



# Journal of Global Research in Multidisciplinary Education

***Knowledge for Society • Peer-Reviewed • Ethical • Inclusive***

<b>Year</b>	2025
<b>Volume</b>	1
<b>Issue</b>	1
<b>ISSN</b>	XXXX-XXXX
<b>Website</b>	<a href="http://www.grimejournal.com">www.grimejournal.com</a>
<b>Publisher Email</b>	<a href="mailto:info@grimejournal.com">info@grimejournal.com</a>

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ART01/2025/01/01

## **ADR and Space Law Disputes: Arbitration Mechanisms for Outer Space Commercialisation**

*Author: Dr. Manoj (Associate Professor), Shaheed Bhagat Singh Law College, Jaipur*

### **Abstract**

The rapid acceleration of outer space commercialisation, encompassing satellite telecommunications, space tourism, asteroid mining, and on-orbit servicing, presents a novel and complex legal frontier. Traditional state-centric dispute resolution mechanisms, primarily rooted in public international law and diplomatic channels, are increasingly ill-suited to address the high-frequency, high-stakes commercial disputes that will inevitably arise between private entities and states. This article argues that Alternative Dispute Resolution (ADR), particularly international arbitration, is the most efficacious and pragmatic mechanism for resolving disputes in the burgeoning space economy. It examines the limitations of existing international space law

frameworks, notably the lack of a comprehensive private law dispute settlement body under the Outer Space Treaty regime. The article then delves into the inherent advantages of arbitration—its neutrality, enforceability under the New York Convention, procedural flexibility, and capacity for employing expert arbitrators—making it the ideal forum for technically complex space-related disputes. Finally, it analyses the emergence of specialised arbitration rules, such as those from the Permanent Court of Arbitration (PCA), and the role of private institutions in creating a predictable legal environment essential for sustaining private investment and innovation in outer space.

### **Keywords:**

Space Law, Alternative Dispute Resolution (ADR), International

Arbitration, Outer Space Treaty, Commercial Space Activities, Permanent Court of Arbitration (PCA), Dispute

Settlement, New York Convention, Liability, Space Assets.

## **Introduction**

The dawn of the 21st century has witnessed the transformation of outer space from a domain of exclusive state exploration to a vibrant arena of commercial enterprise. Private companies are now launching constellations of satellites, planning hotels in low-Earth orbit, and prospecting for valuable minerals on asteroids. This new "New Space" ecosystem, while promising immense economic and technological benefits, also generates a host of potential legal conflicts. These range from contractual breaches in launch service agreements and satellite insurance claims to more complex issues like orbital slot interference, damage caused by space debris, and liability for cross-contamination in planetary exploration. The existing international legal framework, anchored by the 1967 Outer Space Treaty (OST), was conceived in a different era and is largely silent on dispute resolution between private parties.

This regulatory lacuna necessitates a robust, efficient, and specialised mechanism for dispute settlement. Alternative Dispute Resolution, and specifically international arbitration, emerges as the most compelling solution.

## **The Inadequacy of Traditional Dispute Resolution Mechanisms**

The current corpus of international space law provides limited guidance for resolving modern commercial disputes.

1. **State-Centric Focus:** The OST and related treaties (Liability Convention, Registration Convention) primarily govern the activities of states. For instance, Article VI of the OST holds states internationally responsible for national activities in space, including those of non-governmental entities. While this establishes state liability, it does not provide a direct cause of action for one private company against another. Pursuing a claim through diplomatic channels or the

state-to-state liability process under the Liability Convention is a politically fraught, time-consuming, and commercially unviable option for a private enterprise seeking swift compensation.

2. **Lack of a Dedicated International Tribunal:** Unlike the law of the sea, which has the International Tribunal for the Law of the Sea (ITLOS), space law has no dedicated international court with compulsory jurisdiction over private disputes. The International Court of Justice (ICJ) only has jurisdiction over states.
3. **Domestic Courts:** Litigation in national courts is often an unattractive option. It can lead to issues of jurisdictional uncertainty, procedural delays, potential lack of technical expertise on the bench, and concerns over judicial bias or a "home court advantage." Furthermore, the recognition and enforcement of a national court judgment in another country can be significantly more difficult than enforcing an international arbitral award.

## **The Ascendancy of Arbitration in Space Disputes**

International arbitration effectively addresses the shortcomings of traditional

litigation. Its features are uniquely aligned with the needs of the global space industry:

1. **Party Autonomy and Neutrality:** Parties can select a neutral forum and a seat of arbitration unconnected to either party's home state, thereby mitigating concerns of bias. They can also tailor the procedural rules to suit the specificities of their dispute.
2. **Expertise:** Perhaps the most significant advantage is the ability to appoint arbitrators with specific expertise in space law, satellite technology, orbital mechanics, or international finance. This ensures that the tribunal understands the technical nuances of the case, leading to more informed and authoritative decisions.
3. **Confidentiality:** Commercial entities often prefer to keep their disputes and proprietary technology details out of the public domain. Arbitration proceedings are typically confidential, protecting business secrets and reputations.
4. **Enforceability:** Arbitral awards are widely enforceable across borders under the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which has been ratified

by over 170 states. This provides a high degree of certainty that a successful award will be executable against assets in numerous jurisdictions.

5. **Flexibility and Efficiency:** Arbitration can be faster and more cost-effective than protracted international litigation, though this depends on the complexity of the case and the parties' conduct.

## **Institutional Frameworks and Specialised Rules**

Recognising this need, prominent institutions have developed specialised rules for space-related disputes.

1. **Permanent Court of Arbitration (PCA):** In 2011, the PCA developed Optional Rules for Arbitration of Disputes Relating to Outer Space Activities. These rules are a landmark development. They provide a tailored procedural framework that incorporates public international law principles and allows for the appointment of arbitrators from the PCA's specialised roster of space law experts. The rules are designed to handle a wide array of disputes, including those between states, private parties, and inter-governmental organisations.

2. **Other Institutions:** Established arbitral institutions like the International Chamber of Commerce (ICC) and the London Court of International Arbitration (LCIA) are also frequently chosen for space-related disputes. Their well-established rules and administrative support make them attractive for complex commercial contracts. The ICDR (International Centre for Dispute Resolution) of the AAA is another popular choice, particularly for parties based in the Americas.

## **Challenges and the Path Forward**

Despite its advantages, the arbitration of space disputes is not without challenges. The fundamental principles of space law, such as the prohibition of national appropriation (Article II, OST) and the liability regime, remain rooted in public international law and will invariably influence the interpretation of commercial contracts. Arbitral tribunals must navigate these overarching legal principles.

Furthermore, the industry must proactively standardise dispute resolution clauses in commercial contracts. Standardised clauses that clearly designate a preferred arbitral institution, the seat of arbitration,

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the governing law (often a national law chosen by the parties), and the number of arbitrators will prevent preliminary jurisdictional battles and streamline the process.

## **Conclusion**

As humanity's economic sphere expands into the cosmos, the legal infrastructure must evolve in tandem. The traditional, state-oriented dispute resolution mechanisms of the 20th century are inadequate for the dynamic, privatised space economy of the 21st. International arbitration, with its flexibility, expertise, neutrality, and global enforceability, offers the most viable and sophisticated framework for resolving the commercial disputes that will arise from this new frontier. The development of specialised rules, particularly by the PCA, marks a critical step towards building a predictable and reliable legal environment. For the commercial space industry to truly

flourish, fostering investor confidence and mitigating risk is paramount. The robust adoption of ADR mechanisms is, therefore, not merely a legal preference but a commercial necessity for the sustainable development and peaceful governance of outer space.

**ART02/2025/01/01**

## **Online Financial Frauds in Rural India: A Study on Digital Literacy and Victimation**

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**Keywords:** Online fraud, digital literacy, rural victimisation, UPI scams, cyber law, judicial response.

### **Abstract**

The digitisation of financial services in India has revolutionised transactions and access to banking, particularly through government initiatives like Digital India and UPI. However, this rapid technological shift has left rural populations increasingly vulnerable to online financial frauds due to low digital literacy, limited awareness, and inadequate institutional safeguards. This article explores the growing incidence of cyber financial frauds in rural India, highlighting the types of scams that are prevalent—mechanisms, and a more empathetic judicial approach.

This research underscores the need to shift the focus from technological inclusion to meaningful digital empowerment.

ranging from phishing to UPI frauds and predatory loan apps. The study critically examines the misconception of digital literacy as merely technical familiarity rather than a comprehensive understanding of cyber risks, legal recourse, and financial prudence. It evaluates the limitations in the current legal framework under the Information Technology Act, 2000 and Indian Penal Code, and critiques judicial interpretations that fail to accommodate the unique socio-economic vulnerabilities of rural victims. Through a case study and empirical observations, the article identifies key enforcement and policy gaps, and proposes targeted reforms such as improved digital education, mobile cyber tribunals, simplified FIR Bridging this gap is essential not only to protect rural citizens from financial exploitation but also to ensure the equitable success of India's digital revolution.

## I. Introduction

The rapid digitisation of financial services in India has brought convenience and efficiency to millions, but it has also exposed rural populations to new risks—online financial frauds. Despite the government's push for digital inclusion through initiatives like *Digital India*, rural India remains vulnerable due to low digital literacy, lack of awareness, and inadequate regulatory safeguards. This article examines the growing menace of online financial frauds in rural areas, analyses the role of digital literacy in victimisation, and critiques the legal and policy frameworks aimed at mitigating these risks.

The study argues that while the Indian legal system has provisions to address cybercrimes, their enforcement in rural areas is weak. Additionally, the conflation of digital literacy with mere access to technology has led to inadequate protective measures. The article also highlights how judicial interpretations and policy gaps have failed to address the unique challenges faced by rural victims.

## II. The Landscape of Online Financial Frauds in Rural India

Online financial frauds in rural India encompass a range of scams, including:

### 1. Phishing and SIM Swap Frauds:

One of the most prevalent and dangerous forms of online financial fraud in rural India is phishing—a deceptive tactic where fraudsters impersonate legitimate entities, such as banks or government agencies, to extract sensitive personal information from unsuspecting users. This is often coupled with SIM swap frauds, a more sophisticated method where the fraudster obtains control over a victim's mobile number by duplicitously convincing telecom service providers to issue a new SIM card, effectively hijacking the victim's communication channel.

In phishing scams, the common modus operandi involves sending fake SMS alerts or making phone calls pretending to be from a bank's customer care team. Victims are typically asked to "verify" their accounts by sharing OTPs, debit card details, or Aadhaar-linked information under the pretext of account suspension, KYC updates, or cash reward schemes.

SIM swap frauds amplify this danger. Once the fraudster gains access to the victim's mobile number, they intercept OTPs and push notifications related to UPI, net banking, or mobile wallet transactions. This renders even two-factor authentication systems ineffective.

.UPI Scams: Fake payment requests or QR code manipulations.

The Unified Payments Interface (UPI) has revolutionised financial transactions in India by offering real-time, 24/7 bank-to-bank transfers through mobile devices. However, this very convenience has given rise to a new wave of digital frauds, particularly in rural areas where users are still unfamiliar with digital financial etiquette and risk protocols.

Among the most common techniques employed in UPI scams are fake payment requests, QR code manipulation, and "receive money" request traps. Unlike traditional phishing, UPI frauds rely less on psychological manipulation and more on exploiting the user's technical unfamiliarity with app mechanics and payment flows.

## 2. Loan App Frauds:

The rapid rise of unregulated digital lending platforms, particularly through mobile applications, has emerged as one of the most alarming forms of financial exploitation in rural India. These fraudulent or semi-legitimate loan apps lure users with the promise of instant, collateral-free credit, but trap them in cycles of exorbitant interest rates, hidden charges, and abusive recovery practices.

Often, such apps operate without registration under the Reserve Bank of India (RBI) or any official Non-Banking Financial Company (NBFC) framework. Rural users, desperate for emergency funds or denied access to formal banking loans, fall prey to these platforms that exploit financial illiteracy and data vulnerability.

## 3. Ponzi Schemes:

Ponzi schemes are a form of fraudulent investment where returns to earlier investors are paid out of the contributions of newer investors, rather than from legitimate business activities. While Ponzi scams are not new, their

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digital avatars have taken deeper root in rural India, where low financial literacy, informal networks, and aspirational narratives combine to make large segments of the population vulnerable.

Through the use of social media platforms, messaging apps, and fake online portals, fraudsters market these schemes as government-backed plans, crypto currency investments, or agricultural cooperatives offering “guaranteed high returns.” The bait is almost always the same: small investments with promises of multiplying money quickly, coupled with referral bonuses to create a self-sustaining recruitment cycle.

Despite the prevalence of these frauds, rural victims often lack recourse due to:

1. Low Reporting Rates: Fear of social stigma or mistrust in authorities.
2. Delayed Justice: Overburdened cybercrime cells and judicial delays.
3. Lack of Awareness: Many victims are unaware of reporting mechanisms like the National Cyber Crime Reporting Portal.

Despite the alarming proliferation of online financial frauds in rural India, the

vast majority of affected individuals remain devoid of effective remedial avenues due to a confluence of structural, procedural, and sociocultural impediments. First, there exists a chronically low incidence of formal reporting, primarily attributable to entrenched social stigmas, fear of reputational harm, and a deeply embedded mistrust in institutional mechanisms, particularly in jurisdictions where law enforcement agencies are perceived as either indifferent or dismissive. Second, even in instances where complaints are filed, the pursuit of justice is frequently undermined by inordinate delays resulting from overburdened cybercrime units, jurisdictional confusion between local police stations and state cyber cells, and the lack of technical forensics infrastructure capable of tracking complex digital footprints. Third, a pervasive deficit in legal awareness significantly impedes the capacity of victims to engage with established redressal frameworks, such as the National Cyber Crime Reporting Portal ([cybercrime.gov.in](http://cybercrime.gov.in)), or to invoke provisions under the Information Technology Act, 2000 and the Indian Penal Code, which criminalize various

manifestations of digital fraud. Additionally, the absence of widespread digital legal literacy precludes victims from asserting their rights under the Consumer Protection Act, 2019, the Banning of Unregulated Deposit Schemes Act, 2019, or from initiating recovery under relevant RBI grievance mechanisms. This legal vacuum, compounded by linguistic barriers, digital illiteracy, and procedural opacity, renders justice effectively inaccessible to rural victims, thereby perpetuating a cycle of unaccountability and systemic exclusion within the digital financial ecosystem.

### **III. Digital Literacy: A Misunderstood Shield**

The government's definition of digital literacy often equates it with the ability to operate smart phones or use UPI apps. However, true digital literacy must include: The discourse surrounding digital literacy in India, particularly within governmental frameworks and public policy, is frequently reductionist and functionally shallow. State-sponsored initiatives such as the *Pradhan Mantri Gramin Digital Saksharta Abhiyan*

(*PMGDISHA*) and *Digital India* often conflate digital access with digital competence, mistakenly equating the ability to operate a Smartphone or transact via UPI applications with a comprehensive understanding of the digital ecosystem. This instrumental view of digital literacy overlooks critical dimensions of user awareness, legal consciousness, and risk perception—elements that are indispensable in an era of pervasive cyber frauds.

True digital literacy, particularly in the context of financial technology (fintech), must transcend the mere operational proficiency of digital tools. It must encompass critical evaluation skills, such as the ability to discern phishing attempts, identify suspicious QR codes, recognise fake applications, and scrutinise unsolicited financial offers. Moreover, it must be rooted in legal literacy, enabling individuals to understand their statutory rights, the grievance redressal mechanisms available under the Information Technology Act, 2000, the Consumer Protection (E-Commerce) Rules, 2020, and guidelines issued by the Reserve Bank

of India (RBI) concerning fraudulent transactions and customer liability.

Additionally, financial literacy must form a core component of digital education, especially in rural India where the lines between financial services, informal savings schemes, and predatory fintech are often blurred. A digitally literate individual must not only know how to use an application but also comprehend the implications of sharing OTPs, biometric data, or Aadhaar-linked credentials; interpret consent in digital contracts; and report violations on the appropriate portals such as *cybercrime.gov.in* or the *RBI Ombudsman*.

Empirical evidence further reveals that marginalised groups—particularly women, the elderly, and non-literate individuals in rural India—are disproportionately targeted in online financial scams precisely because their engagement with digital tools is superficial, often mediated through family members or community agents. This makes them susceptible not only to technical manipulation but also to coercive social engineering, the psychological

vector exploited in most digital financial crimes.

In effect, misdefining digital literacy as a mechanical skill rather than a multidimensional capability has led to an illusion of empowerment, while actually exposing users to enhanced vulnerabilities. Bridging this definitional and pedagogical gap requires a paradigm shift—from access-centric metrics to capability-driven outcomes—rooted in behavioural training, vernacular legal education, and grassroots community engagement. Without such a recalibration, digital literacy will remain an inadequate and misunderstood shield against the rising tide of cyber-financial victimisation in rural India.

1. Critical Thinking: Identifying suspicious links or requests.
2. Legal Awareness: Knowing rights and reporting procedures.
3. Financial Prudence: Understanding the risks of sharing OTPs or bank details.

Studies show that rural users, particularly the elderly and women, are disproportionately targeted due to lower

literacy levels. The *Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA)*, while commendable, fails to address advanced fraud prevention strategies. A holistic understanding of digital literacy in the context of financial cybercrime must be anchored in three foundational competencies—critical thinking, legal awareness, and financial prudence—each of which is essential to building a resilient and fraud-aware digital citizenry. First, critical thinking entails the cognitive ability to scrutinise digital communications and interfaces, allowing users to identify anomalous patterns, social engineering tactics, and malicious vectors such as suspicious hyperlinks, unsolicited QR codes, or identity spoofing attempts masquerading as legitimate financial service providers. Second, legal awareness extends beyond basic knowledge of statutory provisions; it includes a functional understanding of rights conferred under the *Information Technology Act, 2000*, mechanisms for recourse via the *National Cyber Crime Reporting Portal*, and the ability to escalate grievances through quasi-judicial institutions like the *Banking Ombudsman* or the *Consumer Disputes Redressal*

*Commissions*. Finally, financial prudence demands a nuanced appreciation of the risks inherent in digital transactions, particularly the irreversible consequences of sharing confidential banking information such as One-Time Passwords (OTPs), CVVs, or biometric authentication credentials. In rural contexts, where trust is often interpersonal rather than institutional, failure to cultivate these competencies transforms digital access into a vector of exploitation rather than empowerment. Therefore, any attempt to promote digital literacy devoid of these components remains superficial and incapable of safeguarding the rural population against sophisticated financial frauds.

#### **IV. Legal and Judicial Response: Gaps and Missteps**

##### **A. Legislative Framework**

The *Information Technology Act, 2000*, and the *Indian Penal Code* contain provisions against cyber fraud (e.g., Sections 66C, 66D IT Act; Sections 420, 468 IPC). However, enforcement is patchy in rural areas due to:

1. Lack of Cyber Police Stations: Many districts lack dedicated cybercrime units.
2. Procedural Hurdles: Victims face challenges in filing FIRs or recovering lost funds.

India's statutory response to cyber financial fraud is anchored primarily in the Information Technology Act, 2000, and the Indian Penal Code, 1860 (IPC), which together delineate the legal contours of digital offences. Provisions such as Section 66C (identity theft) and 66D (cheating by personating using computer resources) of the IT Act, and traditional penal provisions like Section 420 (cheating and dishonestly inducing delivery of property) and Section 468 (forgery for the purpose of cheating) under the IPC, ostensibly offer a robust framework to penalise online financial frauds. However, the operationalisation of these statutes remains sporadic and urban-centric, creating a glaring enforcement vacuum in rural jurisdictions. A major impediment is the absence of dedicated cybercrime infrastructure at the district level. Many rural and semi-urban police stations neither possess cyber forensic capabilities nor have specialised personnel trained in

tracking digital transactions, analysing device metadata, or preserving electronic evidence under the rules of admissibility set forth by the Indian Evidence Act, 1872.

Victims in rural areas often encounter procedural bottlenecks when seeking legal redress. Filing a First Information Report (FIR) for cybercrime remains fraught with difficulties—ranging from outright refusal by police officials to jurisdictional ambiguity between local stations and state cyber cells. Even when FIRs are registered, investigations are hindered by the inability to trace IP addresses, coordinate with digital platforms, or secure inter-jurisdictional cooperation, especially when perpetrators operate across state or even international boundaries. Moreover, recovery of lost funds is virtually non-existent, as rural victims are rarely guided on initiating chargeback claims, invoking RBI's liability guidelines, or approaching consumer protection forums. Thus, while the legislative provisions exist on paper, their under-enforcement, coupled with procedural opacity and digital illiteracy, renders the legal apparatus largely inaccessible and ineffective for rural populations, exacerbating their

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vulnerability in the digital financial ecosystem.

## B. Judicial Interpretations

Courts have often treated online frauds as conventional crimes, ignoring their digital nuances. For instance:

1. In *Sharath Babu v. State of Andhra Pradesh*, the Supreme Court recognised the severity of cybercrimes but did not outline rural-specific remedies.
2. The *Res Extra Commercium* fallacy (as critiqued in earlier jurisprudence) resurfaces when courts dismiss financial fraud cases as mere "consumer negligence," undermining victims' rights.

Judicial responses to online financial frauds in India have often been characterised by a doctrinal rigidity that fails to engage meaningfully with the technological specificity and socio-economic asymmetries of digital crime, particularly in rural contexts. Courts have tended to subsume cyber frauds under conventional categories of criminal liability, applying generic principles of cheating, misrepresentation, or contractual default, without accounting for the algorithmic manipulation, data asymmetry,

and behavioural engineering that define digital financial exploitation. For instance, in *Sharath Babu v. State of Andhra Pradesh*, while the Supreme Court acknowledged the increasing prevalence and sophistication of cybercrimes, it refrained from articulating victim-centric or rural-specific jurisprudential frameworks. The absence of judicial guidelines on how law enforcement should address cases involving low-literacy digital users, or how lower courts should evaluate technologically-induced consent and misrepresentation, underscores a structural apathy to the digital divide.

Furthermore, the resurgence of the *Res Extra Commercium* fallacy—a colonial-era doctrine historically used to restrict legal protection for activities deemed "outside commerce"—manifests in judicial attitudes where victims of online fraud are presumed to have failed in exercising reasonable consumer diligence. Such reasoning, observed in multiple lower court decisions, implicitly blames the victim and externalises institutional accountability, particularly when financial frauds are dismissed as cases of "negligent sharing of OTPs" or "failure to verify

transaction details.” This approach not only dilutes the doctrine of fiduciary responsibility owed by digital financial intermediaries (such as banks, NBFCs, and fintech platforms) but also undermines the state’s constitutional obligation under Article 21 to protect citizens’ informational privacy and economic security in the digital realm.

Courts have seldom invoked progressive doctrines such as “*reasonable expectation of digital safety*”, “*asymmetrical contractual power*”, or “*algorithmic duress*”, which are increasingly debated in global digital jurisprudence. The lack of a rights-based interpretative framework—especially when adjudicating on rural victims whose consent is often vitiated by digital illiteracy, linguistic barriers, or technological opacity—has contributed to a jurisprudential vacuum. This urban-centric adjudication paradigm, unless challenged and reformed, risks entrenching digital exclusion and eroding faith in the justice system among rural and marginalised communities.

### **C. Policy Shortcomings**

1. Banks’ Liability: RBI guidelines mandate reimbursement for unauthorised transactions, but rural victims struggle to claim refunds due to bureaucratic delays.
2. Aadhaar-Linked Frauds: Despite *Justice K.S. Puttaswamy v. Union of India* upholding privacy rights, Aadhaar-related scams persist due to poor authentication safeguards.

Despite the existence of regulatory frameworks intended to safeguard digital financial consumers, implementation asymmetries and institutional inefficiencies continue to render these protections largely ineffective in rural India. A notable illustration is the doctrine of zero liability promulgated by the *Reserve Bank of India (RBI)*, which mandates that customers shall not be held liable for unauthorised electronic banking transactions provided they report the incident within a stipulated timeframe. However, operational hurdles such as bureaucratic apathy, opaque refund procedures, and inaccessible grievance redressal systems have made it virtually impossible for rural victims to invoke these protections effectively. Most rural customers are unaware of RBI's circulars,

lack legal aid, and face systemic barriers in lodging timely complaints. Moreover, the dependence on digitally mediated and English-dominant portals for redress compounds the digital divide and institutionalises exclusion.

Similarly, the persistent occurrence of Aadhaar-linked financial frauds points to deep-rooted systemic vulnerabilities in identity authentication mechanisms. Even after the Supreme Court's landmark verdict in *Justice K.S. Puttaswamy v. Union of India* (2017), which affirmed the right to privacy as a fundamental right under Article 21 of the Constitution and restricted the excessive use of Aadhaar by private entities, the ecosystem of Aadhaar-based verification remains plagued by technical flaws and regulatory laxity. Cases abound where biometric data has been misused, authentication has failed silently, or service providers have engaged in non-consensual data sharing, resulting in direct financial losses to unsuspecting rural users. The UIDAI's lack of an efficient compensation or accountability mechanism for identity theft or biometric misuse has further eroded public

confidence in state-sponsored identity-linked financial instruments.

These policy lapses reveal a broader governance deficit, wherein digital financial inclusion has outpaced regulatory preparedness, particularly in jurisdictions where the socio-economic vulnerabilities of the populace require stronger—not weaker—protections. Without decentralised grievance redressal mechanisms, language-agnostic complaint portals, and localised legal literacy campaigns, policy frameworks will continue to disproportionately fail rural consumers. Bridging this policy-practice chasm is thus imperative for ensuring equitable access to justice and trust in the digital financial infrastructure.

## V. Case Study: The UPI Fraud Epidemic

A 2023 survey in rural Maharashtra revealed that 60% of UPI fraud victims were unaware of the "decline payment" option. Many believed that any payment request from a "bank representative" was legitimate. This highlights the failure of awareness campaigns in addressing behavioural vulnerabilities. The explosive growth of Unified Payments Interface

(UPI) systems across India has heralded a new era of financial inclusion, particularly in rural and semi-urban areas. However, this digital acceleration has also created a fertile ground for behavioural exploitation and systemic fraud. A 2023 ethnographic survey conducted in rural Maharashtra uncovered a staggering data point: over 60% of UPI fraud victims were unaware of the functionality to "decline" unsolicited payment requests, erroneously perceiving such prompts—often sent by fraudsters masquerading as bank representatives—as legitimate and mandatory transactions. This behavioural misinterpretation underscores a critical failure of state-led digital awareness campaigns, which have largely emphasised adoption metrics over cognitive and interpretive digital literacy.

The vulnerability is compounded by a lack of contextualised training, wherein rural users are often taught to operate apps mechanically without understanding the transactional consequences of their actions or recognising red flags within the interface. Furthermore, these UPI platforms often employ linguistically exclusive designs, with insufficient vernacularisation of security prompts and

lack of audio-visual cues for the semi-literate population. In many cases, users are unable to distinguish between "collect requests" and "send payments," a confusion deliberately manipulated by fraud actors exploiting interface design limitations and user credulity.

What emerges from this case study is not merely an indictment of the end-user's digital inexperience, but a systemic failure to embed behavioural economics, human-centred design, and risk communication into the architecture of financial technology rollouts. The Reserve Bank of India's directive to banks and fintech firms to conduct awareness drives has been implemented in a check-box fashion, with little monitoring or localisation. Moreover, consumer protection mechanisms remain reactive, often requiring the victim to navigate complex complaint hierarchies, which are inaccessible to digitally or linguistically marginalised populations.

This phenomenon reflects the larger issue of asymmetrical responsibility, wherein financial and state actors externalise cyber security burdens onto end-users who have neither the training nor institutional

support to shoulder such responsibility. Unless the ecosystem shifts from a techno-solutionist model to a rights-based, user-informed model, the proliferation of UPI and similar tools will continue to breed structural inequality and digital victimisation, particularly in India's rural heartlands.

## VI. Recommendations

In light of the growing menace of online financial frauds in rural India, a multi-pronged and institutionally coordinated approach is urgently required to bridge the gaps in awareness, enforcement, and justice delivery. The first area of reform must centre around strengthening digital literacy programs. Government initiatives such as the *Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA)* should be recalibrated to move beyond basic operational literacy and incorporate structured modules on cyber hygiene, financial fraud typologies, and reporting protocols. This content should be integrated with scenario-based learning and made linguistically accessible across local dialects. Furthermore, the government must forge partnerships with

grassroots NGOs and community-based organisations, which are more attuned to local socio-cultural dynamics, to conduct decentralised and sustained digital safety workshops, particularly targeting vulnerable demographics such as women, the elderly, and first-time digital users.

Secondly, enhancing legal recourse mechanisms is imperative to ensure that rural victims are not denied justice due to logistical or procedural constraints. A transformative measure would be the establishment of mobile cybercrime tribunals—roving legal units with jurisdiction over digital offences, designed to function in rural or remote areas where access to formal courts is limited. These tribunals could operate on scheduled circuits, ensuring that victims are not required to travel vast distances or navigate hostile urban legal environments. In parallel, law enforcement agencies should be mandated to simplify the FIR registration process, including the creation of vernacular language help lines and kiosks at local panchayat offices or digital service centres, where victims can report incidents without bureaucratic obstruction or linguistic barriers.

From a financial systems standpoint, banking reforms must focus on systemic accountability and preventative safeguards. It is essential to mandate two-factor authentication—such as biometric verification or voice-based authorisation—for high-value transactions in rural areas, where users may not be familiar with transaction protocols. This would serve as both a technological buffer and a behavioural checkpoint. Furthermore, the Reserve Bank of India (RBI) should revise existing norms to compel banks to complete fraud investigations within fixed timelines, with legal consequences for undue delay or negligent handling of grievance redress. Reversal mechanisms and provisional credits must be automatic upon the lodging of complaints, pending full inquiry.

Finally, a significant attitudinal shift is needed in the judicial treatment of digital fraud cases arising from rural constituencies. Courts must recognise the contextual vulnerabilities of rural users, whose digital engagement is often shaped by informational asymmetry, infrastructural limitations, and cognitive barriers. The tendency to dismiss such

cases on grounds of "consumer negligence" must be replaced with a more empathetic jurisprudence that foregrounds the principle of informational justice and technological parity. Judicial training modules should include sensitisation on cyber law developments and the socio-economic realities of rural digital users.

Together, these recommendations offer a roadmap for building a resilient, inclusive, and equitable digital financial ecosystem, where technological advancement does not come at the cost of legal alienation or social exclusion.

## VII. Conclusion

Online financial frauds in rural India are not just a technological issue but a socio-legal crisis. While digitisation is inevitable, its benefits will remain unequally distributed unless accompanied by robust literacy initiatives and legal reforms. The judiciary must move beyond urban-centric interpretations, and policymakers must prioritise rural-centric anti-fraud measures. Only then can India's digital revolution be truly inclusive. Online financial frauds in rural India constitute far more than isolated instances

of technological exploitation—they represent a deep-seated socio-legal crisis that reflects systemic inequalities in digital access, institutional responsiveness, and normative protections. The uncritical push toward digitisation, though economically expedient, has inadvertently widened the protection gap between urban and rural users, especially in the realm of cybercrime victimisation. While government initiatives such as *Digital India* have commendably expanded digital infrastructure, the failure to parallel this with context-sensitive literacy programs, legal empowerment, and technological safeguards has rendered vast rural populations acutely vulnerable to predatory digital practices.

This paper underscores that digital inclusion cannot be equated merely with access to devices or apps. Instead, it must encompass the ability to exercise informed consent, identify fraudulent intent, navigate institutional redressal mechanisms, and seek legal recourse without procedural intimidation. The rural citizen, in this digital transition, must be reimaged not as a passive recipient of

technology but as an active rights-bearing subject within a constitutional framework.

To realise this vision, both the judiciary and the policy apparatus must abandon their urban-centric paradigms. Courts must develop a jurisprudence that acknowledges technological asymmetry and behavioural vulnerability as legally significant considerations, rather than dismissing fraud claims under the pretext of contributory negligence. Similarly, regulators must prioritise localized and bottom-up interventions—be it through vernacular digital safety campaigns, decentralised grievance cells, or responsive financial norms that reflect on-the-ground realities.

India's digital revolution will remain incomplete and exclusionary unless it is accompanied by a conscious and sustained effort to embed equity, legality, and accountability at its core. Protecting rural citizens from online financial frauds is not merely a policy imperative; it is a constitutional necessity grounded in the rights to dignity, equality, and access to justice.

ART03/2025/01/01

## **Streaming Fragmentation and the Resurgence of Digital Piracy: A Contemporary Analysis**

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### **Abstract**

The phenomenon of digital piracy, once perceived to be in decline owing to the proliferation of streaming platforms, is witnessing a disturbing resurgence. This trend is increasingly attributed to the fragmentation of streaming services, escalating subscription costs, regional content restrictions, and declining user experience. This article explores how these systemic service failures are fostering renewed engagement with piracy, examining international contexts and focusing on India's response. Through the lens of recent data and legal measures, the study offers insights into the causes and consequences of this piracy revival, and proposes a reoriented policy and enforcement framework to address the modern piracy landscape.

**Keywords:** Digital piracy, streaming fragmentation, user experience, streaming services, India, enforcement, service failure, policy response.

### **1. Introduction**

#### **Piracy in the Streaming Era: A Resurgent Challenge**

For much of the last decade, the proliferation of digital streaming platforms was hailed as a decisive blow to online piracy. Services such as Netflix, Amazon Prime, Disney+, Spotify, and Apple Music appeared to have cracked the consumer preference dilemma by providing affordable and convenient access to high-quality content. Indeed, reports from the mid-2010s revealed a sharp global decline in torrent downloads and illegal streaming, suggesting that consumers were willing to

pay for accessibility if platforms met expectations of affordability and user experience. Yet, the optimism surrounding this apparent decline was short-lived. By 2023–2025, data collected by cybersecurity firms and global research agencies documented a significant rebound in piracy rates across both developed and emerging economies. This shift marks an important transformation: piracy today is no longer only about cost evasion but is also a consumer reaction to fragmented services, geo-restrictions, intrusive advertising, and subscription fatigue.

The fragmentation of streaming services has been one of the most significant catalysts for this resurgence. With the exclusive licensing model gaining dominance, popular shows and films are dispersed across multiple platforms, often requiring viewers to subscribe to three or more services to access their preferred content. For example, a household may require separate subscriptions for Netflix (international cinema), Disney+ (Marvel and Pixar), Amazon Prime (regional and Bollywood content in India), and Apple TV+ (niche series). In Western economies such as the

United States and the United Kingdom, this atomisation is compounded by rising subscription prices, which have increased by an average of 20–30% since 2020. In India, where per capita income is significantly lower, the monthly subscription burden is disproportionately high, driving audiences to pirate content as a cost-avoidance strategy. What emerges is a paradox: the very abundance of platforms, initially designed to curb piracy, has inadvertently created fertile ground for its resurgence.

The evolving consumer behaviour also reflects a growing frustration with advertising saturation and regional locks. Free or partially free platforms such as YouTube, Spotify (freemium version), and regional OTT services are increasingly loaded with unskippable advertisements, degrading user experience. This saturation has pushed users to prefer illegal platforms, which often offer ad-free, high-definition content at no cost. Simultaneously, the persistence of geo-restrictions—where content available in the United States may not be legally accessed in India or Southeast Asia—has driven audiences toward piracy as a

method of circumventing artificial territorial barriers. Reports from The Guardian in 2024 underline how audiences in countries like India, Brazil, and South Africa routinely resort to piracy not merely for free access but to secure access itself. The nature of piracy has therefore evolved: it is no longer the shadow economy of those unwilling to pay, but rather a quasi-legitimate alternative system where consumers reclaim control over fragmented access.

Legal and regulatory responses to this resurgent piracy remain uneven and reactive. In countries such as the United States and the United Kingdom, authorities have deployed site-blocking orders and enhanced penalties for operators, but these measures often result in a game of digital whack-a-mole, with new mirror sites emerging overnight. China has adopted a more aggressive enforcement model, leveraging state surveillance capacities to dismantle piracy networks, yet its ecosystem of grey-market streaming remains resilient. In India, recent amendments under the Cinematograph (Amendment) Act 2023 have criminalised unauthorised film recording and

introduced stricter penalties for piracy circulation. However, enforcement continues to face limitations due to jurisdictional complexities and technological agility of piracy networks. The pressing challenge for policymakers is therefore not merely to strengthen punitive mechanisms but to rethink the legal-regulatory ecosystem to align with consumer expectations. This may require fostering more cooperative licensing models, encouraging affordability strategies for multi-platform subscriptions, and recalibrating copyright law to address the new contours of digital consumption. Unless such recalibration occurs, piracy will persist as both a cultural response and a technological inevitability in the global media landscape.

## **2. The Streaming Fragmentation Paradox**

The optimism that digital streaming platforms would finally curb piracy has given way to a far more complex reality. While services such as Netflix, Amazon Prime, Disney+, and Spotify initially offered consolidated, affordable access to diverse catalogues, the

industry has now fractured into multiple siloed platforms, each competing for exclusivity. Instead of replacing the old cable bundle with a more efficient model, the proliferation of streaming services has replicated and even intensified consumer frustration. In many regions, users face the dilemma of subscribing to numerous platforms at once—or seeking unauthorised alternatives that aggregate the same content without cost. The rapid rise in illicit site visits from 130 billion in 2020 to 216 billion in 2024 underscores the extent to which convenience, rather than just affordability, drives consumer behaviour (The Guardian).

From a structural perspective, this fragmentation has inadvertently recreated the very conditions that piracy thrives upon. The era of a single dominant service, where audiences could easily access global content, has been replaced by exclusivity wars. Flagship shows are locked to individual platforms, sporting rights are dispersed, and regional availability varies dramatically. This has not only undermined the value proposition of legal streaming but also fuelled resentment among consumers who perceive a

deliberate withholding of content. Piracy, therefore, becomes not only a cheaper option but often the more convenient and comprehensive one. Legal streaming platforms are, paradoxically, competing not only against one another but also against a shadow ecosystem that consolidates everything under one digital roof.

In India, the paradox assumes even sharper contours. Despite being one of the most price-sensitive markets in the world, and despite platforms offering subscriptions at rates substantially lower than their Western counterparts, piracy usage remains staggeringly high. According to CSI Magazine, 55 per cent of Indian users access pirated content, with nearly one-quarter (23 per cent) doing so daily. These figures highlight that the issue is not merely economic affordability but systemic design. Indian audiences, accustomed to a vast array of free-to-air television and inexpensive digital bundles, expect accessibility rather than fragmentation. When denied this, they instinctively turn to piracy networks, which continue to thrive with localised

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language offerings, live sports streams, and instant availability of global releases.

The streaming fragmentation paradox thus reveals a fundamental misalignment between industry strategy and consumer behaviour. Instead of discouraging piracy, the splintering of services has restored its legitimacy in the eyes of many users. Policymakers and industry leaders must recognise that consumer frustration is not rooted in unwillingness to pay but in the inefficiency of fragmented access. Any regulatory or legal strategy must therefore engage with structural reform, encouraging either greater interoperability between services, transparent licensing regimes, or innovative bundled models. Without such recalibration, the fight against piracy risks becoming a perpetual stalemate—where every advance in enforcement is undermined by the industry's own failure to align with the realities of user demand.

### **3. India's Streaming and Piracy Landscape**

India represents both one of the fastest-growing streaming markets and one of the largest piracy hubs worldwide.

Industry reports suggest that in 2023 alone, the Indian economy lost an estimated ₹22,400 crore (approximately US \$2.7 billion) due to piracy, with online streaming platforms accounting for nearly ₹8,700 crore of these losses—representing 43 per cent of the total (EY-IAMAI Report). These figures highlight that piracy is no longer an ancillary or marginal concern; rather, it has become an entrenched part of India's digital consumption economy. The disproportionate impact on OTT platforms reflects a shift in consumer behaviour, where unauthorised access is increasingly linked not just to affordability concerns but also to access convenience, catalogue limitations, and subscription fatigue.

A 2023 *Times of India* survey found that more than half of Indian consumers engage with pirated media, with 23 per cent admitting to using pirated streaming services daily. This scale of engagement underscores the systemic nature of the problem, raising questions about the effectiveness of existing legal and regulatory frameworks in deterring illicit consumption. Despite efforts such as blocking thousands of piracy websites and

enhancing cyber enforcement cells, users are able to circumvent these barriers with VPNs, mirror sites, and Telegram channels. The persistence of piracy despite relatively low subscription prices in India points to a deeper structural challenge: an ecosystem where convenience, accessibility, and availability continue to outweigh legality in shaping consumer choices.

The piracy landscape also has profound implications for India's creative economy. Local film producers, who increasingly rely on OTT platforms for monetisation, face sharp revenue erosion due to early leaks of theatrical releases and simultaneous unauthorised distribution of exclusive streaming content. For global players like Netflix, Amazon Prime, and Disney+ Hotstar, India remains a double-edged market: attractive due to its expanding user base but financially risky due to systemic piracy. The resulting tension has already prompted platforms to experiment with hybrid release models, regional pricing strategies, and enhanced digital rights management (DRM) technologies, though none have proven fully effective.

At the policy level, India has attempted to address piracy through measures such as the Cinematograph (Amendment) Act, 2023, which criminalises camcording in cinemas, and through provisions of the Information Technology Act and Copyright Act that empower authorities to block infringing sites. However, these legal responses have yet to yield transformative outcomes, as enforcement remains inconsistent and judicial redress is often delayed. The gap between law and practice creates a permissive environment, allowing piracy networks to operate with relative impunity. As streaming platforms become more central to India's cultural and entertainment fabric, bridging this gap will require not just stricter enforcement but also market strategies that align with consumer expectations of convenience and value.

#### **4. Global Context: Streaming Disintegration Fuels Piracy**

The global trajectory of piracy underscores that the phenomenon is not confined to developing markets but is increasingly symptomatic of systemic

fractures in the streaming economy. In countries like Sweden—once considered a success story for anti-piracy campaigns—the resurgence of illicit consumption has been directly linked to the aggressive pursuit of exclusivity by major streaming providers. Content that was once consolidated and easily accessible is now dispersed across multiple platforms, often requiring households to maintain a costly array of subscriptions. Reports indicate that Swedish households may spend as much as €700 annually on various streaming services, a sum that makes piracy appear not only cost-efficient but also a practical alternative for users fatigued by service fragmentation.

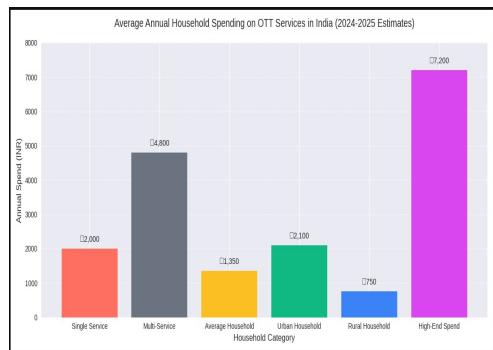
This disintegration of access models has produced a paradox: while the legal streaming market continues to expand, the incentive to pirate content grows in parallel. The *Guardian* reports that unlicensed streaming accounts for an overwhelming share of piracy, with global piracy site visits rising from 130 billion in 2020 to 216 billion in 2024. Such figures dismantle the earlier assumption that affordability alone could suppress piracy. Instead, convenience, comprehensiveness,

and user experience are emerging as the decisive factors in shaping consumer behaviour.

The rise of exclusivity-driven licensing deals has contributed to regional inequality in content access. For example, titles available on platforms in North America may not be accessible in Asia or Europe due to geo-blocking and staggered release schedules. This geographical dissonance incentivises users to circumvent restrictions through pirated channels, as the digital ecosystem normalises borderless consumption. Global piracy, therefore, becomes less a matter of criminal deviance and more an expression of consumer resistance to artificial scarcity.

The international picture makes clear that the resurgence of piracy cannot be addressed merely through enforcement or punitive legal responses. Instead, it calls for a recalibration of distribution models that balance profitability with accessibility. The current trajectory suggests that without harmonised licensing practices and affordable bundling strategies, the

global streaming economy risks fuelling the very piracy it once helped suppress.



## 5. Legal and Enforcement Implications

The renewed wave of digital piracy presents an urgent legal and regulatory challenge, particularly as existing mechanisms of enforcement appear increasingly inadequate. Conventional tools—such as criminal penalties, content takedown notices, and judicial site-blocking—are struggling to keep pace with the evolving nature of digital piracy. Dynamic injunctions, often hailed as a modern remedy, can temporarily block access to piracy portals, but mirror websites, VPNs, and encrypted peer-to-peer networks have substantially weakened their effectiveness. Moreover, enforcement agencies face difficulties in monitoring the sheer scale of consumption, with billions of piracy pageviews recorded

globally. For India, where internet penetration is expanding rapidly and digital literacy remains uneven, the scale of illicit access is proportionately higher, making enforcement more resource-intensive and complex.

In recognition of these difficulties, the Indian government has begun recalibrating its legal and institutional frameworks to address the problem. In 2023, a specialised task force was constituted to deal with piracy losses estimated at over **US \$2.5 billion annually** (Economic Times). This initiative emphasises coordinated intelligence-sharing between enforcement agencies, industry stakeholders, and internet service providers. Yet, critics argue that enforcement still leans too heavily on punitive deterrence rather than service innovation. Courts, while issuing dynamic injunctions against rogue websites, continue to confront challenges in balancing intellectual property protection with freedom of expression and user rights. The effectiveness of these measures remains contested, especially when measured against the sheer resilience and adaptability of piracy networks.

Globally, the legal landscape reflects similar struggles. Countries like the United States and the United Kingdom deploy stringent anti-piracy statutes and employ advanced tracking systems in collaboration with entertainment industries, yet illicit consumption persists. In Sweden, where piracy was once in steep decline, restrictive licensing and increased platform atomisation have reignited demand for unlicensed access. Enforcement-heavy strategies are proving insufficient without parallel reforms to streaming models. This aligns with the argument advanced by Valve's co-founder Gabe Newell, who observed that "piracy is almost always a service issue, not a pricing issue" (The Guardian). His insight reflects the broader truth that consumers are often driven to piracy not by refusal to pay, but by the absence of a seamless, accessible, and consolidated service ecosystem.

Thus, the trajectory of piracy control appears to demand a hybrid response. Law and enforcement remain essential pillars, but they cannot exist in isolation. For India and other markets, the way forward lies in supplementing enforcement frameworks with service-

oriented solutions that address the root causes of piracy—fragmentation, exclusivity, and user inconvenience. Regulatory bodies may need to nudge platforms towards cooperative licensing models, enhanced interoperability, and more user-centric pricing. Without such a shift, piracy will continue to expose the limitations of enforcement-heavy regimes, highlighting the need for a regulatory strategy that combines deterrence with innovation in the streaming ecosystem.

## **6. Recommendations for a Multi-Pronged Strategy**

Focus Area	Key Recommendation
<b>Access &amp; Aggregation</b>	Promote bundled, affordable access across multiple platforms; reduce fragmentation.
<b>User Interface &amp; Experience</b>	Reduce ad intrusion; ensure consistent streaming quality; expand content availability.
<b>Legal &amp; Industrial</b>	Strengthen task force efforts with real-time takedown protocols and

<b>Focus Area</b>	<b>Key Recommendation</b>
<b>Enforcement</b>	stakeholder coordination.
<b>Audience Education &amp; Partnerships</b>	Empower creators and platforms to collaborate on anti-piracy campaigns and public awareness.
<b>Policy Innovation</b>	Amend regulations for adaptive licensing, platform interoperability, and safe harbor clarity.



## **7. Conclusion**

As digital piracy surges globally, especially through streaming platforms, it is clear that consumers are driven more by systemic service failures than by criminal intent. Service providers and regulators must perceive piracy not just as a legal

violation but as a symptom of market dysfunction. India's recent strides in task force formation and enforcement improvement must now be complemented by user-centric policy and service innovations. Addressing the "why" behind piracy—as much as the "how"—is essential for sustainable protection of digital content.

The global surge in digital piracy, particularly through streaming platforms, underscores a reality that transcends mere criminality. In most cases, piracy emerges less from a deliberate intent to defraud and more from systemic service gaps that leave consumers underserved. Fragmented access, inconsistent quality of service, and rigid licensing regimes create conditions in which unauthorised alternatives become not only attractive but, in many instances, inevitable. Thus, piracy must be recognised not only as a breach of law but also as an indicator of structural inefficiencies within the digital content ecosystem.

India's recent initiatives, including the establishment of specialised task forces and the strengthening of industrial

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enforcement mechanisms, reflect commendable progress in responding to piracy. However, these enforcement measures, while necessary, remain insufficient in isolation. A parallel focus on consumer experience, regulatory adaptability, and collaborative industry practices is essential to address the underlying drivers of piracy.

The sustainability of digital content protection depends upon balancing deterrence with innovation. Service providers must reimagine access models to make legitimate consumption more affordable and frictionless. Regulators, in turn, need to design frameworks that enable adaptive licensing, interoperability, and platform accountability, while ensuring creators are adequately safeguarded. Importantly, public awareness and educational initiatives must reposition piracy as an ethical issue linked to creators' livelihoods rather than a victimless act.

The Indian experience provides a valuable reference point for other jurisdictions. It illustrates how enforcement gains traction when supported by user-centric reforms and collaborative governance. As piracy adapts to technological shifts, so too must the legal and commercial responses evolve beyond punitive measures. Protecting digital content in a meaningful and enduring manner requires addressing not just *how* piracy operates, but also *why* it persists. Only through such a comprehensive and integrated approach can the global fight against digital piracy hope to achieve long-term success.

ART04/2025/01/01

## **Matrimonial Misuse: Weaponizing Cruelty Provisions from IPC to BNS in the Era of Rising Divorce Rates and Mental Health Crises**

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### **Abstract**

The concept of matrimonial cruelty, designed to protect women from domestic abuse, has evolved from Section 498A of the Indian Penal Code (IPC) 1860 to Section 85 of the Bharatiya Nyaya Sanhita (BNS) 2023. Amid rising urban divorce rates and escalating mental health crises, these provisions are increasingly alleged to be misused as tools in matrimonial disputes. This article compares cruelty frameworks under IPC and BNS, analyzing how low conviction rates, judicial delays, and societal shifts contribute to their weaponization. Drawing on 2023–2025 data, it explores the nexus of legal misuse, surging divorces, and mental health impacts in India, with a global perspective. The study proposes balanced reforms to curb misuse while

preserving protections, advocating for policy innovations to ensure equitable justice.

**Keywords:** Matrimonial cruelty, Section 498A IPC, Section 85 BNS, divorce rates, mental health crises, legal misuse, domestic violence, India, judicial reforms.

### **1. Introduction**

#### **Cruelty in Matrimonial Laws: An Evolving Dilemma**

For decades, Section 498A of the IPC has been a cornerstone for addressing cruelty against married women, covering physical, mental, and emotional harm, often tied to dowry demands. Introduced in 1983 to empower women in a patriarchal society, it has faced growing scrutiny for alleged misuse, particularly as divorce filings

surge and mental health challenges intensify. The transition to BNS 2023, effective July 2024, refines these protections under Section 85, explicitly addressing acts driving women to suicide or grave injury, with non-bailable penalties. Yet, India's low overall divorce rate of 1% masks a 30-40% spike in urban areas like Delhi and Mumbai from 2023 to 2025.

This rise in divorces intertwines with mental health crises, where matrimonial disputes exacerbate depression and anxiety, contributing to higher suicide rates among married individuals. Allegations of cruelty often become tools in custody or alimony disputes, with low conviction rates (12-15% from 2023-2025) fueling debates on misuse. Recent Supreme Court rulings emphasize that while genuine cases persist, misuse cannot invalidate the law, urging cautious application to prevent harassment. In urban India, economic independence, lifestyle changes, and social media amplify divorce petitions invoking cruelty, raising questions about the balance between victim protection and legal abuse.

## **2. The Evolution of Cruelty Provisions: From IPC to BNS**

The shift from IPC Section 498A to BNS Section 85 aims to modernize protections, yet retains elements inviting misuse. Under IPC, cruelty includes willful conduct likely to drive a woman to suicide or cause grave injury, punishable by up to three years. BNS expands this under Sections 85 and 86, explicitly covering mental harm and introducing community service for minor offenses, aiming for restorative justice. However, the broad definition of "cruelty"—encompassing emotional and psychological abuse—allows subjective interpretations, often exploited in divorce proceedings.

From 2023-2025, over 90% of 498A cases remain pending, with conviction rates as low as 0.2% in some regions, suggesting strategic filings. BNS's refinements fail to mandate preliminary inquiries, perpetuating harassment. As courts increasingly recognize emotional distress as grounds for divorce, the line between genuine cruelty and tactical claims blurs, necessitating reforms to address misuse without undermining protections.

### 3. India's Matrimonial Landscape: Rising Divorce Rates and Mental Health Crises

India's divorce rate, while globally low at 1%, shows a 30-40% surge in urban centers from 2023 to 2025, driven by incompatibility and cruelty allegations. In states like Karnataka, over 36,000 divorce cases were filed in 2024. Matrimonial disputes exacerbate mental health issues, with studies linking them to depression, suicide, and separation, particularly among women with illnesses like schizophrenia. Men also face silent suffering from alimony harassment, contributing to rising suicides.

This landscape reveals a cycle: misuse of cruelty laws delays resolutions, worsening mental health, while stigma hinders treatment. Rural areas report lower rates (0.2-0.5%), but urban economic shifts empower more filings, amplifying the misuse debate.

#### Divorce Rates in India (2023-2025 Estimates)

Category	Divorce (%)	Key Notes / Source
Overall National	1%	Low due to stigma; underreported. Statista / World Population Review (2025)
Urban Areas (e.g., Delhi, Mumbai)	30-40%	Rising due to lifestyle changes. Adjuva Legal / The Legal Crusader (2025)
Rural Areas	0.2-0.5%	Family pressure reduces filings. NFHS Data (2023-24)
Women-Initiated	70-75%	Economic independence key. Sci-Tech Today (2025)
Mental Health-Linked	20-30% increase	Disputes exacerbate illness. PMC Studies (2024)

*Note:* Data reflects 2023-2025 trends, with projected urban growth of 7-10% (Statista).

#### **4. Global Context: Matrimonial Laws and Misuse Trends**

Globally, divorce rates vary, with the Maldives at 5.52 per 1,000 and India at 0.1, yet misuse of matrimonial laws is a shared concern. In the US, with a 2.3 per 1,000 rate, mental cruelty claims dominate no-fault divorces. Countries like Iran use restrictive laws to curb divorces, but face similar misuse debates. High-divorce nations emphasize mental health in custody disputes, reducing weaponization through mediation, offering lessons for India.

#### **5. Legal and Enforcement Implications**

Low convictions (12.6% in 2023-2025) and 92% case pendency highlight misuse, straining courts and mental health. Supreme Court guidelines advocate preliminary probes, but implementation lags. Reforms must integrate mental health evaluations and streamline judicial processes to balance deterrence with fairness.

#### **6. Recommendations for a Multi-pronged Strategy**

Focus Area	Key Recommendation
Judicial Reforms	Mandate preliminary inquiries and mediation before filing cruelty cases.
Mental Health Integration	Incorporate counseling and assessments in matrimonial proceedings.
Legal Amendments	Make minor offenses compoundable under BNS for reconciliation.
Awareness Campaigns	Educate on genuine vs. misuse, targeting urban couples.
Policy Innovation	Enhance data tracking for misuse patterns and fast-track courts.

#### **7. Conclusion**

As divorce rates climb and mental health crises deepen, the weaponization of cruelty provisions from IPC to BNS underscores the need for balanced reforms. Protecting victims remains paramount, but addressing misuse through judicial efficiency, mental health integration, and policy innovation ensures equitable justice.

**ART05/2025/01/01**

"G20 meeting held by India in Kashmir": Impact on the "Power Status" of India

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## **Abstract**

Potential Implications of a Boycott of G20<sup>1</sup> Meeting in India

**Diplomatic setback:** The boycott by two prominent countries like China and Saudi Arabia would be seen as a diplomatic setback for India. It could be interpreted as a kind of lack of international support and could undermine India's efforts to enhance its global influence which is very crucial to the international regime.

**Regional tensions:** Kashmir is a region with a longstanding conflict between India and Pakistan. Holding a G20 meeting in Kashmir could potentially escalate tensions in the region, leading to a broader geopolitical fallout. The boycott by China and Saudi Arabia may further strain

regional dynamics and hinder any progress towards resolving the Kashmir issue.

**Economic consequences:** The G20 is a crucial platform for addressing global economic issues, and India hosting such a meeting signifies its growing economic power and influence. However, if China and Saudi Arabia choose to boycott, it may weaken India's position in shaping global economic policies and hinder potential economic collaborations with these countries.

**International perception:** The boycott could impact India's international perception and its ability to project itself as a responsible global power. It may be viewed as a failure to garner support and as an indication of regional instability. This could undermine India's aspirations for a larger role in international institutions and decision-making processes.

**Regional alliances:** The boycott may push India to strengthen its alliances and

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<sup>1</sup>The G20 or Group of 20 is an intergovernmental forum comprising 19 countries and the European Union. It works to address major issues related to the global economy, such as international financial stability, climate change mitigation, and sustainable development.

partnerships with other countries. India could seek to bolster its ties with nations that have a favourable stance on the Kashmir issue or those looking to balance China's influence. This may lead to a realignment of regional alliances and a more assertive foreign policy.

**Keywords :** G20 Boycott, India's Foreign Policy, Kashmir Geopolitics, China-India Relations, Saudi Arabia Diplomacy, International Perception of India, Regional Security, Economic Impact

### **The Issue:**

Pakistan was promoting the absence of China, Saudi Arabia, Turkey, and Egypt in the G20 tourism working group meeting in Jammu Kashmir as a major diplomatic success. However, the truth is that these countries did not attend this meeting not under the influence or pressure of China and Pakistan but because of domestic politics. India is considering keeping distance from the meeting of these countries as well as keeping distance from objections as its big diplomatic success.

Especially after the removal of Article 370<sup>2</sup> from Kashmir, Turkey made it a big issue. The parliamentary committee was formed by President Recep Tayyip Erdogan despite India's opposition. Even in the United Nations Turkey had raised its voice against the decision. Taking a U-turn was not easy for Turkey which had advanced a lot on this issue. However, despite not attending the meeting Turkey did not publicly oppose the event in Kashmir like China and Pakistan he has kept silent on the question of protest.

### **Tough fight for Recep Tayyip Erdogan's party**

Elections are going on in Turkey. The second phase of polling is on May 28. Erdogan did not want to create unnecessary controversies by attending this meeting after taking a very tough stand on the Kashmir issue. Anyway, Erdogan's party is facing a tough fight in the elections.<sup>3</sup>

### **Egypt was ready to come**

<sup>2</sup>Provides a special status to the state of Jammu and Kashmir

<sup>3</sup><https://www.bbc.com/news/world-europe-65239092>

Egypt's attitude was positive till two days before the meeting. Like Erdogan's Egyptian President Abdel Fattah El-Sisi is also facing many challenges in domestic politics. There the influence of several radical forces, including the Muslim Brotherhood continues to grow. The president of Egypt does not want to grow the influence of radical forces like the Muslim Brotherhood.<sup>4</sup>

### **Saudi Arabia is on a new path**

Bilateral relations between India and Saudi Arabia have become very strong during the tenure of the Modi government. Due to this better relation, he did not oppose the removal of Article 370. Crown Prince Mohammed bin Salman is trying to strike a balance between conservatives and reformists in his country. The crown Prince is engaged in building the image of a country with the strategic autonomy of Saudi Arabia. under this strategy for the first time Volodymyr Zelensky the president of Ukraine, a country outside the

Arab world, was invited to the Arab League meeting.

The boycott of the G20 meeting by China and Saudi Arabia is a significant setback for India's power status. Both countries are major economic and political players in the world, and their decision to boycott the meeting sends a clear message that they do not support India's actions in Kashmir.

The boycott is also a sign that India's relationship with China is increasingly strained. China has been a vocal critic of India's decision to revoke Kashmir's special status, and the boycott is seen as a further escalation of tensions between the two countries.

The boycott is also likely to damage India's reputation in the Muslim world. Saudi Arabia is a key ally of the United States, and its decision to boycott the meeting is likely to be seen as a sign that the US is not supportive of India's actions in Kashmir.

The boycott is a significant blow to India's power status. It sends a message that India is not a reliable partner and that its actions in Kashmir are not supported by the international community. The boycott is

<sup>4</sup>The Society of the Muslim Brothers, better known as the Muslim Brotherhood, is a transnational Sunni Islamist organization founded in Egypt by Islamic scholar and schoolteacher Hassan al-Banna in 1928.

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likely to hurt India's economy and its relationship with key allies.

**Damage to India's reputation:** The boycott will damage India's reputation as a reliable partner and a responsible member of the international community.

**Loss of economic opportunities:** The boycott will likely lead to the loss of economic opportunities for India, as businesses and investors may be hesitant to do business with a country that is seen as unstable and unreliable.

**Increased tensions with China:** The boycott will likely increase tensions between India and China, which could lead to further escalation of conflict between the two countries.

**Decreased influence in the Muslim world:** The boycott will likely decrease India's influence in the Muslim world, as it will be seen as a sign that India is not a friend of Muslims.

### **Impact:**

The boycott of the G20 meeting by China and Saudi Arabia is likely to damage

India's reputation as a reliable partner and a responsible member of the international community. The boycott sends a message that India is not a country that can be trusted to uphold its commitments and that it is willing to act unilaterally, even in the face of international opposition. This could make it more difficult for India to secure cooperation from other countries on issues of mutual interest, such as trade and security.

The boycott is also likely to damage India's reputation in the Muslim world. Saudi Arabia is a key ally of the United States, and its decision to boycott the meeting is likely to be seen as a sign that the US is not supportive of India's actions in Kashmir. This could lead to increased resentment<sup>5</sup> and hostility towards India in the Muslim world, which could make it more difficult for India to project its power and influence in the region.

### **This may lead to:**

**Reduced investment:** Businesses and investors may be hesitant to invest in India if they believe that the country is not a stable and reliable investment destination.

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<sup>5</sup> Anger

**Increased trade barriers:** Other countries may impose trade barriers on Indian goods and services in response to India's actions in Kashmir.

**Reduced cooperation on security issues:** Other countries may be less willing to cooperate with India on security issues, such as counterterrorism and counter-insurgency.

The boycott could also lead to increased trade barriers between India and other countries. Other countries may impose trade barriers on Indian goods and services in response to India's actions in Kashmir. This would make it more difficult for Indian businesses to export their products and services, which would hurt the economy.

The loss of economic opportunities could have several negative consequences, including:

**Reduced economic growth:** The decline in foreign investment and increased trade barriers could lead to a decline in economic growth.

**Increased unemployment:** The decline in economic growth could lead to increased

unemployment, as businesses are forced to lay off workers.

**Decreased standard of living:** The decline in economic growth and increased unemployment could lead to a decrease in the standard of living for many Indians.

In addition to the economic impacts, the boycott could also have several political and social impacts. For example, it could lead to increased tensions between India and China, and it could also lead to increased radicalization in Kashmir. The boycott is a significant event that could have a major impact on India's power status. It is important to monitor the situation closely and to assess the full impact of the boycott in the coming months and years.

**Increased military build-up:** Both countries could increase their military presence along the border, which could lead to an increase in the risk of an accidental conflict.

**Increased economic sanctions:** Both countries could impose economic sanctions on each other, which could damage the economies of both countries.

**Decreased cooperation on issues of mutual interest:** Both countries could be less willing to cooperate on issues of mutual interest, such as climate change and counterterrorism.

### **India's influence in the Muslim world.**

The boycott sends a message that India is not a friend of Muslims and that it is willing to act against their interests. This could lead to increased resentment and hostility towards India in the Muslim world, which could make it more difficult for India to project its power and influence in the region.

The boycott could also lead to a decrease in trade and investment between India and Muslim countries. Businesses and investors from Muslim countries may be hesitant to do business with India if they believe that the country is not a friendly or reliable partner. This could hurt India's economy.

**Here are some of the things that India can do to mitigate the impact of the boycott:**

**Reach out to Muslim countries and explain their position on Kashmir.** India should try to reassure Muslim countries that it is not hostile to Islam and that it is committed to protecting the rights of Muslims in Kashmir.

**Offer economic incentives to Muslim countries.** India could offer to increase trade and investment with Muslim countries, or it could offer to provide aid to Muslim countries.

**Work with other countries to resolve the Kashmir issue.** India should work with other countries, such as the United States and China, to find a solution to the Kashmir issue that is acceptable to both India and Pakistan.

By taking these steps, India can hope to mitigate the impact of the boycott and maintain its influence in the Muslim world.

**Potential implications that could be positive for India.**

The boycott could lead to increased unity within India and could strengthen India's resolve to deal with the challenges in

Kashmir. The boycott could also lead to increased cooperation between India and other countries, such as the United States and Japan, who are also concerned about China's growing power.

**Reach out to China and Saudi Arabia and explain its position in Kashmir.** India should try to reassure China and Saudi Arabia that it is committed to resolving the Kashmir issue peacefully.

**Offer economic incentives to China and Saudi Arabia.** India could offer to increase trade and investment with China and Saudi Arabia, or it could offer to provide aid to China and Saudi Arabia.

**Work with other countries to resolve the Kashmir issue.** India should work with other countries, such as the United States and Japan, to find a solution to the Kashmir issue that is acceptable to both India and China.

**India can reach out to China and Saudi Arabia and explain its position on Kashmir by:**

**Holding high-level talks with the governments of China and Saudi**

**Arabia.** These talks could be used to discuss the Kashmir issue in detail and to try to find a solution that is acceptable to both India and China.

**Inviting officials from China and Saudi Arabia to visit Kashmir.** This would allow them to see the situation for themselves and to meet with the people of Kashmir.

Providing information about India's efforts to improve the lives of the people of Kashmir. This could include information about economic development, education, and healthcare. Reassuring China and Saudi Arabia that India is committed to resolving the Kashmir issue peacefully. India could emphasize its willingness to negotiate with Pakistan and find a solution that is acceptable to both countries. India has always been willing to negotiate with Pakistan and find a solution that is acceptable to both countries. India has taken steps to improve the lives of the people of Kashmir. India has invested in economic development, education, and healthcare in Kashmir.

India is a responsible and reliable partner. India has a long history of cooperation

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with other countries on issues of mutual interest.

India can hope to reassure China and Saudi Arabia that it is a responsible and reliable partner that is committed to resolving the Kashmir issue peacefully.

**Here are some economic incentives that India could offer to China and Saudi Arabia:**

**Increased trade and investment:** India could offer to increase trade and investment with China and Saudi Arabia. This could include opening new markets for Chinese and Saudi Arabian goods and services, or it could involve providing incentives for Chinese and Saudi Arabian businesses to invest in India.

**Reduced tariffs<sup>6</sup>:** India could offer to reduce tariffs on Chinese and Saudi Arabian goods. This would make it cheaper for Chinese and Saudi Arabian businesses to sell their goods in India, and it would also make it cheaper for Indian consumers to buy Chinese and Saudi Arabian goods.

**Increased aid:** India could offer to increase aid to China and Saudi Arabia. This could include providing financial assistance, or it could involve providing technical assistance or expertise.

**Joint ventures:** India could offer to set up joint ventures with Chinese and Saudi Arabian businesses. This would allow Indian businesses to gain access to the Chinese and Saudi Arabian markets, and it would also allow Chinese and Saudi Arabian businesses to gain access to the Indian market.

**“India is a valuable partner”. India has a large and growing market with a skilled workforce.**

India is a reliable and responsible partner. India has a long history of trade and investment with China and Saudi Arabia and is committed to working with China and Saudi Arabia to address global challenges<sup>7</sup>.

**India can work with other countries to resolve the Kashmir issue by:**

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<sup>6</sup>a tax or duty to be paid on a particular class of imports or exports.

<sup>7</sup>Power & Governance, Conflict & Violence, Emerging Technologies.

**Engaging in multilateral talks.** India could work with other countries, such as the United States, China, and Pakistan, to hold multilateral talks on Kashmir. These talks could be used to discuss the Kashmir issue in detail and to try to find a solution that is acceptable to all parties involved.

**Inviting international observers to Kashmir.** India could invite international observers to Kashmir to monitor the situation and to report on the human rights situation in the region. This would help to ensure that the people of Kashmir are treated fairly and that their rights are respected.

**Pressuring Pakistan to stop supporting terrorism in Kashmir**<sup>8</sup>. India could pressure Pakistan to stop supporting terrorism in Kashmir. This could be done through diplomatic channels, or it could be done through economic sanctions.

**Providing economic assistance to Kashmir.** India could provide economic assistance to Kashmir to help improve the lives of the people in the region. This

could help to reduce support for separatism and to promote peace and stability in Kashmir.

**India is committed to resolving the Kashmir issue peacefully.** India has always been willing to negotiate with Pakistan and find a solution that is acceptable to both countries.

The Kashmir issue is a complex issue with no easy solutions. India acknowledges that the Kashmir issue is a complex issue with no easy solutions. However, India is committed to finding a solution that is acceptable to all parties involved.

**India is open to suggestions from other countries.** India is open to suggestions from other countries on how to resolve the Kashmir issue. India believes that a solution can be found if all parties involved are willing to compromise.

It could strengthen India's determination to deal with the challenges in Kashmir. The boycott could send a message to India that it is not alone in facing the challenges in Kashmir, and that it has the support of other countries. This could strengthen India's resolve to deal with the challenges

<sup>8</sup>[https://en.wikipedia.org/wiki/Insurgency\\_in\\_Jammu\\_and\\_Kashmir](https://en.wikipedia.org/wiki/Insurgency_in_Jammu_and_Kashmir)

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in Kashmir and to find a solution that is acceptable to the people of Kashmir.

It could lead to increased cooperation between India and other countries. The boycott could lead to increased cooperation between India and other countries, such as the United States and Japan, who are also concerned about China's growing power. This could help India to strengthen its position in the global arena and to counter China's influence<sup>9</sup>.

**It could lead to increased cooperation between India and the United States.**

The United States has been a vocal critic of China's growing power, and it has been supportive of India's efforts to deal with the challenges in Kashmir. The boycott could lead to increased cooperation between India and the United States on issues of mutual interest, such as trade, security, and counterterrorism.

**It could lead to increased cooperation between India and Japan.** Japan is another country that has been concerned about China's growing power. It has also

been supportive of India's efforts to deal with the challenges in Kashmir. The boycott could lead to increased cooperation between India and Japan on issues of mutual interest, such as trade, security, and maritime cooperation.

**It could lead to increased cooperation between India and other countries in the region.** The boycott could lead to increased cooperation between India and other countries in the region, such as Bangladesh, Nepal, and Sri Lanka. These countries are also concerned about China's growing power, and they are also interested in finding a solution to the Kashmir issue. Increased cooperation between India and these countries could help to find a solution to the Kashmir issue that is acceptable to all parties involved.

**It could help India to improve its image abroad.** The boycott could help India to improve its image abroad by showing that it is a strong and independent country that is not afraid to stand up to China. This could help India to attract more investment and trade from other countries.

**It could send a message of support to India.** The boycott could be seen as a sign

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<sup>9</sup><https://carnegieendowment.org/2022/04/25/limiting-chinese-influence-operations-pub-86923>

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that India is not alone in facing the challenges in Kashmir and that it has the support of other countries. This could strengthen India's resolve to deal with the challenges in Kashmir and to find a solution that is acceptable to the people of Kashmir.

**It could create a sense of urgency.** The boycott could create a sense of urgency within India to find a solution to the Kashmir issue. This could lead to India taking more decisive action to deal with the challenges in Kashmir.

**It could rally public support.** The boycott could rally public support for the Indian government's efforts to deal with the challenges in Kashmir. This could make it more difficult for separatists and other groups to challenge the Indian government's authority in Kashmir.

**It could show that India is a strong and independent country.** The boycott could be seen as a sign that India is not afraid to stand up to China, which is a major world power. This could help India to improve

its image as a strong and independent country.

**It could show that India is a responsible and reliable partner.** The boycott could be seen as a sign that India is committed to finding a solution to the Kashmir issue. This could help India to improve its image as a responsible and reliable partner.

**It could attract more investment and trade from other countries.** The boycott could lead to other countries seeing India as a more attractive place to invest and trade. This could help India to boost its economy and improve its image abroad.

However, it is important to note that the boycott of the G20 meeting is just one factor that could influence India's resolve to deal with the challenges in Kashmir. Other factors, such as the level of violence in Kashmir, the economic situation in Kashmir, and the political situation in India, will also play a role in determining how India deals with the challenges in Kashmir.

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<b>Institutional Email</b>	info@grimejournal.com
<b>Phone</b>	+91 83027 66669 / +91 90015 22068
<b>ISSN Application ID</b>	72776

## Publishing Body

**Publishing Body:** Decorfo Pvt. Ltd. (established in 2020)

**Office:** 180, Mahatma Gandhi Nagar, DCM, Ajmer Road, Jaipur