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Director General, Dr. MCR HRD Institute
& E.O. Spl. Chief Secretary to Government

From the Director General's Desk

It is with great pride and enthusiasm that I present to you the January 2025 issue of our esteemed journal, *SAMRIDDHI*. The consistent support and insightful contributions from our vibrant community of Legal Scholars, Administrators, Academicians and Researchers have been pivotal in establishing *SAMRIDDHI* as a distinguished platform for intellectual exchange and scholarly advancement.

Academic writing continues to serve as a cornerstone of knowledge creation and dissemination, fostering critical thinking and driving innovative practices in governance and administration. The articles featured in this issue embody this spirit, addressing contemporary challenges with rigor and offering thoughtful perspectives that contribute to the betterment of society and professional excellence.

As we release this new issue, I extend my appreciation to every author, reviewer and reader who has been an integral part of the *SAMRIDDHI* journey. I look forward to the continued growth and impact of *SAMRIDDHI* and hope this issue serves as another milestone in our collective pursuit of knowledge and progress.

Dr. Shashank Goel, IAS

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From Brain Drain to Wealth Drain: The Challenge of Elite Migration

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Migration, or the movement of animals and humans across planet Earth, has been a natural phenomenon through time. The movement of all living beings through history has largely been a response to nature, to the threat to life or a manifestation of the human spirit seeking new horizons. The search for hospitable climes, for food, for habitation, for safety has driven migration. Human movement has also been motivated by a sense of adventure, drawing people to distant lands and beyond the seas. With time, social and economic pressures in the home environment have also pushed people to seek new homes. Some have gone forth as if they were drawn to a distant horizon, some have moved away under the pressure of circumstances, some were forced to move as slaves and soldiers.

Till the beginning of the 20th Century there were few restrictions on the movement of people across countries and continents. Indeed, whole continents were occupied by migrants and new nations came into being, often with conquering migrants wielding the sword against resident native populations. The people settled in the Indian sub-continent, between Indus to the West and the Brahmaputra to the East, the Himalayas to the North and the Ocean to the South, were no exception to the natural phenomenon of human movement. They have moved into the sub-continent and moved out. [1] In more recent times, going back over a thousand years, we have evidence of traders, teachers and conquerors travelling by land and sea connecting many regions of the Indian sub-continent to distant parts of the Eurasian land mass and the shores of the Indian and Pacific Oceans as well as the Mediterranean and beyond. [2] The growing global taste for spices, fascination for precious stones, demand for textiles and a wide range of other products and commodities encouraged Indian traders to travel by land and sea

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[1] For an excellent account of early human migration into and across the Indian sub-continent see Tony Joseph, *Early Indians: The Story of Our Ancestors and Where We Came From*, Juggernaut, Delhi, 2018.

[2] For a succinct account of the more recent movement of people across the Indian sub-continent and out of India see Chinmay Tumbe, *India Moving: A History of Migration*, Penguin Viking, Delhi, 2018.

to distant markets. The ebb and flow of such movement of people, of traders and teachers, proceeded along with the rise and fall of empires.[1]

As kingdoms expanded and contracted across the southern Asian and Indian Ocean region, from the Mediterranean to the Malacca straits and beyond, people of Indian origin moved around, settled and resettled across this wide region and beyond. Published in 2006, *The Encyclopedia of the Indian Diaspora,* declared, 'Indians are ubiquitous,' quoting a report in *The Statesman* of August 1980 that claimed that there were at the time only five countries where Indians have not yet chosen to stay - Mauritania, North Korea, Romania, Guinea Bissau and the Cape Verde islands. [2] In 2022, the Indian ministry of external affairs website recorded that 'persons of Indian origin' (PIOs) and 'non-resident Indians (NRIs) were then living in 210 countries, including in the absent five of *The Statesman* report. [3] The Indian diaspora is today the world's largest and most widely spread overseas community, having overtaken China a decade ago. [4] It was this fact that prompted Prime Minister Manmohan Singh to declare that the sun may have set on the British Empire, but it would never set on the world of the people of Indian origin. [5]

There is, interestingly, a geographic concentration of this diaspora in three categories of countries - the Anglosphere comprising of Australia, Canada, New Zealand, Singapore, United Kingdom and United States; the Arab/Persian Gulf region; and, the erstwhile colonies of the British Empire, stretching from the Pacific through the Indian Ocean and Africa onwards

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[1] For a popular history of such globalisation see Nayan Chanda, *Bound Together: How Traders, Preachers, Adventurers and Warriors Shaped Globalisation*, PenguinViking, India, 2007.

Scott C Levi, *Caravans: Indian Merchants on the Silk Road*, Allen Lane, Penguin Books, India, 2015. p.3.

in Ranabir Chakravarti (Edited), *Trade in Early India*, Oxford University Press, 2001.

Medha Kudasiya, India's Merchant Communities, *Asian History*, April 2022.

[2] Brij V. Lal (Editor), *The Encyclopedia of the Indian Diaspora*, Editions Didier Millet, Singapore, 2006. pp. 10.

Hugh Tinker, *A New System of Slavery: The Export of Indian Labour Overseas, 1830-1920,* Oxford University Press, London, 1974.

Tayyab Mahmud, 'Cheaper Than a Slave: Indentured Labor, Colonialism and Capitalism', Whittier Law Review 34, 2013. Pp. 215. Accessed at: *https://digitalcommons.law.seattleu.edu/faculty/139*

[3] Persons of Indian Origin (PIO) are nationals and citizens of other countries, and mostly second or more generation immigrants in their host country. Non-resident Indians (NRI) are citizens of India resident overseas. *Population of Overseas Indians*, Ministry of External Affairs, Government of India. Accessed at: https://mea.gov.in/images/attach/NRIs-and-PIOs_1.pdf

[4] 'India's diaspora is bigger and more influential than any in history', *Economist*, 12 June, 2023. Accessed at: https://www.economist.com/international/2023/06/12/indias-diaspora-is-bigger-and-more-influential-than-any-in-history

[5] Manmohan Singh, Address at Oxford University, 8 July 2005. Accessed at: *mea.gov.in/Speeches-Statements.htm?dtl%2F2623%2FAddress+by+Prime+Minister+Dr+Manmohan+Singh+in+acceptance+of+Honorary+Degree+from+Oxford+University*

to the Atlantic. While travelers, traders and teachers moved to different parts of the world over long periods of time, the sizeable migration of large numbers has occurred at discrete points in time, to different points in the world and under different circumstances. More recent migration and of larger numbers has dated back to the 19th Century, occurring in three distinct phases, destined to three distinct geographies and exhibiting three distinct features.

While human migration itself is an ancient phenomenon, the first phase of fairly large-scale migration out of India occurred under the aegis of British rule and law. This was the enforced migration of indentured labour that began in the mid-19th Century and went on well into the 20th. The 20th Century saw movement of Indians in and out of the sub-continent, with a large number leaving the country at the time of partition and opting for British citizenship. A second wave of out-migration occurred in the last quarter of the 21st Century when tens of thousands of skilled workers migrated to West Asia and the Gulf and almost equal number of educated professionals began to move to the United States and other English-speaking countries. Migration to the Gulf was triggered by the post oil boom construction activity in the region, with the United Arab Emirates, Saudi Arabia and Kuwait receiving the largest numbers. Migration to the US was triggered by the Y2K problem, of switching electronic systems from 31-12-1999 to 01-01-2000, and the subsequent growth in demand for Indian information technology and software professionals in developed economies, primarily the United States.

This more recent wave of migration, the Third Wave, is still in its incipient stage. It is the migration of the children of wealthy, including the 'high net worth individuals' (HNI), and the politically and socially powerful and influential. This phenomenon of 'elites migration' over the past decade has seen an entire industry develop focused on facilitating their out-migration. Schools have been set up that offer syllabi aimed at making it easier for Indian students to seek higher studies overseas, mainly the English speaking countries of US, UK, Canada, Australia, New Zealand and Singapore. Firms have been set up to facilitate movement of assets and investments.

While the rising tide of out-migration of educated Indians in late 20th century was a reflection of the success of higher education in India, especially IITs and medical colleges, the 21st century has seen a new phenomenon of educational institutions being set up, at the school level, to equip young Indians to migrate for higher education and settlement overseas. Institutions and businesses engaged in such teaching, training and emigration related assistance have become big business.

Since 1976, as many as a 176 'world schools' have come up across India that offer International Baccalaureate (IB) certificates that help qualify Indian children for graduate education abroad. The fee charged by IB world schools can range from around Rs 75,000 per month to Rs 150,000 a month. Many of them employ experienced, elderly British and European teachers retired from institutions in their countries. The rising number of such schools and enrolment is partly due to the increasing number of professional Indians working around the world leaving their children back home in India to study at boarding schools. Many IB schools are indeed such boarding schools. Once schooling is over their non-resident parents take the child away to some college overseas for higher education. Many others at these schools come from financially well-off families—both the 'old wealthy' and the 'nouveau riche'—who prepare their young for higher education overseas.

It is not just the IB schools that prepare students to go abroad for higher education. Data collected from a couple of high-profile private schools in New Delhi show that while around the turn of the century around 20 per cent of school-leaving children went abroad for graduate studies, this number shot up to close to 50 per cent by 2010 and to 70 per cent in 2019. In December 2020 the Indian Express reported the results of a study it had conducted that showed that over half of the first rankers in Class 10 and Class 12 examinations (conducted by the Central Board of Secondary Education and the Council for Indian School Certification Examination) during the two decades of 1996-2015 had migrated and were employed overseas, mostly in the US. [1]

Firms have been set up to advise wealthy Indians as to how they can secure citizenship in countries with lower tax rates or no personal taxation at all. In February 2004 the Reserve Bank of India introduced the Liberalised Remittance Scheme permitting Indian citizens to transfer up to $25,000 per annum for purposes ranging from travel and tourism to education overseas, maintenance of family overseas, investment in firms and property and so on. This sum was gradually raised and in 2015 it was increased to $250,000 per annum. Outward remittances under the LRS scheme have increased rapidly from a few thousand Dollars to close to $30 billion in fiscal 2022-23. As for tuition fees paid by Indian students for overseas education, various estimates are available. The most recent estimate is that of a Bangalore-

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[1] Indian Express Investigation, '20 years on, where are the Board toppers? Over half are abroad, most in science and technology', *The Sunday Indian Express*, 27 December 2020. Accessed on 27 December 2020 at: https://indianexpress.com/article/express-exclusive/school-board-toppers-career-united-states-science-technology-education-7121532/

based consultancy firm, Redseer Strategy Consultants, which has estimated that overseas Indian students spend about US$28 billion, amounting to about 1% of GDP, with tuition fees alone adding up to $6 billion. [1]

Thus, if the first wave of 19th Century migration was of the poor and the second wave of the 20th Century was of the middle class, the third wave of the 21st Century is of the rich and powerful. The first wave was enforced. The second wave was in search of opportunity. The third wave in many ways amounts to what I have referred to in my book on *India's Power Elite*, as the 'secession of the successful'. [2]

To collapse these three historically, sociologically, economically and even geographically distinct waves of migration into one single phenomenon that Tumbe dubs as the 'Great Indian Migration Wave' would be of limited analytical value in understanding the changing composition of the Indian diaspora. The first wave of the migration of indentured labour had only marginal impact on the home economy, while the second wave of professionals migration and the third wave of the migration of the wealthy have had and continue to have economic implications for the home economy.

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For close to two decades after independence the out-migration of Indians was not a matter of domestic policy concern with the foreign ministry focused mainly on the citizenship status of overseas Indians. The Government of India examined the issue of granting dual citizenship and finally opted not to do so. As an early study of the Indian Council of World Affairs summed up: "The basic policy is to avoid double citizenship and to encourage overseas Indian nationals to settle down permanently and to identify themselves with the interests of the immigrant countries." [3]

There was very little out-migration in the 1950s and even the 1960s. It was only in the 1970s that economists like Jagdish Bhagwati began to express concern about the challenge of

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[1] Ummar Jamal, 'Make Them Stay', *The Telegraph*, Kolkata, 1st January 2024.

[2] See Sanjaya Baru, *India's Power Elite: Class, Caste and a Cultural Revolution*, PenguinViking, New Delhi, 2021. Chapter 11.

[3] C Kondapi, Indians Overseas, 1838-1949, Indian Council of World Affairs, Oxford University Press, New Delhi, 1951.

Niranjan Desai, India and Its Diaspora, *Indian Foreign Affairs Journal*, Vol.1, No.4, Oct-Dec 2006. Pp.94-108 *https://www.jstor.org/stable/35688b0b-d9b2-3bd4-a2cd-a122aa00ff3c?read-now=1&seq=1*

J.C. Sharma, 'India's Foreign Policy, National Security and Development', Distinguished Lecture, Ministry of External Affairs, Govt. of India, 3 December 2013.
Accessed at: *https://mea.gov.in/distinguished-lectures-detail.htm?9*

'brain drain'. In an early intervention on the subject, economist Harry Johnson rejected the concept stating that it was based on a 'nationalist' view of development and that as an economist one must view 'brain drain' purely in terms of the supply and demand for talent. In an open system, talent will flow in search of higher reward. [1] Taking a very different view, especially in the context of developing countries like India investing public money in professional education, Jagdish Bhagwati tried to estimate the economic impact of 'brain drain' and ways in which home countries could impose a tax on it.

In papers published in the early 1970s, Bhagwati and others drew attention to the international migration of professional talent. [2] While recognising that migration is a natural and historical phenomenon that cannot be easily prevented, Bhagwati and others felt that developing countries that had invested in human capital development were at a disadvantage when developed economies offer attractive remuneration and so suggested that a 'brain drain tax' be imposed both to discourage talent migration and for the developing country to fiscally benefit from it. This was justified on the grounds that many of the professional migrants had secured state-subsidised education in home country.

While talent and skill migration was a trickle till the 1970s, the numbers began to rise in the 1970s and 1980s with global demand for skilled Indian labour rising in the Gulf and demand for skilled professionals rising in developed economies. Faced with continuing out-migration of talent from developing to developed economies, Bhagwati once again flagged, in a 2012 essay, his 'brain drain tax' idea and further proposed that both developing and developed economies find ways in which exported talent could still play a developmental role in home country. [3]

While governments have ignored such proposals, economists have come up with counter arguments suggesting that rather than contribute to 'brain drain', the diaspora is a 'brain bank' and a link to host economies from which home economies can benefit through 'brain

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[1] Harry G. Johnson, 'Some Economic Aspects of Brain Drain', The Pakistan Development Review
Vol. 7, No. 3 (AUTUMN 1967), pp. 379-411. Pakistan Institute of Development Economics, Islamabad. Accessed at: *https://www.jstor.org/stable/i40056624*

[2] Jagdish Bhagwati & William Dallalfar, 'The Brain Drain and Income Taxation: A Proposal', Working Paper No.92, Department of Economics, September 1972. MIT, USA. Accessed at:
https://dspace.mit.edu/bitstream/handle/1721.1/63416/braindrainincome00bhag.pdf?s
Bhagwati, J. and Hamada, K. 'The Brain Drain, International Integration of Markets for Professionals and Unemployment: A Theoretical Analysis.' *Journal of Development Economics*, 1, 19-42. 1974. Accessed at:
http://dx.doi.org/10.1016/0304-3878(74)90020-0

[3] Jagdish Bhagwati, 'The Brain Drain Panic Returns', *Project Syndicate*, 27 January 2012. Accessed at:
https://www.project-syndicate.org/commentary/the-brain-drain-panic-returns-2012-01

gain'. [1] While there is as yet little evidence to support this hypothesis, both Prime Minister Manmohan Singh and Prime Minister Narendra Modi have endorsed the view that India has begun to benefit from a 'brain gain' as a consequence of an earlier 'brain drain'. [2]

AnnaLee Saxenian, who has systematically documented the contribution of Asian Americans to the US economy, has estimated that "By the end of the 1990s, Chinese and Indian engineers were running 29 percent of Silicon Valley's technology businesses. By 2000, these companies collectively accounted for more than $19.5 billion in sales and 72,839 jobs. And the pace of immigrant entrepreneurship has accelerated dramatically in the past decade." [3] However, while suggesting that these links also end up benefitting the home country through reverse flow of technology, Saxenian can only provide evidence from Taiwan and hopes such 'brain circulation', as the literature now terms this phenomenon, would also benefit China and India. There is as yet little data to show how much India has benefitted from such 'brain circulation'. This is an area of research waiting to be explored.

The second wave of migration had two components to it. First, that of skilled labour across the Arabian Sea and second that of post-Y2K boom in demand for information technology and software professionals in the United States. While professional migrants to the US in the 1970s, 1980s and 1990s were largely from urban, middle class families with a degree from IITs, IIMs, medical colleges and elite institutions, the demand for skilled software technicians triggered by the Y2K problem and later the rising demand for low skill IT workers contributed to migration of young people from lower middle class families, including from small towns with only basic skills in English, more comfortable in their mother tongue, migrating in ever larger numbers. Securing H1B visas became an important diplomatic and political issue for successive Indian governments.

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[1] Sandra Berger, Brain Drain, Brain Gain and Its Net Effect, World Bank, November 2022. Accessed at: *www.knomad.org/sites/default/files/2022-11/knomad_paper_46_brain_drain_brain_gain_and_its_net_effect_sandra_berger_november_2022.pdf*

[2] Manmohan Singh, "India has converted 'brain drain into 'brain gain'", *The Economic Times*, 2 December 2010. Accessed at: *https://economictimes.indiatimes.com/news/economy/indicators/india-converted-brain-drain-into-brain-gain-pm/articleshow/7029952.cms*

Narendra Modi, "Brain Drain Can Become Brain Gain", *The Hindu*, 28 September 2015. Accessed at: *https://www.thehindu.com/news/national/Modi-at-SAP-Centre/article60516522.ece*

[3] AnnaLee Saxenian, 'Brain Circulation: How High-Skill Immigration Makes Everyone Better Off', Brookings Institution, Washington DC, 1 December 2002, Accessed at:*www.brookings.edu/articles/brain-circulation-how-high-skill-immigration-makes-everyone-better-off/*

Gi-Wook Shin & Rennie Moon, 'From Brain Drain to Brain Circulation and Linkage', The Walter H. Shorenstein Asia-Pacific Research Center, Stanford University, 21 February 2018. Accessed at: *https://aparc.fsi.stanford.edu/publication/brain-drain-brain-circulation-and-linkage*

The term Non-Resident Indian (NRI) came into common usage in late 20th Century, with an increasing number of expatriate Indian citizens working overseas, especially in the Gulf region. It was assumed at the time that most would return home, given that many Gulf countries did not allow families to settle down in the migrant's host country. Policies were devised assuming such expats would return home and NRI savings schemes became an important window for inward Dollar remittances. However, by the second decade of the 21st Century it has become clear that a growing number of NRIs are not returning home. Hence the term NRI has come to denote 'Not Returning Indians'. They either settle down in countries where they work, if such countries permit families to join them, or they move to third countries like Canada, Australia, Hong Kong, Malaysia and so on. Hence, the numbers giving up Indian citizenship is rising. Admittedly, this has also been prompted by the Indian policy of not awarding dual citizenship. While over a hundred countries do, in South Asia only Pakistan and Sri Lanka offer dual citizenship.

Quite understandably, the growing economic importance of overseas migration, with inward Dollar remittances becoming an important constituent of foreign exchange reserves, and the growth of business process outsourcing from developed to developing economies, encouraged the Indian government to seek a multilateral regime that could offer and protect employment opportunities in the services sector. In 2023 such inward remittances amounted to over a US$125 billion, accounting for about a fifth of India's foreign exchange reserves.

The export of services embodied in workers and professionals, referred to as Mode 4 exports in the trade terminology of the World Trade Organisation, entailing cross-border travel of skilled workers and professionals, has also become an important constituent of India's foreign trade. Taken together, services exports account for close to 12% of India's GDP, up from just around 3% in 1990. Indian trade policy has, therefore, placed great emphasis on securing visas for workers and professionals travelling overseas for work. Many such temporary workers end up migrating to host countries.

Not only has India not been able to secure all its interests through a multilateral agreement protecting the interests of Mode 4 emigrants, in signing up to the WTO's concept of trade-related intellectual property rights India has agreed to make royalty payments for IPRs embedded in imported technology without gaining anything in return for IPRs embedded in exported labour and knowledge power. Hence, while millions of Dollars are paid out for imported technology, there is no quantification of foreign exchange earned from export of

'brain power' except in the form of voluntary inward remittances made by NRIs and their voluntary investment in financial instruments, mutual funds and real estate.

After the balance of payments crisis of 1990-91 several tax incentives were given to NRIs to keep their overseas savings in Indian instruments. An intricate financial system developed to attract inward foreign remittances. [1] In its wake a regulatory system has developed and inward remittances acquired importance within India's balance of payments and trade strategies. However, with the more recent threat of what the Bharatiya Janata Party once called 'tax terrorism', in its 2014 election manifesto, an increasing number of wealthy Indians are using overseas tax shelters to escape Indian tax system.

The flight from national taxation has been a common characteristic of all wealthy individuals around the world. As India became home to an increasing number of millionaires and billionaires the number of Indians seeking overseas residence to escape national tax laws has increased. A London based global citizenship and residence advisory firm, Henley & Partners, reported in 2022 that 7500 High Net Worth Individuals (HNIs) had left India to take up residence and citizenship in a foreign country. In 2023 another 6500 are expected to leave. [2] The global investment bank, Morgan Stanley reported in 2018 that between 2014 and 2018 as many as 23,000 Indian millionaires had left the country. Favoured destinations for HNIs include Mauritius, Singapore, Dubai, Italy, Portugal, Malaysia and an assortment of small island economies in the Atlantic. Several countries offer 'Golden Visas' to Indians willing to invest a certain sum of money, normally upwards of a million dollars. Several big business families like Mukesh Ambani and G.M. Rao have set up family trusts in Singapore and Dubai.

The suggested policy response to migration of talented professionals was the imposition of a 'brain drain tax'. What policy instrument can be developed to deal with the altogether different challenge of 'wealth drain'?

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[1] Gabi G. Afram, *The Remittance Market in India Opportunities, Challenges, and Policy Options*, World Bank, Washington DC, 2012. Accessed at:
https://documents1.worldbank.org/curated/en/785341468269661757/pdf/662350PUB0EPI000India09780821 389720.pdf
[2] Henley Private Wealth Migration Report, 2023. Henley & Partners, UK, June 2023. Accessed at:
https://www.henleyglobal.com/newsroom/press-releases/henley-private-wealth-migration-report-2023
 Lubna Kably, 'Indian Rich topworld in looking to leave country', *Times of India*, 13 February 2021. pp.1

Replying to a question in Parliament on 21st July 2023 India's external affairs minister, S Jaishankar stated that, a total of 2,25,260 Indians had "renounced their Indian citizenship" in 2022. This compared to 85,256 in 2020. Taken together a total of 16,63,440 Indians had renounced their citizenship in the period 2011-22. In the first six months of 2023 the figure was already at 87,026. The minister then added:

> "The number of Indian nationals exploring the global workplace has been significant in the last two decades. Many of them have chosen to take up foreign citizenship for reasons of personal convenience. The Government is cognizant of this development and has undertaken a range of initiatives centering around 'Make in India' that would harness their talents at home. At the same time, to take full advantage of the contemporary knowledge economy, we have also promoted skills and start-ups."

The minister took the view that, "the Indian community abroad is an asset to the nation, Government has brought about a transformational change in its engagement with the diaspora. A successful, prosperous, and influential diaspora is an advantage for India, and our approach is to tap diaspora networks and utilize its reputation for national gain. The Government's efforts are particularly aimed at encouraging the exchanges of knowledge and expertise in a manner that would contribute to India's national development."

While the benefits of such 'brain circulation' for the home economy are yet to be quantified, it is equally important to quantify the contribution of Indian brains to wealth creation and economic development of host countries. To what extent has Indian migrant talent contributed to the technological dominance of the Anglosphere? Unless these economic flows are estimated it would make no sense to assume that the so-called 'brain circulation' has benefitted the home country as much as it would have the host country. The migration of educated Indians to developed English speaking countries, especially the US, has contributed significantly to the revitalisation of these economies. The head of the US National Science Foundation is a person of Indian origin and so are many of his colleagues. Indians working in basic sciences, AI, and other leading knowledge sectors, universities and global corporations have empowered knowledge-based industries and research organisations and have contributed to the global competitiveness of these economies. There has so far been no systematic effort to value the contribution that Indians have made to developed economies. The geo-economics and geopolitics of these brain flows require to be studied. While this would not be easy, and

the data base is patchy, there are any number of illustrative and anecdotal examples of how Indian professionals have been empowering western, especially American, multinationals and institutions of national security and development.

Similar studies require to be conducted of wealth and capital outflows from India and their contribution to developed host economies.

To sum up, while the large scale migration of people of Indian origin from the middle of the 19th Century has its origins in the enforced export of poverty-stricken indentured labour, late 20th Century migration has been largely of a rising middle class seeking employment opportunities overseas and opting to live overseas. The more recent phenomenon of the 'secession of the successful' indicates an attempt of both the wealthy and the disaffected to escape from this so-called 'New India' of the 21st Century. While less fortunate Indians are finding ways of escape, including illegal migration, the more fortunate are willing to invest vast sums to seek citizenship of other countries or at least maintain a dual status with one leg in home country and another in host country.

Migration, as we said at the beginning, is a natural phenomenon. While nation states seek to control if not restrict, such movement of people across borders, humans will continue to move across territories. While one must understand why people migrate and estimate the benefits and costs of such migration to nations and families, one cannot and need not devise policies to prevent migration. Where migration is legally disallowed it occurs illegally.

It is not the migration of the poor and needy or of the middle class professional that must worry a developing country as much as the migration of a nation's wealthy, it's economic, political and cultural elites. In the immediate Indian context it is necessary to focus on and analyse this 'secession of the successful'. The growing out-migration of HNIs and of the children of the nation's power elite. What then can and should be done to at least reduce the out-migration of Indian talent and capital?

First, faith has to be restored in the inclusive character of the Indian Republic based on the principle of 'unity in diversity'. That India is for all, irrespective of caste, class, region or religion.

Second, domestic employment opportunities must increase in tandem with the supply of skilled and scientific manpower.

Third, conditions of living and employment have to improve to reduce the incentive to migrate.

Fourth, the Union and State governments must stop harassing the citizen through the weaponisation of administrative rules and procedures, tax policy, and of financial and investigative agencies. Fear of violating law is different from fear of upsetting law makers and law enforcers. The fear of government must end.

All this may not end elite out-migration but it could substantially reduce the incentive to migrate. The Indian elite may continue to migrate as they aspire for First World living standards. The migration of labour and of professionals is a more universal phenomenon than the migration of the elites. A developing country like India has to worry about the growing incidence of elite migration. There are challenges and problems with respect to labour and talent migration, but the migration of wealth is an altogether different phenomenon and casts a longer shadow on national development.

Chart 1: Outward Remittances Under RBI LRS Scheme
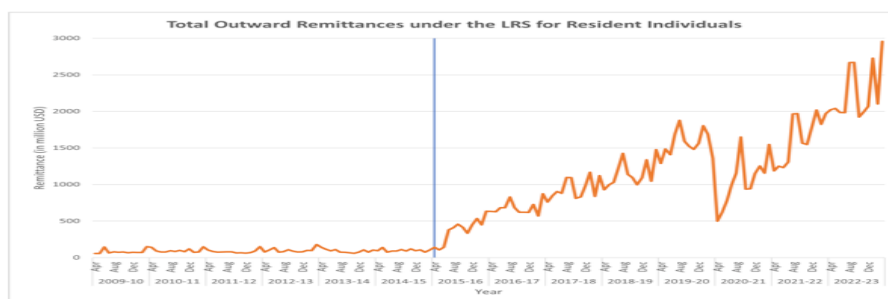
Source: Reserve Bank of India Bulletin, Several Issues.

Gender Responsive Budgeting in India: An Analysis

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Introduction

Historically speaking women are sufferers, neglected for a long time and even the policy makers have ignored them in designing policies and programmes while giving them due share and entitlements. Thanks to the social mobilization and institution building approach adopted by the governments two decades ago yielding some positive results. It needs to be mentioned that the reason for the present situation of women is mainly due to the absence of participatory and democratic budget making process despite Indian economy is a largest democratic country in the world.

Secondly, the absence of practice of decentralized governance in letter and spirit has added to the existing situation. As a result of 73rd and 74th Constitutional Amendment Acts there is a new lease of life given to the Panchayats and concomitant reservations to women and their presence in local self-governing institutions. Consequently, institutions and international organizations started discussing about the expenditures made by the governments for the welfare of women and girls leading to the emergence of gender responsive budgeting in Indian context. The same has been supported immensely by Agenda for 2030 (SDGs) and UN agencies. Hence, we need to introduce GRB in departments while implementing the schemes and programmes to begin with. GRB is a strategy in mainstreaming the gender in policy and programmes that can improve the status of women ultimately.

Gender Responsive Budgeting (GRB) is a tool in gender mainstreaming and enables to achieve the gender equality and women empowerment ultimately. It is a first step wherein we create evidence base on the expenditures made for the welfare of women and girls therefore it is essential to follow by all the state governments. International experience and, more importantly, the model of Kerala shows that If GRB is implemented it would bring about transformative change in the society which is substantial, sustainable and irreversible process of change.

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[1] This is a revised version of the Paper presented in India Public Policy Network (IPPN) Conference on 'Policy Processes in the Global South', held at Ashank Desai Centre for Policy Studies, IIT Mumbai during 6-8 December 2024.

Evolution of GRB in India

The process of evolution of gender responsive budgeting in India commenced from gender based analysis of Union and selected state government budgets during 2001-04 however, the note on 'gender budgeting' issued as part of budget circular from 2005-06 onwards. Gender Budget Statement (GBS) as part of Expenditure Budget for women specific schemes and pro-women schemes was prepared during 2005-07. Later, charter on gender budget cells was issued during 2007-10 with a view to build capacity for gender budgeting at Central and state level line ministries. Integration of gender and outcome budget happened during 2010-12 for including targets and sub-targets for women in Outcome Budgets. Guidelines for state level Gender Budgeting issued during 2012-13 and instructed to create state level gender budget cells by all.

Although substantial number of states have followed the guidelines in developing gender budgeting process some states did not take action in this regard. It is high time that the state governments should follow the GRB and ensure that the expenditures are made for women and girls and reported regularly. It was felt that the GRB should be made mandatory and the state governments who do not follow it will not be given funds from the Centre.

There are challenges pertaining to gender budgeting in India which hinder the process of initiatives taken up by various institutions and ministries. According to a study by the author in 2021 the pandemic exacerbated existing gender gaps in terms of increased unpaid care and domestic work, gender based violence among others. Girls lost education due to COVID-19 while boys were given smart phones to attend to the classes etc. It has been corroborated by a survey conducted by International Monetary Fund in 2022 that emphasised the need for effective gender budgeting practices. Further, argued that while all G20 countries enacted gender-focused financial policies, challenges still persist in operationalizing, evaluating and monitoring these policies.

Against the background the present modest attempt is to examine and analyse the latest Union Budget 2020-21 (fiscal year) from a gender lens and its implications for women's welfare and institutionalization of gender responsive budgeting among others.

Allocation to Women's Welfare; A Discussion

A cursory look at the allocations made to women empowerment is minimal and in some cases negligible. Further, it was noticed that the allocations made for the welfare of women and girls

are not actually spent for the same purpose rather the resources are being diverted to other sectors. Secondly, there is lack of convergence between different departments working towards welfare of women and children resulting in wastage of resources and valuable time of the government functionaries. Thirdly, it is important to mention here that except about 16 state governments remaining ones are yet to follow the submission of gender budget statements every year. Unless the practice of GRB is made mandatory on the part of state governments and institutionalized in the system it is difficult to imagine the expenditure benefiting women and girls exclusively.

Data from table-1 revealed that gender budget as a percentage of total budgetary expenditure has come down from 4.98 per cent in 2018-19 (actuals) to 4.78 per cent in 2020-21(BE) which is 0.63 per cent of GDP. Though the allocations in absolute number have increased over a period of three years but it has decreased in percentage terms. The percentage of gender budget, on an average, in total expenditure was hovering around 5.2 per cent while percentage of GDP is 0.7 during 2008-09 to 2019-20. It means there is no improvement in the gender budget allocations over a period of ten years despite the policy pronouncements and statements by the government that they are committed to the welfare of women and girls. In fact, the process of GRB should be institutionalized so as to benefit the women and girls as a legal entitlement.

As regards the ministry wise budget allocations table-2 revealed that under women specific schemes which is nothing but **Part A** of the Gender Budget Statement (GBS) that the Department of Rural Development received major chunk i.e., 75 per cent of budgetary allocation followed by Ministry of Women and Child Development with 13.7 per cent allocation. On the other hand, remaining departments received less allocation reflecting their less importance with regard to women empowerment.

When looked at **Part B**, prominently the department of Health and Family Welfare registered 23.74 per cent budget allocation denoting its importance in providing health care to women and girls. However, others received 24.44 per cent, while department of rural development secured budget allocation of 21.86 per cent followed by department of school education and literacy (15.35 per cent). It is clear that the health and rural development departments have spent reasonably sizeable amounts on women specific programmes aiming at benefiting women and girls.

The share of women in the total person days has come down slightly during 2015-16 to 2019-20 (table-3). However, while women are engaged in MGNREGS work locally, men migrated to other places for better employment and income. Following the principle of at least one-third of total person days should be women under MGNREGS, the rural development department reported Rs. 20,000 crores in Part B of the GBS.

Table-4 showed that the share of gender budget in total budgetary expenditure and as a percentage of GDP over a period of 12 years starting from 2008-09 to 2019-20. The share of gender budget in total budgetary expenditure has maintained a particular level, though small, till 2014-15 and declined from then on and finally registered 4.7 per cent in 2019-20. On the other hand, gender budget as a percentage of GDP over a period has declined to 0.63 from 0.88 suggestive of the declining importance and a cause for concern. While the whole world is marching towards gender equality and women empowerment the Indian government is reducing the expenditure for women and girls more importantly, unspent balances are reported is an indication of lack of commitment towards gender.

In this context, it is to emphasize that there is a need to mainstream the gender in flagship schemes and centrally sponsored schemes that are implemented by different departments in a state. At a state level, the departments that need immediate attention include; Department of Agriculture, Department of Women and Child Development, Department of Panchayati Raj and Rural Development, Department of Health and Family Planning, Department of Education and Department of social welfare among others. Because, women and girls are the main constituency of these departments for whom they work, and earmarked budgets each year need to be spent for them. In fact, under many schemes in different departments unspent balance/funds have been reported signifying many women denied their just share and entitlement. It was reported by A K Mehta that under Prime Minister's Matru Vandana Yojana (PMMVY) only 61 per cent of 62.8 lakh beneficiaries registered under between April 2018 and July 2019 received the full amount of Rs. 5000 promised under the scheme.

Gender responsive budgeting permits policymakers to use gender lens on fiscal expenditure, earmarking funds for gender-specific outcomes in the Union Budget instead of producing a separate budget. In fact, Gender Budget Statement has become an ex-post statement instead of planning before the requirements of women and girls and accordingly preparing the budget for the same. There are some departments/ministries which failed to report

allocations in the GBS whereas 34 departments duly reported their budget allocations for women and girls. (See annexure).

Scenario in Telangana

The status of women and girls in Telangana is relatively lagging behind in terms of education, employment and income earning capacity as the social indicators are not impressive. The social development report 2018 clearly stated that the pro-active steps by the state government are essential in improving the condition of women and girls in Telangana. Of immediate relevance for state action include; declining child sex ratio, declining age at marriage, increase in slums and shelter-less people in otherwise urbanizing areas of the state, the high proportion of widowed women specifically in rural areas, and the incidence of disability above national average across districts in the state. Besides, similar to the national pattern, the Labour Force Participation Rate (LFPR) in Telangana declined in 2011-12. The decline in rural labour force is higher than that of urban and the decrease is sharper among females than males. This means that the decline in LFPR is mainly due to the withdrawal of females from the labour force. When states like Bihar was able to announce reservations to women and girls in employment, education and other sectors Telangana politically conscious state failed to provide due share of benefit to women not only in development but also in state legislature and council.

Against the background, as a case in point we have interacted[1] with some stakeholders in Telangana state who include; some officials from finance department, elected representatives comprising MPs, MLAs, MLCs, Panchayat leaders, SHG women, professors/researchers in the state, NGO functionaries, activists and others. This is with a view to understand the situation of GRB and awareness levels of and commitment of the government (political bosses) in the implementation of the same.

It was found that the political will is the prime factor which enables the officials to trigger the initiation of GRB in the state. While almost all the stakeholders agreed the importance of GRB they were not clear or some were skeptical, while others were clear about the rationale, significance and the roadmap for the same. However, there is unanimity about the women empowerment which they were hearing for the past two decades due to the emergence of SHGs, bank linkage and related activities among others.

Policy Options for the Future

- The policy option is to enhance accountability and transparency of governance institutions to ensure gender responsive design and implementation of legislations, budgeting, policies and programmes so as to empower women and girls.

- The practice of GRB should be made mandatory[2] and a statutory requirement on the part of state governments so as to facilitate true empowerment of women without which they would not receive the funds from the Central government.

- There is a gap between policy and action which need to be bridged with adequate budget allocations and reporting every year with transparency and accountability. Further, capacity building and training should be provided to the Ministries and Departments so as to prepare them to report GBS properly and overall significance of GRB which can be facilitated with the Gender Budget Cells.

- GRB should become a built-in legal mechanism in the Union and state budgets each year so that it can be institutionalized addressing the issues of women with adequate resources etc.

- Sensitization and motivation of functionaries of Government, Elected Representatives at various levels and private sector employees and others to improve the awareness levels and commitment towards the achievement of SDG-5, Gender Equality and Women Empowerment.

- Gender Budget Statement should be accompanied by explanatory notes and the disaggregated budget data should be provided for gender responsive components of schemes etc.

- The Ministries and Departments, while reporting to the Outcome Budget, should inevitably mention disaggregated allocations towards meeting the indicators and targets in the GBS and establish that the gender mainstreaming at various levels viz., planning, budgeting and monitoring of outcomes.

Table-1: Allocations Reported in Gender Budget in Rs. Crores and as a percentage of total expenditure

Item	2018-19 Actuals	2019-20 BE	2019-20 RE	2020-21 BE

Total budgetary allocation to women-specific schemes or Part A of the GBS	24,440.07	27, 420.03	29,473.52	28, 568.32
total budgetary allocation to women centric schemes or Part B of the GBS	90,766.54	109514.07	113339.78	114893.40
Gender Budget (Part A+B)	115, 206.61	136934.10	142813.30	143461.72
Total expenditure	23,15, 113	27, 86,349	26, 98,552	30,42,230
Gender Budget as a percentage of total budgetary expenditure	4.98	4.91	5.29	4.72

Source; Aasha Kapur Mehta, Union Budget 2020-21: A critical Analysis from the Gender perspective, *Economic and Political Weekly*, Vol.55, Issue No. 16, 18 April 2020

Table-2: Budgetary Allocations and Ministries/Departments

Ministry/Department	Allocation to women specific schemes (2020-21) BE	Percentage of budgetary allocation to Part A of the GBS
Women specific schemes (Part A)		
Department of Rural Development	21,437.79	75.0
Ministry of Women and Child Development	3919.00	13.7
Ministry of Petroleum and Natural Gas	1118.00	3.9
Police	1004.07	3.5
Others	1089.46	3.8

Total budgetary allocation to women specific schemes or Part A of the GBS	28, 568.32	**100.0**
Pro-women schemes (**Part B**)		
Department of Health and Family Welfare	27,271.27	23.74
Department of Rural Development	25,110.90	21.86
Department of School Education and Literacy	17,636.10	15.35
Ministry of Women and Child Development	16,790.52	14.61
Others	28,084.61	24.44
Total Budgetary Allocation to Pro-women Schemes or Part B of the GBS	114,893.40	**100.0**

Source; Gender Budget Statement 2020-21

Table-3: Share of Women in the Total Person Days (%)

Particulars	2015-16	2016-17	2017-18	2018-19	2019-20
Share of women in the total person days	55.26	56.16	53.53	54.58	54.78

Source; Ministry of Rural Development website (as on 28 February 2020)

Table-4: The Share of Gender Budget in Total Budgetary Expenditure and as a percentage of GDP   (%)

Particulars	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Share of gender budget in total budgetary expenditure	5.6	5.5	5.6	6.0	5.5	5.5	5.2	4.5	4.8	4.3	5.1	4.7
% of GDP	0.88	0.87	0.86	0.90	0.79	0.76	0.69	0.59	0.64	0.55	0.66	0.63

Source; Union Budget Statements, Government of India

Annexure; Ministries/Departments Reporting the Gender Budget Statement

Part A	1. Department of Agricultural Research and Education
	2. Law and Justice
	3. Ministry of Micro, Small and Medium Enterprises
	4. Ministry of Railways
	5. Ministry of Road Transport and Highways
	6. Department of Science and Technology
Part B	1. Department of Agriculture, Cooperation and Farmers' Welfare
	2. Atomic Energy
	3. Ministry of Culture
	4. Ministry of Earth Sciences
	5. Ministry of Electronics and Information Technology
	6. Department of Fisheries
	7. Department of Animal Husbandry and Dairying
	8. Department of Health and Family Welfare
	9. Ministry of Housing and Urban Affairs

	10. Ministry of Labour and Employment
	11. Ministry of New and Renewable Energy
	12. Department of Social Justice and Empowerment
	13. Department of Empowerment of Persons with Disabilities
	14. Ministry of Textiles
	15. Ministry of Tribal Affairs
	16. Ministry of Youth Affairs and Sports
Part A and B	1. Ministry of AYUSH
	2. Ministry of Development of North Eastern Region
	3. Ministry of External Affairs
	4. Department of Health Research
	5. Police
	6. Department of School Education and Literacy
	7. Department of Higher Education
	8. Ministry of Minority Affairs
	9. Ministry of Petroleum and Natural Gas
	10. Department of Rural Development
	11. Ministry of Skill Development and Entrepreneurship
	12. Ministry of Women and Child Development

End Notes

1. The author from Telangana was able to conduct semi-structured interviews, focused group discussions with the stakeholders and arrived at some impressions and insights.

2. When the institutions function in a transparent and accountable manner it would be easier for anyone to look at the beneficiaries who are intended or unintended etc. More importantly, the GRB should be made mandatory, linked to release of funds, on the part of all the States and UTs so that they consciously work towards the avowed goal.

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Women in Care Work: Unrecognised and Undervalued

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This paper explores the unrecognized and undervalued nature of women's care work, focusing on how gender relations shape labor dynamics and contribute to systemic inequality. Despite its crucial role, care work remains largely invisible in mainstream economic analyses, leading to profound socio-economic consequences. Using data from India's 2019 Time Use Survey, the paper highlights the significant disparity between men and women in time spent on unpaid domestic and caregiving tasks, with women dedicating substantially more time than men. This unequal burden exacerbates time poverty, limiting women's economic opportunities and personal growth. The study examines how societal norms and patriarchal structures devalue women's labor, reinforcing traditional gender roles and perpetuating inequality. The paper argues for a critical reassessment of care work's value, advocating for recognition and structural changes to address gender disparities. By challenging entrenched norms and promoting gender equity, the paper aims to foster a more just and equitable society where women's contributions are duly acknowledged and rewarded.

Keywords: *gender inequality, care work, unpaid labour, domestic work, time poverty, time use survey*

Introduction

Gender relations directly impact labour. Despite this, one of the main aspects that mainstream economics as a discipline has blatantly ignored are gender and gender relations. Gender relations affect consumption, production and distribution – all of which are fundamental concepts in the discipline of Economics. Conversations about division of labour have been there since the outset of Economics as a discipline, but gender relations within it have been largely ignored. There are huge implications of this division of labour as it leads to subtle, undetectable gender inequality in complicated forms.

Conversations about division of labour have been there since the outset of Economics as a discipline, but gender relations within it have been largely ignored. However, sociologist Emile Durkheim does discuss gender relations when he talks about division of labour (Durkheim, 1964). Durkheim believed that the division of labor was necessary for society to

function and that it reflected the natural progression of human society. In his view, the division of labour became more specialised as societies grew more complex, with men and women concentrating on different jobs. According to him, "one of the sexes takes care of the affective functions and the other of intellectual functions" (Durkheim, 1964).

There is relational inequality within the family. The role of a husband and wife within the household or the family has been historically different. Women are biologically different and there should be no debate about it. Women can bear children while men cannot. This is a fundamental difference between men and women. However, this biological difference has led to what is often called the gender construction of society or the gendered division of labour. Women are seen as more suitable for domestic work and caregiving activities. An average man in India spends most of his time in a day in employment and related activities while an average woman in the country spends most of her time engaged in domestic unpaid work (Time Use Survey Report, 2020). This gender construction of women in society has been extremely useful in pushing women into unpaid care work. Care work may not always be unpaid. However, paid or unpaid, care work still remains the responsibility of women (Menon, 2019). Not only adult women but even young women are expected to engage in some form of care or domestic work. As a result, domestic work is a major barrier to the schooling of young girls in India (Chanana, 2003).

Gender Inequalities in Domestic and Care Work: What Do the Estimates Say?

Time-use surveys are a widely used method to gauge how much time people in a nation or subnational area spend on different activities, including paid work, education, unpaid work, and even leisure. The National Statistical Organisation (NSO) conducted India's first Time-Use Survey (TUS) between January and December 2019, and the Ministry of Statistics and Programme Implementation (MoSPI) published the results. Some estimates from the TUS report are given in the tables below.

Table 1: Percentage of persons of age six years and above in unpaid care work and caregiving services

Unpaid domestic services			**Unpaid caregiving services**[1]			
Place of residence	Men	Women	Place of residence	of	Men	Women
Urban	22.6	79.2	Urban		13.2	26.3

| Rural | 27.7 | 82.1 | Rural | 14.4 | 28.2 |
| Total | 26.1 | 81.2 | Total | 14.0 | 27.6 |

[1]*Care work includes care work for children, sick, elderly, and differently-abled persons in their own household*

Source: TUS Report, NSO, 2019

It is expected that women would be disproportionately affected by the burden of unpaid work. The estimate from the time use survey tells us that on average, as high as 81% of women have to partake in unpaid domestic services, while only 26.1% of men have to do so. The figures also reveal that, on average, 28% of women are engaged in unpaid care work, double the proportion of men, as only 14% of men are engaged in any type of such work. Moreover, we see that women in rural areas are more likely to be engaged than their urban counterparts.

Table 2: Minutes in a day spent on an average per participant of age six years and above on unpaid care work and unpaid domestic services

Unpaid domestic services			Unpaid caregiving services[1]			
Place of residence	Men	Women	Place of residence		Men	Women
Urban	94	293	Urban		75	138
Rural	98	301	Rural		77	132
Total	97	299	Total		76	134

[1]*Care work includes care work for children, sick, elderly, and differently-abled persons in their own household*

Source: TUS Report, NSO, 2019

The TUS also provides information about the time spent on an individual activity. The allocation of time is such that women, on average, spend around 134 minutes in a day on care work. On top of that, women devote another 293 minutes daily to unpaid domestic services. On the other hand, an average man spends only 76 minutes on unpaid domestic care work and 97 minutes on unpaid domestic services. An average woman in India spends around 7 hours a day engaged only in unpaid domestic services - something for which they are not even socially recognised, let alone being rewarded the same as it is considered their responsibility. This is

often the case as care is considered the "duty" of women. Moreover, from the previous two tables, we can infer that women are not only more likely to be doing unpaid care work, they are also likely to spend a greater proportion of their time doing it.

Why are women not paid for the care work? The most obvious reason could be that the beneficiaries of care are children, the elderly, sick, or the disabled, and they cannot pay. Unfortunately, they are not even recognised for their work within the family. It is expected of them to provide care. The social norms and cultural norms have conveniently shifted the entire burden of care on women. Society gains from this gender construction at the cost of the wellbeing of women. Caregiving is undoubtedly important. But biology only covers pregnancy and childbirth. Yet, the mostly the entire burden of childcare is disproportionately borne by women. And this is not something that is new or has risen out of the political economy. Rather, it has existed through time, surpassing economic and political systems. This phenomenon has manifested itself across generations. It passes on from the mother to the daughter.

When women engage in caregiving, they are giving up the time they could use for themselves. Therefore, caregiving is against the interest of the individual. It takes time and effort. Mainstream economics has the fundamental assumption of rationality. Unpaid care work basically means that another person's wellbeing increases at the cost of the individual providing it, most of whom are women. But when women are forced to act against their self-interest, possibly every day in some form of their other their entire lives, the question that arises then is, isn't this assumption of rationality flawed? The basic premise of microeconomics is that individuals are rational and they maximise their utility subject to their budget constraints. Therefore, if one tries to explain caregiving through utility maximisation, one cannot do so. The only way this could be possibly done if we say that women derive utility from caregiving. Maybe it is no surprise that economists often make the assumption that the "Rational Economic Man", blatantly overlooking women. In the world of the rational economic man, caregiving would not exist as it is not adding to the individual welfare, rather, it is compromising it.

Women and Paid Care Work

Women's work has been widely unrecognised even when they indulge in formal "productive work". Consider, for example, a woman in an agricultural household whose primary source of income is farming. The family owns cattle, and the milk from it supplements the family income. Even though if it is the woman who tends to the cattle and is involved in cleaning, feeding or

milking. The common perception held in such an instance is that the woman is not working. This happens even though the woman is productive in the economic sense and is adding to the income.

The devaluation of women's unpaid work is not confined to women outside the formal workforce. Even when women do enter the formal paid workforce for the same jobs, they are paid less. Women may have formal employment in activities like cooking, cleaning, housekeeping, care for the elderly or children etc. These activities often have lower wages. There's a cluttering of women in certain occupations ranging from childcare, nursing, other care activities etc. – all of which are dominated by women and all of which end up being low paying. The penalty of this is also borne by men who are employed in such occupations.

Society in general undervalues such jobs, which results in lower wages and bad working conditions. Another significant outcome of such undervaluation of women's work is that it has resulted in pushing down the reservation wages of women[1].

While it may be common for the private sector to take advantage of the lower reservation wages of women, even the public sector in India has taken an undue advantage of this. Consider the case of ASHA (Accredited Social Health Activist) workers.

They constitute a significant proportion of the frontline health workers in the country but are not even considered employees, rather, they are called "health activists" or "volunteers". As per the Ministry of Health and Family Welfare, an ASHA worker is a "trained female community health activist" who is "trained to work as an interface between the community and the public health system". Yet her work is not considered work. She is a volunteer even though she is supposed to "work" as an interface between the community and the public health system. Since the ASHA workers are not considered employees of the government, they do not need to be paid the minimum wage. As a result, the ASHA workers have very low wages with barely any job security.

This unequal distribution of care work has existed throughout history across all social and economic categories. Women are seen as fundamentally responsible for the care of their family members. Even in instances when they are engaged in some paid work, the responsibility for caregiving and household is on women. Even if the women do not do it on their own and have the resources to outsource the care work, the responsibility for managing it

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[1] Reservation wage is the lowest wage rate at which a worker would be willing to accept a particular type of job.

is on them. If women cannot afford to outsource the care work or find someone to do it for them, it is they who would have to do the care work. This means that women get the double burden of paid and unpaid work.

The consequence of this undue burden of care means that women are more likely to be restricted to their own homes. This not only reduces their mobility and social interactions but also decreases the possibility of labour force participation leading to lesser money income and lesser decision making power. This ultimately leads to the lower social and economic status of women as money income is directly associated with the social and economic status of an individual. Lower social status means a lower bargaining power and lesser say in family decision-making, reducing their autonomy and agency.

Women are not only not remunerated for the care work but also not recognised. Rather, society has tried to control women and in turn, control women's labour (Ghosh, 2019). And this control on women is sometimes even explicitly reflected in the laws and regulations. In some countries, even now women cannot legally go out without a male guardian.

Time Poverty: An Implication of Undue Burden of Care and Domestic Work

Since women are expected to fill specific roles as a result of the patriarchal system, societal structures, and pervasive gender norms, it tends to limit their options on how to utilise their time (Warren, 2003). Women in India one-third of their total daily time in unpaid domestic activities or care work (Time Use Survey Report, 2020). Women typically experience time shortages when trying to meet their own individual requirements, which is more commonly referred to as "time poverty". Long hours spent on unpaid chores have significant effects on women's lives that go far beyond any monetary worth. One of the main causes of women's economic and social disempowerment is their participation in unpaid labour.

Those women who enter the workforce are more time poor. They do not only have to do work outside their homes but they are also expected to do domestic work. When women enter the workforce, they frequently have little to no free time due to the unequal distribution of unpaid domestic work based on gender. The systemic oppression of women through gender inequality and constrictive gender norms, which establish normative expectations for what it means to be male or female in a particular society and the roles, responsibilities, and privileges that are assigned to a person based on those norms, is manifested in time poverty, which has significant effects on women's economic opportunities and health. Time poverty also impacts

poorer women disproportionately as those with the required resources can outsource the work and may hire housekeepers, cooks, care workers etc. Jayati Ghosh emphasises, "most women who are time poor are also income poor".

Are Women Prisoners of Love?

The "Prisoner of Love" is an important concept popularised by Nancy Folbre to explain the possible reasons why women "voluntarily" engage in care work. She explains that care work is often seen as an act of love. The patriarchal systems in society have reinforced that women undertake such care work in the name of love. The term "Prisoner" suggests that a woman's engagement in care work is voluntary in the true sense but is normative and imposed by society (England, Folbre, & Leana, 2012).

Considering females responsible for the whole gamut of care activities, be it caring for young, old, sick or disabled people, is particularly making them act against their own self-interest. If it is not exploitation, then what is it? The dichotomy is that women often collude in their own exploitation. Societal expectations have conveniently made women to believe that caregiving is their responsibility. In many Indian households, if a couple have children and both of them are employed, it is often a woman in the extended family who takes care of the children in the parent's absence, mostly willingly. The unfortunate part is that even though they want, they cannot leave. They do not have any bargaining power. Possibly, most women do not even think they have the bargaining power.

Concluding Remarks

The social structures, patriarchal systems, and prevalent gender norms often limit women's choices and actions, leading to various forms of invisible gender inequalities. Women's unpaid care work, including household work and care for family members, is often undervalued, unrecognised, and considered unproductive work. This dual burden of unpaid care work and income-generating work leads to time poverty, which negatively affects women's personal development, health, and wellbeing. Moreover, the lack of recognition and valuation of women's unpaid care work perpetuates gender inequality. It reinforces traditional gender roles that limit women's participation in the labour market and decision-making processes. As a result, women are often economically and socially disempowered, facing barriers to accessing

education, health care, political participation, and other opportunities for personal development.

To address these complex forms of gender inequality, it is essential to challenge and transform the underlying social structures and norms that perpetuate them. This includes recognising and valuing women's unpaid care work, promoting gender equality in all spheres of life, and providing support for women to balance their unpaid and paid work responsibilities. Only then can we create a more equitable and just society for all. The undervaluation of care work not only affects women's economic status, but also has profound social and cultural implications. It reinforces gender roles and perpetuates the idea that caring for others is women's natural role, which limits women's opportunities for personal and professional development.

In conclusion, women's contributions to care and domestic work are crucial for the functioning of our societies, yet they continue to be undervalued and unrecognised. This undervaluation is rooted in historical and cultural gender stereotypes, which have led to the feminisation of care work and the perpetuation of gender inequality. As a result, women in care and domestic work often face precarious working conditions, low wages, and a lack of social protection. It is crucial that we challenge these gender stereotypes, recognise the importance of care work, and ensure that women are adequately compensated for their contributions. Only then can we achieve true gender equality and build a fairer, more just society for all.

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Experiential learning of crowd management through scenario-based case studies

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Experiential learning in crowd management has three phases. The first is pre-scenario briefing where participants review crowd management principles, response protocols, and relevant policies. The second is engagement with the scenario involving participants in role-play as decision-makers, responders, or community members, analysing information and making time-sensitive decisions. Final phase is reflection and debriefing where after the exercise, participants evaluate their responses, identify strengths and weaknesses, and discuss lessons learned.

Real-life crowd scenarios with a focus on preparedness, response, and recovery are essential to train people to handle effectively. Disasters such as crowd disasters, floods, hurricanes, earthquakes, and pandemics give practical lessons derived from analysing case studies (Skinner 2016).

Skill building through scenario-based case studies helps participants develop a wide range of crowd management skills including risk assessment and analysis, evaluating potential hazards and vulnerabilities, assessing the likelihood and impact of crowd disasters and strategising for conducting future events and handling incidents. Scenarios and drills for disaster preparedness in businesses guide decision-making through real-world examples (Wallace and Lawrance 2017).

These methods help in coordination and in practicing communication in inter-agency collaboration and public communication. They help in enhancing crisis leadership and teamwork. Facilitating resource management helps in allocating limited resources effectively during emergencies and in implementing logistical plans under time constraints. The practical advice for managing safety and operational challenges at large events comes from the combination of theoretical knowledge with practical application of risk assessment, crowd control strategies, and managing emergencies (Boswell and Still 2019).

By promoting critical thinking and decision-making experiential learning proposes handling of ethical dilemmas (e.g., prioritizing aid) and making evidence-based decisions under uncertainty. Here the community engagement comes into picture by promoting an

understanding of the importance of inclusivity and cultural sensitivity while involving community stakeholders in disaster response and recovery. Case studies of international disasters with an emphasis on the global context could also provide insights into risk management strategies and scenario planning (Coppala 2015).

Using scenario-based case studies as an experiential learning method is an effective approach for skill-building in crowd management. This method immerses learners in realistic scenarios, encouraging critical thinking, decision-making, and problem-solving which are essential skills for disaster preparedness, response, and recovery. The exercises in problem solving also help in experientialising the learning, leading to skill development.

A scenario-based case study involves analysing real-world or hypothetical disaster scenarios to examine challenges, evaluate responses, and develop strategies. It emphasizes experiential learning by allowing participants to analyse situations in-depth, explore multiple perspectives and apply theoretical knowledge to practical problems. Case studies about Hurricane Katrina and other disasters explores the economic and societal impact of disasters through scenarios (Richardson, Gordon and Moore 2008).

Scenario-based case development can be done in two ways i.e., real events or incidents where documented disasters (e.g., Kumbh crowd disaster and Sabarimala crowd disaster are utilised to analyse successes and failures and the other is simulated scenarios based on hypothetical situations like a (e.g., a political party meeting during elections) to explore responses in less familiar contexts. Scenario-based exercises for public and private sector crisis management combines theory and practical applications to handle crises effectively (Fagel 2013).

There could be emerging threats where scenarios are examined involving crowd disasters, pandemics, cyberattacks, or climate-induced disasters to prepare for evolving challenges. Analysis of crowd behavior from the perspective of collective intelligence and dynamics offers insights into crowd behavior patterns, which are critical for prediction and management. This will be based on crowd psychology, emergent behavior, and cooperation models (Adamatzky 2005).

Benefits of scenario-based case studies in crowd management are manyfold. They include practical application of knowledge by helping bridging of the gap between theoretical frameworks and real-world application. A mathematical and theoretical approach to understanding crowd dynamics is ideal for modeling and simulating crowd behaviors

especially while handling pedestrian movement, safety concerns, and evacuation planning (Bellemo and Gibelli 2019).

The interactive scenarios keep participants engaged and improve retention of concepts as well as time tested strategies. They build confidence in handling complex and unpredictable crowd surge situations. They also encourage participants to think creatively and adapt to evolving challenges. Case studies with a focus on infrastructure and resilience would need to include exercises to simulate disaster scenarios in urban planning (Bosher 2017).

When scenarios are likely to oversimplify complex realities, multidisciplinary perspectives and dynamic elements are introduced. When there is a limited time for comprehensive debriefing, a set of follow-up activities to reinforce learning are planned. Safety and risk management strategies for various types of events needs to be based on actionable tips for managing diverse crowd scenarios. This helps in contingency planning, security measures, and incident handling (Tarlow 2002).

By using scenario-based case studies grounded in realistic scenarios, disaster management training can create a robust learning experience that fosters essential skills for mitigating, responding to, and recovering from disasters. For those working directly in crowd settings, such as event staff and public safety officials the real-world scenarios with clear step-by-step guidelines are derived based on behavioral cues, communication, and crowd control techniques (Kemp 2013).

Scenario building is a powerful tool for learning and preparing for disaster management. It involves creating hypothetical situations to analyse potential risks, challenges, and opportunities. For guiding risk management strategies for events, with a focus on crowd management the real-world examples and risk assessment tools help in devising safety protocols, legal considerations, and crisis management (Silvers 2008).

By immersing learners in realistic scenarios, they can develop critical thinking, problem-solving, and decision-making skills essential for effective disaster response. Disaster management policies exemplified through real-world case studies would cover scenario-based insights into policy-making and political challenges (Sylves 2020).

As a first step in scenario building, identify potential disasters by considering natural disasters (earthquakes, floods, hurricanes), technological disasters (cyberattacks, industrial accidents), or human-made disasters (stampedes, terrorism, civil unrest). Then develop realistic scenarios by including different types of disaster, different scales of the disaster, the affected

areas, the potential impacts (casualties, infrastructure damage, economic loss) and the challenges and constraints faced by responders. Psychological and social aspects of disasters impact various disaster response scenarios to understand human behavior in crises (Drabek 2018).

The simulation exercises could be tabletop exercises which are conducted through simulated discussions where participants analyse the scenario, identify potential problems, and develop response plans. It could include field exercise where field simulations are organised that involve practical exercises like search and rescue operations, evacuation drills, and medical triage. Insights into evaluating and managing risks in high-density crowd environments are drawn from the practical guidelines for event organizers, security teams, and planners focusing on crowd risk factors, hazard assessment, and emergency evacuation (Wertheimer 2004).

Another way is virtual reality simulations utilizing virtual reality technology to create immersive experiences that replicate real-world disaster situations. Any of these exercises need to include debriefing the learning where critical analysis is undertaken by facilitating discussions to analyse the group's performance, identify strengths and weaknesses, and learn from mistakes. Practical approaches to ensuring safety and security in crowd settings focus on risk mitigation and health considerations in managing large crowds this will be based on pre-event planning, crowd psychology, and emergency response (Michel 2016)

During these discussions the facilitator provides feedback and conducts evaluation by providing constructive feedback and evaluating the effectiveness of the response strategies. In-depth case studies of historical and contemporary disasters will need to focuses on lessons learned and best practices for disaster response (Valcik and Tracy 2013).

When the capacity development programme extends over a period of time, the focus will be on continuous improvement using the lessons learned to refine disaster management plans and protocols. The science of crowd behavior, dynamics, and management offers tools like simulation modeling and crowd density analysis. This includes case studies from large-scale events focusing on crowd safety, movement modeling, emergency planning, and risk management (Still 2014).

Scenario Building for Disaster Management Learning enhances critical thinking encouraging: participants to think critically about complex problems. It improves decision-making by providing opportunities for practicing decision-making in simulated situations, where learners can develop the ability to make informed choices under pressure. It fosters

effective communication and teamwork among responders. The research on science and management of crowd behaviors in real-world applications needs to be based on Crowd behavior analysis, safety measures, and emergency scenarios(UK Cabinet Office 2009).

By anticipating potential challenges, learners can develop proactive strategies to mitigate risks. Scenario-based training helps individuals develop coping mechanisms to manage stress during a crisis. Case studies on disaster risk management strategies cover environmental, economic, and technological dimensions of disasters (Madu and Chu-Hua 2017).

Several key considerations are needed for effective scenario building. The scenarios should be as realistic as possible to ensure that participants are adequately prepared for real-world situations. They need to incorporate a diverse range of scenarios to expose learners to different types of disasters and challenges. They need to encourage collaboration among participants to foster teamwork and knowledge sharing. The flexibility in this process prepares to adapt scenarios to accommodating unexpected developments and unforeseen challenges. When there is a regular review and updation of scenarios it would reflect the evolving risks and best practices. By effectively utilizing scenario building, individuals and organizations can significantly enhance their capacity to prepare for and respond to disasters, mitigate risks, and protect lives and property. The possible different situations can be utilised for creating experiential aspects through demonstration as in the case of crowd movement in queues and occurrence of stampedes.

This study focuses on the impact of exposure of participants in capacity building programmes to scenario-based case studies in crowd management and exercise-based analysis for disasters which have substantial impact on agriculture and livelihoods. 200 participants in the civil services foundation programme organised at Dr MCR HRD Institute conducted the scenario-based case analysis of 6 cases in crowd disasters. After that they were asked to juxtapose the failures with the requirements of National Disaster Management Authority (NDMA) guidelines on Crowd Management. Basing on this analysis they could identify and recognise the following lapses case wise. They also identified importance of following the crowd management strategies needed as given in the NDMA guidelines. The findings are presented case wise as follows:

i. Uphaar cinema tragedy of 1997

Aspects identified for failure to manage the crowd in Uphaar cinema are: Negligence of cinema owners and non-compliance with the guidelines resulted in the huge loss of lives. No safety audit was done for 13 years. In the absence of robust safety measures and effective emergency response systems in public places crowd disasters become imminent. There were significant lapses in fire safety protocols, absence of fire alarms, absence of emergency lights and emergency preparedness in this theatre. Hindrances as well as exit blockage and structural violations by the Uphaar cinema theatre, lack of emergency plans, only one functional exit, poor maintenance of fire safety equipment, unauthorised modifications to structure converting parking area into additional seating, delay in alerting fire services department and lack of regulatory oversight has caused a huge disaster with widespread infrastructure damage and casualties.

The strategic measures identified: Introduction of Incident Response System with clear command structures and emergency support functions, strict implementation of fire safety norms, regular and rigorous inspections for emergency exits, fire alarms and evacuation plans, enforcement of National Building Code, public awareness and training of staff and patrons, preparing exit routes as well as emergency plans for mass events, using alarm mechanisms, firefighting equipment, ensuring periodicity of inspections as per a checklist by the regulatory agencies covering structural safety, accessibility and functionality of exits for evacuation, stricter criteria for safety of public venues, training by the fire safety experts with fire evacuation drills, preparation of emergency response plans.

ii. Dabwali fire tragedy of 1995

Aspects identified for failure to manage the crowd in school day function in Dabwali are: Single exit route of 10x12 ft for 1500 attendees, insufficient capacity planning, failure to provide adequate safety features make public places unsafe made up to this tragedy in Dabwali in which school children were involved. Highly inflammable tent material caught fire by electrical short circuit, lack of fire extinguishers, delayed medical response and inadequate health infrastructure. The Dabwali fire tragedy occurred during school function at Rajiv Mariage Palace in Mandi Dabwali, Haryana where 442 lives of mostly children were lost while many others were injured. Overcrowding, absence of fire-fighting equipment and safety protocols, municipal and electrical safety compliance lapses in DAV school-day function in Dabwali.

Strategic measures identified: Introduction of Incident Response System with rapid mobilisation of personnel and resources during crisis is essential. There is a need for enforcing comprehensive fire safety regulations, regular and rigorous compliance audit, exit and evacuation planning, ensuring regulatory compliance through regulatory audit, crowd density changes surveillance, regular drills and training exercises on compliance aspects, electrical safety management, essentiality of following of municipal norms and availability of emergency services. It is essential to have unobstructed, bottleneck free exits with clear directions as per the crowd size. Crowd segmentation is to be maintained to avoid pressure on few points. Venue compliance inspection must be carried out with a checklist. Adopting NDMA's Incident Response System, equipping local hospitals to deal with emergencies, schools should conduct fire drills with training sessions for staff and students.

iii. Kumbh mela stampede at Nashik in 2003

Aspects identified for failure to manage the crowds in Kumbh Mela in Nashik: 39 lives were lost and over 100 individuals were injured in this stampede that occurred in Nashik in 2003. Despite presence of thousands of police and volunteers absence of access control and movement regulation was there, crowd moving in reverse direction in spite of barricades, as sadhus threw silver coins which attracted people to surge forward to collect them, poor emergency planning, lack of evacuation routes, lack of emergency services to handle injured, lack of coordination and planning, inadequate communication and guidance on direction of crowd movement, and absence of crowd monitoring through CCTV in the Kumbh Mela causing a stampede in Nashik.

Strategic measures identified: Introduction of Incident Response System with centralised command structure is essential. Improved communication on real-time crowd numbers and crowd movement. Regulate crowd flows through designated entry and exit points by utilising access control as well as creating holding areas and monitoring at entry and exit points, training in crowd management to the staff involved in the mela. Staggering of the pilgrim movement should have been put in place with holding points. Create medical readiness by collaborating with hospitals in the area, strategic positioning of first aid centres, streamlined medical referral services, collaboration with local hospitals, regular briefings as well as updates and dissemination of information to public and ensuring coordination between district revenue and police administration through centralised command as provided for in the Incident Response

System. Train the medical staff in emergency response during peak time, conduct regular drills simulating the emergency scenarios.

iv. Kalu bhai yatra in 2005

Aspects identified for failure to manage the crowds in Kalu Bhai Yatra Mandhardev: Crowd disaster in Kalu Bhai Yatra Mandhardev was at Wai Satara in Maharashtra where 300 lives were lost. This was due to inadequate exit infrastructure, lack of multiple wide exit routes, inaccurate calculations of crowd size as per the significance of the day and insufficient space, pathways which are crowded and unsafe, poor emergency preparedness and safety infrastructure, absence of trained personnel. Flammable material was used. There was lack of coordination among authorities, local police and event organisers. Negligence by temple trust and electricity authorities during Kalu Bhai Yatra and lack of coordination.

Strategic measures identified: Introduction of Incident Response System with unified command is essential for ensuring effective collaboration with local authorities. Restrictions on sale of pooja material in designated places. Stationing of ambulances at strategic points. Crowd capacity evaluation and estimation, multiple exits and multiple entries to facilitate crowd movements, real-time crowd density monitoring, infrastructure improvements especially of the pathways, creating separate space for vendors, access control based on capacity limits, space estimation, safety infrastructure, training of staff as well and volunteers through mock drills, regular coordination meetings, collaboration with local authorities, volunteer training, public information campaign, emergency planning for safer and faster exit as well as electrical infrastructure planning.

v. Sabarimala tragedy in 2011:

Aspects identified for failure to manage the crowds in Sabarimala Ayyappa pilgrimage: Sabarimala tragedy occurred during the annual pilgrimage to the temple where millions are flocking every year. 106 lives were lost and 450 people got injured. 2,00,000 pilgrims poorly managed, lack of structured crowd control plan led to chaos when a jeep overturned triggering panic in the densely packed crowd. Negligence in vehicle management, failure of communication leading to delayed medical assistance, unrestricted crowd flow and staggered movement, poor infrastructure including pathways, minimal escape routes, lack of holding areas and absence of emergency access routes, lack of emergency evacuation plan, lack of

barricades and other amenities and absence of coordination in Sabarimala during Makara Vilakku on 14th January.

Strategic measures identified: Introduction of Incident Response System with unified command for efficient coordination with pre-event planning. Real time crowd monitoring through route, area, movement and people (RAMP) analysis and CCTV monitoring, pre-event planning, introducing coupon system for each person entering the area, enhancing road safety through road and route infrastructure improvement, adequate lighting, signage and barriers for restriction vendors to some areas, shuttle services from parking to temple area, volunteer training, feedback mechanism, shelters and medical assistance and establishing the need for implementation of Incident Response System (IRS) for coordinated effort.

vi. Hillsborough disaster in 1989:

Aspects identified for failure to manage the crowds in Hillsborough Football Match: This tragedy in Sheffield in England during a football match killing 96 people, indicating the need for crowd management during the sports events. Overcrowding and poor design, new gate opened into an already overcrowded place. Failure in controlled crowd ingress and egress management, inadequate emergency preparedness, delayed medical services, lack of coordination between emergency services, ignoring prior warnings, failure to monitor the crowd numbers, inadequate emergency response and communication as well as failures in safety planning and risk assessment in the stadium.

Strategic measures identified: Real-time monitoring of the crowd movement and space available at various holding areas. Identification of high-risk areas and conducting safety audits as well as structural evaluation of the various temporary, semi-permanent and permanent structures there. Access, space and exit management, crowd movement as well as density monitoring, stadium infrastructure enhancement, emergency preparedness, instant communication network with communication protocols, need for safety planning as well as risk assessment and establishing unified command for joint exercises and drills. Comprehensive training for emergency responders. Community engagement and awareness programmes are essential inputs to football fans organisations to foster a culture of safety.

Conclusion

Thus, experiential learning methods of case studies utilising scenarios for civil services and conducting HRVC Assessment by the agriculture officers have shown that the adoption of effectively planned experiential learning methods would enhance the learning of the trainees.

These are essential tools for proactive disaster management. By studying the scenarios in detail and understanding hazards, assessing risks, addressing vulnerabilities, and leveraging capacities, stakeholders can reduce the impact of disasters and build safer, more resilient communities. The Capacity Building programs conducted utilising scenario-based case analysis and Hazard Risk and Vulnerability Assessment (HRVA) analysis, aid in developing skills which they can practice effectively for field level Disaster Risk Reduction in their respective administrative domains.

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Judicial Review of Administrative Discretion in India

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The welfare state necessitates extensive government involvement in addressing socio-economic issues, leading to the delegation of discretionary powers to administrative bodies. Administrative discretion involves making decisions guided by reason and justice, essential for tackling diverse contemporary challenges. However, unchecked discretion poses risks such as discrimination and arbitrariness. Control mechanisms, including judicial review, are crucial to prevent misuse. Judicial review ensures administrative actions align with constitutional provisions, focusing on legality rather than the merits of discretion. Grounds for judicial review in India encompass failure to exercise jurisdiction, excess or abuse of jurisdiction, irrationality, procedural impropriety, disproportionality, and decisions affecting legitimate expectations. These mechanisms aim to balance administrative autonomy with accountability, essential for a functioning welfare state.

INTRODUCTION

The rise of the welfare state has required the government to engage in a wide range of activities aimed at tackling various socio-economic issues affecting the public. The modern state takes on numerous responsibilities, including addressing poverty and unemployment, creating policies related to nutrition, health, and family welfare, as well as overseeing business operations and the provision of goods and services. The effective execution of these welfare initiatives depends crucially on sound administration.

Given the intricate nature of challenges confronted by a contemporary state, it becomes unavoidable that the intricate details are entrusted to the authorities acting within the framework of a legislative enactment. Consequently, a certain degree of discretion must be accorded to the relevant authorities to judiciously exercise the powers bestowed upon them by the relevant statute or rule.

MEANING OF ADMINISTRATIVE DISCRETION

In simple terms, discretion refers to the capacity to make thoughtful choices. In other words, discretion refers to the act of choosing from different options without relying on any

predetermined criteria, regardless of how arbitrary the choice might be. Thus, the term "discretion" conveys the idea of having unbounded freedom in decision-making or the exercise of one's will. It implies the unrestrained and arbitrary ability to act according to personal desires, without any limitations or controls, and with absolute liberty to choose without interference from others. However, when the term "discretion" is associated with "administration," it takes on a different meaning. In this context, it involves making choices from available alternatives but is guided by the principles of reason and justice, rather than personal preferences. Administrative discretion, therefore, pertains to the extent of freedom or flexibility that the executive has when making decisions or carrying out tasks, always within the boundaries of rational and just considerations.

NECESSITY FOR ADMINISTRATIVE DISCRETION

The essence of administrative activity is centered on the concept of discretion. Granting discretionary authority to administrative bodies is a multifaceted process. In the past, the doctrine of laissez-faire held sway, limiting the role of the police state to maintaining law and order. However, as the laissez-faire doctrine waned and countries increasingly embraced the idea of a welfare state, there arose a pressing demand for economic development and social change. Whether in socialist or capitalist societies today, it is virtually impossible to find a government that can effectively operate without delegating discretionary powers to the executive.

Given the expanding requirements of the complex contemporary society, the significance of administrative discretion cannot be overlooked. Indeed, in any form of intensive governance, the effective functioning of the government necessitates officials exercising some level of discretion. This is essential not only for tailoring administrative power to individual circumstances but also because it is humanly unfeasible to establish rules for every conceivable situation in the intricate realm of modern governance. However, it holds equally true that absolute discretion can be an uncompromising force. It poses a greater threat to freedom than many other human inventions. Consequently, there has been a continual conflict between the administration's insistence on absolute discretion and the subjects' demand for a judicious exercise of that discretion. While discretionary power itself is not inherently malevolent, it provides ample room for misuse. Therefore, the solution lies in refining the procedural aspects rather than abolishing the power itself.

Administrative authorities are granted discretion because contemporary administrative challenges are diverse and cannot be adequately addressed within the confines of general rules. Many of these issues are novel and essentially unprecedented, lacking any prior experiences to guide their resolution, making it impractical to establish a general rule. The absence of predetermined guidelines does not justify the imposition of a standard rule, as it is impossible to anticipate every problem that may arise. When a problem does surface, the administration is obliged to find a solution, even if specific rules are already in place for the situation. Since circumstances vary from case to case, mechanically applying a single rule to all situations may lead to injustices. It must be noted that there is a presumption that the administration exercises its power in good faith for the public benefit.

DISADVANTAGES IN GRANTING DISCRETION

Discretion becomes essential due to the requirement to tailor the exercise of power by the administration, wherein the administration must apply a statutory provision that is vague or indefinite on a case-by-case basis. This approach is characterized as the incremental approach. From an individual's standpoint, there are several drawbacks when the administration adopts the incremental approach as opposed to implementing a general rule that is applicable to all similar cases. A general rule typically avoids retroactivity and applies to future situations, providing individuals with advance notice of the rules so that they can regulate their conduct accordingly. On the other hand, an approach that deals with each case individually may catch individuals by surprise, hindering their ability to adjust their affairs without prior knowledge of future administrative actions. The case-by-case approach carries the risk of discrimination, as there is a possibility of receiving unequal treatment under similar circumstances—essentially, unlike treatment for alike situations. This method is time-consuming and entails decisions in numerous cases, with the added risk of administrative officials abusing their discretion.

The issue of administrative discretion is intricate. Government operations require officials to exercise some level of discretion. Effective use of discretion transforms it into a valuable tool, but when wielded recklessly, it can become a destructive force akin to a weapon causing chaos or harm. According to one perspective, a significant majority of injustices within our legal system may stem from discretionary decisions, with rules contributing to a smaller fraction of the perceived injustice.

It is well known that the broader the discretion, the higher the likelihood of its misuse. Therefore, it is imperative to develop strategies to minimize the risks associated with discretion. In cases where the legislature does not establish clear standards, the administration may utilize its authority for delegated legislation to define these standards. To some degree on a lower level, administrative guidelines and established practices can be employed in lieu of rules to attain consistency in discretionary decisions.

The authority endowed with discretionary power is granted sufficient independence and freedom in executing its tasks. Nevertheless, this discretion is frequently subject to misuse, constituting one of the fundamental concepts in administrative law. According to the classical perspective, this idea rests on the premise that the extent of discretion held by public administration entities is determined not only by competence norms but also by procedural and legal justifications for action, in addition to the objectives for which the discretionary powers were originally conferred.

Not every action of the administration can be governed by rigid rules. Frequently, it may be challenging to establish clear and intelligible standards for administrators to adhere to. These factors make it necessary for discretion to be granted to the administration to address individual cases. However, this also raises the issue of the need for judicial and other forms of oversight over discretionary powers.

CONTROL OF ADMINISTRATIVE DISCRETION

Delegating discretionary authority to the executive is as crucial as ensuring its accountability in a welfare state to prevent potential misuse. It is true that personal discretion could lead to arbitrariness and discrimination. However, contemporary thinkers advocate for the imposition of reasonable constraints on the discretionary authority of administrative officers instead of outright rejecting the concept of administrative discretion.

These controls may be broadly classified into two categories:

I.   Control at the stage of delegation of discretion

II.   Control at the stage of the exercise of discretion

The court maintains oversight over the transfer of discretionary powers to the government by examining the constitutionality of the legislation through which these powers are delegated, particularly concerning the fundamental rights outlined in Part III of the Constitution of India.

Therefore, if a law grants expansive and undefined discretion to any administrative body, it could be deemed in violation of Article 14, Article 19, and other constitutional provisions.

It is essential to provide the administration with various discretionary powers, but it is equally important to establish systems for overseeing their implementation to prevent potential misuse.

The foundation of the entire legal framework for judicial oversight of administrative discretion rests on the premise that the true essence of democracy is embodied in the courts, which possess ultimate authority to regulate the discretionary powers granted to the executive. Without judicial oversight, there is a risk of executive overreach, potentially leading to abuses of power. Such a scenario contradicts democratic ideals and the principle of the rule of law.

JUDICIAL REVIEW OF ADMINISTRATIVE DISCRETION

"Review" is the act of conducting a second examination of a matter. When applied to the judicial context, "Judicial Review" refers to the process of re-examining a case judicially. It involves reconsideration, a second view, or examination, and may include revision or correction. Judicial Review, therefore, can be defined as the judicial re-examination of cases under certain circumstances.

The term "Judicial Review" goes beyond a mere review; it implies a thorough judicial inquiry and examination of the actions undertaken by the legislative, executive, and administrative branches of the government. The specific aim is to ensure that these actions align with the specified constitutional provisions.

Judicial review stands as a potent tool in the hands of judges for overseeing the actions of administrative authorities in India. This authority enables courts to invalidate any law, order, or actions taken by public authorities that are incompatible or in contradiction with the fundamental law of the nation. Grounded in the rule of law, which constitutes a fundamental aspect of the Indian Constitution's basic structure, this principle remains impervious even to the amending power conferred by Article 368 of the constitution.

Article 13 of the Indian constitution addresses the authority of judicial review, granted to the Supreme Court and High Courts under Article 32 and 226. These provisions empower the courts to deem a law unconstitutional if it contradicts any stipulations in Part III of the Constitution. The objective is to ensure that administrative authorities, in the course of their functions, do not misuse their power and that individuals receive fair and just treatment.

Consequently, the exercise of judicial review by the courts serves to prevent arbitrary actions and bias while regulating the discretionary powers of the administration.

Courts do not go into the Merits of Exercise of Discretion: On one side, the legislature grants powers to administrative authorities, empowering them to exercise discretion, while, on the other side, these authorities are obligated to act within the boundaries defined by law and the powers bestowed upon them. The framework of judicial review in Administrative Law reflects an attempt to reconcile these two conflicting principles. The Courts should not and do not go into the merits of the exercise of discretion and their concern is only with the legality of what is done. In other words, the judiciary examines whether the administrative authorities have acted within the legal framework, adhering to the statutory provisions and constitutional limits that govern their powers. The court's role, in this context, is to ensure that the exercise of discretion is conducted in accordance with the law, promoting legality and preventing any overreach or violation of legal boundaries by the administrative entities.

THE GROUNDS FOR JUDICIAL REVIEW IN INDIA

Broadly, the grounds for judicial review in India may be discussed under the following heads-

    A. Failure to Exercise Jurisdiction

    B. Excess or Abuse of Jurisdiction

    C. Irrationality;

    D. Procedural Impropriety;

    E. Disproportionality;

    F. Decisions affecting legitimate expectation.

Though these grounds of judicial review are not exhaustive, yet these provide an apt base for the courts to exercise their jurisdiction.

A) FAILURE TO EXERCISE JURISDICTION

Granting discretionary authority to an administrative body implies an expectation that the body will actively exercise that authority. If the administrative body fails to exercise discretion, its actions become questionable. Public power, being a public trust, must be wielded in the public interest. If any administrative authority has been given power by law, no matter discretionary, the authority must exercise it in one way or the other. Refusal or neglect to exercise jurisdiction

becomes an act of illegality. Non-exercise of power may occur in various scenarios, some scenarios are provided hereunder:

1.   When an authority sub-delegates its powers without legal authorization.

2.   When it imposes unwarranted self-restrictions not mandated by law.

3.   When it operates under external dictation.

4.   When it abstains from exercising jurisdiction as mandated by law.

1. Sub-Delegation: The fundamental purpose behind entrusting a specific administrative authority with a certain power is to ensure that the authority itself is responsible for exercising that power, and it cannot be further delegated to another authority or official.

Sahni Silk Mills (P)Ltd. v. ESI Corporation (1994 SCC [L&S] 1096)
In this case, the original legislation empowered the corporation to assign the authority for damage recovery to the Director General. However, the Director General, without explicit provision, further sub-delegated this authority to Regional Directors. As there was no provision allowing the Director General to sub-delegate such power, the action was deemed invalid.

2.   Imposing fetters on discretion: When an authority is given discretionary power, it is expected to use that power by carefully considering each individual case. If, instead, the authority imposes restrictions on its discretion by adopting rigid rules or policies to be uniformly applied to all cases, it constitutes a failure on the part of that authority to truly exercise its discretionary power.

Keshavan Bhaskaran v. State of Kerala (AIR 1961 Ker 23)
In this case, the applicable regulation stipulated that a school-leaving certificate could only be issued to individuals who had reached the age of fifteen. The Director, however, had the authority to exempt certain individuals from this requirement under specific conditions. But the Director had made an unalterable rule of not granting exemption unless the deficiency in age was less than two years. The court determined that this policy was in violation of the law.

3.   Acting under dictation: On occasion, an authority entrusted with a particular power may refrain from exercising that power and instead operate under the direction of a superior

authority. The authority in question fails to apply its own judgment and take action based on its own reasoning. Legally, this constitutes a non-exercise of power by the authority, rendering the action invalid. It is established in legal principles that allowing one's decisions to be dictated by others amounts to the abandonment and relinquishment of discretion. If the authority relinquishes its discretion to another entity, it acts beyond its legal powers.

State of Punjab v. Hari Kishan Sharma(AIR1966 SC 1081)

In this particular instance, an application was submitted to the licensing authority seeking the issuance of a cinema license. Instead of handling the matter directly, the licensing authority passed it on to the State Government, which subsequently rejected the application. The Supreme Court ruled that according to the Act, the licensing authority was vested with the responsibility of handling license applications. The State government could only intervene as an appellate authority. Consequently, it was deemed inappropriate for the State government to take upon itself the power and authority to assess and decide on the merits of the applications initially.

4.   Non-application of mind: When an authority is granted discretionary power, it is expected to utilize that power by carefully considering the facts and circumstances of the specific case at hand. Failure to fulfill this requirement constitutes a clear lack of application of mind on the part of the authority. The authority may be functioning in a mechanical manner, devoid of due care, caution, or a sense of responsibility in the exercise of its discretion. In such instances, there is a definitive failure to exercise discretion, rendering the action invalid.

Jagannath Misra v. State of Orissa (AIR 1966 SC 1140)

In this case, the order of detention reproduced six grounds verbatim from the relevant section of the statute. However, in the contested order where various grounds were outlined, the disjunctive "or" was used instead of the conjunctive "and." In defense of the order, the Home Minister submitted an affidavit, stating that his decision to detain the petitioner was based on two grounds. The Court determined that there was a evident lack of application of mind by the Home Minister, and consequently, the order was quashed.

B) ABUSE OF DISCRETION

An abuse of power occurs when a valid authority is exercised in an improper or unreasonable manner. Consequently, when an administrative body is granted discretionary power, it is imperative that such power be wielded in accordance with the law. The following situations suggest excess or abuse of discretion. Let us discuss them as separate grounds

1. Absence of Power
2. Exceeding jurisdiction
3. Irrelevant Considerations
4. Leaving out relevant consideration:
5. Mala fides
6. Improper object (Collateral purpose)
7. Colourable Exercise of Power
8. Non-observance of the Principles of Natural Justice

1. Absence of power: When a power is employed without the appropriate authorization, it means that the individual or entity wielding the power does not have the legal right or permission to do so. In such cases, the exercise of that power is considered unlawful, as it goes against the established legal framework or regulatory requirements. This underscores the importance of adhering to proper procedures and obtaining the necessary approvals before engaging in activities that involve the exercise of specific powers or authorities. Legal and regulatory systems are designed to ensure that powers are exercised within defined boundaries to maintain order, fairness, and compliance with the law. Therefore, unauthorized use of power may lead to legal consequences, as it contravenes the established norms and principles governing the exercise of authority.

State of Gujarat v. Patel Raghav Natha (AIR 1969 SC 1297)

In this case the revisional authority, empowered by the Land Revenue Code, delved into the issue of property ownership. The revisional authority cannot decide the question of ownership. The Supreme Court noted that if there was a dispute regarding the title of the occupant, the proper procedure would be to instruct the involved parties to seek resolution through the civil court rather than making a decision on the matter themselves.

2. Exceeding Jurisdiction: An administrative body is required to utilize its authority in accordance with the constraints set by the statute. If it surpasses these limits, the action will be deemed ultra vires. The determination of whether the authority stayed within its prescribed limits or exceeded them can always be adjudicated by the court. Justice C.K. Thakker, a distinguished judge, legal scholar and author, provides a straightforward example in his book "Lectures on Administrative Law" to illustrate the point. According to him, If an officer is authorized to exercise discretion in granting a loan of Rs.10, 000 for a specific purpose, and he approves a loan of Rs.20,000, he exceeds his power (jurisdiction). As a result, the entire order is considered ultra vires and void on that basis.

3. Irrelevant Considerations: Discretionary power should be employed based on relevant considerations and not on irrelevant or extraneous factors. This implies that the power must be exercised by taking into account the considerations explicitly mentioned in the statute. If the statute does not specify such considerations, the power should be wielded by taking into account factors relevant to the purpose for which it is granted. If the authority in question pays attention to or considers wholly irrelevant or extraneous circumstances, events, or matters, the administrative action is deemed ultra vires and will be invalidated.Even when a statute does not comprehensively outline the relevant criteria or considerations and may seem to grant power in nearly unlimited terms, the court has the authority to examine whether extraneous or irrelevant considerations were applied by the administrative body in making its decision, by assessing the purpose, tone, and provisions of the act.

D. Ramaswami v. State of Tamil Nadu; (AIR 1982 SC 793)

The directive for the mandatory retirement of a government employee was annulled since it was issued shortly after his promotion to a higher position. The grounds for retirement were founded on a negative entry in his confidential record that occurred several years prior to his promotion.

4. Leaving out relevant consideration:

When an administrative authority engages in the exercise of discretionary power, the validity of its action is contingent on its thorough consideration of relevant factors. Failure to take into account pertinent considerations renders the action invalid. The authority is obligated to assess both the explicit and implicit considerations stipulated by the statute governing its powers. This implies a responsibility to not only address the explicitly mentioned criteria but also to recognize and give due regard to factors that may be implied or reasonably inferred from the statutory framework. The proper execution of discretionary powers necessitates a comprehensive and thoughtful examination of all relevant aspects, ensuring a thorough and well-informed decision-making process in accordance with the requirements set forth by the applicable law.

Srilal Shaw v. State of West Bengal (AIR 1975 SC 393)

The case details indicate that a person was subjected to a preventive detention order primarily due to allegations of stealing railway property. However, the individual possessed documents demonstrating that the goods in question were legitimately purchased in the open market. Despite the dropping of a criminal case against him, a detention order was issued in its place. The court deemed this order to be flawed, viewing it as a peculiar situation where an individual, who could have been prosecuted under criminal law, was instead subjected to preventive detention without apparent justification.

5. Mala fides: "Mala fide" or "bad faith" refers to a dishonest intention or corrupt motive. Sometimes, the term "mala fide" is employed by the court in a broader sense to denote any improper or abusive exercise of power, essentially equating it with actions that go beyond the legal limits of administrative power. However, in this context, "mala fide" is not used in the broad sense but rather in a narrow sense, signifying the exercise of power with a dishonest intent or corrupt motive. In this narrow sense, "mala fide" encompasses situations where the motive behind an administrative action involves personal animosity towards oneself, one's relatives, or friends. However, the burden of proving mala fide rests on the individual making the allegation, as the order appears regular on its face, and there is a presumption that the administration exercises its power

in good faith for the public benefit. The petitioner must present sufficient evidence to convince the court of the government's mala fide intent.

G. Sadananda v. State of Kerala; (AIR 1966 SC 1925)

In this particular instance, the petitioner, a kerosene dealer, was detained under the Defence of India Rules to prevent him from engaging in activities detrimental to the maintenance of essential supplies and services crucial to the community. The court was presented with evidence indicating that the Deputy Superintendent of Police (D.S.P.) had filed a false report against the petitioner to favor his relative in the same trade by eliminating the petitioner and securing the distributorship for kerosene. The D.S.P. did not file an affidavit to counter these allegations, and the affidavit submitted on behalf of the government by the Home Secretary was found to be severely deficient. Consequently, the Supreme Court declared the detention order to be unmistakably and clearly mala fide.

6. Improper object (Collateral purpose): If an authority employs its power for an objective or purpose that is not envisioned by the statute, the exercise of discretion would be deemed invalid on these grounds. The validity of the exercise of power or discretion is contingent on its alignment with the objectives and purposes explicitly outlined in the relevant statute or legal framework. If the authority deviates from the intended scope or purpose specified by the governing law and pursues an objective not contemplated within those bounds, the exercise of discretion becomes invalid. The legal authority or power granted to an entity is circumscribed by the statutory provisions, and any departure from these confines renders the exercise of discretion legally infirm.

Nalini Mohan v. District Magistrate (AIR1951 Cal 346)

In this case, the pertinent law granted the authority the power to aid in the resettlement of individuals displaced from Pakistan due to communal unrest. This authority was invoked to assist an individual who had arrived from Pakistan on medical leave. Therefore, the action was nullified .

7. Colourable Exercise of Power: It is a well-known principle that what cannot be done directly cannot also be done indirectly. When an authority ostensibly uses its power for

the stated purpose but, in reality, does so for a different purpose, it is termed a colorable exercise of power. In such instances, the authority, even though not explicitly authorized by the statute to wield the power in a specific way, exercises it under the guise of legality or the appearance of conformity with the law.

Vora v. State of Maharashtra (AIR 1984 SC 866)

In this case, the State Government took possession of the petitioner's flat through requisition but, despite the petitioner's repeated requests, did not release it. The court declared this action as invalid, noting that although the requisition was ostensibly temporary, the government, in reality, intended to use the flat permanently. This was considered a 'fraud upon the statute'.

8. Non-observance of the Principles of Natural Justice: The principles of natural justice are fundamental to the concept of fair play in legal proceedings, ensuring that individuals are treated fairly, impartially, and with due process. One facet of these principles involves the idea that decisions made by authorities, particularly administrative bodies, should be free from bias and adhere to a set of procedural fairness rules. When these principles are disregarded, the exercise of discretion can transform into an abuse of power.

C) IRRATIONALITY (WEDNESBURY TEST)

A fundamental and widely accepted principle is that administrative authorities should exercise their discretionary powers in a reasonable manner. An administrative decision may be deemed unreasonable if it is so extreme in its departure from logic or commonly accepted moral standards that no rational person, after careful consideration of the matter, could have reached such a conclusion.

The concept of 'irrationality' emerged as a basis for judicial review in the Associated Provincial Picture House v. Wednesbury Corporation case ([1948] 1 KB 223) commonly referred to as the 'Wednesbury test.' The court outlined three conditions to establish the grounds for intervention:

(a) The decision-maker considered factors that should not have been

taken into account,

(b)   The decision-maker neglected to consider factors that should have

        been   taken into account, or

(c)   The decision was so unreasonable that no reasonable authority would

        ever contemplate imposing it.

D)   PROCEDURAL   IMPROPRIETY   (Non-compliance   with   Procedural   Requirements)

Procedural Impropriety is a failure to comply with the laid down procedures. It is a failure to observe rules given in statute. Procedural requirements encompass a set of rules and steps that must be followed by administrative authorities when exercising their discretionary powers. These rules are designed to safeguard the rights of individuals, promote transparency, and uphold the principles of natural justice. Procedural requirements serve as the backbone of a fair and just legal system, ensuring that decisions are reached through a transparent and systematic process. In the realm of administrative law, where discretionary powers are wielded by authorities, adherence to procedural rules is paramount. The failure to comply with these procedural requirements not only jeopardizes the integrity of the decision-making process but also lays the foundation for the abuse of discretion.

The validity of the exercise of discretionary power hinges on whether the authority adhered to the procedural requirements stipulated in the governing statute. If the court deems a particular procedure to be mandatory, the failure of the authority to comply with it renders the exercise of discretionary power defective.

In legal terms, procedural requirements outlined in statutes are classified as either mandatory or directory. The court assumes the responsibility of determining this classification based on the language and intent of the statute. If a procedural step is deemed mandatory, strict compliance is obligatory, and any deviation can result in the exercise of discretionary power being declared invalid.

The distinction between mandatory and directory procedures is crucial. A mandatory provision signifies that strict adherence is imperative, and any non-compliance may render the entire action or decision invalid. On the other hand, a directory provision is more flexible, allowing for substantial compliance without automatically invalidating the exercise of discretionary power.

Therefore, when evaluating the legality of an administrative action, the court plays a pivotal role in interpreting the nature of procedural requirements. If the court concludes that a procedural step is mandatory and the authority failed to meet that requirement, the action may be deemed bad, emphasizing the significance of procedural regularity in the exercise of discretionary powers. This legal framework ensures that administrative authorities operate within the bounds set by law, promoting transparency, fairness, and adherence to established procedures.

E) DISPROPORTIONALITY

Proportionality entails ensuring that the administrative action in question is not more forceful than necessary. This principle requires the court to carefully assess the merits and drawbacks of the challenged action. Unless the administrative action is both advantageous and in the public interest, it cannot be deemed valid. The essence of this doctrine lies in balancing the means employed with the intended outcomes.

In India, courts have long adhered to the principle of proportionality. In applying the test of proportionality, the court reviews the exercise of discretionary powers, specifically focusing on whether there exists a reasonable connection between the intended objective and the means employed to achieve it. If the administrative action is found to be disproportionate to the problem it seeks to address, the court has the authority to nullify it.

Hind Construction & Engg. Co.Ltd. v. Workman (AIR 1965 SC 917)
In this case certain employees were absent from their duties, considering a specific day as a holiday. Following this, they faced dismissal from their employment. The court determined that instead of being abruptly and permanently dismissed, the workers should have been cautioned and fined. It was deemed implausible that any reasonable employer would resort to such an extreme penalty. The court concluded that the punishment meted out to the workers was not only excessively severe but also disproportionate to the wrong committed.

F) DECISIONS AFFECTING LEGITIMATE EXPECTATION

Legitimate expectation may arise either from express promise or existence of regular practice which the applicant can reasonably expect to continue. For example, if the Government has made a scheme for providing drinking water in villages in certain areas but later on changed it

so as to exclude certain villages from the purview of the scheme than in such a case what is violated in the legitimate expectation of the people in the excluded villages. Thus, the doctrine becomes a part of the principles of natural justice and no one can be deprived of his legitimate expectations without following the principles of natural justice.

Scheduled Caste and Weaker Section *Welfare Association* (Regd.) and Another *v*/s *State of Karnataka* and Others (AIR 1991 SC 1117)
In this case, the government initially issued a notification outlining the areas where a slum clearance scheme would be implemented. However, a subsequent amendment excluded certain areas mentioned in the earlier notification. The court ruled that the initial notification had created legitimate expectations among residents in the omitted area. Consequently, the court affirmed that denying legitimate expectations without affording a fair hearing would be unjustifiable.

Navjyoti Coop. Group Housing Society v. Union of India (AIR 1993 SC 155):
In this case, the Development Authority altered the allotment order for land to cooperative societies, shifting from the 'serial number of registration' to the 'date of approval of the list of members,' without providing notice or a hearing. The Supreme Court determined that societies that had applied earlier were entitled to invoke the doctrine of legitimate expectation.

CONCLUSION
Judicial review of administrative discretion stands as a fundamental pillar within the domain of administrative law, constituting a crucial mechanism for scrutinizing the legal competence of public authorities. This process is widely regarded as a foundational feature of our Constitution. As the powers vested in administrative authorities have seen a substantial expansion, judicial review has evolved into a vital aspect of administrative law, serving as a means to ensure accountability and legality.

The escalating authority granted to administrative bodies necessitates a robust system of checks and balances, and judicial review fulfills this role by providing a mechanism for citizens to challenge decisions that may involve excessive powers or unlawful actions by administrative authorities. It operates as a safeguard to protect the interests and rights of

individuals from potential abuses of power or legal transgressions by those in administrative positions.

The significance of judicial review is particularly pronounced in contemporary administrative law, where the actions and decisions of administrative authorities have a profound impact on the lives of citizens. By subjecting administrative discretion to legal scrutiny, judicial review helps maintain the delicate balance between the powers of the state and the rights of individuals.

In essence, judicial review serves a paramount purpose – to ensure that administrative actions are conducted within the bounds of the law and in the best interests of the citizens. It acts as a deterrent against arbitrary or unfair exercises of discretion, promoting accountability, transparency, and the rule of law. As a cornerstone of administrative law, judicial review plays a crucial role in upholding the principles of justice and legality, ultimately contributing to a just and equitable society.

Blockchain Evidence under the Bharatiya Sakshya Adhiniyam

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While blockchains are mostly spoken of in context of cryptocurrencies and smart contracts, their utility as an immutable, tamper-resistant repository of information, raises pertinent questions as to their admissibility as evidence in the courts of law. Blockchains may be able to resolve issues pertaining to storage, tampering and security of evidence. This technology has tremendous potential for providing efficient solutions to some of the problems faced by courts by ensuring immutability and data integrity. Given the proliferation of this technology, multiple nations across the globe have addressed blockchains and the legality of blockchain based evidence, with China's first Internet court, the Hangzhou Internet Court recognizing the validity of blockchain timestamped evidence in a copyright case in 2018. The validity of blockchain based evidence, and the possibility of utilizing blockchain based solutions regarding the custody of evidence hasn't yet been considered by the Indian Courts. This paper attempts to assess the utility of blockchain technology with regard to evidence and assess whether it might provide an efficient evidentiary model. Further, the paper analyses whether and how blockchain based evidence can fit within the scheme of the Indian Evidence Act 1872. The paper argues in favour of a purposive interpretation of the Bharatiya Sakshya Adhiniyam 2023, the successor to the older Evidence Act of the 1872 vintage, suggesting a shift towards a more modern approach to legal interpretation, to ensure better alignment with contemporary legal needs and objectives.

Keywords: *blockchain, evidence, chain of custody, electronic evidence, technology, admissibility*

Introduction

Technological innovations and developments inform almost all aspects of our lives. Just like our personal and professional lives have come to interact heavily with technological innovations, so have our legal systems. While there remains much to be desired in terms of our courts keeping pace with technology, technological developments may be harnessed by the courts in order to ensure more effectiveness and efficiency. While the courts have traditionally been slow to embrace technology, technological innovations such as Artificial Intelligence, Big

Data, Machine Learning and Blockchain etc. could be employed to make the investigative and judicial system more streamlined.

Technological developments inevitably impact the administration of justice and therefore, the bench and the bar have the duty to keep abreast of the developments and be comfortable handling them, in order to ensure that the investigative system and the courts do not stagnate.

Despite slow absorption, technology is relied on by courts at various stages of investigation, inquiry and trial. For instance, the pandemic forced the courts in India to largely adapt to remote hearings via video conferencing in order to ensure that justice delivery wasn't stalled. Of course, various limitations relating to the infrastructural ability of courts to adapt to such technological developments, such as adequate bandwidth, wireless internet, provision of requisite hardware etc. do exist.[1]

However, improving upon infrastructural flaws in line with the adoption of new technological solutions has the potential to make the judicial and investigative process more efficient, cost-effective and transparent.[2] Technology in the courtroom can make the conduct of court proceedings more efficient by enabling the judge to examine, appreciate and present evidence and ascertain its admissibility or otherwise.[3]

Despite a move towards integration of technology and a shift towards digitization, where many court-related services, records etc. are available digitally, the system largely remains paper-based. These legacy frameworks are highly susceptible to corruption, abuse, and tampering.[4] For instance, a paper-based model, involving several participants such as the court, the investigators, the custodians etc. requires frequent conciliation of records to ensure that all records are updated- this leaves room for multiple points of failures, wherein there is a chance of tampering with the records or evidence. For instance, it is quite possible for an investigating officer to backdate an entry in the case diary.

In such cases, the employment of blockchain technology could significantly mitigate the aforementioned issues. Blockchain refers to an immutable, tamper-resistant, auditable and time-stamped ledger which is shared across a network of computers (nodes), and which is not

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[1] The importance of modernized technology in court proceedings, THOMSON REUTERS INSTITUTE (2022), https://www.thomsonreuters.com/en-us/posts/legal/court-technology/ (last visited Mar 1, 2022).

[2] Chantell Bergquist, *Virtual Hearings and Blockchain Technology Solutions in Criminal Law*, 47 MITCHELL HAMLINE LAW REVIEW (2021), https://open.mitchellhamline.edu/mhlr/vol47/iss3/10.

[3] Bergquist, *supra* note 2.

[4] Matej Michalko, *BLOCKCHAIN 'WITNESS': A NEW EVIDENCE MODEL IN CONSUMER DISPUTES*, 7 13 (2019).

controlled by any centralized authority.[1] Blockchain technology can provide a timestamped record that cannot be altered by any single person and therefore can provide for greater efficiency, security and reliability, which is highly desirable in evidentiary contexts.

Blockchain Technology: An Overview

Blockchain has been touted as the "technology most likely to change the next decade of business."[2] Although presently blockchain is mostly understood as the technology behind cryptocurrencies like Bitcoin, Ethereum, Cardano etc., the promise of Blockchain extends far beyond currency, market and financial applications. Blockchains obviate the need for trust between parties and provide a way to share valuable data in a secure and tamperproof manner by reliance on collaboration between network participants. This is ensured by the use of cryptographic primitives and sophisticated governance protocols which make the network extremely secure and tamper-resistant.

Simply put, blockchain may be described as a distributed ledger technology that uses cryptographic primitives to form a timestamped, auditable database that is shared across a network of computers.[3] For instance, the Bitcoin blockchain is essentially an accounting ledger that is stored across a network of multiple computers called nodes. Every time a Bitcoin transaction takes place, the transaction is broadcast across the network and validated by the network participants (called nodes). The transaction is then grouped with other transactions into a 'block' (i.e., a collection of transactions) and a subset of the nodes compete with each other to solve a complicated cryptographic puzzle[4] in order to validate the block and append it to the preexisting 'chain of blocks'. The probability of a node solving the puzzle is proportional to its computing power. The other nodes have the ability to verify the validity of the newly appended block. This forms an auditable, timestamped database, that is stored in a distributed manner across multiple nodes. Solving the puzzle requires tremendous computing resources,

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[1] *See* DYLAN YAGA ET AL., *Blockchain Technology Overview*, NIST IR 8202 (2018), https://nvlpubs.nist.gov/nistpubs/ir/2018/NIST.IR.8202.pdf (last visited Mar 3, 2022).

[2] Don Tapscott & Alex Tapscott, The Impact of the Blockchain Goes Beyond Financial Services, HARVARD BUSINESS REVIEW (May 10, 2016), https://hbr.org/2016/05/the-impact-of-the-blockchain-goes-beyond-financial-services (last visited Mar 3, 2022).

[3] YAGA ET AL., *supra* note 5.

[4] This refers to a Proof of Work consensus protocol. Multiple other protocols such as Proof of Stake, Proof of Authority, Proof of Capacity, Proof of Burn, Proof of Elapsed Time etc. lay down other consensus mechanisms for validating blocks. *See Id.*

thus the chances of a single entity amassing more computing power than the rest of the nodes combined and therefore controlling the entire network are fairly slim.

However, the above example merely makes for an auditable and distributed database. What truly makes the database secure and tamper-resistant is the process by which the nodes on the network agree upon a common 'state' of the blockchain (i.e., a shared history).[1] This involves the use of cryptographic primitives such as hashes and consensus protocols. A hash acts as the digital fingerprint of a 'block' and a valid hash (which satisfies the requirements of the protocol) acts as a kind of seal for the block, as any change in the contents of the block would require the generation of a new hash. Every block also includes the hash of the previous block within it, and it is this 'hash' that 'chains' all the blocks in a sequential chain.[2] Verifying this hash, once generated is relatively easier, and once the other nodes do so, they'll update their copies of the blockchain to reflect the newly added block.[3] This implies that, if an attacker tries to change any entry in a block retroactively, they will have to calculate the hash not only for the altered block but also for every subsequent block in the chain. This would require tremendous computing power and electricity as the attacker will have to accomplish this faster than the other nodes combined can add new blocks to the chain. Amassing enough computing power and resources to overpower the rest of the nodes combined would still not be enough to guarantee a successful attack (as any blocks you alter, will conflict with the existing blocks on the other nodes' copy of the blockchain). Unless the majority of the nodes (51% nodes) are compromised by an attack and their versions of the blockchain tampered with, known as a 51% attack, the blockchain will maintain its integrity- such an attack is nearly impossible (immensely difficult and resource intensive) to execute.[4] Therefore, the other nodes will likely reject any alterations. It is these cryptographic primitives (consensus protocols and hashes) that make blockchains tamper-resistant, secure and immutable.[5]

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[1] How secure is blockchain really? | MIT Technology Review, https://www.technologyreview.com/2018/04/25/143246/how-secure-is-blockchain-really/ (last visited Mar 3, 2022).

[2] *Id.*

[3] YAGA ET AL., *supra* note 5.

[4] *Id.*

[5] How secure is blockchain really? | MIT Technology Review, *supra* note 9.

How does a transaction get into the blockchain?

A transaction is requested and authenticated

A block representing that transaction is created

The block is sent to every node (i.e. participant) in the network

Nodes validate the transaction

The transaction is complete

The update is distributed across the network

The block is added to the existing blockchain

Nodes receive a reward for Proof of Work, typically in cryptocurrency
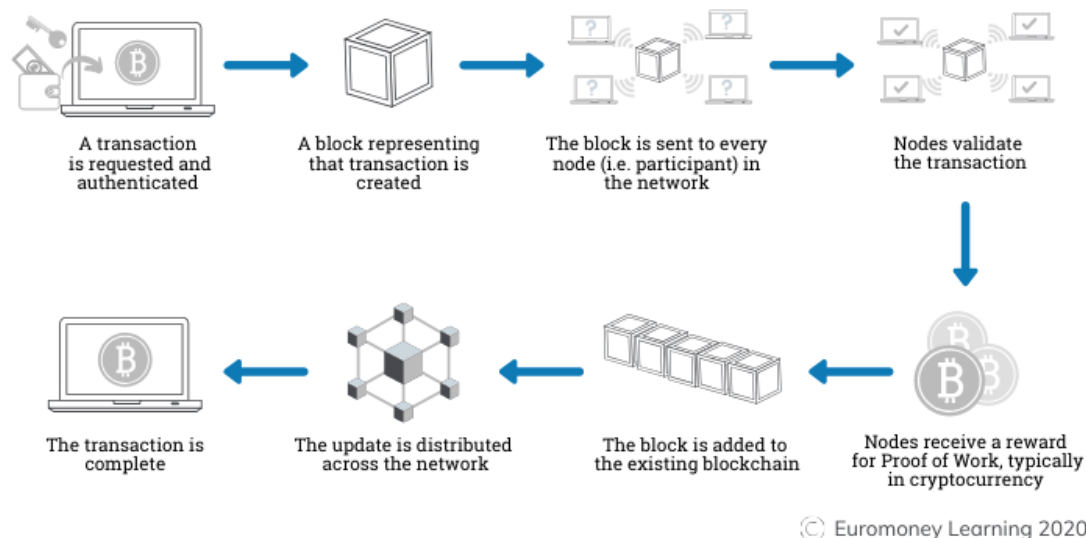
© Euromoney Learning 2020

Figure 1 : Blockchain Explained: How does a transaction get into the blockchain? | Euromoney Learning, https://www.euromoney.com/learning/blockchain-explained/how-transactions-get-into-the-blockchain (last visited Mar 4, 2022).

Blockchains rely on various consensus mechanisms such as proof of work, proof of stake, proof of burn etc. which determine how the network participants come to a consensus as to the state of the blockchain.

Further, blockchains may be either Public blockchains, where anyone can access the information on the blockchain, or Private blockchains, where only certain approved entities are permitted to view the information on the blockchain. On the other hand, blockchains may also be classified as Permissionless blockchains, where anyone in the public is permitted to submit and verify transactions (participate on the blockchain) and Permissioned blockchains, where some sort of authorization is required to do so. Public permissionless blockchains require more robust consensus mechanisms in comparison to private permissioned systems as consensus is more easily achieved in closed systems where participants generally trust each other.

While the introduction of Bitcoin in 2008[1] by Satoshi Nakamoto was the first iteration of blockchain technology in the context of cryptocurrencies, blockchain technology has come a long way in recent years. The characteristics of blockchain such as decentralization, immutability, transparency, efficiency and security[2] can be leveraged for applications beyond cryptocurrencies. This is illustrated by the evolution of blockchain over time.

Whereas Blockchain 1.0 involved the emergence of cryptocurrency applications such as bitcoin and other altcoins, Blockchain 2.0 heralded the emergence of smart contracts and various ways of leveraging them, and Blockchain 3.0 is targeted at resolving issues concerning scalability and interoperability of blockchains in order to secure mass integration.[3] Ways are being explored to extend the employment of blockchains to areas beyond finance, economies and markets.[4] There is a possibility of leveraging blockchains for a plethora of use cases such as identity and access management, elections, supply-chain monitoring etc.

The reason why Blockchain technology is gaining such traction is because it obviates the need for any centralized or trusted entity or intermediary, in order to facilitate trust between parties who do not know of each other.[5] This feature combined with security and tamperproof temper resistance of blockchains has led to this technology being touted as the next disruptive technology after the internet. Features and characteristics of blockchains can be leveraged for a variety of applications where trust, transparency and distribution or decentralization is desirable. Primarily, blockchains can be employed to provide efficient solutions wherever the provenance of an asset (off-chain or on-chain) is required to be traced as they form an auditable, mutable and secure ledger.

Blockchain Solutions to evidentiary challenges

It is trite knowledge that the world, and consequently justice delivery processes are increasingly relying on technology. In this regard, it is immensely important to leverage technology to make the investigative and judicial system more robust. Evidence forms the backbone of any trial or investigation and it enables the parties to prove/ disprove a fact. Therefore, maintaining the

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[1]Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System*, 9.

[2] Blockchain - an overview | ScienceDirect Topics, https://www.sciencedirect.com/topics/engineering/blockchain (last visited Mar 4, 2022).

[3] The Blockchain Generations, LEDGER , https://www.ledger.com/academy/blockchain/web-3-the-three-blockchain-generations (last visited Mar 4, 2022).

[4] MELANIE SWAN, BLOCKCHAIN: BLUEPRINT FOR A NEW ECONOMY (First edition ed. 2015).

[5] *See* KEVIN WERBACH, THE BLOCKCHAIN AND THE NEW ARCHITECTURE OF TRUST (2018).

integrity of evidence is imperative in order to ensure that concealment, tampering, and falsification of evidence does not take place. A robust mechanism of securing the chain of custody of evidence lends to the integrity, and consequently, the admissibility of evidence in a court.

Given that technology has pervaded almost all aspects of our lives, electronic evidence ranging from CCTV footage to emails and texts has become highly valuable. Moreover, technology has made it possible to store evidence which can then be relied upon later. For instance, DNA records taken from a cigarette butt in 1985, were relied upon to charge a suspect 35 years later for a murder that took place in Oklahoma.[1] Regardless of how valuable and relevant electronic evidence may be, it suffers from several drawbacks as compared to its physical (tangible) counterpart.

Electronic evidence can be very easy to manipulate and tamper with, which diminishes their exactitude and reliability.[2] This leads to a divergence between its value, relevance and its admissibility.[3] As far as physical evidence and forensic evidence are concerned, however, there is still a chance of tampering, destroying, or falsifying such evidence, as such evidence passes through the hands of several participants in the investigative and judicial process, each point of contact serving as a potential point of failure where the evidence could be meddled with.

Therefore, with both electronic and physical evidence, one of the most crucial considerations is that of the chain of custody.[4] In order to assure the court of the integrity and legitimacy of evidence- it is pertinent to ensure that the evidence adduced is authentic and uncorrupted. Therefore, it is necessary that the movement of evidence from its very collection or recovery by the investigating officers, to its passage through various laboratories, to its final appearance and submission in court is auditable and clear.[5] This continuity of possession as the evidence moves through possession of different participants and stakeholders in the investigative process refers the chain of custody of the evidence. A paper- trail of the continuity of possession of the evidence is desirable to be maintained so as to ensure that the evidence has

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[1] A. B. C. News, *DNA from a discarded cigarette solves a 1985 cold case murder*, ABC NEWS, https://abcnews.go.com/US/dna-discarded-cigarette-solves-1985-cold-case-murder/story?id=69706091 (last visited Mar 5, 2022).
02/01/2025 13:13:00[3] Ashwini Vaidialingam, *AUTHENTICATING ELECTRONIC EVIDENCE: §65B, INDIAN EVIDENCE ACT, 1872*, 24 (2015).
[3] *Id.*
[4] Ashish Badiye, Neeti Kapoor & Ritesh G. Menezes, *Chain of Custody, in* STATPEARLS (2022), http://www.ncbi.nlm.nih.gov/books/NBK551677/ (last visited Mar 4, 2022).
[5] Pamela Bórquez, *Importance of chain of custody of evidences*, 139 REV MED CHIL 820–821 (2011).

not been corrupted, tampered with or destroyed. A robust chain of custody will lend to the integrity of the evidence, and in the event of any suspicion regarding corruption, the persons in charge of the evidence at a particular point in time must be able to be summoned and examined.[1]

Blockchain technology, offers a secure and efficient solution for tracking the provenance of an asset (in this case evidence).[2] Blockchain technology can be leveraged in order to form a tamper-resistant chain of custody for evidence which can enable stakeholders to monitor the custody, handling, accessibility and transfer of evidence. This can greatly help restore trust in the criminal justice system mitigating the possibility of evidence tampering, damage, and falsification. Blockchain's tamperproof and immutable nature will ensure that once the evidence is 'tokenized' and registered on the blockchain, it cannot be manipulated.[3] If comprehensive data regarding the evidence, from the time of its discovery to its production in court- circumstances under which it was collected, handlers of evidence, storage, laboratory/ forensic procedures conducted, details of personnel who had access etc. was recorded on a blockchain and hashed, it would form a robust chain of custody, or paper-trail (a digital one) that couldn't be tampered with subsequently. [4]This would prevent the police or investigating officers from tampering with or damaging the evidence.[5] For instance, if the investigating officer were to maintain a case diary on a blockchain, as opposed to other electronic, paper based methods, there would be no possibility of retroactively changing or altering entries.

A variety of blockchain based solutions have been proposed to address these 'chain of custody' issues. For instance, Kaleido's Blockchain of Evidence purports to "bring the Integrity, Transparency, and Immutability of Blockchain to the Courts" by providing for an app which can be used to track the provenance of evidence on a private blockchain.[6] This app provides for the hashing and uploading of evidence immediately on the blockchain as soon as it is recovered. This blockchain stores the evidence on-chain and every time the evidence is accessed for any purpose such as laboratory or forensic processing, a new hash will be

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[1] Badiye, Kapoor, and Menezes, *supra* note 22.
[2] Mark Sheldon, *Tracking Tangible Asset Ownership and Provenance with Blockchain*, SSRN JOURNAL (2020), https://www.ssrn.com/abstract=3669326 (last visited Mar 5, 2022).
[3] *Id.*
[4] Badiye, Kapoor, and Menezes, *supra* note 22.
[5] Donghyo Kim, Sun-Young Ihm & Yunsik Son, *Two-Level Blockchain System for Digital Crime Evidence Management*, 21 SENSORS 3051 (2021).
[6] Blockchain of Evidence: Digitizing Court Records with Blockchain, https://www.kaleido.io/solutions/blockchain-of-evidence (last visited Mar 4, 2022).

generated, and its state will be updated. This will enable the Courts to easily track in whose hands the evidence has been at any given time, and the cryptographic hashes will serve as a mathematical and cryptographic proof of that.[1]

Donghyo Kin et. al. recommend a two- tier system consisting of a hot blockchain and a cold blockchain for different types of digital evidence. The hot blockchain is intended to be used for storing dynamic information such as investigation and identity related data, while the cold blockchain is intended to store static data such as digital crime evidence videos etc. that would likely not require modification once they have been stored on the block chain.[2]

Both the above models propose the use of private or consortium blockchains, i.e. blockchains where only certain authorized participants can participate, verify and access data.[3] While the former model proposes to use a private blockchain built upon the Etherium blockchain[4], the latter relies upon a consortium blockchain[5] called Hyperledger Fabric[6]. The authorized nodes in these blockchains will likely consist of the various stakeholders in the investigative and justice delivery process, with nodes representing the police, cyber/ forensic analysis institutions, lawyers and courts. This will provide for a transparent, auditable chain of custody for evidence, which will enable the participants to have real- time access to the provenance of evidence as it is processed through the investigative and court processes. A private or consortium blockchain is more desirable for the purpose of tracking evidence as it will ensure privacy of data and ensure that the evidence does not fall into the hands of unauthorized people, or the general public, which might be undesirable for data protection purposes and in certain types of cases. Some of the issues pertaining to data protection and right to privacy in context of the evidentiary data stored on a blockchain might accordingly be mitigated by recourse to a private blockchain consisting of authorized official investigative and analytic/forensic agencies and courts.

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[1] *Id.*

[2] Kim, Ihm, and Son, *supra* note 28.

[3] YAGA ET AL., *supra* note 5.

[4] Vitalik Buterin, *Ethereum: A Next-Generation Smart Contract and Decentralized Application Platform.*, 36.

[5] Blockchains where several entities form a consortium, and only those authorized entities are allowed to participate.

[6] Introduction — hyperledger-fabricdocs master documentation, https://hyperledger-fabric.readthedocs.io/en/release-2.2/whatis.html (last visited Mar 5, 2022).

Thus, blockchain can provide effective and efficient solutions by providing a shared, distributed, and tamper-resistant ledger that is shared across a network of authorized entities, which enables all such entities keep track in real- time of the provenance of any evidentiary data that is stored on it. It connects these entities such as investigators, lawyers, courts and reduces the costs of reconciliation and sharing of paper-based records that are separately maintained by each entry. The transparency offered by blockchain also eliminates the chances of tampering and corruption of evidence, particularly digital evidence that is stored on-chain, as any manipulation will lead to an alteration of the hash, which will be noticed by the other entities participating in the blockchain.

India has also awoken to the use of blockchain in the judicial process, with the "Centre of Excellence in Blockchain Technology" suggesting several methods of integrating blockchain technology into our incumbent system to bolster efficiency and transparency. Therefore, it becomes imperative to consider the evidentiary implications of evidence, that may increasingly be blockchain-based.

Blockchain based Evidence : The Chinese approach and beyond

Blockchains, as auditable, tamperproof, immutable ledgers can potentially emerge as a form of electronic evidence that can furnish legitimate, reliable, authentic proof in various kinds of disputes.[1] Particularly, if blockchain-based solutions are integrated into the investigative and criminal justice process, there arise questions as to the admissibility of such blockchain-based evidence. While blockchain evidence may be treated on the same footing as other forms of electronic evidence, there is a marked difference between the two. Though other forms of electronic evidence are easily susceptible to manipulation, tampering, alteration etc., the very architecture of blockchain (i.e. its tamper-resistance and immutability) ensures data integrity, thus largely eliminating the need of further corroboration that exists in case of the former.

This was accepted for the first time in June 2018, when the Hangzhou Internet Court in China accepted blockchain-based evidence for the first time in a copyright infringement suit. The plaintiff in this case, used a blockchain evidence platform to ensure the integrity of the evidence (consisting of web page screenshots and source codes) in order to support their claim.

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[1] Bergquist, *supra* note 2.

[1]The court based its judgement on the blockchain based evidence and ruled in favor of the plaintiff. In doing so, the court deliberated on the admissibility and effectiveness of blockchain based evidence and came to the conclusion that the blockchain adequately preserved the evidence and secured data integrity.

Later, in September, 2018, The Supreme Court of China accorded legal recognition to blockchain based evidence. Article 11 of the 'Provisions on Several Issues Concerning the Trial of Cases by Internet Courts' expressly laid down that "Where the authenticity of the electronic data submitted by a party can be proven through electronic signature, trusted timestamp, hash value check, blockchain or any other evidence collection, fixation or tamper-proofing technological means, or through the certification on an electronic evidence collection and preservation platform, the Internet court shall make a confirmation".[2]

Prior to this, electronic evidence required the involvement of a third-party notary for authentication, if it were to be admissible in court.[3] Further, electronic evidence necessarily required corroboration in the form of an expert's certificate or a certificate by the custodian of the device producing such evidence.

Various jurisdictions across the world have delved into the question of admissibility of blockchain based evidence. Various states in the USA such as Arizona Delaware Illinois et cetera have accepted the validity of Blockchain evidence. Other nations such as Italy France and United Kingdom have also considered the question of legal treatment of Blockchain-based evidence. However, there exists little consensus across jurisdictions with regard to the treatment of such evidence. Certain jurisdictions accepted blockchain based evidence as reliable without the need for further notarisation, certification or corroboration, while others require it to be notarized or certified before it is deemed to be admitted in courts. Indeed, while some jurisdictions accept the admissibility of blockchain-based evidence others question its probative force.

The key question that most jurisdictions grapple with is whether or not the constitutive nature of blockchain exempts it from being regarded as hearsay evidence. It is submitted that since the architecture of blockchain itself ensures the integrity of the evidence supported by it, the need for further certification and corroboration (as required in the case of other types of

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[1] Hangzhou Huatai Media Culture Media Co., Ltd. v. Shenzhen Daotong Technology Development Co., Ltd. (2018) Zhe 0192 No. 81
[2] Michalko, *supra* note 4.
[3] SPC Provisions on the Hearing of Cases by Internet Courts, 2018. Art. 11.

electronic evidence) is eliminated.[1] Such an approach would not only be efficient and cost-effective but also account for the rapid advancements in the technological sphere.

From Indian Evidence Act to Bharatiya Sakshya Adhiniyam

India's former evidence enactment, the Indian Evidence Act (hereinafter referred to as IEA), of colonial vintage, for instance laid down under its Sections 65A and 65 B the requirement and procedure for certification of electronic evidence. The drafters of the Indian Evidence Act could not have foreseen technologies like blockchain. Notably, the colonial legislation has been supplanted by the Bharatiya Sakshya Adhiniyam 2023. This demonstrates a shift from the longstanding reliance on the former evidence act, and a shift towards the modernisation and streamlining of evidence

Under the provisions of the IEA, most notably, the judgement in *Shahfi Mohammad v. State of Himachal Pradesh*[2] demonstrated a shift from the Apex Court's judgement in *Anwar PK v. PK Basheer and Ors.*[3](where it was laid down that the procedure laid down under Section 65B was to be strictly followed in the case of electronic evidence). In the former case, the requirements of Section 65 B were held to be merely procedural and not mandatory. The judgement in *Shahfi Mohammad* does certainly seem to be more favourable to the admissibility of blockchain-based evidence. presentation and interpretation by the courts.[4]

However, in *Arjun Panditrao Khotkar* v. *Kailash Kushanrao Gorantyal*[5] , wherein the central issue revolved around the admissibility of electronic records without the mandatory certificate requirement under Section 65B (4). In this case the apex court held that the production of the certificate under Section 65B(4) is a mandatory condition for the admissibility of electronic evidence, whether it is a document or an audio-video recording. The court reaffirmed the judgement in *Anvar P.V. v. P.K. Basheer*[6]emphasising the strict statutory mandate of Section 65B.

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[1] Sylvia Polydor & Associate in Baker McKenzie's IP and Technology Practice Group, *Blockchain Evidence in Court Proceedings in China – A Comparative Study of Admissible Evidence in the Digital Age (as of June 4, 2019)*, STANFORD JOURNAL OF BLOCKCHAIN LAW & POLICY (2020), https://stanford-jblp.pubpub.org/pub/blockchain-evidence-courts-china/release/1 (last visited Mar 6, 2022).
[2] (2018) 2 SCC 801.
[3] (2014) 10 SCC 473
[4] Supra note 41.
[5] (2020) 7 SCC 1
[6] (2014) 10 SCC 473

While the decision in *Arjun Panditrao Khotkar* provided much-needed clarity on procedural compliance for electronic evidence, it raised important questions regarding the applicability of such a strict interpretation to new forms of digital evidence, such as blockchain-based evidence.

Indeed, the recently enacted Bharatiya Sakshya Adhiniyam has taken several strides in the direction of keeping up with technological advancements. Not only did it expand the definition of documentary evidence to include electronic evidence, thus substituting the position under the IEA (which was also highlighted further in *Arjun Panditrao Kjotkar* v. *Kailash Kishanrao Gorantyal*[1]) but also classifies it as primary evidence.[2] It also provides that copies of such electronic records, if produced from proper custody, will also be considered to be primary evidence.[3] Sections 62 and 63 of the Bharatiya Sakshya Adhiniyam retain, with modifications the broader stipulations under Sections 65A and B of the IEA.

Much has changed, yet certain important vicissitudes remain. For instance, while the Bharatiya Sakshya Adhiniyam espouses that primary evidence is admissible *per se*, yet uncertainty remains when copies of electronic records are stored in different devices- ought they to be admissible *per se* or require a certificate issued under Section 63?

It is submitted that the certification requirement as laid down under the Indian Evidence Act, and retained by its successor Bharatiya Sakshya Adhiniyam for electronic evidence appears to be unnecessary for admittance of blockchain-based evidence as the two differ in major respects.

The Need for Purposive Interpretation

With the digital revolution, it has become essential for courts to interpret statutes in a manner that accounts for technological advancements while remaining true to legislative intent. The strict adherence to Section 63 of the Bhartiya Sakshya Adhiniyam for admissibility of electronic evidence is now being tested in light of the emergence of tamper-proof and decentralized technologies like blockchain.

The key question in the context of admissibility of blockchain-based evidence in India would be whether or not blockchain based evidence should be conflated with other forms of electronic evidence in terms of certification requirements or not?

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[1] Supra note 44
[2] See, Bhartiya Sakshaya Adhiniyam 2023
[3] Section 57, Bhartiya Sakshaya Adhiniyam 2023

With technological advancements, it has become essential for courts to interpret statutes in a manner that accounts for technological advancements while remaining true to legislative intent. The strict adherence to Section 63 for admissibility of electronic evidence is now being tested in light of the emergence of tamper-proof and decentralized technologies like blockchain.

It is submitted that blockchain based evidence, as opposed to other forms of electronic evidence is not susceptible to tampering, replication, manipulation and therefore has higher probative value. The very architecture of blockchain ensures security, integrity and tamper-resistance. Blockchain based evidence, is therefore capable of satisfying the best evidence principle. [1] Thus, blockchain evidence ought to be placed on a different footing from other forms of electronic evidence, which might require recourse to the certification procedure established under Section 63 of the Bharatiya Sakshya Adhiniyam for validation and corroboration.

Since integrity and authenticity are maintained by the architecture itself, the recourse to procedural safeguards for validation of such type of evidence might be redundant and inefficient. From a cost-benefit standpoint, the time and resources consumed in the process of obtaining certification for a form of evidence whose integrity is ensured by the very architecture of the blockchain, is manifestly unjustified and inefficient. Relying on the tamper-resistant, timestamped blockchain evidence is likely to assist in attainment of cost and time saving efficiency goals as compared to testing the admissibility of this incontrovertible type of evidence on the basis of notarization or certification

While blockchain evidence is a subset of electronic evidence, blockchain evidence is more reliable and accurate owing to the very architecture of blockchain which eradicates the possibility of corruption, tampering and destruction of evidence.[2] The same may not hold true for other forms of electronic evidence which could be susceptible to tampering, destruction and manipulation.

Therefore, it is submitted that blockchain evidence ought not to be conflated with other forms of electronic evidence. A purposive interpretation i.e. a legal principle where courts interpret statutes not solely based on their literal meaning but in light of the underlying purpose

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[1] Polydor and Group, *supra* note 40.
[2] *Id.*

and objectives of the law. [1]of the new Adhiniyam is recommended in order to ensure that the characteristics and value-proposition of blockchain technology are leveraged to produce greater efficiency in the justice delivery system and alignment with international precedents.

As a matter of fact, there exist challenges in applying the literal interpretation to blockchain evidence. Indeed, as aforementioned, blockchain operates on a decentralized ledger system, which makes it inherently different from traditional electronic records stored on a single server. However, current laws under Section 63 of the Bharatiya Sakshya Adhiniyam require a human agency to issue a certificate vouching for the integrity of electronic evidence, which becomes problematic in the context of blockchain, as it is not controlled by any single individual or entity who could provide such a certificate. It is a distributed network, meaning there is no " a person in charge" who can fulfil the requirements under Section 63(4). Further, who qualifies as an 'expert' remains an open question presently, as well. [2]

The entire system operates through a distributed network, where verification is conducted collectively by nodes rather than a central authority. Requiring a certificate from a human agent in this context is not only impractical but also unnecessary, as the system itself performs the verification. The very nature of blockchain ensures that once data is entered into the ledger, it cannot be altered. This provides a higher standard of evidence integrity compared to centralized electronic systems, where tampering is easier. This also obviates the need for the same procedural safeguards that apply to electronic evidence, generally.

Further, it is noteworthy that the drafters of the Bharatiya Sakshya Adhiniyam intended to streamline and modernise the principles of evidence in India. However, Section 63 of the Bharatiya Sakshya Adhiniyam remains substantially similar to the Section 65B of IEA. A rigid application of procedural safeguards such as the certification requirement could possiblyhinder the incorporation of modern, secure blockchain-based systems in the legal process. As aforementioned, countries like the United States and China have already taken steps toward recognizing blockchain-based evidence in courts serving as persuasive international precedents.

Furthermore, The legislative intent behind Section 65B (and relatedly, the analogous Section 63 of Bharatiya Sakshya Adhiniyam) is to ensure the authenticity and reliability of

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[1] Mark Greenberg, *Legal Interpretation*, *in* THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Edward N. Zalta ed., Fall 2021 ed. 2021), https://plato.stanford.edu/archives/fall2021/entries/legal-interpretation/ (last visited Oct 3, 2024).
[2] Section 63(4) BSA

electronic evidence.[1] Blockchain, by design, achieves these objectives through its cryptographic verification process. By applying a purposive interpretation, courts can uphold the legislative intent of promoting trustworthy evidence without being constrained by the specific procedural requirements drafted for outdated technology.

The Bharatiya Sakshya Adhiniyam aims to ensure the admissibility of reliable and authentic evidence. A purposive interpretation of Section 63(4) would therefore recognize blockchain's inherent security, transparency, and tamper-proof nature, aligning the law with the larger objective of truth-seeking in judicial proceedings.

Such an interpretation wouldn't go against the legislative intent, nor is unsuited to the broader Indian approach. In several landmark cases, the Indian judiciary has demonstrated the flexibility and ability to adapt to changing times, as seen in its interpretation of the right to privacy under the Constitution [2] In several modern cases, courts have acknowledged the dynamic nature of law and technology, emphasizing the need to interpret statutes flexibly to adapt to advancements. The Supreme Court, in cases like *Shreya Singhal v. Union of India*[3] and *Navtej Singh Johar v. Union of India*[4] , has employed purposive interpretation to align outdated laws with contemporary realities. Several landmark cases, from *Bengal Immunity Co.*[5] to *RBI v. Peerless*[6]*,* demonstrate that the judiciary has a well-established tradition of looking beyond the literal words of a statute to fulfil its true purpose.

Even if we rely on the decision in *Arjun Khotkar case* which reinforced the strict procedural requirements for electronic evidence admissibility under Section 65B of the Indian Evidence Act, a non-literal reading of the section in context of blockchain-based evidence can allow for a purposive interpretation of these evidentiary rules. Indeed, the unique nature of blockchain technology opens a compelling argument for a purposive interpretation of this rule. This would allow blockchain evidence to be admitted without the need for a certificate, while staying within the broader intent of the law, as established in *Arjun Khotkar*.

This ruling in the above was based on ensuring the reliability and integrity of electronic records, which are susceptible to tampering or alteration.Even so, the Supreme Court in *Arjun*

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[1] Chadha, Vaibhav and Sivaraman, Janani Critical analysis of the law on admissibility of electronic evidence in India. Jindal Global Law Review (2024).
[2] Justice K.S. Puttaswamy v. Union of India 2017 (10) SCC 1
[3] (2015) 5 SCC 1
[4] 2018 (10) SCC 1
[5] Bengal Immunity Co. v. State of Bihar is AIR 1955 SC 661: 6 STC 446
[6] 1987 (1) SCC 424

Khotkar case acknowledged the need to interpret Section 65B(4) in light of its purpose—ensuring the integrity and reliability of electronic evidence.

The Court stated:

"The whole purpose of introducing these provisions is to sanctify electronic evidence, provided the safeguards as to the authenticity of such evidence are met."[1]

This focus on the purpose of Section 65B, rather than its literal wording, provides room for a purposive interpretation when dealing with new technologies like blockchain. The essence of Section 65B(4) (and consequently its successor Section 63 of Bharatiya Sakshya Adhiniyam) is to certify that the electronic evidence is authentic and untampered. Blockchain's inherent properties already meet this objective, arguably more effectively than many traditional electronic systems that require human certification.

Given that the purpose of Section 65B is to ensure the reliability of electronic evidence, courts could interpret the law purposively to admit blockchain-based evidence without the need for a certificate. This interpretation aligns with the intent expressed in *Arjun Khotkar,* which emphasized the need to secure the authenticity of electronic evidence. Requiring a certificate under Section 65B(4) is impractical in blockchain-based evidence, as the decentralized nature of the system means there is no "person responsible" to issue such a document. Courts should recognize that blockchain represents a new category of technology that warrants an exception to the strict application of Section 65B(4).

Purposive interpretation has therefore emerged as an essential tool in Indian judicial reasoning, enabling courts to adapt statutes to new and unforeseen technological advancements. The Supreme Court's rulings emphasize that the ultimate goal of statutory interpretation is to promote justice and align legal frameworks with societal and technological realities. Therefore, it is submitted that a purposive interpretation of the certification requirement is well-aligned with judicial tradition. Courts could therefore adopt a purposive interpretation to treat blockchain-based evidence as inherently reliable and exempt it from the procedural burden of producing a Section 63 certificate, leveraging the technically immutable nature of blockchain. A purposive interpretation would ensure that the law remains dynamic and responsive to technological advancements without compromising the quality or reliability of evidence.

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[1] Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantya (2020) 7 SCC 1 Para 49

This approach would not only align Indian law with global legal trends but also promote the use of cutting-edge technology in the pursuit of justice, ensuring that the Bharatiya Sakshya Adhiniyam remains a robust and forward-looking legal framework in the digital age. A purposive interpretation of the law would allow blockchain evidence to be admitted without the need for a certificate, acknowledging that the technology itself fulfills the statute's intent. Such an interpretation would align Indian law with global trends, where blockchain is increasingly recognized as a reliable form of digital evidence, and ensure that the Bharatiya Sakshya Adhiniyam remains relevant in an era of rapid technological advancement.

Also, blockchain's cryptographic and consensus mechanisms are more reliable than traditional centralized systems prone to human error or manipulation. Since every block in the chain is connected to the previous one and cryptographically secured, it serves as a self-certifying mechanism.

Conclusion

Blockchain technology and its tamperproof, immutable and transparent nature may be leveraged to provide efficient solutions to chain of custody issues pertaining to evidence. Blockchain technology is capable of making significant contributions to ensuring the integrity, transparency and reliability of evidence and therefore has the potential to make the criminal justice system more efficient and effective.

Permissioned or consortium Blockchain could be employed by various participants in the investigative and justice delivery processes in order to create a tamperproof and transparent chain of custody which can be later on relied upon the courts. Such Blockchain solutions could greatly reduce the risks of corruption tampering, falsification and manipulation of evidence and track the provenance of evidence from its very discovery to its final production in the court. Indian authorities have also expressed the desire to leverage blockchain technology in the judicial process.

Notably, Blockchain supported evidence appears to have a different probative force than other types of electronic evidence as it cannot be tampered with and it secures data integrity. Therefore, it is submitted that Blockchain-based evidence ought not to be subjected to the same certification requirements as laid down in the Indian Evidence Act and its successor the Bharatiya Sakshya Adhiniyam for other forms of electronic evidence. This would amount

to blockchain-based evidence being conflated with other forms of electronic evidence like emails, videos, etc., which are easily manipulated and tampered with.

Indian courts have time and again endorsed purposive interpretation where technological advancements or practical realities have necessitated an evolution in the legal framework. Applying these precedents to the issue of blockchain evidence, one can make a strong case that Section 63(4)'s (Bharatiya Sakshya Adhiniyam) certificate requirement should be relaxed for blockchain records, as the technology itself ensures the integrity and authenticity that the law aims to protect.

Therefore, pending legislative clarifications on the subject, the judiciary may consider recognizing blockchain's potential to revolutionize the preservation and presentation of evidence so that the advantages offered by blockchain technology can be leveraged by the courts to be more efficient and cost-effective.

ICT and Public Administration: A View

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Public Administration emerged as an independent subject of study exclusively meant for policy preparation, and by being part of a political executive based on the provision of delegated legislation and policy implementation agency. In the process of policy implementation both the secretariat and directorate play crucial role. The origin of public administration as an independent entity is credited to the Article "The Study of Administration" written by Woodrow Wilson in the year 1887, in the Political Science Quarterly. Of course, this has brought some stir in the revolutionary change of transformation from ruler-centric policy-making to people-centric policy preparation and implementation. It is a fact that before the emergence of a democratic form of government, the ruler-centric kingdoms were administered as per the wish of the ruler, not the public-centric, with certain exceptions and exclusions. Overall, the step initiated by the architects of public Administration is a step towards achieving people-centric administration by dethroning ruler-centric administration.

Keywords: *Public Administration, Democracy, Public Centric Administration, Political Democracy*

Introduction

The concept of democracy and the political executive is a remarkable achievement in the history of human political revolutions. In the process of people-centered political democracy, the executive is important in so far delivery of public services and it is mentioned in Abraham Lincoln's words: 'Democracy is a government of the people, by the people, and for the people'. The dawn of the 19th century and the last quarter of the 18th century witnessed political revolutionary changes, which were a welcome development in human progressive civilization towards the realization of equality in society. In fact, the emergence of democratic nations, the importance of embracing public administration became vital in policy preparation and implementation. The government has three important organs: the legislature, the executive, and the judiciary. As an important organ of the executive branch, a democratic government

represents a body of people's representatives elected through adult franchise, a constitutional and political right that demonstrates every citizen's equality in the democratic process.

Public Administration in the Present Global Context

The emergence of public administration as an entity followed its separation from the politics-administration dichotomy. Its main purpose is the preparation and implementation of policy. Consequently, most developing countries have adopted democracy in the form of either a presidential or parliamentary system of government. The primary objective of the government is to eradicate socio-economic disparities, provide essential services such as healthcare, and create employment opportunities. To achieve these goals, bureaucracy has been established as an important organ of the executive.

Some of the important functions of bureaucracy include policy preparation and implementation, maintaining law and order, managing government departments, corporations, and companies, implementing government welfare schemes, providing medical and health facilities, creating employment opportunities, raising awareness about government welfare schemes, and uplifting weaker sections of society.

As and when instructed by the government, bureaucracies are involved in rescue operations during catastrophes. Until the 1980s, the protective economy was predominantly in practice, with economic activities monopolized under government or state ownership. However, the paradigm shift from government to governance, combined with the introduction of globalization, economic liberalism and privatization, brought significant changes to the state's approach. The government's exorbitant investments in public sector undertakings often resulted in heavy losses due to various factors, such as bureaucratic inefficiencies, political interference, inability to compete in the market, unionism and the burden of welfare schemes on the exchequer. These challenges forced the government to gradually reduce its share and ownership in these undertakings. Consequently, many public sector undertakings were either privatized and handed over to private operators or shut down entirely.

On the other hand, the spread of globalization has paved the pathway for the exchange of information, knowledge, sharing of science and technology, ideas, human resources, and capital. These changes have really posed a lot of challenges to the administration, particularly in developing countries, as these countries are busy with welfare schemes but the shortcomings

in the implementation of these schemes pose a threat to the very administration. The spurt in information technology and the spread of social media have really awakened civil society.

Reimagining public administration in the context of globalization, economic liberalism is a bit of complex from the role of detailed and systematic execution of law or an act to the emergence of new public service. Though public administration is interdisciplinary and some of the approaches have been borrowed from other subjects in order to strengthen it as a subject of study and application. The focus has been shifted to comparative public administration. At one point in time, public administration was everything to the government. Now public administration has been transformed into a new public service in the governance process because the market and civil society are also playing very active roles and also influencing political decisions. At present public administration as multi-level and bureaucracy is part of the governance system. The Third Minnow Brook Conference has changed the approach of public administration very significantly due to cross-national culture, the development of network-based administration has become vital nowadays to administration because new societies have emerged out of the network. It so happens that globalization has changed the approach of public administration being seen from citizen-centric to consumer-to-customer and providing business-like services rather than welfare-oriented. The introduction of information communication technology and Internet facilities have completely changed the outlook of public administration. This has helped to develop intercontinental relationships, the transformation of knowledge and technology, the emergence of multi-national companies, and increasing interdependence among nations for economic relationships, exchange of information, and technology.

Public administration in the present global context is characterized by rapid technological advancements, evolving governance structures, and complex socio-economic challenges. Key trends shaping public administration include digital transformation, increased transparency and accountability, emphasis on evidence-based policymaking, and the growing importance of collaboration and partnerships across sectors.

Digital Transformation:

Governments around the world are embracing digital technologies to enhance service delivery, improve efficiency, and promote citizen engagement. This includes the adoption of e-government initiatives, digital platforms for public service delivery, and the use of data

analytics and artificial intelligence in decision-making processes (Kamalipour & Almansoori, 2021).

Transparency and Accountability:

There is a growing demand for transparency and accountability in public administration, driven by increasing citizen expectations and advancements in information technology. Governments are leveraging digital tools and open data initiatives to enhance transparency, facilitate access to information, and strengthen public trust in government institutions (UNDESA, 2020).

Collaboration and Partnerships:

Addressing global challenges such as climate change, pandemics, and economic inequality requires collaborative approaches involving governments, civil society organizations, businesses, and international institutions. Public administrators are embracing multi-stakeholder partnerships and networked governance structures to leverage diverse expertise and resources in tackling complex issues (Ansell & Gash, 2018).

Adaptive Governance:

The increasing complexity and uncertainty of the global environment require public administrators to adopt governance approaches that are flexible, responsive, and capable of managing change. This includes fostering innovation, building resilience, and promoting participatory decision-making processes to address emerging challenges and opportunities (Mayntz & Parker, 2020).

Public Administration in the present global context is undergoing significant transformation, driven by technological innovation, changing societal expectations, and the need to address complex and interconnected challenges. Embracing digitization, promoting transparency and accountability, fostering evidence-based policymaking, and enhancing collaboration and adaptive governance are key priorities for public administrators seeking to navigate and respond effectively to the demands of the 21st century.

Information and Communication Technology and Public Administration

The introduction of information and communication technology tools such as computers, the Internet, and digital governance have entirely changed the outlook of public administration and

in fact helped public administration to strengthen itself as an important organ of the executive branch. Access to information pertaining to government policies and programmes helped the people to take part in the governance process. Some times the people expressed dissidence with regard to the government policies which are draconian in nature. It becomes very easy to know the management of government services and activities. During disasters, the government is quick to take preventive measures or rescue operations because of network-based administration. The government is able to increase the spread to far remote areas and create an environment where the government is cooperative and coordinating along with its stakeholders in getting things done. Now the governments have become citizen friendly to facilitate the public better.

It is possible to set up long-term goals and chalk out strategies. Finally, in view of climate change, the government can resort to eco-friendly administrative practices and also caution the public to practice nature-friendly practices from now onwards in their attending daily needs to uphold the Sustainable Development Goals.

After the Second World War, as most of the countries were liberated to become independent nations, most of these countries heavily invested in building infrastructure and other facilities. The government was the sole proprietorship or ownership of Industries. Thus, for some time it was the lone provider of goods to the public. However, this has resulted in the failure of the administration and the presence of huge corruption , dishonesty, etc.

In order to strengthen administrative mechanism various administrative reforms were brought in. Surprisingly, the introduction of information communication technology in administration has become a boon. It has been emphasized that the bureaucracy should adhere to transparency, accountability, and responsibility. Digital governance has further taken the administration to the doorsteps of people. The main objective is to see that there must be a proper delivery mechanism so that the eligible people will benefit. Even though the steps meant for transparent mechanisms have to be implemented in full spirit. Then only the tools of digital governance could be useful to redress the grievances of downtrodden or underprivileged sections and will benefit.

The influence of Information Communication Technology (ICT) on Public Administration has been steadily increasing. ICT has profoundly transformed the role of public administration in shaping the way governments interact with citizens, deliver services, and manage resources. The integration of ICT into public administration has led to significant

changes in governance structures, decision-making processes, and service delivery mechanisms. Below are key aspects of ICT's influence on the role of public administration.

Enhanced Service Delivery:

ICT has enabled governments to improve the delivery of public services through digital platforms and online portals. Citizens can now access government services and information conveniently, leading to increased efficiency and satisfaction (Norris, 2001).

Increased Transparency and Accountability:

ICT tools such as open data initiatives and e-government platforms have facilitated greater transparency and accountability in public administration. Citizens have access to government data and information, allowing them to monitor government activities and hold officials accountable (UNDESA, 2020).

Improved Decision-Making:

ICT provides public administrators with access to vast amounts of data and analytical tools, enabling evidence-based decision-making. Data analytics and visualization tools allow administrators to analyze trends, identify patterns, and make informed decisions to address complex challenges (Kamalipour & Almansoori, 2021).

Enhanced Citizen Engagement:

ICT platforms promote greater citizen participation in decision-making processes through online forums, social media, and digital consultations. Citizens can provide feedback, express opinions, and contribute to policy development, leading to more inclusive and responsive governance (UN E-Government Survey, 2020).

Efficient Resource Management:

ICT systems facilitate more efficient management of government resources, including finances, personnel, and infrastructure. Integrated systems for budgeting, procurement, and project management improve accountability and optimize resource allocation (OECD, 2021).

Flexible Work Environments:

ICT enables public administrators to work remotely and collaborate across geographic boundaries. Cloud computing, video conferencing, and collaborative platforms support flexible work arrangements, enhancing productivity and work-life balance (United Nations, 2020).

Cyber security and Data Privacy Challenges:

The proliferation of ICT in public administration also presents challenges related to cyber security and data privacy. Governments must invest in robust cyber security measures and adhere to data protection regulations to safeguard sensitive information and mitigate cyber threats (OECD, 2019).

Information Communication Technology continues to shape the role of public administration, offering opportunities for innovation, efficiency, and citizen engagement. However, addressing challenges related to cyber security, digital divide, and privacy concerns is crucial to realizing the full potential of ICT in public governance.

Public Administration in the Present Global Context as Digital Governance:

Public administration in the present global context is increasingly characterized by the adoption of digital governance practices, which utilize digital technologies to enhance the delivery of public services, improve administrative processes, and foster citizen engagement. Digital governance encompasses a range of initiatives, including e-government, open data, digital inclusion, and cyber security, all of which shape the role of public administrators and transform governance structures. Below are key aspects of public administration as digital governance.

E-Government Initiatives:

E-government initiatives leverage digital technologies to provide citizens with online access to government services, information, and interactions. These initiatives aim to enhance service delivery, streamline administrative processes, and promote transparency and efficiency in government operations (UN E-Government Survey, 2020).

Open Data and Transparency:

Digital governance promotes the use of open data initiatives, which make government data and information accessible to the public in machine-readable formats. Open data initiatives enhance

transparency, accountability, and citizen engagement by enabling citizens to access and analyse government data, leading to greater insights and informed decision-making (Davies et al., 2013).

Digital Inclusion:

Digital governance initiatives prioritize efforts to bridge the digital divide and ensure that all citizens have access to digital technologies and online services. This includes initiatives to provide affordable internet access, digital literacy training, and accessible online platforms to marginalized and underserved communities, promoting inclusivity and equitable access to government services (World Bank, 2016).

Cyber security and Data Protection:

As public administration becomes increasingly digitalized, cyber security and data protection are critical considerations. Governments must implement robust cyber security measures and data protection regulations to safeguard sensitive information, mitigate cyber threats, and protect citizens' privacy rights (OECD, 2019).

Citizen Engagement and Participation:

Digital governance fosters greater citizen engagement and participation in government decision-making processes. Online platforms, social media, and digital consultations enable citizens to provide feedback, express opinions, and collaborate with government officials, promoting transparency, accountability, and responsiveness in governance (UN DESA, 2020).

Agile and Responsive Governance:

Digital governance enables governments to adopt agile and responsive approaches to governance, leveraging data analytics, real-time feedback, and iterative processes to adapt to changing circumstances and address emerging challenges effectively (Kamalipour & Almansoori, 2021).

Public administration as digital governance represents a paradigm shift in governance structures and practices, driven by the transformative potential of digital technologies. By embracing digital governance principles, governments can enhance service delivery, promote

transparency and accountability, foster citizen engagement, and build more resilient and responsive governance systems.

Conclusion:

In the present global context, public administration is undergoing a profound transformation driven by the integration of digital governance principles and practices. Digital technologies are reshaping governance structures, administrative processes, and citizen-government interactions, leading to greater efficiency, transparency, and citizen engagement. The adoption of digital technology initiatives, including e-governance, open data, social inclusion, cyber security, and citizen engagement, has redefined the role of public administrators and revolutionized governance systems worldwide. The shift towards digital governance represents a paradigmatic change in how governments operate and interact with citizens. By embracing digital technologies, governments can improve service delivery, enhance transparency and accountability, promote inclusivity, and build more responsive and agile governance systems. However, the transition to digital governance also presents challenges, including cyber security risks, the digital divide and the need for capacity building and institutional reforms to fully realise the potential of digital technologies in governance.

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The Psychological Implications of Living in Social Exclusion: A Review

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Introduction: Social Exclusion as a Systematic Process of Marginalization

Social exclusion refers to the processes by which individuals or groups systematically and deliberately excluded or marginalized from full participation in the social, economic, and cultural activities of society. Unlike mere social isolation, which can happen by choice or circumstance, social exclusion is often the result of structural inequalities and societal barriers that prevent certain groups from accessing the opportunities and resources that others in society enjoy.

It is an ongoing, dynamic process that can be driven by factors such as poverty, race, ethnicity, gender, disability, age, sexual orientation, or mental health status, among others. These groups may experience discrimination or stigmatization, which leads to their disenfranchisement from the broader community. Social exclusion is typically characterized by unequal access to opportunities, marginalization from social networks, and reduced participation in key societal functions like work, education, and cultural life.

The consequences of social exclusion go beyond physical isolation; they often entail significant psychological and emotional impacts, leading to a sense of alienation, powerlessness, and diminished self-worth.

Hence the current review paper focuses on three main objectives.

- To explore the psychological consequences of living in social exclusion.
- To examine the mechanisms by which social exclusion impacts mental health.
- To identify potential interventions to address these effects.

Early Theoretical Foundations

The concept of isolation from societal activities has evolved significantly over time in both psychological and sociological literature. The understanding of isolation has been shaped by shifting cultural, economic, and political contexts, as well as the development of various theoretical frameworks that explain human behaviour in relation to social structures.

1. **Sociological Roots:** Durkheim and Social Integration- The idea of social isolation has deep roots in sociology, particularly in the works of early sociologists like Émile Durkheim. In his seminal work, *Suicide* (1897), Durkheim examined the relationship between social integration and individual behaviour. He argued that a lack of social integration — or the experience of anomie (normlessness) — could lead to isolation and increase the risk of mental health issues, such as suicide. Durkheim suggested that societies need mechanisms to integrate individuals and maintain a sense of belonging. This early exploration established the foundation for the study of social isolation as a societal issue.

2. **The Chicago School and Urbanization**: In the early 20th century, the Chicago School of sociology, particularly scholars like Robert Park and Ernest Burgess, investigated the effects of urbanization and industrialization on individuals' social lives (Park & Burgess, 2019). The rapid expansion of cities led to the development of what became known as urban isolation. This form of isolation was considered a byproduct of the breakdown of traditional, close-knit communities as people moved to cities for work. The Chicago School emphasized the disconnection people felt from their environments in rapidly growing urban spaces, thus highlighting the role of social environment in shaping experiences of isolation.

3. **Social Isolation and Marginalization in the 20th Century:** Sociologists in the mid-20th century expanded on these ideas, exploring how certain groups experience isolation due to structural inequalities. Wright Mills in *The Sociological Imagination* (2000) explored the relationship between personal troubles and public issues. They argued that individuals' experiences of isolation were not just personal, but deeply connected to broader social and economic structures. The rise of structural functionalism also emphasized the importance of social roles in preventing isolation. These roles, such as family member, worker, and citizen, were seen as essential to the cohesion of society, and any breakdown in role fulfilment could lead to social exclusion and isolation.

Psychological Perspectives on Isolation

1. **Early Psychological Theories:** Maslow and Social Needs - In the early psychological literature, isolation was explored in the context of human needs. Abraham Maslow's

Hierarchy of Needs (1943) posited that social needs (e.g., love, belonging, and relationships) were fundamental to human motivation. According to Maslow, individuals need social connection in order to thrive psychologically. Isolation, therefore, was seen as a potential barrier to fulfilling these basic needs and achieving psychological well-being. Maslow's theory set the stage for later psychological theories exploring how social deprivation impacts mental health.

2. **Attachment Theory and Isolation John Bowlby's Attachment Theory** (1969) further developed ideas around isolation by focusing on the role of early relationships and social bonds in human development. Bowlby's work suggested that attachment figures (e.g., parents) are crucial for a child's emotional and social development. Lack of secure attachments could lead to long-term emotional isolation, with significant psychological consequences. This theory underscored the importance of close relationships and the negative impact of emotional isolation on psychological well-being.

3. **Social Deprivation and Mental Health: Spitz** (1965) conducted landmark studies on social deprivation in institutional settings. His work with infants raised in orphanages and residential institutions revealed that lack of social interaction during critical periods of development led to severe psychological and emotional disturbances. Spitz's studies showed that social isolation could lead to emotional withdrawal, developmental delays, and even death in extreme cases. This brought attention to the critical role of social engagement in maintaining mental health.

Key factors of social exclusion

Exclusion occurs in economic, political, and social dimensions through a historical perspective (Breman, 2004).

1. **Isolation from Societal Activities**: Social exclusion often results in individuals or groups being left out of mainstream societal activities and institutions. This can involve exclusion from the labor market, education systems, or political engagement. The lack of involvement in these essential aspects of life can hinder opportunities for personal growth and economic advancement. For example, individuals facing racial or gender discrimination may experience barriers to employment, while people with disabilities might face obstacles in accessing public services or physical spaces.

2. **Economic Exclusion**: One of the most pervasive aspects of social exclusion is economic marginalization. Exclusion from economic activities—such as stable employment, adequate income, or access to affordable housing—can deepen poverty and widen the wealth gap between social groups. People who are economically excluded often lack financial resources to access healthcare, quality education, or housing, perpetuating a cycle of poverty and further marginalization.

3. **Cultural Exclusion**: Cultural exclusion refers to the lack of participation in cultural, social, or religious practices, which contribute to an individual's sense of belonging and identity. Groups that are culturally excluded may face discrimination or stigmatization for their ethnic, religious, or cultural backgrounds, leading to diminished opportunities for cultural expression and participation. For instance, minority groups or immigrants may find it difficult to engage in national or local cultural events, which can undermine their sense of connection to the larger community.

4. **Exclusion from Social Networks**: One of the most psychologically damaging aspects of social exclusion is the isolation from social support networks. Relationships with family, friends, colleagues, and community members serve as crucial buffers against stress, anxiety, and depression. The absence of these support systems can exacerbate mental health challenges and increase feelings of loneliness. Exclusion from social networks can occur in multiple ways, from overt discrimination to subtle forms of exclusion, such as being ignored or excluded from group activities.

5. **Reduced Social Mobility**: Social exclusion often limits individuals' ability to move within society, whether economically, geographically, or socially. This restricted mobility creates barriers to accessing opportunities, further entrenching exclusion. For example, a person who has been economically excluded may struggle to access higher education or job opportunities that could improve their social position. The lack of social mobility, in turn, perpetuates cycles of exclusion across generations, with children of excluded individuals being more likely to face similar challenges.

Psychological Consequences

Social exclusion — the process by which individuals or groups are marginalized and denied access to resources, opportunities, or rights in society — can have profound psychological consequences (Portela & Machado, 2022). These effects can range from immediate emotional

distress to long-term mental health issues. When people experience social exclusion, they may struggle with feelings of loneliness, lowered self-esteem, and increased stress, and over time, these psychological impacts can lead to serious mental health disorders. Here's a detailed explanation of the psychological consequences of social exclusion:

1. Emotional Distress and Loneliness

One of the most immediate and observable psychological consequences of social exclusion is emotional distress (Menec et al,2020). Excluded individuals often experience feelings of sadness, frustration, anger, or helplessness due to being cut off from social networks and community activities.

- **Loneliness**: The most direct emotional consequence of social exclusion is loneliness (Jones, 1990). Loneliness occurs when there is a perceived gap between the social relationships a person has and the relationships they desire. Being socially excluded often means the loss or absence of meaningful connections, leading to feelings of isolation and solitude. People who experience chronic loneliness report feeling emotionally and physically drained, with negative impacts on their overall well-being.

- **Shame and Embarrassment**: Social exclusion often leads to shame, as individuals may feel unworthy of social connection or feel that they are to blame for their exclusion (Mills & Zavaleta, 2015). This sense of shame can be particularly damaging, as it erodes self-esteem and can lead to withdrawal from future social opportunities, exacerbating the cycle of isolation.

2. Decreased Self-Esteem and Identity Issues

Self-esteem refers to an individual's sense of self-worth or value. Social exclusion can deeply affect self-esteem by reinforcing negative beliefs about oneself (Sinclair & Lentz, 2010). Individuals who are excluded may internalize the stigma associated with being "outsiders" or feel inadequate compared to those who are included in social activities.

- **Internalized Negative Beliefs**: Those who experience social exclusion may develop distorted views of themselves, such as feelings of worthlessness, incompetence, or undesirability (Berry & Greenwood, 2018). This can lead to a negative self-concept, where individuals begin to see themselves as less capable or unworthy of connection.

- **Identity Disturbance**: Social exclusion can also challenge or disrupt one's sense of identity. Humans generally derive a large part of their identity from their social roles and interactions with others (Young, 2013). When these roles are taken away due to

exclusion, individuals may struggle to maintain a stable sense of who they are. This can be particularly pronounced in adolescence or early adulthood, when identity formation is still ongoing.

3. Stress and Anxiety

Psychological stress and anxiety is a common consequence of social exclusion (Baumeister & Tice, 1990). The threat of being left out or rejected by others can activate the body's fight-or-flight response, increasing the levels of stress hormones like cortisol. Over time, this chronic stress can lead to a variety of psychological and physiological problems.

- **Chronic Stress**: Experiencing social exclusion can lead to a constant state of stress, which can impact mental health in several ways. For example, prolonged stress can affect memory, concentration, and the ability to make decisions. It can also make individuals more vulnerable to mood disorders like depression or anxiety.

- **Heightened Anxiety**: Social exclusion can increase feelings of social anxiety, where individuals become fearful of future rejection or embarrassment in social situations. People who have been socially excluded may develop a hypervigilant state, constantly scanning their environment for signs of rejection or abandonment, even in situations where no threat exists. This can prevent them from forming new social bonds and may keep them in a cycle of withdrawal and fear of further exclusion.

4. Depression and Mental Health Disorders

One of the most significant and well-documented psychological consequences of social exclusion is an increased risk of developing depression and other mental health disorders (Niu et al, 2023). Prolonged social isolation can deeply affect an individual's emotional health.

- **Depressive Symptoms**: Social exclusion is closely linked to feelings of sadness, hopelessness, and a loss of interest in activities (Yu, 2023). These symptoms mirror those of clinical depression. Excluded individuals may feel that they are unworthy of love or companionship, leading to persistent low moods, a lack of motivation, and a diminished sense of purpose.

- **Suicidal Ideation**: In extreme cases, prolonged social exclusion can contribute to suicidal thoughts. The sense of being cut off from others, combined with feelings of worthlessness and despair, can create an emotional crisis (Calati et al, 2019). Research has shown that individuals who experience chronic social exclusion are at greater risk of suicidal ideation and behaviour.

- **Post-Traumatic Stress Disorder (PTSD)**: In cases where exclusion is linked to traumatic experiences, such as bullying, discrimination, or abuse, the psychological consequences can extend to PTSD (Nietlisbach & Maercker, 2009). The individual may develop symptoms such as intrusive thoughts, nightmares, or heightened anxiety in response to reminders of the trauma.

5. Cognitive Decline and Impaired Decision-Making

Social exclusion not only affects emotional and mental health but can also influence cognitive functioning. Chronic isolation has been linked to impairments in attention, memory, and executive functioning (the ability to plan, make decisions, and solve problems) (White, VanderDrift, & Heffernan, 2015).

- **Cognitive Dissonance**: Excluded individuals may experience cognitive dissonance, where their internal beliefs and external experiences conflict (Greitemeyer, Fischer, & Kastenmüller, 2012). For example, a person may believe they are capable and deserving of social connection but continuously face rejection. This conflict can cause mental strain, impairing their cognitive abilities and leading to confusion, indecision, or irrational thinking.
- **Reduced Decision-Making Capacity**: Social exclusion can negatively impact decision-making, particularly when it comes to social situations (Tanweer et al, 2018). Excluded individuals may struggle with trusting others or with the fear of being rejected again. As a result, they might become overly cautious or avoidant, preventing them from making decisions that could improve their social or emotional well-being.

6. Behavioural Consequences: Aggression and Social Withdrawal

Social exclusion can lead to various behavioural changes, many of which are maladaptive.

- **Aggression**: Some studies suggest that social exclusion can lead to aggressive behaviour, as individuals seek to restore their sense of belonging by asserting power or control over others. This behaviour is often linked to feelings of injustice and frustration when individuals feel rejected or powerless (Twenge et al, 2001).
- **Withdrawal and Avoidance**: In contrast, some individuals respond to social exclusion by becoming increasingly withdrawn. They may avoid social situations altogether, retreat into solitary environments, and stop participating in activities they once enjoyed (Chen, Zeng, & Su, 2023). Over time, this withdrawal can reinforce isolation, creating a vicious cycle of loneliness and mental distress.

7. Neurobiological Changes

Social exclusion can also have neurobiological effects on the brain. Research shows that social rejection activates regions of the brain associated with physical pain, such as the anterior cingulate cortex and the insular cortex. These areas of the brain respond similarly to both social pain (e.g., rejection) and physical pain, indicating that social exclusion can have a profound and potentially damaging effect on both the emotional and physical state of an individual (Mills et al, 2024).

The relationship between social exclusion and mental illness is not only linear but often forms a vicious cycle in which each factor exacerbates the other, creating a deeply entrenched pattern of psychological and social distress. This reciprocal relationship means that mental illness can worsen social exclusion, and social exclusion can intensify mental illness, resulting in a feedback loop that is difficult to break. This cycle can have devastating effects on individuals, particularly those who are already vulnerable, and may perpetuate long-term social and psychological consequences.

1. Social Exclusion Worsens Mental Illness

Decreased Social Support

Social exclusion often leads to the loss of social support networks, which are critical for mental well-being. When individuals experience rejection or marginalization, they often lose their connection to supportive friends, family, and community (Morese, 2019). These relationships provide emotional support, practical help, and a sense of belonging — all of which are crucial for mental health.

- **Impact on Mental Health**: The absence of social support can increase vulnerability to mental illnesses like depression, anxiety, and stress. For example, social isolation is a major risk factor for depression, as it leads to increased rumination, a key cognitive process that involves overthinking and dwelling on negative emotions. The loss of social interaction also prevents individuals from receiving reassurance or validation, further deepening feelings of self-doubt and worthlessness.

Loneliness and Emotional Distress

Exclusion from social circles, whether in work, family, or community settings, leads to loneliness (Weiss, 1975). Lonely individuals experience feelings of sadness, despair, and emotional emptiness, all of which can trigger or worsen mental health conditions.

- **Depression and Anxiety**: Research consistently shows that chronic loneliness is a major contributor to both depressive and anxiety disorders (Leary, 1990). Without the opportunity for positive social interactions, individuals may develop distorted cognitive patterns, such as negative self-talk and a sense of hopelessness, which are central features of depression and anxiety.

Stigmatization and Shame

Those who are socially excluded often face stigmatization, which is the process of being devalued or marked as different. This stigma can stem from mental illness itself, racial or ethnic background, gender identity, socioeconomic status, or other factors. The experience of being stigmatized can lead to feelings of shame and guilt, which worsen mental health conditions (Major & Eccleston, 2004).

- **Social Identity and Mental Illness**: For individuals with mental health conditions, stigma can be particularly damaging. It can prevent them from seeking help or treatment, as they may fear further exclusion or judgment. Self-stigma, the internalization of society's negative perceptions, can reinforce feelings of inadequacy and lead to lower self-esteem, making it harder to manage mental health symptoms.

Stress and Anxiety

Social exclusion acts as a constant source of stress, which affects both emotional and physical health. The experience of being left out or marginalized can activate the body's fight-or-flight response, leading to heightened physiological stress. Over time, chronic stress contributes to the development of conditions such as generalized anxiety disorder (GAD), panic attacks, and even post-traumatic stress disorder (PTSD) in extreme cases.

- **Mental Health Deterioration**: Stress has a detrimental effect on the brain, particularly in areas related to emotional regulation and cognitive functioning. Prolonged exposure to stress can impair the ability to make decisions, manage emotions, and maintain healthy relationships, all of which worsen mental health conditions.

2. Mental Illness Exacerbates Social Exclusion

Behavioural Changes and Social Withdrawal

Individuals suffering from mental illness may find it difficult to engage with others, leading to a withdrawal from social interactions. Symptoms such as fatigue, lack of motivation, social anxiety, or low self-esteem can cause them to avoid situations where they might interact with others, further isolating themselves.

- **Avoidance and Alienation**: As mental health conditions worsen, the person may become more withdrawn, avoiding social gatherings, work, or other public settings (Riva et al, 2017). This withdrawal leads to further social exclusion, as others may perceive the individual as uninterested or difficult to engage with. Over time, this alienation creates a sense of disconnection and reinforces the individual's belief that they are not worthy of social interaction.

Impaired Social Skills and Communication

Mental illness can lead to impaired social skills, particularly in disorders such as schizophrenia, depression, or social anxiety disorder. People with these conditions may struggle to initiate or maintain conversations, read social cues, or navigate social norms, which can lead to social awkwardness or misunderstandings (Armijo, 2017). These difficulties can result in rejection or social isolation.

- **Perceived Unfriendliness or Stigma**: As a result of these communication issues, the individual may be seen as unfriendly, aloof, or uninterested, even if this is not their intention. This perception can lead others to avoid or exclude them, reinforcing their sense of alienation and perpetuating the cycle of exclusion.

Increased Vulnerability to Further Exclusion

Mental illness, particularly conditions such as schizophrenia or bipolar disorder, can lead to behaviours that further isolate individuals from social networks. These behaviours might include erratic behaviour, delusions, poor self-care, or extreme mood swings, which can alienate others and lead to rejection.

- **Cognitive Impairment and Stigma**: As individuals with mental illnesses experience further cognitive or emotional deterioration, they may become more vulnerable to

stigma and rejection from others. This reinforces feelings of inferiority and increases their likelihood of being excluded from social activities, exacerbating their condition.

Lack of Access to Support Systems

People with mental illness may also struggle to access necessary resources and support systems due to their condition. The stigma surrounding mental illness may deter them from seeking help, leaving them without professional care or social services. This lack of support further isolates them and prevents them from addressing both their mental health needs and their social exclusion.

- **Access to Care**: Without social support or appropriate treatment, mental health conditions can worsen, leading to increased isolation, and, in some cases, homelessness or poverty. The inability to access basic services such as healthcare, employment, and housing due to mental illness creates a feedback loop, with exclusion compounding the mental health challenges.

3. The Feedback Loop: A Vicious Cycle

The reciprocal relationship between social exclusion and mental illness creates a vicious cycle in which each factor reinforces and exacerbates the other. This feedback loop can be broken down as follows:

- **Initial Exclusion**: An individual is socially excluded, leading to feelings of loneliness, stress, and rejection.
- **Mental Health Decline**: The emotional distress caused by exclusion contributes to the development or worsening of mental health conditions like depression, anxiety, or paranoia.
- **Further Exclusion**: As mental health issues deepen, the person may withdraw socially, act out in ways that lead to rejection, or struggle to engage with others, resulting in even greater isolation.
- **Exacerbation of Mental Illness**: The ongoing exclusion and isolation further intensify the psychological distress, leading to worsening mental health symptoms and even more pronounced feelings of alienation.

This vicious cycle can become self-perpetuating, making it more difficult for individuals to break free from either the mental health challenges or the social exclusion they face.

4. Breaking the Cycle

Breaking the cycle of social exclusion and mental illness requires interventions on multiple levels:

- **Mental Health Support**: Providing access to mental health services, including therapy, counselling, and medication, can help address the underlying mental health conditions that perpetuate exclusion.

- **Social Inclusion Programs**: Community-based programs that encourage social interaction and support groups can help individuals reintegrate into society and rebuild connections, thus counteracting isolation.

- **Reducing Stigma**: Anti-stigma campaigns can reduce the societal biases that lead to exclusion, making it easier for individuals to seek help and re-engage with others.

- **Empathy and Understanding**: Fostering a more inclusive and empathetic society is key to breaking the cycle. Understanding the needs and challenges of those with mental illnesses can help reduce the stigma and exclusion they face.

Interventions to Address Social Exclusion and Mental Health

- **Inclusive Practices in Society**
    - Importance of promoting social inclusion through community initiatives and accessible public spaces.
    - The role of education and awareness in reducing stigma around mental health and social exclusion.

- **Mental Health Support Systems**
    - The need for integrated mental health services that cater to marginalized groups.
    - Community-based programs aimed at reducing social isolation and fostering connections.

- **Policy Recommendations**
    - Policy strategies that encourage inclusivity in workplaces, schools, and healthcare systems.
    - Advocacy for public policy that addresses both mental health and social inclusion in a holistic manner.

- **Promoting Resilience**

   o Interventions aimed at building individual resilience against the psychological effects of exclusion.

   o Importance of fostering a sense of belonging and community integration.

Future Directions for Research

- **Gaps in the Literature**

   o Identification of areas where further research is needed, such as the long-term effects of exclusion on mental health across different age groups.

   o Exploration of cross-cultural variations in experiences of social exclusion and mental health.

- **Innovative Interventions**

   o The potential for technology (e.g., online support groups, digital mental health platforms) to address isolation.

   o Future research into the intersectionality of social exclusion and mental health (e.g., race, gender, socioeconomic status).

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Right to Information and the Digital Personal Data Protection Act: Balancing Transparency and Privacy

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Right to Information, a fundamental human right,[1] is enjoyed by citizens of over 125 countries. In India, the Right to Information Act, 2005, is considered to be a milestone of great importance in the evolution of Indian democracy.

Indian RTI Act is considered to be strong, which provides for constitution of Information Commissions with unique powers, which can impose a penalty on Public Information Officers.

According to a recent international assessment, India is placed 8th in the list of 136 countries with the strong national level RTI laws. 'RTI Rating', a comparative assessment of national legal frameworks for the right to information was developed by the Centre for Law and Democracy and Access Info Europe.

Right to Information (RTI) has become a friend in need, making life easier and honourable for common people empowering them to request and access public services successfully.

COVID-19 has brought into light the value of transparency of information in containing the pandemic and how secrecy in early days contributed to its spread across nations.
Even on origin of COVID-19, Freedom of information could throw some light. American Professor Nicholas Wade published 528 pages of documents, obtained through Freedom of information Act (FOIA) request to the National Institutes of Health and a 12-month delay, that described risky experiments on hybrid coronaviruses, carried out in Wuhan with the support of EcoHealth and the U.S. government.[2]

Back home, the Supreme Court of India has been consistently upholding Right to Information, particularly voter's right to know the sources of political party funding.[3] In a landmark judgment on February 15, 2024, the Supreme Court of India found Electoral Bond

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[1] According to a recent international assessment, India is placed 8th in the list of 136 countries with the strong national level RTI laws. 'RTI Rating', a comparative assessment of national legal frameworks for the right to information was developed by the Centre for Law and Democracy and Access Info Europe.
[2] https://theintercept.com/document/2021/09/08/understanding-the-risk-of-bat-coronavirus-emergence/
[3] *Association for Democratic Reforms & Others vs. Union of India & Others,* Supreme Court Writ Petition (C) No. 880 of 2017 Decided on February 15, 2024

Scheme unconstitutional on the grounds that it violated[1] the right to information guaranteed by Article 19(1)(a) of the Indian Constitution.

This right allows citizens to access information held by public authorities, which includes political parties to a certain extent. The court argued that voters have a right to know the sources of funding for political parties to make informed choices during elections. Anonymous donations through electoral bonds hindered this transparency.

Justice Sanjiv Khanna in concurring judgment observed, "Democratic legitimacy is drawn not only from representative democracy but also through the maintenance of an efficient participatory democracy. In the absence of fair and effective participation of all stakeholders, the notion of representation in a democracy would be rendered hollow."

Judgement on right to healthy environment

In another historic judgement, the Supreme Court recognised the right to a healthy environment and the right to be free from the adverse effects of climate change as fundamental rights.[2]

The Court noted, "Violations of the right to a healthy environment can reverberate across numerous rights domains, including the right to life, personal integrity, health, water, and housing, as well as procedural rights such as information, expression, association, and participation."

However, on the legal front, a big concern for Right to Information is going to be in the form of the Digital Personal Data Protection Act, 2023 (DPDP Act), which received the assent of the President on 11August 2023. The law is yet to come into force; the date of enforcement is expected to be notified soon.

The DPDP Act proposes an amendment to Section8(1)(j) of the RTI Act. Section8(1)(j) of the RTI Act now (before the amendment is brought into force) reads as follows:

"(j)   information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted

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[1] The judgment was delivered by five-judge Constitution Bench of the Supreme Court of India:
- Chief Justice of India: D.Y. Chandrachud (Authored the lead judgment)
- Justice: Sanjiv Khanna (Authored a concurring judgment)
- Justice: B.R. Gavai
- Justice: J.B. Pardiwala
- Justice: Manoj Misra

[2] The Supreme Court in *MK Ranjitsinh And Ors. Vs. Union of India & Ors*. WP(C) No. 838/2019 dt. March 21, 2024

invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person."

Section 44 (3) of the DPDP Act amends the RTI Act as follows:

In section 8 of the Right to Information Act, 2005, in sub-section (1), for clause (j),

the following clause shall be substituted, namely:—

"(j) information which relates to personal information;".

There is an argument that the above amendment weakens the RTI Act:

- Any information which relates to personal information can be exempt from disclosure.

- PIO's discretion - to disclose even the exempt personal information when she is satisfied that larger public interest justifies the disclosure - will be done away with.

However, Section 8 (2) remains intact in the RTI Act and compensates the amendment to some extent. As the Supreme Court Justice K.M. Joseph observed, the RTI Act through Section 8(2) confers upon the citizens a priceless right by clothing them with the right to demand information even in respect of such matters covered by the exemptions under Section 8 (1).[1]

Right to Information exercised by predominantly male demographic?

A recent news report revealed that women in India are not able to exercise the right to information with the same facility (frequency, ease and rate of success) as men. Women are filing less than 10% of requests for information[2] while lack of awareness is a major challenge. Governments and Civil Society should take serious note of this concern and start working towards ensuring gender equality in RTI activism.

A free flow of information can transform lives. Women should be encouraged to use the power of information for economic empowerment and fulfilment and protection of rights.

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[1] *Yashwant Sinha & Ors. v. Central Bureau of Investigation & Anr* (Review Petition (Criminal) No. 46 of 2019 in Writ Petition (Criminal) No. 298 of 2018, Date of Judgement: 10 April 2019.
[2] Only 7.15% Online RTI Applications Filed By Women In 8 Years 2013-2021: 1,59,107 applications filed: Only 11,376 by women (Reply to an RTI request by DoPT) https://www.outlookindia.com/website/story/india-news-only-715-online-rti-applications-filed-by-women-in-8-years-right-to-information-request-reveals/401412

Metamorphosis of a City

BP Acharya , IAS retd.
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The metamorphosis of Hyderabad, originally founded in 1591 to ease the congestion and water scarcity in the existing Qutub Shahi capital of Golconda, into a global hub of technology and industry is a fascinating journey that recently published the book "Beyond Biryani " by Dinesh C. Sharma (Westland) , tries to capture with absorbing details. For the author who is a Hyderabadi himself (now settled in Delhi) Hyderabad must be a place in his heart and hence, he tries to recount its story with all the affection and sensitivity, it deserves.

As the author recounts in the introductory chapter:

> "This book is an attempt to capture the remarkable story of the rapid transformation of Hyderabad from what was, at best a proto colonial city in a quasi-Mughal princely state until 1940s, to a modern and vibrant metropolis. Fortunately, I have been a witness to almost the entire journey , either directly or through collective family memories."

This is paradoxically the strength and weakness of the book, that is the result of painstaking research sponsored by Jawaharlal Nehru Memorial Fund . While it affords a ring side view to the author, at times it is vulnerable to personal predilections and prejudices which he tries to avoid diligently, of course. There is also the tendency to miss the woods for the trees and references to persons and their roles in shaping the destiny of the City over the centuries, which was undeniably significant in this case. Hyderabad was lucky to have successive ruling elite from the Qutub Shahi , Asaf Jahis and post independence period that were forward looking and ably assisted by competent Ministers / bureaucrats who were able to execute their visions into reality.

In this regard , one cannot overemphasize the contributions of Hussain Shah Wali (who made Hussain Sagar as a man made water source in 1562 , which became a trigger for Hyderabad 30 years later) , Mir Momin Astrabadi the Persian Architect who designed Hyderabad, inspired by Isfahan in Iran , Salar Jungs I,II, III,Sir M Vishweshwariah who introduced modern town planning after the devastating Musi floods in 1908, Edward Lawrie, Ronald Ross and Sherwani who introduced modern scientific temper and education system prodded by British Residents to address the needs of the place during World War I and

subsequent period. Similarly, in the 1990s , coinciding with the liberalisation of Indian economy and advent of IT/ ITES boom that pitchforked Hyderabad to the big league, it was lucky to have visionary political leadership that wanted to take advantage of the circumstances, ably assisted by a number of competent bureaucrats viz, R Chandrasekhar, Randeep Sudan, J Satyanarayana, Sheela Bhide , Jayesh Ranjan and Arvind Kumar. . Yours truly was also fortunate to contribute a bit in Cyberabad, Knowledge city at Raidurg, Financial Dist, HICC and Life science cluster at Genome valley, which has been a labour of love over two decades.

What is important about this book, is that it faithfully and meticulously records these milestones in the evolution of Hyderabad, laced with interesting sidelights and anecdotes, not widely known, which makes it eminently readable. It is not a cumbersome and boring account of events and dates but lively narrative of the concomitant processes that are analysed with the academic rigour, that makes it unique. A case in point is the chapter on Osmania University, originally based on the Japanese model of vernacular education, which subsequently spawned several research institutions in its proximity,such as, IICT, NIN , CCMB, CDFD, NGRI, IDPL which made it the epicentre of a modern science cluster, which promoted Pharma and Biotech industry around Hyderabad in later years. It was almost a catalytic process that led one thing to another , or " chain reaction" as the author calls it and Hyderabad was fortunate to be part of this unique unfolding of cascading eco system.

The author also tries to allude to the cost of development in terms of its effects on heritage and ecology and devotes the penultimate chapter entitled " the price of development" and highlights the need to address these concerns, shared by many old Hyderabadis like himself who bemoan the decline of the syncretic Ganga Jamuni tehzeeb of the place and its old world, laid back charm. Luckily, all is not lost and Hyderabad, at least some part of it, continue to exude the aura of a traditional city with a modern face, which prompted the famous National Geographic journal to name the city as one of 10 most attractive tourist destinations in 2015!

All in all, this book is indeed a unique effort to document the recent history of Hyderabad and trace its evolution over the last 4 centuries, which faithfully records the milestone and processes that make it what it is today. A must read for lovers of urban development and modern history and of course, those who cherish Hyderabad and its cultural heritage. Kudos to the author for this remarkable endeavour.

About Dr. MCR HRD Institute of Telangana

Dr. MCR HRD Institute of Telangana, premier Administrative Training Institute (ATI) of Government of Telangana, founded in 1976, has been supporting the Government's initiatives in capacity building for reforms, good governance, change management, and revamping delivery systems.

The Institute has a sprawling 33 acre campus in the heart of Hyderabad. It is a lush green area which is fully WiFi enabled and buildings with rooftop solar panels. It has well-furnished classrooms, auditoria, indoor and outdoor sports facilities including swimming pool, gymnasium and hostel blocks with capacity to accommodate 900 persons. In addition, the Institute established a network of Regional Centres for Training to provide training to field level functionaries.

The Institute's mandate is carried out through the following Centres:
   i. Research Coordination Unit (RCU)
   ii. Centre for Information Technology (CIT)
   iii. Centre for Law & Public Administration (CLP)
   iv. Centre for Telangana Studies (CTS)
   v. Centre for Management & Behavioural Studies (CMB)
   vi. Centre for Disaster Management & Sustainable Development (CDS)
   vii. Centre for Finance and Economics (CFE)
   viii. Centre for International Relations & Security (CIS)

In addition to training programs for Government employees from Telangana State and from across the country, the Institute has been offering Foundation Courses for All India Services Officers & Central Civil Services Officers, Military Engineer Services Probationers, etc. The Institute conducted a training program for Civil Servants from ASEAN countries in 2019.

As a part of the first "Training for All" program, sponsored by DoPT, Govt. of India, the Institute has successfully trained 6,495 personnel of Tribal Welfare Department.
Under the second "Training for All" program, the Institute conducted capacity building programs for 5562 employees of Women Development & Child Welfare Department. Under the project, the Institute undertook saturation training of front-line staff manning public service

delivery chain in identified sectors, in specific geographical area to cover the entire public service delivery chain of the identified sector to bring about change in values and culture of an organization as a whole.

The Institute has also been conducting training programs on a massive level, for Trainers, PIOs, APIOs, First Appellate Authorities and other officers on the Right to Information (RTI) Act since 2005. The Institute conducts Workshops on different aspects of the RTI Act by involving Civil Society apart from officials across various departments, including Indian Air Force, Geological Survey of India and so forth. The Institute has conducted Orientation Programmes to the Information Commissioners of Telangana Sate Information Commission.

The Institute has published the following books on various concepts of the Right to Information law to facilitate understanding the intricacies of the legislation:

1. *Exemption from Disclosure of Information under the RTI Act: An Introduction.* Hyderabad: Dr. MCR HRD Institute, 2021.
2. *The Right to Information Act: A Handbook for Public Authorities*. Hyderabad: Dr. MCR HRD Institute, 2022.
3. *Proactive Disclosure of Information under the Right to Information Act: A Guide* Hyderabad: Dr. MCR HRD Institute, 2021.

The publications are available on our website at:
https://www.mcrhrdi.gov.in/rti_publications.html

The Institute has earned *UTKRSHT* Accreditation from the National Accreditation Board for Education and Training (NABET) following a highly rigorous assessment process. Further, the Institute won the prestigious SKOCH Governance Silver Award at the 68th SKOCH Summit held in 2020, for offering Virtual Training Programs, especially the Foundation Course for All India Services and Central Services Officers.