi. While Gandhi preached ideals such as non-violence, tolerance, and moral politics, Savarkar is framed as someone having contempt for these values—by referring to Savarkar's famous remark of Gandhi as regarding him as a "walking plague" and dismissing his approach as effeminate and weak in the context of Indian freedom struggle.

Shourie employs the ideological divide and presents both not just as rivals but as proponents of two strikingly exclusive and opposing visions of India. In doing so, Shourie oversimplifies the complexities of the socio-political environment of India's freedom movement in which both the figures performed. This framework presents a non-reliable binary which presents Gandhi as a moralist and Savarkar as a militaristic bigot, which in its own way risks flattening of the different strands of Indian nationalism and simplifies a multifaceted ideological landscape into a binary opposition.

The most pressing concern that Arun Shourie draws is the connection of Savarkar's philosophy to that of contemporary Indian politics. He argues that the growing efforts in contemporary political and intellectual landscape of India to revitalize Savarkar presents a societal drift towards intolerance, majoritarianism, and authoritarian leadership. He believes that Savarkar's legacy is not just a matter of historical memory but a living legacy that has permeated the daily functioning of Indian democracy through acts of violence and institutional exclusion. This link descends into moral alarmism as it leans more towards unqualified claims rather than on a nuanced exploration of how the idea of Hindutva is evolving in the 21st century Indian politics.

In distinguishing between Hinduism and Hindutva, Shourie takes a key intervention portraying the former as a spiritual, inner-focused tradition and the latter as a politicized instrument of state domination and ideological hegemony. He alerts us to the fact that Hindutva wishes not only to shape the State but to take over and remake it in its own image, undermining the pluralist and democratic values of Indian civilization. This is a useful element of Shourie's criticism, but one which other liberal and secular intellectuals have expressed previously. What is needed is a more theological and cultural examination of how and why this shift from spiritual Hinduism to political Hindutva has attracted large sections of Indian society.

Arun Shourie's *The New Icon: Savarkar and the Facts* has generated heated controversy in India's intellectual, political, and academic communities. Admired by a few as a corrective to hagiographic readings of Vinayak Damodar Savarkar, the book has also attracted severe criticism for its methodological flaws, ideological realignment, and polemical nature.

This book has been criticized for the one-sidedness in opinion and ideological re-alignment. Shourie's move from being a former prominent voice supportive of the Hindu Right to a trenchant critic has raised eyebrows. Numerous scholars contend that the book substitutes previous apologetics with novel ideological fanaticism. The end product, they argue, is a book that

frequently strays from objective historiography into prosecutorial diatribe, inspired more by political discontent than academic detachment. Critics allege that Shourie is guilty of exactly same kind of selective quotation and context expunging which he has long castigated others for practicing. By picking and choosing quotations and minimizing contrary evidence, the book threatens to replace one skewed portrait of Savarkar with another.

Another serious criticism is that the book fails to deal with the more profound cultural and political currents that account for Savarkar's current popularity. Shourie says little about why there has been a revival of Savarkar in Indian public and political life. In addition, Shourie's writing has been attacked as repetitive, overbearing, and analytically one-dimensional. Many of his readers and critics note that his single-minded concentration on specific issues particularly the "mercy petitions" creates a soporific rhythm that disempowers him in the end. Shourie's critics contend that he seems less intent on examining the broad range of Savarkar's intellectual development than on destroying his symbolic reputation. This begs uneasy questions about the integrity of Shourie's ideological agenda, particularly in light of his own former complicity in the same discourse he goes on to deconstruct. The transformation, while intellectually important, appears to others as opportunistic a move away from a political movement whose excesses he had helped to mainstream.

Arun Shourie's *The New Icon: Savarkar and the Facts* presents itself as a polemical and controversial addition to the current debate surrounding Indian nationalism, historical memory, and ideological heritage. By closely excavating archival evidence and placing Savarkar's own representations against the framework of fact, Shourie tries to strip away the mythic layers that have made Savarkar a nationalist icon. But for all its virtues, the book is by no means impeccable. Its accusatory tone, tendentious presentation of evidence, and the author's sudden ideological about-turn make it vulnerable to attack. His practice of boiling down multi-layered historical decisions into ethical dichotomies can tend to oversimplify the past instead of enlightening it. While the book is not up to providing a complete revaluation, it is at least successful in reopening the argument and in an age of politicized remembrance, that is no small thing. Shourie's book demands greater and more complex reckoning with the past one that neither glorifies nor demonizes, but interrogates unceasingly.

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India's Experiment with Democracy: The Life of a Nation Through Its Election, S.Y. Quraishi, HarperCollins India, ISBN: 9789356993648, Rs. 699, pp. 600, 2023

S.Y. Quraishi, in his book *India's Experiment With Democracy: The Life of a Nation Through Its Election* (2023), takes upon himself to provide exposure to the electoral wonder of democratic politics in India. A former officer of the Indian Administrative Services and 17th Chief Election Commissioner of India has collected varied anecdotes from his life while he was serving in the office, and even after his tenure came to an end, he took great interest in electoral politics. Thus, he puts forth his set of reform suggestions for the lacunae he identified in the system after close observation. The book is home to his experiences, electoral incidents, and related laws, as well as their detailed analysis. Through the course of this, he discusses both sides of India—one filled with glory and the other with gore—thus presenting a balanced view. The book addresses immediate concerns such as the criminalization of politics, the politicization of caste, and corruption in the country. The Election Commission of India (ECI) finds itself at the center of the academic exploration. Quraishi not only highlights the role of conducting free and fair elections but also discusses the constraints it faces. The vices of India's electoral system, such as horse-trading of politicians, inadequacy of the Anti-Defection Law, the money-muscle nexus, and malpractices in media. The state elections in Bihar, Maharashtra, and Chhattisgarh are taken into account as case studies to highlight these vices and propose solutions. Out of all the reforms suggested, reforms related to simultaneous elections and the financing of elections stand out the most, as the former is a newly opened yet old topic of debate and the latter has been an omnipresent topic of discussion. Religion, gender, and caste—the holy trinity of Indian politics—have been discussed at length. Religion and caste turn voters into mere vote banks on the one hand, and women and transgender people face marginalization and low visibility in the mainstream. These problems continue to persist despite India's early experiment with universal adult franchise. The book not only enshrines discussions and debates of Indian democracy but also sheds light on electoral democracy in various countries such as Sri Lanka, Nepal, the United Kingdom (UK), Myanmar, the United States of America (USA), Nigeria, Kenya, and Mozambique and highlights lessons that India can apply in its own democratic landscape. Apart from this, the book encompasses the

role of the Supreme Court and governor in elections, violations of the model code of conduct, and disqualification of members of parliament. Finally, the book evaluates democracy in India and, through various surveys and data, states that India remains a flawed democracy despite being an electoral wonder. However, solutions to overcome these flaws have also been provided in the book.

The title of the book suggests that it aims to trace the life of a nation through its “election”; however, instead of elections, Quraishi traces the life of the nation through its Election Commission. The debates and discussions center around the achievements of ECI and justification of its failure to act as expected. The author writes that he finds himself in a dilemma when he is asked to comment on the evident failures of the commission. The section titled “Critiquing the Election Commission of India” acknowledges the failures of ECI but isn’t quite critical of them. Rather, he shifts the focus to reforms and then on the unethical conduct of political parties: ‘It is unfortunate that the topic of debate is now the ECI rather than the political leaders and their appalling and unconstitutional conduct.’ (Quraishi, 2023, p. 72) After much reluctance, when the ECI finally decided to act on the complaints against Prime Minister Modi and BJP President, however, it didn't mention the impact of the social media campaign on voters and didn't delve deeper into the question of whether it alienated a chunk of the population that was unable to access the internet or integrated a far larger population, especially youth active on social media platforms, and what its impact was on the political discourse of India in relation to the country's experiment with democracy. Shah, the verdict was in favor of Modi and Shah; only one election commissioner found them to be guilty of invoking armed forces in an election campaign. ‘His minority vote may not have changed the ECI verdict, but dissent is a healthy sign of objective deliberation and thus presents a ray of hope.’ (Quraishi, 2023, p. 71) Rather than proactively criticizing the commission, the book celebrates a minority vote that had no impact on the verdict. Throughout the course of this literature, the ECI is presented as a ‘victim’ who is toothless due to a lack of reforms; the politicians are the ‘villains’ whose conduct is the root cause of the vices in electoral democracy; and amidst these victims and villains, the voters fail to make their presence known in the book.

Further, elections of Covid times are discussed in lengths and breadths. The unique features of these elections were virtual campaigns and the use of social media. Here too, ECI played an important role in conducting the election by implementing strict COVID norms in and around the booths as

well as throughout the model code of conduct days and did an exceptional job in monitoring the activities on social media. However, the impact of the social media campaign on voters and the question of whether it alienated a chunk of the population that was unable to access the internet or whether it integrated a far larger population, especially youth active on social media platforms, as well as its impact on the political discourse of India in relation to the country's experiment with democracy, was left unexplored. The addition of these accounts would have further expanded the scope of the book. The case of Maharashtra highlights a grim picture of loopholes in the anti-defection law, which makes it defunct in cases of mass defection. Regarding the role of governor, Quraishi states, 'Their role has extended from the impromptu dissolution of elected governments to assenting to the arbitrary formation of government.' (Quraishi, 2023, p. 160) Thus he suggests reforms in case defecting legislators by banning them from being appointed as ministers/ chairman of boards and being reelected for a period of six years. For governor, he suggests that discretionary powers must be scrapped and recommendations of the Sarkaria Commission must be implemented. These suggestions come at a time when both topics are at the epicenter of all political debates, and their implementation will be a valuable addition to democratic politics.

The book turns out to be a plethora of recommendations to strengthen India's electoral democracy. In case of debates surrounding simultaneous elections, both drawbacks and advantages are thoroughly examined, and it is concluded that 'One nation, one poll: one good idea, some hurdles.' (Quraishi, 2023, p. 183) Thus, simultaneous elections are deemed to be beneficial for the nation. Further, only proven convictions of heinous crimes lead to the debarring of politicians. The provision of innocence until proven guilty has become a roadblock. The duality in treatment of alleged convicts who aren't allowed to cast votes and alleged convict politicians who face no hurdles in contesting elections. Thus, he suggests both convicted and alleged criminals in confinement must get the right to vote, as their isolation from democratic politics leads to them being reduced to second-class citizens. Additionally, the issue of migrant workers not being able to cast their votes is against the essence of democracy. To tackle this problem, he suggests the use of multi-constituency remote voting machines. Among various recommendations, the book also highlights the demerits of the First-Past-The-Post System (FPTP) and Proportional Representation System and suggests that 'India could invent its own mixed model to fit its political and cultural specificities.' (Quraishi, 2023, p. 277) For this, the case of Nepal's experiment with the

‘Parallel System’ is taken into account as an example. The suggestion of strengthening ECI by amending the appointment procedure and limiting the role of politicians in the appointment of election commissioners as well as the procedure to remove other election commissioners needs to be changed, and removals should only take place through impeachment to provide security to the ECs.

Quraishi identifies three curses of democracy: casteism, communalism, and corruption. To curb corruption he suggests state funding of parties rather than elections and monitoring of political parties instead of the entire election expenditure. Further, he takes into account the politics of hatred along caste and religious lines and suggests, ‘In order to protect the moral fabric of our republic and to exorcise the demons against democracy, we must redeem ourselves of these elements of hate and fear, both in speech and action, by powerfully reasserting the great values of non-violence, equality, and communal solidarity of our founding fathers. Moreover, we must remember that the book by which we rule our nation should not be any religious epic or revelation, but our extraordinary Constitution, which is secular and indispensable.’ (Quraishi, 2023, p. 559)

The book, despite being a treasury of information on electoral and democratic politics, has overlooked important aspects necessary to trace the life of a nation through its elections. Quraishi focuses majorly on the elections of 1952 and 2019; the rest of the elections find their mention in fleeting moments and are nitpicked to only discuss a few incidents. In order to trace the journey of a nation and secure a better future, it is important to have an insight into the past. The detailed study of the said past elections was missing. Moreover, Quraishi writes that he finds himself to be a spokesperson of the ECI, which is also visible in the book. Throughout the course of the book, justifications of the failures of the ECI are evident, along with shifting of blame on the lack of reforms. In the chapter about T.N. Seshan, Quraishi states, ‘The passing on of Mr. T.N. Seshan marks the end of a glorious era of resurgence of democracy about three decades ago.’ (Quraishi, 2023, p. 544). This sorry state of affairs should not have been India’s reality; instead, post-Seshan ECI should have learned from his experience and carried forward the legacy. Quraishi writes about a lack of political will, but this statement made by him unravels the lack of the ECI’s will, which he fails to mention. Democracy without ‘demos’ isn’t possible; however, in the book about India’s experiment with democracy, the demos find a restricted place. The

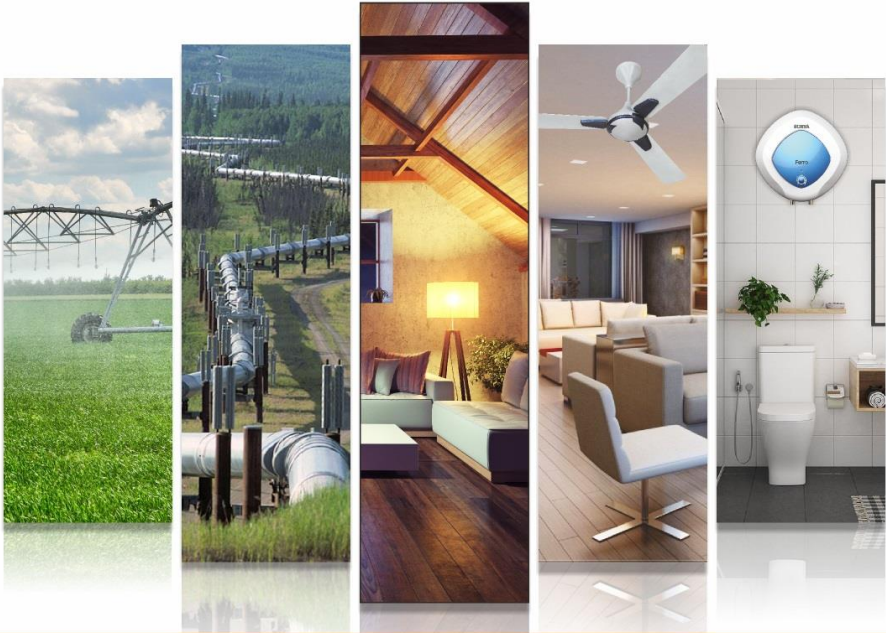
exploration of the evolution of India's political culture would have enriched the literature. Nonetheless, The discussion about the rights of convicts and transgender is a refreshing addition to the corpus of electoral literature. The detailed discussion of articles and amendments, as well as their loopholes, makes the book an informative wonder about democratic and electoral politics.

Subarna Banerjee

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