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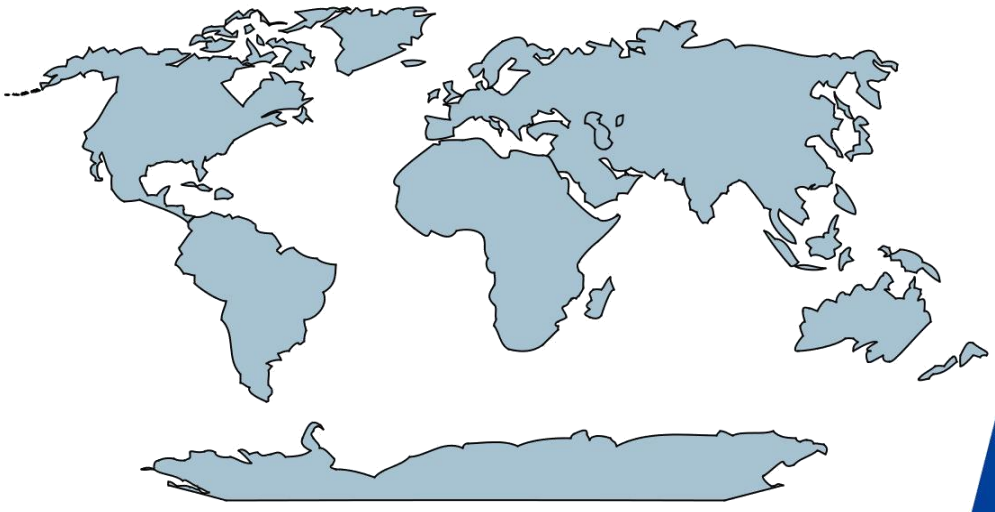

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Research Papers

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IMPACT OF NONPERFORMING LOANS ON VALUE CREATION

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ABSTRACT
A crucial role is played by the banking industry in emerging economies. A country's economic success and the growth of the banking industry are inextricably linked. The predominance of non-performing assets is a serious danger to the banking industry (NPAs). NPA are bad loans whose debtors didn't fulfil their repayment commitments. Operational effectiveness has an impact on the profitability, liquidity, and solvency of the banks, which in turn has an impact on the NPA in the loan portfolio. In light of this, this study was conducted to examine the causes and implications of non-performing assets on banking performance and the production of shareholder value. ROE, EPS, and DPS are three examples of bank performance metrics that will be used to analyse the effects of NPA on bank performance. The entire effects of NPA on bank performance, share value generation, and market reaction are covered in this paper, in brief. The emphasis of the study will be on Indian commercial banks between 2005 and 2022. The RBI's websites will be used for secondary data collection, along with data sources including CMIE, Prowess, and Ace Equity, among others. Panel data regression will be used for data analysis and interpretation. The stock investors in the banking industry, banking regulators, bankers, and investment bankers will all benefit from this research.

Keywords: Non Performing loans, Return on Equity, Dividend per share, Earning per share, Value creation, Indian Banks

INTRODUCTION
Assets which generate income are called performing assets and but those do not generate income are called non-performing assets. A debt obligation where the borrower has not paid any previously agreed upon interest and principal repayments to the designated lender for an extended period of time. The nonperforming asset is therefore not yielding any income to the lender in the form of principal and interest payments. An asset becomes non-performing when it ceases to generate income for the bank. A nonperforming asset (NPA) is defined generally as a credit facility in respect of which interest and / or installment of principal has remained “past due” for two quarters or more. An amount due under any credit facility is treated as “past due” when it has not been paid within 30 days from the due date. It was, however, decided to dispense with past due. As at March 2021, the ratio of NPAs to total loans was reported at 7.33%.

Impact of NPA on Individual Banks	Impact of NPA on Economy
1.Operational Efficiency 2.Profitability 3. Liquidity 4. Solvency 5. Market Value 6. Stake Holders	1. Money supply. 2. Employment opportunity. 3. Inflation. 4. GDP. 5. Many more

LITERATURE REVIEW
Yadav S. Mahipal(2011)analyzed the impact of NPA of the profitability and profitability with other variables of public sector banks at aggregate and sectoral level. He also studied the impact of NPA of efficiency and productivity. The time period covered under this study is 1994-95 to 2005-06 for the indices of profit, non-performing asset, spread burden, credit-deposits ratio, fixed deposits ratio, operating expenses, provisions and contingences and various other indices of all 27 public sector banks. To examine the impact of NPAs on productivity and efficiency, the data regarding to business per employee and profit per employee is collected for the period of 1997-98 to 2005-06. The tool used for analysis is regression. Statistically result shows the NPA

affects profitability of bank upto 50 percent and its impact has increased to a great extent when it works with other banking variables. Ranjani M.L has worked on magnitude of NPA and its impact in selected public and private sector banks in Bangalore City. He also looked into the measures adopted to reduce NPA and mechanism adopted for the same pre and post securitization act. Study is Primary data collected from 175 employees of 4 private and 7 public sector banks. Kalvakuntala and Reddy has conducted a study on the impact of NPA on Banking share price movements and its market capitalization. The study is based on 5 years on 10 banks with high market capitalization. Granger Causality test and Johansen test was used to test the hypothesis statistically. The study found strong correlation on NPA with market capitalization as well as Stock prices.Sharma and Rathore investigated the impact of NPA on Indian scheduled commercial banks. The research is based on 10 years data and regression analysis is used to test the statistics. ROE, ROA and net interest margins have been used as proxy variables for profitability measure. Gross NPA to gross advance ratio and net NPA to net advance ratio has been used as independent variables as a measure of NPA. The study reveals that profitability is getting significantly affected by NPA.

Balasubramanium C.S has found that NPA's does not impact only profitability of banks but it also impacts the liquidity, management time, effort and other operations of scheduled commercial banks.Narula and Singla assessed the performance of NPA of Punjab National bank and its effects on profitability for a period of six years (2006-2012). Findings of the study shows an increase in the NPAs of bank every year for the mismanagement on part of bank. As profits go up, the NPA of bank also goes up as a result of mismanagement.Malyadri and Sirisha (2011) worked for comparative analysis of NPA in weaker section of private and public sector bank. He also did a comparison of old private sector and new private sector banks for a period of seven years. The study observed greater penetration of public sector banks in weaker section compared to private sector. Study also showed decline in the ratio of NPA which leads to improvement in the quality of assets.Chaudhuri DattaTamal (2005) has talked about the negative effects of NPA on the shareholders' value and capital raising capability. He emphasized on the need of developing State Resolution Mapping (SRM) framework to save the assets from deterioration.

Isaac and Otchere did research on privatized banks in middle and low income countries. Study observed significant improvements in operating performance of private banks. Study also reveals that privatization encourages excessive risk taking in developing countries as a result of which banks end up having higher amount of NPAs when compared to their counterparts in developed countries. NPA in loan portfolio affects operational efficiency which in turn affects profitability, liquidity and solvency position of the banks. Keeping this in view, this study has been carried out to study the causes and effects of the Non-Performing Assets on banking performance and shareholder value creation. Study will be emphasized from the period of 2005-2017 for Indian commercial banks. For studying impact of NPA on bank performance, Bank performance measures such as ROE, EPS, DPS will be used. For studying impact of NPA on shareholder value creation; EVA will be used as measure for shareholder creation. For studying impact of NPA on market performance of equity share of Indian banks, MVA will be used as measures. In short this study will overall impact of NPA on bank performance, share value creation and market Performance

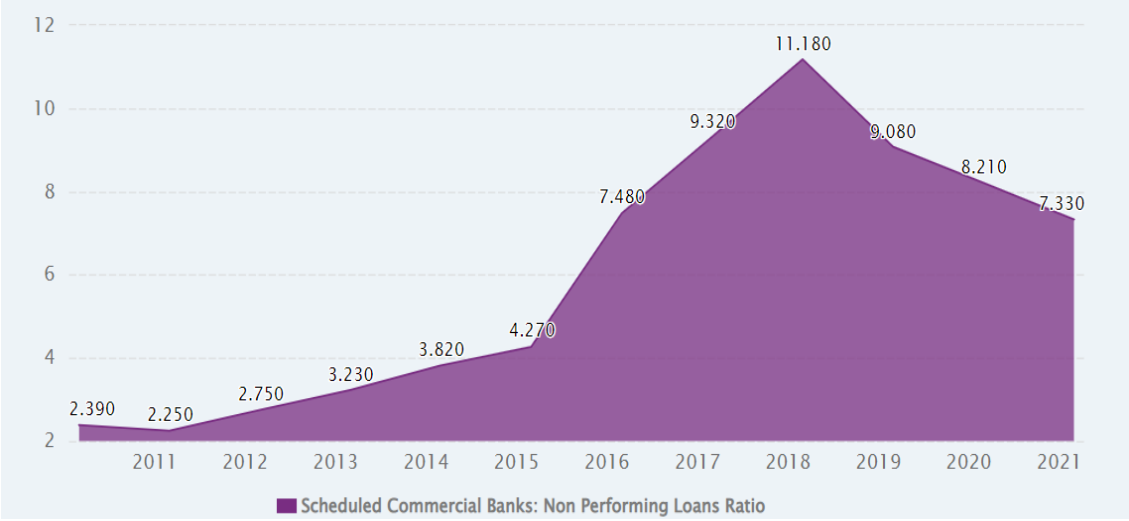

Figure 1

The ratio of non-performing loans in India decreased from 8.2% in March of last year to 7.3% in March of this year.The statistics peaked in March 1999 at 14.7% and fell to a record-low 2.3% in March 2011.In Oct 2022, the nation's domestic credit totalled 2,558.5 USD billion, a rise of 13.0% year over year In March 2022, India's household debt was 441.0 USD billion, or 14.1% of its nominal GDP.

NEED FOR THE STUDY

Operational effectiveness has an impact on the profitability, liquidity, and solvency of the banks, which in turn has an impact on the NPA in the loan portfolio. In light of this, a research has been conducted to examine the causes and implications of non-performing assets on banking performance and the development of shareholder value. The emphasis of the study will be on Indian commercial banks between 2005 and 2022. ROE, EPS, and DPS are three examples of bank performance metrics that will be used to analyse the effects of NPA on bank performance. EVA will be utilised as a measure for shareholder creation in order to examine the influence of NPA on shareholder value generation. MVA will be used as a metric to examine the effects of NPA on the market performance of Indian banks' equity share. The total effects of NPA on bank performance, share value generation, and market performance are covered in this paper, in brief.

RESEARCH OBJECTIVE

- To study the trend of Non-Performing Assets of Indian Commercial Banks
- To study impact of NPA on bank performance (measures such as ROE, EPS, DPS will be used).
- To empirically analyse and interpret statistical relationship between NPA and its effects on Profitability and shareholders value creation.

RESEARCH METHODOLOGY

The emphasis of the study will be on Indian commercial banks between 2005 and 2022. ROE, EPS, and DPS are three examples of bank performance metrics that will be used to analyses the effects of NPA on bank performance. The entire effects of NPA on bank performance, share value generation, and market reaction are covered in this paper, in brief.

RESEARCH DESIGN

The purpose of this study is to analyses potential banks in India with a concentration on the years 2005 to 2022. The design of the research is discrete and flexible in reaching this goal. To more directly address the study objectives that are challenging to address in an exploratory research design, we have chosen a descriptive research approach (Creswell, 2003). Also, as the majority of the data used in this study are quantitative or empirical, extensive analyses are necessary and are easily accomplished in a descriptive approach.

SAMPLE DATA AND ITS SOURCES:

In conducting this investigation, secondary data were utilized. The Data Book for Planning Commission has been used to compile the macroeconomic statistics for India. The bank-specific information was gathered from the RBI, CMIE-prowess, and each bank's annual reports. Up to 40 major Indian banks were taken into account in the current investigation, which covered the years 2005 through 2022.

The commercial banks in India make up the study's population. In India, 33 listed public and private banks are currently in existence. But, for this study, 40 banks were chosen. To prevent any potential influence on the research findings and conclusions, the data of other banks, such as cooperative and international banks, are not taken into consideration. There are currently (12) Twelve Public Sector Banks and (21) Twenty-One Private Sector Banks operating in India. We have covered (24) Twenty-four Public Sector Banks and (16) sixteen Private Sector Banks for our empirical study for 17 years i.e. (2005-2022).

Table: 1 Banks Adopted for Empirical Study

Sr. No.	Bank Name	Type of Bank
1	Allahabad Bank	Public Sector
2	Andhra Bank	Public Sector
3	Bank of Baroda	Public Sector
4	Bank of India	Public Sector
5	Bank of Maharashtra	Public Sector
6	Canara Bank	Public Sector
7	Dena Bank	Public Sector

8	Federal Bank	Private Sector
9	HDFC Bank	Private Sector
10	ICICI Bank	Private Sector
11	Indian Bank	Public Sector
12	Oriental Bank of Commerce	Public Sector
13	State Bank of India	Public Sector
14	Union Bank of India	Public Sector
15	Vijaya Bank	Public Sector
16	Axis Bank	Private Sector
17	Central Bank of India	Public Sector
18	City Union Bank	Private Sector
19	Corporation Bank	Public Sector
20	Development Credit Bank	Private Sector
21	Dhanalaxmi Bank	Private Sector
22	IDBI Bank	Public Sector
23	Indian Overseas Bank	Public Sector
24	Indusind Bank	Private Sector
25	IngVysya Bank	Private Sector
26	Jammu & Kashmir Bank	Private Sector
27	Karnataka Bank	Private Sector
28	KarurVysya Bank	Private Sector
29	Kotak Mahindra Bank	Private Sector
30	Lakshmi Vilas Bank	Private Sector
31	Punjab National Bank	Public Sector
32	Punjab & Sind Bank	Public Sector
33	South Indian Bank	Private Sector
34	State Bank of Bikaner & Jaipur	Public Sector
35	State Bank of Mysore	Public Sector
36	State Bank of Travancore	Public Sector
37	Syndicate Bank	Public Sector
38	UCO Bank	Public Sector
39	United Bank of India	Public Sector
40	Yes Bank	Private Sector

Variables Selected for Study

i) **Earnings per share (EPS):** EPS is regarded as the most crucial factor in determining a stock's worth. Profits are distributed to each outstanding share of the corporation, or EPS. The capital needed to produce net earnings is sometimes overlooked in the computation of EPS. The more efficient of two firms is the one that produces the same EPS with less capital. There is a potential that the earnings may be manipulated, making EPS fragile. Thus, it is recommended that the EPS be utilised in conjunction with financial statement analysis and other pertinent measurements.

ii) **Dividend per Share (DPS):** Dividends are rewards provided to shareholders by the corporation. Profits and dividend payments made by the corporation determine the worth of its shareholders. Many businesses concentrate on raising DPS since it is an excellent approach to show shareholders that the business is performing well.

iii) **Return on Equity (ROE):** Profits are reported as a proportion of shareholders' equity, or return on equity (ROE). The return on equity (ROE) gauges how well a company's management uses shareholder money. This indicator is crucial, particularly from the perspective of investors, since it will enable them to estimate the increased income that will result from their investment. Yet, it's important to remember that a greater ROE does not always imply a higher level of efficiency because, when a firm is supported by debt, the ROE rises even while the income stays the same.

Dependent variables isEPS, ROE, DPS.

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Independent variable is NPA

iv)Research Variables:

Dependent variable is, EPS, ROE, DPS, are the variables which represents different performance measure and creation of shareholder value and market indicator.

a) **Earnings per share** = (Net Profit after Taxes – Preference Dividends) / Number of Equity Shares

b) **ROE** = Net income after tax / (Equity share holder capital + reserves – Preliminary expenses)

c) **DPS** = Total Dividend / Number of Equity share

Independent variable is NPA: Net Non-Performing Asset of banks on yearly basis

Panel Regression equation model for the study:

$NPA_{it} = \beta_0 + \beta_1 EPS_{it} + u_{it}$

$NPA_{it} = \gamma_0 + \gamma_1 DPS_{it} + v_{it}$

$NPA_{it} = \chi_0 + \chi_1 ROE_{it} + ¥_{it}$

1. Empirical discussion and findings:

i) Trend analysis of NPA in Indian Public Sector banks:

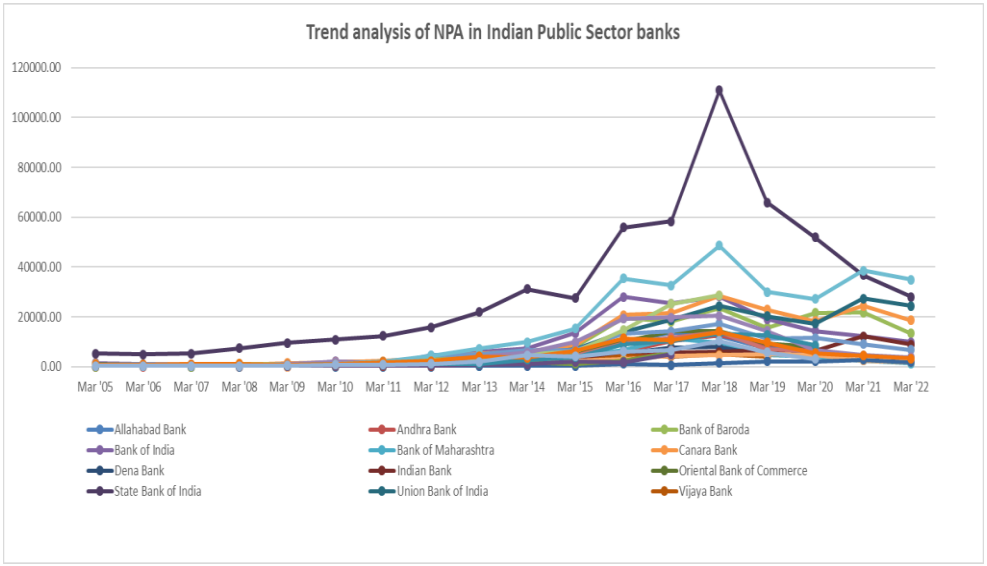

Figure 2

By looking at the Figure we can see that NPA's have risen during the year 2017-2019 and have started decreasing thereafter. State Bank of India having the highest amount of NPA followed by Bank of Maharashtra.

ii) Trend analysis of NPA in Indian Private Sector banks:

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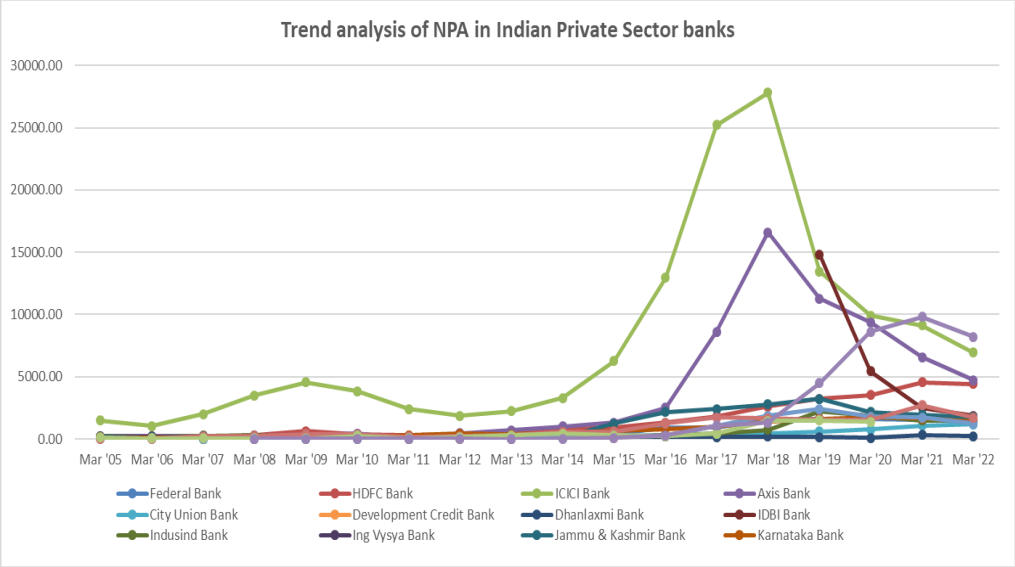

Figure 3

While analyzing the figure we can notice an upward trend in NPA's of Private Sector bank from March 2014 to March 2018, thereafter NPA's have been controlled and managed by the banks. The Highest NPA's are discovered in ICICI Bank, followed by Ing Vysya Bank and Axis Bank.

Trend analysis of EPS, ROE,DPS and NPA in Indian commercial banks:

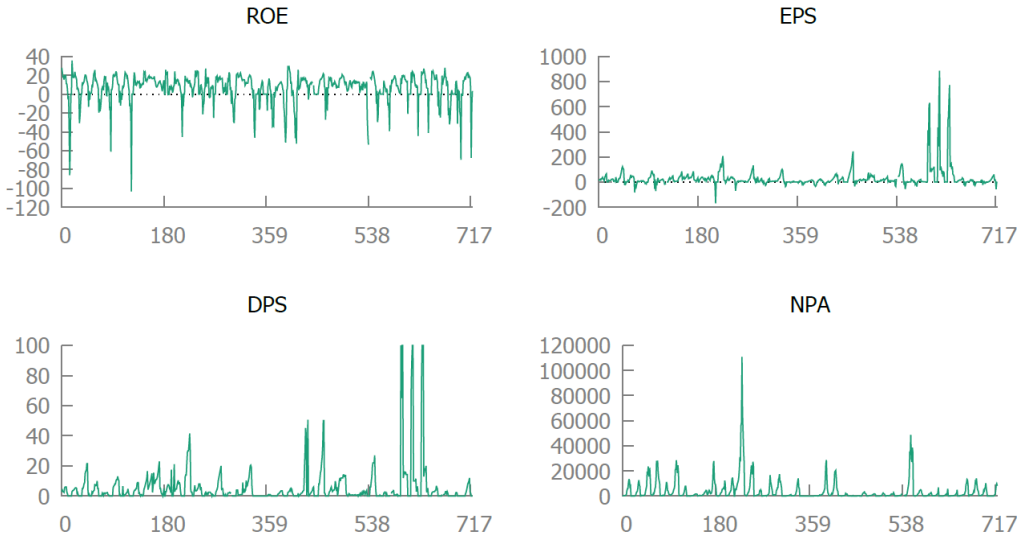

Figure 4

We can notice ROE is Highly Negatively Correlated with NPA which means a little change in NPA will negatively impact Profitability of the company eventually effects will be seen in the ROE of the Shareholders while EPS and DPS are less correlated to NPA according to the figure, NPA causes blockage of money cycle which leads to reduced reduced opportunities to invest in other projects this impacts the earnings of the company which also impacts pay-outs given to the shareholder. Further in the study impact of NPA on ROE, EPS and DPS is explained in detail.

i) Correlation Matrix of NPA, ROE, EPS and DPS

Table: 2

	NPA	DPS	EPS	ROE
NPA	1	-0.0962	-0.1261	-0.307
DPS		1	0.932	0.2794
EPS			1	0.3223
ROE				1

From the above correlation matrix, ROE is highly negatively correlated with NPA, while high positive correlation with EPS and DPS is found.This indicates NPA is showing negative impact on performance of banks about negative 9% on DPS, negative 12% on EPS and negative 30% on ROE with regards to shareholder value creation.

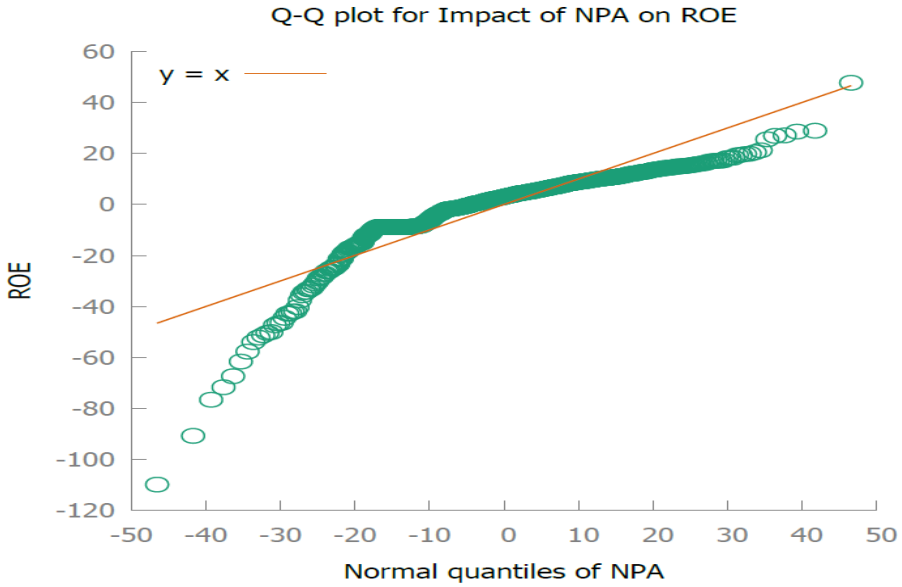

Figure 5

i) Study of impact of NPA on ROE:

Table: 3

	Panel Regression Result showing Impact of NPA on ROE of Indian Banks					
Particulars	**Panel Regression Models**					
	Pooled Regression Model		**Fixed Effect Model**		**Random Effect Model**	
const	8.80345	***	8.94384	***	8.92385	***
NPA	−0.000538495	***	−0.000572444	***	−0.000569134	***
R-squared	0.094264		0.105807		0.105807	
Adjusted R-squared	0.092997		0.103448		0.103448	
P-value(F)	4.07e-17		4.58e-18		4.58e-18	
Durbin-Watson	0.782922		0.792928		0.792928	
rho	0.608001		0.603202		0.603202	
Breusch-Pagan test	p-value = 0.000603411	So Random effect model has to be selected				
Hausman test	p-value = 0.342113	So Random effect model has to be selected				

In above table the relation of NPA with ROE has been defined, the value of R-Squared is ranging between 0.09 to 0.10 in the above 3 models which showsthat 9 to 10 % variation in the dependent variable (ROE) is described by the independent variable (NPA).In this model the Adjusted R square is ranging from 9 to 10% which is near to the value of R-Squared which indicates that samples are not over fitted and there is no problem generalizability. These values are very close, anticipating minimal shrinkage based on this indicator. The value of Durbin Watson is ranging 0.78 to 0.79which shows that there is no possibility of autocorrelation in residuals. The model is good fit as p value (F) is 0.000 which indicates the variation in dependent variable is explained by independent variables. So by above analysis, model can be interpreted as fit model for defining the Impact of NPA on ROE of banks share.

Due to NPA cost of debt i.e the interest rises. The increase in interest reduces the profitability. Due to decrease in net income the bank is unable to efficiently use the shareholders' investment and likewise unable to return value to Equity shareholders.

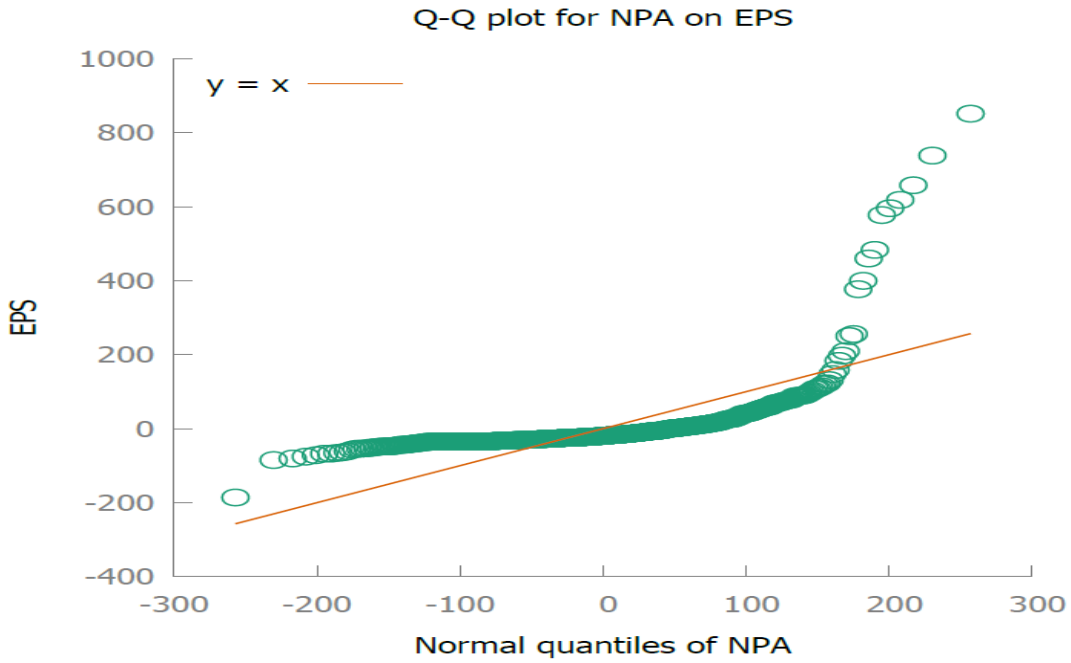

Figure 6

ii) Study of impact of NPA on EPS

Table 4

Panel Regression Result showing Impact of NPA on EPS of Indian Banks						
Particulars	**Panel Regression Models**					
	Pooled Regression Model		**Fixed Effect Model**		**Random Effect Model**	
const	34.5950	***	34.0573	***	34.1640	***
NPA	−0.00117108	***	−0.00104087	***	−0.00106496	***
R-squared	0.015898		0.021909		0.021909	
Adjusted R-squared	0.014522		0.012281		0.012281	
P-value(F)	0.000715		0.000368		0.000368	
Durbin-Watson	0.585665		0.589060		0.589060	
rho	0.707076		0.705301		0.705301	
Breusch-Pagan test	p-value = 0.261839	So Fixed effect model has to be selected				
Hausman test	p-value = 0.366634	So Radom effect model has to be selected				

In above table the relation of NPA with EPS has been defined, NPA is showing negative non-significant relationship with EPS. The value of R-Squared is ranging between 0.01 to 0.02 in this model which shows that 1 to 2 % variation in the dependent variable (EPS) is described by the independent variables (NPA).In this model the Adjusted R square is ranging between 1.4 to 1.2% which is near to the value of R-Squared which indicates that samples are not over fitted and there is no problem generalizability. These values are very close, anticipating minimal shrinkage based on this indicator. The value of Durbin Watson is 0.585 to 0.589which shows that there is no possibility of autocorrelation in residuals. The model is good fit as p value (F) is ranging between 0.0007 to 0.0003 which indicates the variation in dependent variable is explained by independent variables. So by above analysis, model can be interpreted as fit model for defining the Impact of NPA on EPS of banks share.

As we know EPS reflects the performance of the banks. There are several factors which have impact on the EPS of the Banks. NPA is one of them. It is observed that even when the NPAs of the banks are on rise, in corresponding year the EPS is also on rise. This is because the net income that we consider also includes the income generated from other sources. Increased NPA will 'ceteris paribus' cause the EPS to decrease. NPA leads to blocking of money this in turn leads to the bank's reduced capacity to invest in other remunerative projects. Thus NPA not only impact the current earnings but also future earnings of the banks. This hampers the profitability and liquidity of the banks.

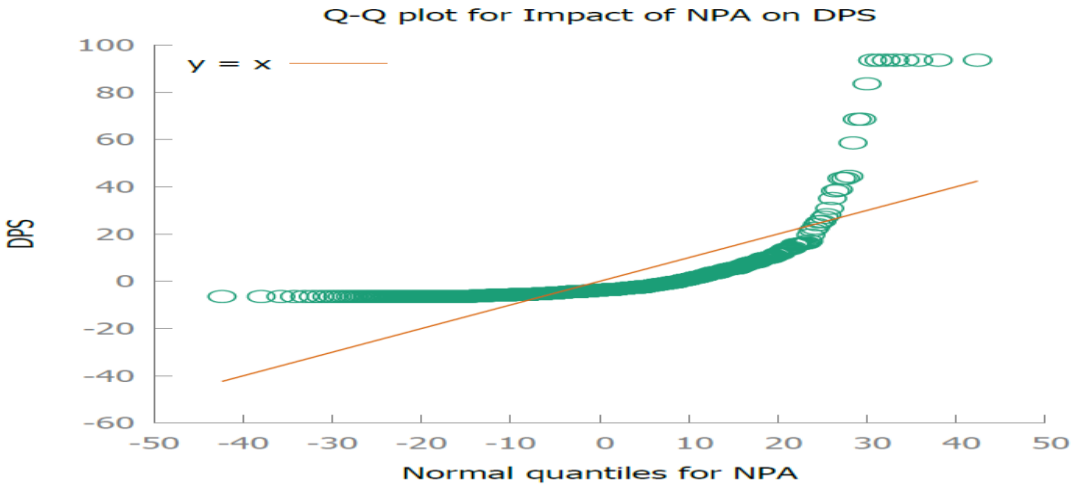

Figure 7

iii)Study of impact of NPA on DPS

Table 5

Panel Regression Result showing Impact of NPA on DPS of Indian Banks						
Particulars	**Panel Regression Models**					
	Pooled Regression Model		**Fixed Effect Model**		**Random Effect Model**	
Const	6.45919	***	6.37096	***	6.39089	***
NPA	−0.000146780	**	−0.000125450	**	−0.000129396	**
R-squared	0.009257		0.015324		0.015324	
Adjusted R-squared	0.007867		0.006609		0.006609	
P-value(F)	0.010049		0.004096		0.004096	
Durbin-Watson	0.509428		0.512271		0.512271	
rho	0.745369		0.743953		0.743953	
Breusch-Pagan test	p-value = 0.261614	So Fixed effect model has to be selected				
Hausman test	p-value = 0.366642	So Random effect model has to be selected				

In above table the relation of NPA with DPS has been defined, NPA is showing negative non-significant relationship. The value of R-Squared is ranging between 0.009 to 0.015 in this model which shows that 1 to 1.5%% variation in the dependent variable (DPS) is described by the independent variable(NPA).In this model the Adjusted R square is ranging between 0.007 to 0.006 which is near to the value of R-Squared which indicates that samples are not over fitted and there is no problem generalizability. These values are very close, anticipating minimal shrinkage based on this indicator. The value of Durbin Watson is 0.50 to 0.51which shows that there is no possibility of autocorrelation in residuals. The model is good fit as p value (F) is ranging between 0.01 to 0.004 which indicates the variation in dependent variable is explained by independent variables. So by above analysis, model can be interpreted as fit model for defining the Impact of NPA on DPS of banks share. The payout of dividends is from earnings. As seen before, NPA causes earnings to fall, this also reduces the payout to shareholders. Decreased profits leads to less available funds in banks and therefore banks

return less value to their shareholders. This has negative impact on performance of the bank. This may erode the value of shareholders' investment in the bank.

CONCLUSION

The main objective is to empirically analyses and interpret statistical data to study the trend of non-performing assets at Indian commercial banks. To study the impact of non-performing assets on bank performance, bank performance metrics like ROE, EPS, and DPS will be used. ROE has a very low positive association with EVA but a very strong negative correlation with NPA. This shows that NPA has an effect on bank performance, but there is very little association with the development of shareholder value. It suggests that in addition to NPA, there are many other factors that influence market value added. The interest rate goes up as a result of NPA. The profitability declines as interest rates rise. The bank is unable to utilize the shareholders' investment effectively due to the decline in net income, and it is also unable to reward equity owners with value. Increasing NPA will, "ceteris paribus," result in a decline in EPS. NPA causes money to be blocked, which reduces the bank's ability to invest in other lucrative initiatives. PA thus affects the banks' future as well as current profitability. This impairs the banks' capacity to be profitable and liquid.

Dividend payments are made from earnings. As we've just shown, NPA lowers earnings, which also lowers the payment to shareholders. Reduced earnings cause banks to have fewer capital available, which results in banks giving their shareholders less value. The bank's performance will suffer as a result of this. This might reduce the value of the bank investment made by shareholders.

Rising NPA affect the banks' ability to generate income and also cause them to lose depositors' and customers' confidence. Banks are an important part of every nation's financial sector. A rise in the deficit in the current account Every economic situation is affected by NPA, which is also the primary driver of the widening current account deficit. The system has an immediate impact on interest rates, loans, housing loans, CRR, and SLR.

The impact of greater NPA is also influenced by the corporates. Increasing NPAs in the banking sector are causing stockholders and depositors to lose faith in the system, and they are moving segments as a result. Increased NPA has an impact on both the general population and serious, ethical borrowers with strong qualifications and credit ratings .Further in the research we will study about the impacts of NPA on ROE, EPS and DPS i.e impact of NPA on Profitability (Banking Performance) and Shareholder Value Creation.

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DOES SERVICE QUALITY INFLUENCE THE CUSTOMER LOYALTY TOWARDS FINANCIAL SERVICES? EVIDENCE FROM INDIA

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ABSTRACT

Background: *Over the past few decades, Indian financial services sector has witnessed substantial growth. Hence the present study aims to examine the influence of service quality on customer loyalty for financial services in India.*

Methods: *A well-structured questionnaire was employed to attain the study's objectives and obtain data from the financial services users. A total of 493 responses were collected and analyzed through AMOS-based SEM and SPSS. The validity of the measurement model was tested using AMOS-SEM, and regression analysis was conducted using SPSS.*

Results: *The study's findings revealed that there is a significant difference between customer expectations and perception of tangibility, responsiveness, assurance, and empathy. Additionally, the study found that all the service quality dimensions (tangibility, reliability responsiveness, assurance, and empathy) significantly impact customer loyalty towards financial services.*

Implications: *The study significantly contributes to the SERVQUAL model and expectancy disconfirmation theory. Furthermore, the study also has practical implications for the managers of financial services companies. Thus, the study contributes to the service marketing literature.*

Originality: *To the authors' best knowledge, the present study is the first of its kind that provide the empirical evidence on relationship between service quality and customer loyalty towards financial services in India.*

Keywords: *Service quality, Customer loyalty, Financial Services, AMOS, SERVQUAL*

1. INTRODUCTION

The financial services sector plays an essential role in developing the economic landscape of a country and serves as the foundation for infrastructure development and the well-being of citizens. India's financial services industry is diverse and rising in terms of new players joining the market and the robust expansion of long-standing financial services companies. The Indian financial sector has witnessed remarkable growth in the past few decades due to diverse needs and emerging economy (Anifa et al., 2022). IBEF (2023) has highlighted that India's private wealth management sector has enormous potential. By 2025, there will be 6.11 lakh high-net-worth individuals in India. In fact, as a result, by 2028, India's private wealth market will rank fourth in the world. By 2025, the insurance industry in India is projected to grow to a value of USD 250 billion. Nowadays, consumers have a variety of alternatives due to the growth brought about by the liberalization and globalization of the Indian economy (Dewi et al., 2020). As a result, customers are pickier, more demanding, and more knowledgeable about the financial alternatives available. The ability of a business to retain its customers is a critical factor in determining success (Sulainman & Muhammad, 2021). Examining the elements that affect customer loyalty in the Indian financial services industry is crucial. Customer loyalty leads to long lasting connections, more sales, and a positive reputation (Khan et al., 2022). Customer loyalty integrates the tendency of customers to choose one financial service provider every time and spreads positive word of mouth. Satisfied and loyal customers provide opportunities for financial institutions to cross-sell, which results in organic growth (Symonds et al., 2007).

Our study intends to present empirical evidence on how customer loyalty is determined by service quality in the financial services industry, given the significance of financial services to the Indian economy and the relevance of customer loyalty in the industry. Furthermore, we also aim to examine the differences in customer expectations and perception of the quality of financial services. For several reasons, it is crucial to study how service quality influences customer loyalty in the Indian financial services industry. First, it enables financial service providers to comprehend the requirements, preferences, and expectations of their clients on a deeper level. Second, customer loyalty leads to customer satisfaction, so it is essential to understand how customer loyalty is influenced by the quality of financial services. Third, the Indian financial sector is witnessing enormous growth in financial services due to its financial inclusion initiatives, so it becomes essential to study how the service quality dimension affects customer loyalty.

Moreover, scholars have extensively focused on understanding the relationship between service quality and customer loyalty in banking services (e.g., Kheng et al., 2010; Kaura et al., 2015; Ngo et al., 2016). However, the financial services sector not only comprises the banking sector but also covers other non-banking financial services, which have yet to be explored comprehensively in India regarding service quality and customer loyalty. Our study primarily aims to fill this significant gap.

Our study significantly contributes to the academic literature and has some practical implications for managers of financial services companies. The study significantly contributes to the SERVQUAL model and expectancy disconfirmation theory by highlighting the differences in customer perception and expectation of financial services. The study also provides valuable input to financial services firms' managers by reporting how several dimensions of service quality influence customer loyalty.

The forthcoming segments of the article encompass the following: Section 2 elucidates the literature pertaining to service quality and customer loyalty; Section 3 delineates the methodology employed; Section 4 encapsulates the analysis and interpretation of the data; Section 5 expounds upon the discussion; Section 6 outlines the theoretical and practical implications arising from the study; and Section 7 encompasses the conclusion, limitations, and potential avenues for future research.

2. LITERATURE REVIEW AND HYPOTHESES DEVELOPMENT

2.1 Service quality

According to Parasuraman (1988), service quality is the direction and magnitude of the difference between a customer's expectation and perception or the extent to which a service meets or surpasses that expectation. Ahmed and Nawaz (2010) posit that customer satisfaction is a direct outcome of their interaction with the service, emphasizing that service quality is essentially the effective implementation of service as a managerial function. Negative expectations will drive away customers, whereas positive expectations show that they will connect with or become emotionally invested in the good or service (Gopi & Samat, 2020). Customers' expectations show considerable influence on their interaction with services, underscoring the transformative influence of positive experiences. This plays a pivotal role in fostering robust, enduring connections between customers and service providers.Service-oriented business models emerged significantly over the years compared to product-oriented ones (Chusumanu et al., 2015). Service quality is considered the most critical factor for the service industry in today's competitive business environment, and service depends on how a customer perceives the quality delivered by the service provider (Ganguli & Roy, 2010; Gopi & Samat, 2020). The increasingly competitive environment has made service quality even more crucial, highlighting the significance of customer views as the primary yardstick for assessing and improving service performance. There is a difference between customer expectations and perceived service. Parasuraman et al. (1988) used SERVQUAL to test this difference. The SERVQUAL model describes service quality in five dimensions: tangibility, reliability, responsiveness, assurance, and empathy. These dimensions measure the service quality gap, which denotes a discrepancy between customers' expectations and perceptions of service (Pakurar et al., 2019).

2.2 Customer loyalty

Customer loyalty encompasses the habitual purchasing behavior, often referred to as repurchase behavior, that a customer develops. This loyalty is shaped by the cumulative impact of all the experiences a customer undergoes while engaging with the products and services offered by providers.(Fida et al., 2020). Attitudinal and behavioral views can be used to understand customer loyalty (Oliver, 1999; Zeithaml, 2000). Customer loyalty may be interpreted from a behavioral perspective as the frequency of utilizing services in a given category compared to the overall services used by customers in that category (Neal, 1999). This behavioral interpretation draws attention to the habitual aspect of loyalty by highlighting the regular selection of a particular service category among a wide range of possibilities, indicative of a long-lasting and meaningful connection. Loyalty from an attitudinal perspective can be described as a customer preference to choose a service provider consistently (Zeithaml, 2000). By exploring the emotional and perceptual dimensions of loyalty, this attitudinal lens highlights that customer loyalty is more than repeat business; instead, it results from a sincere desire to continually align with a particular service provider, motivated by favorable feelings and preferences. Customer loyalty can bring enormous advantages to an organization, such as higher profitability and reduced marketing and advertising costs (Han & Hyun, 2018). Scholars have identified various antecedents of customer loyalty, e.g., customer engagement, quality standards, and customer-perceived values (Akamavi et al., 2015; Bruneau et

al., 2018). All these things together affect how customers feel about a business. It shows that when the quality is consistent, and the values of the business match what the customer actually wants, it builds loyalty.

2.3 Service quality and customer loyalty

The correlation between service quality dimensions and customer loyalty has been meticulously examined by researchers in the past (Anderson & Mittal, 1994; Bloemer & De Ruyter, 1999; Khan & Fasih, 2014; Gopi & Samat, 2020; Chen et al., 2023). According to Ladhari (2009), a customer who perceives the service as delivering higher quality feels more satisfied with the service provider, which enhances loyalty in the long run. Increasing service quality increases customer loyalty (Saleem & Amin, 2013; Wijaya, 2013). Service quality dimensions significantly impact customer satisfaction if service providers maintain their quality (Khan & Fasih, 2014). Tangibility in financial services can significantly enhance the probability of maintaining long-term relationships with the customer by maintaining the ambience of the service platform (Jabnoun & Al-Tamimi, 2003; Khan & Fasih, 2014). Similarly, Jalil et al. (2021) advocated that there is a significant positive relationship between reliability responsiveness and customer loyalty. Furthermore, researchers also highlighted that assurance and empathy may significantly affect customer loyalty (Ismail & Yunan, 2016; Limna & Kraiwanit, 2021). Customers evaluate the quality of services differently according to their perception (Parasuraman et al., 2005), and customer perception and expectation can significantly differ regarding service quality (Lin et al., 2014). According to Panda (2003), a successful service provider's relationship with its clients "determines customer satisfaction and loyalty. Improving customer loyalty by providing unique features to clients is becoming a popular and extensively utilized strategy for gaining a competitive advantage (Khalifa, 2021). Exceptional service quality is paramount in the financial industry, serving as the cornerstone for customer satisfaction and loyalty assessment (Khan & Fasih, 2014). Similarly, Shankar and Jebarajakirthy (2019) advocated that reliability in e-banking services leads to customer loyalty.

Based on the above discussion on service quality dimensions and customer loyalty we propose the following hypotheses

H1 (a) A notable disparity exists between customer expectations and their perceptions regarding tangibility.

H1 (b) A notable disparity exists between customer expectations and perception about reliability.

H1 (c) A notable disparity exists between customer expectations and perception about responsiveness.

H1 (d) A notable disparity exists between customer expectations and perception about assurance.

H1 (e) A notable disparity exists between customer expectations and perception about empathy.

H2 (a) Tangibility significantly impacts the customer loyalty towards financial services.

H2 (b) Reliability significantly impacts the customer loyalty towards financial services.

H2 (c) Responsiveness significantly impacts the customer loyalty towards financial services.

H2 (d) Assurance significantly impacts the customer loyalty towards financial services.

H2 (e) Empathy significantly impacts the customer loyalty towards financial services.

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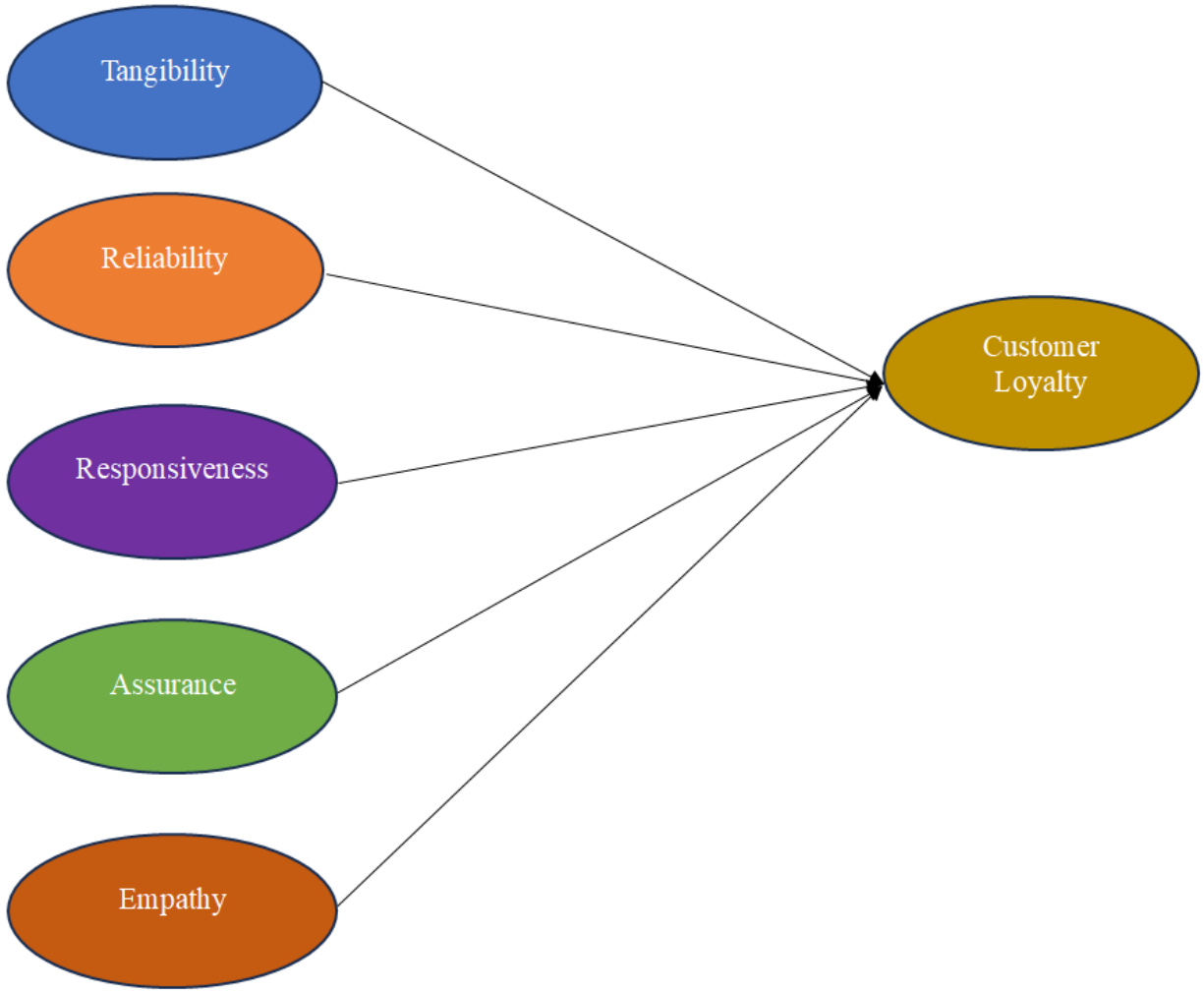

Figure1. Service quality dimensions and customer loyalty

3. RESEARCH METHODOLOGY

The present study examines the impact of service quality parameters such as tangibility, reliability, responsiveness, assurance, and empathy on customer loyalty among financial services users. A measurement scale covering the relevant aspects of the constructs was developed based on a thorough literature review. To ensure the scale's validity, the study employed semi-structured interviews with three academic experts, two marketing experts from the industry, and four experienced financial services users. The expert opinion of these experts was considered with the utmost care without deviating from the study's objectives. The 7-point Likert scale was constructed to collect data from respondents with options ranging from strongly disagree to strongly agree.

3.1 Questionnaire design

The primary data was gathered from the respondents using a standardized questionnaire. The principal aim of the research was to investigate the relationship between customer loyalty and service quality parameters in the context of financial services consumers. The first section of the questionnaire consists of respondents' demographic and socio-economic information, including age, gender, annual income, occupation, and education. Section 2 consists of items measuring service quality dimensions and customer loyalty from the existing literature.

3.2 Data collection

The data for the study has been collected from the residents of Delhi, NCR. The Delhi-NCR region has been chosen to collect the data, as the region represents a densely urbanized area. The density of the urban population in the region has resulted in a concentration of financial institutions and diverse customers, making it ideal to examine the effect of service quality parameters on customer loyalty towards financial services. Data was only gathered from respondents who chose to participate in the study because there was no available list of

individuals in Delhi NCR who were availing of financial services, and many preferred to keep information about their financial matters private. The non-probability sampling method, judgmental sampling, has been used to collect the data, as these methods are appropriate for collecting the data in case of financial matters (Wood & Zaichkowsky, 2004; Ritika & Kishore, 2020). A total of643 respondents were approached via email, WhatsApp, and telegram. Regular reminders have been sent to the respondents to fill out the questionnaire. A total of 557 respondents responded, of which 64 questionnaires were found incomplete, and 493 responses were selected for further data analysis.

3.3 Respondents description

The male respondents comprise of 54% and female respondents comprise of 46%. The respondents' age 21-30, 31-40, 41-50, and >50 is 35.49%, 45.63%, 13.18% and 5.67% respectively. In addition,3.44% of respondents have intermediate level education, 41.78% are graduates, 44.62% are post graduate and 10.14% have education qualification M.Phil./PhD. 26.57% of respondents are working in the government sector, 51.5% are working in the private sector and 21.9% are working in cooperative organizations.

Table 1. Respondents' description

Variables	Category	Frequency	Percentage
Gender	Male	266	54
	Female	227	46
Age	21-30	175	35.49
	31-40	225	45.63
	41-50	65	13.18
	>50	28	5.67
Education	Intermediate	17	3.44
	Graduate	206	41.78
	Post-Graduate	220	44.62
	M.phil/PhD	50	10.14
Employed with	Govt. Job	131	26.57
	Private Job	254	51.5
	Cooperative Organizations	108	21.9
Marital Status	Unmarried	188	38.13
	Married	305	61.86
Income	<250000	70	14.19
	250001-500000	135	27.38
	500001-1000000	210	42.59
	<1000000	78	15.82

Source: Authors' compilation

38.13% of respondents are unmarried, 61.86% are married. Furthermore, 14.19% of respondents have income less than 250000, 27.38% have income between 250001-500000, 42.59% have income between 500001-1000000 and 15.82 have income more than 1000000.

4. DATA ANALYSIS AND INTERPRETATION

4.1 Reliability Analysis

Internal accuracy is best measured by the alpha value of Cronbach (Cronbach & Meehl, 1955). An alpha value of 0.7 or more demonstrates high internal consistency. This research conducted a reliability analysis for five constructs of service quality.

Table 2.Reliability Analysis

S.No	Construct	Cronbach's Alpha
1	Tangibility	.878
2	Reliability	.895
3	Responsiveness	.764

4	Assurance	.824
5	Empathy	.856

Source: Authors' compilation

The results of Table 2 present the value of Cronbach alpha for each construct used in the measurement model. All values of Cronbach alpha are greater than 0.7. Hence, values are demonstrating high reliability among items pertaining to constructs.

4.2 Model Fit of Measurement Model

The model fit specifies the degree to which the sample data matches the structural model. The Chi-square value of the AMOS output is 592.354, with a degree of freedom of 199. Moreover, the standard chi-square value (CMIN/DF) was 2.977. This is within the recommended range of less than five, as Hair et al. (2011) suggested. This shows that the sample data is suitable for the hypothesised model. The results of the model fit indices showed the goodness of fitness index value as 904, which exceeds 0.8. The "Root Mean Square Residual" Value (RMSR) of the proposed model for measurement is 0.035, less than 0.10 (Kuo et al., 2009), and the "Root Mean Square Error of Approximation" (RMSEA) value of the proposed model for measurement is 0.063, less than the appropriate value of 0.08.

4.3 Model Fit Indices

Table 3.CMIN

Model	NPAR	CMIN	DF	P	CMIN/DF
Default model	54	592.354	199	.000	2.977
Saturated model	253	.000	0		
Independence model	22	7458.812	231	.000	32.289

Source: Authors' compilation

Table 4.RMSEA

Model	RMSEA	LO 90	HI 90	PCLOSE
Default model	.063	.058	.069	.000
Independence model	.252	.247	.257	.000

Source: Authors' compilation

Table 5.Parsimony-Adjusted Measures

Model	PRATIO	PNFI	PCFI
Default model	.861	.793	.815
Saturated model	.000	.000	.000
Independence model	1.000	.000	.000

Source: Authors' compilation

Table 6.Baseline Comparisons

Model	NFI Delta1	RFI rho1	IFI Delta2	TLI rho2	CFI
Default model	.921	.908	.946	.937	.946
Saturated model	1.000		1.000		1.000
Independence model	.000	.000	.000	.000	.000

Source: Authors' compilation

Table 7.RMR, GFI

Model	RMR	GFI	AGFI	PGFI
Default model	.035	.904	.879	.711
Saturated model	.000	1.000		

Model	RMR	GFI	AGFI	PGFI
Independence model	.355	.361	.300	.330

Source: Authors' compilation

The value of the "Adjusted Goodness of Fit" Index (AGFI) in the measuring model was 0.879, which is greater than or equal to the recommended value of 0.80. For the same measurement model, the value for the "Comparative Fit Index" (CFI) was 0.946 which is again greater than the suggested value of 0.90. The "Parsimony Goodness of Fit Index" (PGFI) measurement model value stood at 0.711, which is higher than 0.50 (Kuo et al., 2009). The "Parsimony Comparative Fit Index" (PCFI) measurement model value was 0.815, greater than. In the end, the value of the "Parsimony Normed Fit Index" (PNFI) measurement model was 0.793 which is again higher than 0.50. It shows that the proposed measuring model suits the sample data well.

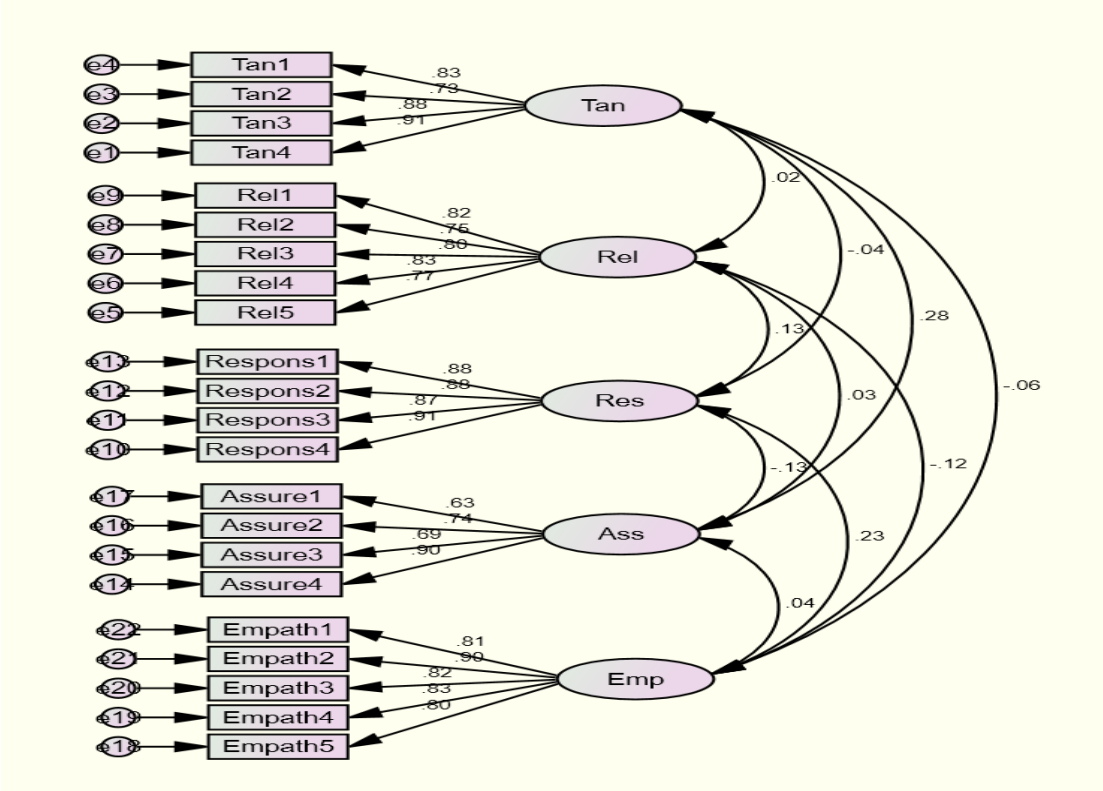

Figure 2. Measurement Model of Service Quality

Table 8.Validity of the Measurement Model

	CR	AVE	MSV	Ass	Tan	Rel	Res	Emp
Ass	0.833	0.559	0.080	**0.747**				
Tan	0.906	0.707	0.080	0.282	**0.841**			
Rel	0.895	0.631	0.016	0.027	0.025	**0.794**		
Res	0.936	0.784	0.051	0.130	-0.043	0.125	**0.886**	
Emp	0.919	0.695	0.051	0.040	-0.055	0.120	0.226	**0.834**

Source: Authors' compilation

The convergent validity was tested by the method recommended by Hair et al. (2011), indicating that the Composites' Reliability (CR) should be greater than or close to 0.5 than the Average Variance Extracted (AVE). The values of CR and AVE for five constructs used in the measurement model indicate the appropriate convergent validity in this analysis, as shown in the above table. Discriminant validity was evaluated according to Hair et al. (2011), which suggested that the maximum shared variance (MSV) should be less than the average shared variance (ASV) and the ASV should be less than the average shared variance of the AVE extracted. For each construct, the maximum shared values are less than the values for the average shared variable, and for each construct, the values of the average shared variable are less than the values of the average variance extracted. This indicates that the scale reveals significant evidence of discrimination.

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Table 9.Descriptive statistics

	ServQual	N	Mean	Std. Deviation	Std. Error Mean
Tangibility	Perception	493	4.3864	1.11155	.05006
	Expectation	493	3.9285	1.03082	.04643
Reliability	Perception	493	4.3172	1.27156	.05727
	Expectation	493	4.1854	.91356	.04114
Responsiveness	Perception	493	4.1962	1.45142	.06537
	Expectation	493	3.9087	1.31827	.05937
Assurance	Perception	493	4.0451	1.36963	.06168
	Expectation	493	3.8463	1.28343	.05780
Empathy	Perception	493	4.1911	1.42261	.06407
	Expectation	493	3.9992	1.44560	.06511

Source: Authors' compilation

Results of the table 9 show the descriptive analysis for different dimension of service quality in terms of their perceptions and expectations. The results demonstrated that mean score of perception and expectation in case of tangibility is 4.38 and 3.92 respectively. The mean value of perception and expectation in case of reliability is 4.38 and 4.18 respectively. Moreover, the mean of perception and expectation concerning to responsiveness and assurance is 4.19, 3.90 and 4.04 and 3.84 respectively. Furthermore, the mean value of perception and expiation for empathy is 4.19 and 3.99 respectively.

We compared the mean scores of the respondents on their perception and expectations for the service quality of financial services using an independent sample t-test to test the hypothesis. Results of Table 10 show a significant difference in the mean score of tangibility in terms of their perceptions and expectations. The independent sample t-test results show that there is a notable difference in the mean score of tangibility ($t = -6.707$; $p < 0.05$). Hence, we accept the hypothesis H1 (a). The group statistics results show that the individual's perception of tangibility is higher than their expectation.

Further, the results show no significant difference in the mean score of reliability in terms of their perceptions and expectations.The independent sample t-test results show no significant difference in the mean score of reliability ($t = 1.870$; $p > 0.05$). Hence, we reject the hypothesis H1 (b). The group statistics results show that the individual's perception of the reliability factor is higher than their expectation.

Furthermore, Results of the independent sample t-test show a significant difference in the mean responsiveness score in terms of their perceptions and expectations. The independent sample t-test results show a significant difference in the mean score of responsiveness ($t = 3.256$; $p < 0.05$). Hence, we accept hypothesis H1(c). The results of the group statistics show that the perceptions of the individual for responsiveness are higher than their expectation.

Moreover, the results of show that there is a significant difference in the mean score of assurance in terms of their perceptions and expectations. The independent sample t-test results show a significant difference in the mean score of assurance ($t = 2.351$; $p < 0.05$). Hence, we accept the hypothesis H1 (d). The results of the group statistics show that the perceptions of the individual for responsiveness are higher than their expectation.

Table 10.Hypothesis testing

		F	Sig.	T	Df	Sig. (2-tailed)	Mean Difference	Std. Error Difference
Tangibility	Equal variances assumed	6.132	.013	6.707	984	.000	.45791	.06828
	Equal variances not assumed			6.707	978.458	.000	.45791	.06828
Reliability	Equal variances assumed	53.127	.000	1.870	984	.062	.13185	.07052
	Equal variances not assumed			1.870	893.057	.062	.13185	.07052

Responsiveness	Equal variances assumed	7.905	.005	3.256	984	.001	.28753	.08831
	Equal variances not assumed			3.256	975.029	.001	.28753	.08831
Assurance	Equal variances assumed	9.639	.002	2.351	984	.019	.19878	.08454
	Equal variances not assumed			2.351	979.872	.019	.19878	.08454
Empathy	Equal variances assumed	.026	.871	2.101	984	.036	.19189	.09135
	Equal variances not assumed			2.101	983.747	.036	.19189	.09135

Source: Authors' compilation

Finally, the independent sample t-test results show a notable difference in the mean score of empathy in terms of their perceptions and expectations. The independent sample t-test results show a significant difference in the mean score of empathy ($t = 2.101$; $p < 0.05$). Hence, we, accept the hypothesis H1 (e). The results of the group statistics show that the individual's perceptions of responsiveness are higher than their expectation.

Table 11.Regression results

R	R Square	Adjusted R Square	Std. Error of the Estimate
.662[a]	.438	.433	.93270

Source: Authors' compilation

Table 12.ANOVA

	Sum of Squares	df	Mean Square	F	Sig.
Regression	330.651	5	66.130	76.018	.000[b]
Residual	423.655	487	.870		
Total	754.306	492			

Source: Authors' compilation

a. Dependent Variable: Customer Loyalty

b. Predictors: (Constant), Empathy, Reliability, Tangibility, Responsiveness, Assurance

Results of the table 12 show that the p-value of the regression model is less than 0.05. It means that the regression model is fit for analysis.

Table 13.Coefficients

	Unstandardized B	Std. Error	Standardized Beta	T	Sig
(Constant)	-.327	.268		-1.219	.224
Tangibility	.326	.041	.271	7.912	.000
Reliability	.140	.054	.104	2.582	.010
Responsiveness	.185	.045	.197	4.140	.000
Assurance	.254	.048	.264	5.315	.000
Empathy	.173	.034	.203	5.059	.000

Source: Authors' compilation

Results show a significant impact of tangibility on customer loyalty ($p < 0.05$). Hence, we accept the hypothesis H2 (a). It means that tangibility has an impact on customer loyalty. The multiple regression analysis results show a significant impact of reliability on customer loyalty ($p < 0.05$). Hence, H2 (b) is accepted. It means that reliability has an impact on customer loyalty. Table 13 shows a significant impact of responsiveness on customer loyalty ($p < 0.05$). Hence, H2 (c) is accepted. It means that responsiveness has an impact on customer loyalty. The multiple regression analysis results show a significant impact of assurance on customer loyalty ($p < 0.05$). Hence, H2 (d) is accepted. It means that assurance has an impact on customer loyalty.

The result of Table 13 shows a significant impact of empathy on customer loyalty ($p < 0.05$). Hence, H2 (e) is accepted. It means that empathy has an impact on customer loyalty. Out of all the predictor variables (empathy, reliability, tangibility, responsiveness, and assurance), based on standardized factor loadings, the factor that impacts customer loyalty most is tangibility, followed by assurance, responsiveness, empathy, and the least important factor that affects the customer loyalty is reliability.

5. DISCUSSION

The primary aim of the research was to assess the variance between customer expectations and perceptions concerning the quality of financial services. Additionally, the study sought to investigate the correlation between the dimensions of service quality and the loyalty exhibited by customers toward financial services. The results posit that there is a difference between customer perception and expectation about service quality dimensions of tangibility, responsiveness, assurance, and empathy in financial services. However, there is no difference regarding service quality dimension reliability in financial services. The difference between perception and expectation is due to the fact that financial service industry is witnessing the introduction of diverse and innovative financial services, so customers need to be able to decide what to expect from financial service providers. Furthermore, the study examined the relationship between service quality dimensions and customer loyalty regarding financial services. The study's results revealed that tangibility significantly impacts customer loyalty. This is because the physical features of the place where financial services are offered influence customer engagement, which ultimately results in loyalty. Additionally, the results reflected that the reliability of providing financial services significantly impacts customer loyalty. This result supports the idea that consistent service is essential to retaining customers (Ganguli & Roy, 2010).

Moreover, the study revealed that responsiveness impacts customer loyalty towards financial services. This means that if financial service providers respond to customers' queries and doubts, customers prefer to take financial services from the same service provider consistently. Furthermore, assurance and empathy are significantly related to customer loyalty towards financial services. This is because assurance imparts confidence in the financial services, while empathy makes customers feel cared for. Customers are more inclined to stick with services that satisfy their financial demands and provide them with a sense of security and emotional fulfillment. Thus, these emotional ties are crucial in maintaining client loyalty.

6. IMPLICATIONS

6.1 Theoretical implications

The study significantly contributes to existing literature on service quality dimensions and customer loyalty. The difference between expectation and customer perception about service quality dimensions towards financial services contributes to the expectancy disconfirmation theory, which postulates that disconfirmation between perceived and expected services influence customer satisfaction. This could be because customers may need help in anticipating what to expect in quickly changing industries such as financial services, where new and innovative services are constantly being introduced. There might be a disconnect between customers' expectations and perception since this could be their first time using these innovative services. In addition, the study's results support the SERVQUAL model by highlighting that tangibility, reliability responsiveness, assurance, and empathy dimensions significantly impact customer loyalty. Notably, the significant impact of tangibility, reliability, responsiveness, assurance, and empathy on customer loyalty resonates with the model's emphasis on these dimensions.

6.2 Practical implications

The study's findings have noteworthy practical implications for the marketing managers of the financial services industry. The results highlighted the significant difference between the expectations and perception of customers, so we recommend that financial service providers should invest in customer education about the financial services they are offering to customers. Clear communication can help manage expectations and reduce disappointment, ultimately enhancing customer satisfaction. The study highlights the importance of how essential is to maintain the ambience of the place where financial services are delivered. To make the physical environment more ambient, the managers can display educational content and integrate augmented reality and virtual reality at the place to augment the customer experience. Additionally, the study emphasizes the importance of providing consistent service to enhance customer loyalty. To ensure consistent services, sufficient training should be given to employees serving the customer, and the process involved in delivering services must be streamlined.

Moreover, the study highlights the importance of responsiveness to customers in augmenting customer loyalty. To ensure adequate responsiveness, managers must provide thorough customer care over various channels, such as phone, email, live chat, and in-person help. Thus, we suggest a continuous dialogue with customers and ensure efficient customer support systems. Further, we found that empathy and assurance influence customer loyalty, so we recommend that financial service providers prioritize building trust (assurance) and establishing emotional connections (empathy) with customers. Trust can be fostered through transparent communication and security measures, while empathy can be demonstrated through personalized interactions and support.

7. CONCLUSION, LIMITATIONS, AND FUTURE RESEARCH AGENDA

Our study primarily aimed to study the impact of service quality dimensions on customer loyalty and to investigate the significant differences in customer expectations and perception of service quality of financial services in India. We employed a SERVQUAL model in the study. The results of the study showed that there is a significant difference between customer expectations and the perception of the quality of financial services. Additionally, the study concludes that all the service quality dimensions, tangibility, reliability, responsiveness, assurance, and empathy, have a significant positive relationship with customer loyalty regarding financial services. This relationship asserts that enhancing the quality of services delivery will result in repeated purchases and building long-lasting profitable relationships with customers.

The study used the northern Indian region for the sample, which represents one Indian region only. Researchers can extend the scope of the study by taking the other regions. We tested the relationship between service quality dimensions and customer loyalty towards financial services only, and no mediatingand moderatingvariables have been considered. Researchers could explore the other factors that indirectly impact the relationship between service quality dimensions and customer loyalty toward financial services. Researchers must shed light on how cultural variations affect expectations and perceptions of service quality, which can help organizations customize their offerings for a wide range of clientele. Further researchers could also explore how introducing artificial intelligence (AI) in service industries determines service quality and how it affects customer loyalty and satisfaction.

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REVITALIZING INDIGENOUS JUSTICE: MEDIATION IN INDIA'S TRIBAL JUSTICE SYSTEM

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ABSTRACT
India is the land of millions of tribal populations. This tribal population resides in many states of India and lives with a non-tribal population. These tribal people have their justice delivery system, which loses charm due to the modern judicial system. Mediation has been part of the judicial system from time immemorial. Tribal communities were always well organized and have given very much importance to Justice. So, they have created their justice delivery system. In the past, the local community always worked on resolving their issues alone. This is when we have to look inside the box, not take the approach of finding something out of the box. Bringing these people into the mainstream deprives them of their indigenous rights. The tribal delivery system can naturally resolve issues with their intrinsic values attached to them. The tribal justice delivery system is cost-effective and result-oriented. THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996 also mentioned customary law in tribal areas' governance. The tribal justice system can be the best example of an inward approach to solving disputes. The Nagaland village and area council Act of 1979 also talks about the administration of Justice through the council. On March 10, 2016, the Standing Committee on Personnel, Public Grievances, Law, and Justice (Chairperson: Dr. E.M. Sudarsana Natchiappan) issued a report on the synergy between the tribal justice system and the regular justice system of the country. The tribal justice system has unwritten laws, which are easy to manipulate by council members.

This paper will examine the development of tribal delivery system in India and how it can be part of modern mediation methods.

Keywords : Indigenous, Justice, India, Tribal, Mediation, Law

INTRODUCTION:

When our Father of the Nation, Mahatma Gandhi, said, "Real India resides in villages," he wanted to convey that all the solutions also reside in these villages. He intended all villages to be self-sufficient in finding solutions to their problems. Tribal people carry the solution to most of their problems. They are less dependent on the outer world for their solutions. Tribal people are one of the significant organized groups living in India. The Scheduled Tribes, as defined under Article 342 of the Indian Constitution, are tribes or tribal communities, or parts of or groups within tribes and tribal communities, that the President has proclaimed by public notification. Tribal people are named aboriginals, Jan jatiya, Adivasis, and natives.

There are more than ten crores of the tribal population living in India, according to the population census of the year 2011. People of tribal origin mainly live in ten states of India and North-eastern states. Nearly 90% of the tribal people of the country live in the countryside. The Bhil tribe is the largest tribal party in India. The First Schedule to the Constitution (Scheduled Tribes) Order, 1950, lists 698 recognized tribes in India. Thirty-one tribes out of 698 recognized tribes in the country have a population of more than five lakh people. The tribal people live in two distinct geographical areas of India:

Central India and the North-Eastern Region. However, except for Assam, the North-eastern States have the greatest ratio of Scheduled Tribes population to the total population. In the North Eastern Region, 94.4 percent of the people of Scheduled Tribes are found in Mizoram, 86.5 percent in Nagaland, 86.1 percent in Meghalaya, 68.8 percent in Arunachal Pradesh, 35.1 percent in Manipur, 33.8 percent in Sikkim, 31.8 percent in Tripura, and 12.4 percent in Assam. The Indian constitution in Part X has provided some important provisions concerning Scheduled Tribal areas.

History of Mediation:

The original place of the evolution of Mediation is ancient Greece. At the time, Romans called mediators by different names like medium, Interlocutors, and conciliators. In India, the concept of Dharma is from time immemorial. One example is the KULA tribunal, which dealt with disputes between members of the family, society, tribes, castes, or races and was proposed and established by a brilliant scholar Yagnavalkya. Internal conflicts were handled by another tribunal, SHRENI, which comprises artisans who worked in the same

industry. Finally, PUGA was a similar group of dealers from several industries. With time, humans also found new ways of dispute resolution, and one of the methods was 'Panch.' The legal form of the old panch system is the modern Panchayati Raj System. The tribal mediation system is an example of community mediation.

The concept of Mediation was first legally recognized in the Indian Legal system in the Industrial dispute act of 1947 in Section 4 of this act where it is describing the role of the Conciliation officer.

In 1999, the parliament of India passed the CPC Amendment Act of 1999, which inserted Sec. 89 to the Code of Civil Procedure of 1908, authorizing cases pending in the courts to be referred to alternative disputes, including Mediation. The Amendment was passed on July 1, 2002. With globalization and the effect of the open economy, there was a need for a dispute settlement system that could resolve issues amicably. Mediation is one of the best ways to resolve issues amicably, in the Settlement through Mediation Report April 2021 to March 2022, 52968 cases were resolved through mediation.

Policies of State for the Tribal community justice system in India.

The special provisions for the Scheduled area are given in Schedules 5 & 6 of the Indian Constitution. Schedule 5 details the Tribal Advisory Council, and the Tribal Advisory will be established in the area where the Tribes reside. The Tribal advisory council consists of 20 members, of which three-fourths shall be representatives in Schedules tribes in the Legislative Assembly.

If the number of representatives is less in the legislative assembly, the remaining seat of the tribal advisory council can be filled by ordinary members of the tribes.

Schedule 6 of the Indian Constitution discussed the Tribal areas of Assam, Meghalaya, Tripura, and Mizoram. Scheduled 6 paragraph 2 discussed the constitution of District and Regional Councils. These district councils should have 34 members, of which the Governor of the said state nominates four, and the adult franchise should elect other remaining members. The members were nominated and elected and will hold the council's office for five years.

As per Paragraph 3 of Schedule 6, the district and regional councils have the power to make laws for this area. However, the powers are limited to some important topics related to the tribal areas. The powers to make laws included in the abovementioned article are the management of forests, property inheritance, marriage and divorce, and social customs.

Paragraph 5 of Schedule 6 confers power under the code of civil procedure (CPC), 1908, and the code of criminal procedure (CRPC), 1973, on regional and district councils and certain courts and offenses to particular trial suits and crimes.

Under section 14.1 of the Nagaland village and area council Act, 1979, the council can decide cases as per the customary laws and usages of the tribes. District councils can resolve the case of disputes between different villages.

According to Section 4(d) PESA, 1996, the Tribal people, through Gram Sabha, can preserve and protect their customary dispute settlement rules.

On March 10, 2016, the Rajya Sabha tabled its eightieth report on the country's synergy between tribal and conventional justice systems in both the Rajya Sabha and the Lok Sabha. According to this paper, the structure and method of the conventional court system and the tribal justice system are vastly different. The majority of tribal judicial system laws are unwritten and oral. It is impossible to make it uniform since there are so many tribes, and each tribe has its dispute resolution procedure.

The Non-State Justice system in South Asia

Many Non-state Justice Systems (NSJ) work in south Asian regions, especially Afghanistan, India, and Bangladesh. These systems develop before a uniform legal system to attract local people to resolve their issues. In recent decades, there has been a need to investigate the complementarity of state and non-state justice systems, particularly in South Asia, where non-state justice systems such as jirgas, shuras, shalish, panchayat, and others have become prominent modes of dispute settlement. The key findings of the NSJ report are as follows regarding the importance of the non-state justice system:

1.People in rural regions prefer NSJ systems because they are physically closer to them than formal justice systems. Furthermore, this method is intended to lower the cost of litigation for both formal

and informal channels. NSJ resolutions aid in the rapid resolution of cases and are viewed as trustworthy since they are grounded in the local environment. Because most NSJ systems are community-based, those involved would have a greater awareness of the situation, culture, and customs.

2. Hybrid systems that combine the best features of both systems have proven beneficial in resolving conflicts. Hybrid systems can be created by combining established justice delivery systems with NGOs. By merging customary and religious regulations, NSJs provide legitimacy. Hybrid systems can also emerge from government initiatives such as Sri Lanka's Mediation Boards.

Tribal Justice Systems in different Tribes in India

GOND

The Gond people, who live throughout large parts of central and eastern India, number more than 15 million. They have a unique legal system that predates colonialism woven into their complex social fabric of passed-down conventions and traditions. The purpose of this essay is to shed light on the fundamentals of the Gond judicial system, emphasising its applicability and intricacies in relation to India's larger legal system. The Gond tribe's spiritual values, respect for the natural world, and stress on communal peace are fundamental to the Gond judicial system. Its fundamental tenets include preservation of social balance, promotion of peace, and respect for customary law. These rules, which are frequently unwritten and include a broad spectrum of social and moral principles, are passed down orally down the generations and regulate land rights, marriage, inheritance, and conflicts between people. The Gond legal system uses a decentralised, community-based method of resolving conflicts. The "Panchayat" or "Gramme Sabha," or village councils, are essential in resolving disputes. These councils, which are made up of reputable elders and local authorities, use a variety of techniques to arrive at peaceful resolutions. Among these techniques are:

Conciliation is the process of assisting parties in conflict to communicate, comprehend one other's concerns, and come to a mutually beneficial resolution.

Oaths and Ordeals: Asking for divine assistance by making oaths to gods or going through symbolic trials to determine guilt or innocence.

Social Sanctions: Applying fines or other community-imposed punishments, including exclusion, to prevent future offences and uphold social order.

Mediation is frequently used in tribal communities to settle conflicts. The mediation procedure is typically overseen by elders or village leaders. The Gonds of central India are one example of this. In Gond society, disagreements are settled through the "jatra" method, in which a mediator is chosen by the village chief to hear both sides of the argument and then propose a solution that is agreeable to both.

For instance, 'Ghotul' is a method used to settle conflicts among the Gonds of central India. A traditional type of communication focused on song and storytelling is used in this process, with mediators using these techniques to assist parties in coming to an amicable agreement. The Gonds' use of storytelling and song is a crucial component of the mediation process because it demonstrates their commitment to sustaining cultural identity and strong community ties.

The "Khapri" process, which involves a mediator working with both men and women from the society to reach a solution that is agreeable to all sides, is the traditional method used by the Gond tribe of central India to settle conflicts.

A technique known as "Gramsabha" is traditionally used by the Gonds, a tribal group in central India, to settle conflicts. This process entails assembling community members to discuss and decide the problem. However, in recent years, the Gonds have also started to adopt contemporary techniques for resolving disputes, including the use of social media and cell phones to facilitate communication and find solutions.

There are issues with the Gond judicial system in the modern world. Tensions and disputes may arise as a result of the Gond communities' growing integration into the larger Indian legal system, the dissolution of customary authority systems, and the impact of outside factors. But the Gonds have shown to be quite adept at modifying their system to meet these obstacles. Keeping their own customs, they actively participate in the formal legal

system and request its assistance when needed. Furthermore, efforts are being made to record and formalise Gond customary laws so that they can be recognised and preserved within the legal system.

The Gond legal system provides insightful information about non-traditional dispute settlement methods. It has the ability to improve the Indian judicial system because of its emphasis on social harmony, restorative justice, and community involvement. Acknowledging the validity of customary rules and incorporating them into the official system can improve tribal populations' access to justice, encourage cultural sensitivity in the legal system, and support a more diverse and egalitarian society.

SANTHAL

On the other hand, conflicts are typically settled by a procedure called "Manjhi" among the Santhal tribe of eastern India. This procedure entails the parties meeting with a group of respected community members to discuss the matter and find a settlement. Disputes are typically resolved through a process called "Manjhi-Pargana," which involves the entire community in the mediation process. The mediation is typically informal and flexible, with the mediator or group of mediators adapting the process to suit the specific needs of the parties involved. The community's role in this process is to offer suggestions and comments to ensure that the solution is acceptable to all parties, while the mediator's function is to encourage conversation and assist parties in reaching a resolution.

Features of Santhal Mediation system:

Informal and easily accessible: There are no intricate legal formalities involved in this process, and it is easily accessible to all community members.

Community-driven: The Panchayat makes use of the group's knowledge and insight into the customs and traditions of the community.

Put reconciliation first: Rather than just blaming or punishing, the goal is to bring the community back to harmony.

Putting a focus on restorative justice: The goal of the mediation is to make amends for the wrongdoing and provide the injured party restitution or compensation.

Flexibility and adaptability: The procedure can be modified to meet the demands of the parties involved as well as the particulars of the dispute.

Problems and Restrictions in Santhal mediation system:

Gender prejudice: The possibility of gender bias within the Panchayat has been raised, particularly in situations concerning women.

Limited enforcement mechanisms: In complicated disputes, it may be challenging to implement mediation results due to the absence of official legal support.

Changing social context: Traditional mediation techniques may need to be modified in light of the Santhal community's shifting social and economic conditions.

KONDHS

Nestled in the lush hills of Odisha, India, is the Kondh tribe, a thriving group with a distinct judicial system and rich historical traditions. The core component of this method is mediation, a fundamental strategy used for generations to settle conflicts and preserve societal order.

Many indigenous tribes in India's varied tribal geography have managed to maintain their own traditional legal systems that are separate from the official legal system. One such example is the Kondh tribe, which has over 1.4 million members in Odisha. Niyam Raja, their traditional judicial system, functions inside the village context and prioritises community harmony and reconciliation above punitive measures. A key component of this system is mediation, which promotes cooperative solutions via discussion and agreement.

Contextualising Kondh Mediation in Culture:

Kondh culture is based on close ties to the community and reverence for elders, who are considered to be very wise and powerful. When disagreements do develop, they are seen as breaks in the group's web of ties rather than as personal disputes. As a result, mediation attempts to bring peace and balance back to the society instead than concentrating just on placing blame or exacting revenge on specific parties.

Kondh mediation follows a number of fundamental ideas:

Impartiality: Throughout the procedure, mediators, who are usually well-respected elders or community leaders known as Janis or Bethas, remain impartial.

Openness and Fairness: A fair and unbiased hearing is ensured by giving each party an equal chance to voice their opinions.

Confidentiality: In order to protect the parties' privacy and dignity, discussions held during mediation are handled in the strictest of confidences.

Emphasis on Reconciliation: Finding solutions that satisfy both sides is emphasised, encouraging forgiveness and the mending of relationships.

Community Involvement: Supporting and guaranteeing respect to customary standards, the larger community may take part in the mediation process.

The usefulness and applicability of Kondh mediation

Land disputes, marriage problems, and minor infractions are just a some of the intra-community conflicts that kondh mediation has shown to be extraordinarily effective in resolving. Its success is attributed to several factors:

Deeply ingrained Traditions: The Kondh culture is centred around the mediation technique, which encourages cooperation and mutual trust among community members.

Low Cost and Accessibility: Mediation is less scary for rural populations, easier to access, and more affordable than the official judicial system.

Emphasis on Social Harmony: Kondh values are in line with the emphasis on mending relationships and promoting communal well-being, which results in more long-lasting solutions.

Cultural Sensitivity: Janis and Bethas are very knowledgeable about Kondh customs and social mores, which enables them to resolve conflicts in a way that respects their cultural differences.

Notwithstanding its efficacy, Kondh mediation encounters various obstacles in the contemporary setting:

Gender Inequality: Gender equality must be promoted during the mediation process since traditional norms may disadvantage women in some disputes.

Integration with Formal Law: Kondh mediation procedures must be carefully considered and may even be legally recognised in order to successfully navigate the boundary between customary laws and mainstream legal systems.

Maintaining Traditions: Continual efforts are required to record and pass along Kondh customs to the next generation due to the fast-paced societal changes and outside influences.

GAROS:

The Garo tribe, who are native to Northeastern India's Meghalaya area, have a distinctive indigenous judicial system deeply entwined with their rich and colourful culture. Nokma, a customary law and mediation process that puts restorative justice, communal peace, and reconciliation ahead of punitive measures, is the foundation of this system.

Structure and role of Nokma

The 'Nokma' process, which comprises a council of elders who serve as mediators, is the customary method for resolving conflicts among the Garos of northeastern India. Instead, then punishing offenders during this procedure, the goal is to mend relationships amongst the people concerned. The council of elders collaborates with the parties to determine the damage that has been done and to create a strategy for fixing it.

The Nokma system is made up of a hierarchy of Nokmas at the village level who are supported by Nokma Gitting. Initially, disputes are taken before the village elder, known as the Nokma, who makes an effort to mediate and promote a peaceful conclusion. The dispute may be brought before higher-level Nokmas, leading to the Nokma Sangma (the council of elders), if a settlement is not achieved. Nokmas are selected from among the community's esteemed members, who are valued for their knowledge of Garo customs and traditions,

objectivity, and wisdom. They usually serve for life, accumulating respect and power via their expertise and skill in successfully resolving conflicts.

The Garo belief in Achikniba, a moral and ethical code that emphasises societal harmony and peaceful cooperation, is the source of Nokma. Oral history from the Garo people claims that Nokma originated centuries ago as a way for the society to resolve internal disputes without using force.

The system highlights ideas such as:

Restorative Justice: Nokma places more emphasis on making amends and mending the damage created by the conflict than it does on punishing the perpetrator.

society peace: Preserving social cohesiveness and making sure that there is peace in the society come before personal grievances.

Reconciliation: Nokma promotes forgiveness and the mending of relationships by encouraging reconciliation between the people involved.

Consensus-Based Decision Making: Discussions are facilitated and parties are led towards mutually acceptable solutions by Nokmas, who helps the parties arrive at decisions by consensus.

Strength and Limitation of Nokma
The emphasis that Nokma places on community-driven conflict resolution is one of its strongest points. Nokma maintains traditional values and promotes social cohesion by keeping disagreements inside the community. Because it is informal, it is affordable and accessible, especially for underprivileged groups who have little access to regular courts. But there are difficulties. Application discrepancies may result from a lack of standardised procedures and written documentation. Furthermore, problems with gender bias and power dynamics in the community may have an impact on the results.

Relevance in the Present and Prospects for the Future:
Nokma offers itself as a useful paradigm for alternative conflict resolution procedures in the modern setting. Its focus on community involvement and restorative justice is consistent with the growing awareness of the shortcomings of traditional judicial institutions in resolving social issues. Recognising Nokma's potential to support indigenous legal plurality and improve India's judicial system, efforts are being made to record it and incorporate it into the country's larger legal framework. However, while resolving its shortcomings, great thought needs to be paid to maintaining Nokma's intrinsic qualities.

BHILS
The Bhil tribe is spread out throughout several Indian states, mostly in Rajasthan, Gujarat, Madhya Pradesh, and Maharashtra. They have a long history of self-governance founded on customary rules and customs, as well as a distinctive cultural identity. The Bhil judicial system, also known as "Nyaya Panchayat" or "Gramme Panchayat," is a decentralised, community-driven approach to conflict resolution and runs concurrently with the state legal system. The fundamental component of this system is mediation, which promotes peaceful resolutions and preserves social norms.

Conflicts are settled among the Bhils of central India via a procedure known as "Chapai," which entails a number of rites and ceremonies intended to mend fences between parties. Instead of punishment, this technique emphasises healing and forgiveness.

Conflicts are settled among the Bhils of western India via a procedure known as "Panchayat," which emphasises the value of restorative justice concepts. The goal of this process is to mend the damage brought on by the conflict and mend the bonds between the parties. The mediator collaborates with the parties to create a plan for making amends, which can entail restitution in the form of money, community service, or other measures.

MIZOS
Other tribal communities have more formalised mediation procedures. For instance, the Tlawmngaihna system of traditional justice used by the Mizo tribe in northeast India features a council of village elders who serve as mediators. Conflicts are settled by a series of negotiations between the parties, with the mediators serving as a neutral third party and assisting in the discovery of a resolution that is acceptable to all parties.

The Mizo tribe of northeast India uses the "Tlawmngaihna" method to settle conflicts in a conventional manner. A mediator works with the parties involved in this process to find a solution that benefits everyone and fosters

societal harmony. The Mizo tribe has, however, also recently created a formal legal system that integrates traditional Mizo law with the existing legal system, such as the idea of "chhinna" or compensation.

The Mizo tribes of northeast India have altered conventional mediation procedures to permit participation of women and young people, who had traditionally been shut out of the process. As a result, the goals and needs of each community member are now more precisely reflected in the dispute resolution processes.

KHASI

Disputes are typically settled by the Khasi tribe in northeast India via a customary process called "Durbar Shnong," which entails a gathering of neighbours in a public place to discuss the problem and come up with a solution. Similar to the 'panchayat' system in other regions of India, but with a stronger focus on community involvement and group decision-making.

The 'Seng Khasi' institution, which is made up equally of men and women, is regularly used to adjudicate disputes among the Khasi tribe in northeast India. Women are treated equally to men's perspectives and play a vital role in mediation in the Seng Khasi culture.

The ancient approach for resolving disputes between the Khasi and Jaintia tribes of northeast India is known as the "Kohbar" procedure, which entails a mediator working with the parties concerned to find a resolution that promotes societal harmony and mends relationships. The parties are urged to apologise and make amends as part of this process to repair fences.

The "Khaplam" method is used by the Khasi tribes of northeast India to resolve disputes. This procedure involves a number of rites and ceremonies, all of which aim to mend the connections between the parties. Instead of punishing the offender, the objective of this process is to find a solution that repairs the harm caused by the disagreement and restores social harmony.

The Khasis frequently employ the 'Kur' method to settle disputes in north-eastern India. This procedure comprises a number of symbolic rituals intended to encourage rapprochement and create connections. One of the Kur process's key rituals is the community meal-sharing ceremony, which is meant to represent the participants' return to societal harmony.

KONYAK

The Konyak Naga tribes in northeast India have historically employed a method called "Amua" to resolve disputes. Every community member is invited to participate in a meeting that is held to address the issue, involving the whole community in the process. The mediator's role in this process is to promote dialogue and ensure that both parties' points of view are heard, and the community's role is to provide advice and criticism so that the parties can reach a mutually agreeable resolution.

CONCLUSION

In conclusion, restorative justice ideas, a focus on repairing harm and re-establishing connections, and a community-based approach are what distinguish mediation procedures in tribal cultures in India. These ancient mediation techniques offer a special and culturally sensitive method of conflict resolution that can aid in promoting social harmony and preserving strong community ties, despite some difficulties and restrictions.

The employment of symbolic rituals and rites as part of the mediation process in Indian tribal tribes is an intriguing component of those proceedings. These rituals, which are frequently rooted in long-standing cultural customs, are intended to aid the parties to a dispute in putting aside their differences and mend fences.

The inclusion of these symbolic rites and ceremonies in the mediation process shows a strong affinity for long-standing cultural customs and emphasises the value of preserving cultural heritage in conflict resolution. Tribal groups are able to foster social cohesiveness and retain solid community ties while also finding practical answers to the problems these communities face by incorporating these traditional practises into the mediation process.

The emphasis on consensus-based decision-making in tribal communities in India is another crucial feature of mediation methods. Instead of using formal legal systems or a majority vote, decisions in many indigenous societies are determined through a consensus-building process. This strategy is founded on the idea that decisions reached through consensus are more likely to be endorsed by the entire community, fostering stronger social cohesion and a sense of shared responsibility.

This consensus-based approach has consequences for mediation procedures since it calls for the mediator to work to promote candid dialogue and communication among the problem-solving parties. The goal is to find a solution that addresses the requirements and concerns of all parties and can be accepted by them. The mediator must have a high level of knowledge, delicacy, and cultural awareness since they must handle intricate interpersonal relationships and cultural norms while also maintaining the unique cultural history of these communities.

Indian tribal people are renowned for their use of restorative justice principles, community-based decision-making, traditional power structures, and symbolic rituals and rites, which distinguish their mediation practises from those of other countries. Tribal groups are able to foster social cohesiveness and retain solid community ties while also coming up with effective solutions to the problems these communities face by incorporating these antiquated practises into the mediation process. To successfully traverse complicated interpersonal interactions and cultural conventions while also protecting the special cultural legacy of these societies, the mediator must have a high level of competence, tact, and cultural awareness.

The dispute resolution mechanism of various tribal communities of India included here, show how successful indigenous mediation is in resolving conflicts within communities as well as disagreements over land and resource management. By drawing upon community-specific norms, elders' knowledge, and culturally appropriate rituals, these kinds of mediation prioritise social peace, restorative outcomes, and long-term sustainability over retributive punishment. Furthermore, indigenous mediation combats the disempowerment frequently seen within the official legal system by enabling local communities to settle their own conflicts and fostering a sense of agency and control over their legal procedures.

But it's important to acknowledge the difficulties. Potential inconsistencies with current laws and processes must be carefully considered before integrating indigenous mediation into the official judicial system. Furthermore, resolving issues of power disparities and gender inequality is crucial to guaranteeing fair access to justice among various tribal groups. Developing community capacity and providing formal legal actors with sensitivity training are essential elements in guaranteeing the ethical and successful use of indigenous mediation.

To sum up, restoring indigenous mediation involves more than simply bringing back historical customs; it also entails utilising customary justice's transformational power to solve current issues that India's tribal groups face. In order to achieve justice, reconciliation, and sustainable development within tribal communities, indigenous mediation can provide a culturally appropriate and successful strategy by identifying the innate strengths and modifying them to the changing legal environment. In order to restore peace and balance to tribal cultures, indigenous mediation must thrive in a supportive environment that is created by community leaders, legal experts, politicians, and development practitioners working together.

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ENCOURAGING WOMEN IN INTELLECTUAL PROPERTY: IDENTIFYING, DISMANTLING OBSTACLES FOR PROMOTING CREATIVITY AND INNOVATION

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ABSTRACT
This study examines how women and intellectual property (IP) interact dynamically to spur innovation across a range of industries. Acknowledging the historical underrepresentation of women in IP-related fields, the research explores how women are contributing to innovation, technology, the arts, and sciences.

The study examines how women have shaped the intellectual property landscape and how this has affected the development of a more varied and inclusive creative ecosystem through the use of an interdisciplinary perspective. It examines the difficulties women encounter in obtaining and safeguarding their intellectual property, emphasizing the differences that continue to exist in the areas of copyright, patent ownership, and trademark registration.

Additionally, it examines the broader societal implications of bridging the gender gap in intellectual property, emphasizing the potential for enhanced innovation, economic growth, and social progress.

By addressing the gender-specific barriers and biases within the IP framework, the paper advocates for policy reforms and institutional changes aimed at creating a more equitable environment. It concludes with a call to action, encouraging stakeholders to actively support and promote the involvement of women in intellectual property, ultimately fostering an atmosphere where creativity flourishes unhindered by gender-based constraints. Policymakers, academics, and practitioners who want to comprehend and take advantage of the relationship between women and intellectual property to advance innovation will find this investigation to be a useful resource.

Keywords: Women in Intellectual Property, Gender Disparities, Creative Ecosystem, Policy Reforms, Innovation and Technology, Intellectual Property.

INTRODUCTION
The relationship between women and intellectual property (IP) is a fascinating and little-studied aspect of the dynamic field of innovation. This study explores the complex relationship between women and intellectual property, highlighting the dynamic contributions made by women in a variety of fields, such as the arts, sciences, and technology. Understanding the historical gaps in women's representation in IP-related sectors, our research aims to elucidate the various ways in which women have influenced the field of intellectual property.

As we begin this investigation, the study recognizes and examines the difficulties women face in acquiring and protecting their intellectual property. It applies a critical perspective to the current discrepancies in copyright, patent ownership, and trademark registration, bringing attention to the enduring disparities that affect women's participation in these vital fields.

Additionally, our research takes an interdisciplinary approach, providing a comprehensive view of how women's participation in intellectual property has promoted a more inclusive and diverse creative ecosystem. The transformative impact of women in intellectual property-intensive sectors is highlighted through the presentation of their innovative tactics, empowering initiatives, and success stories.

The study looks at the wider societal ramifications of closing the gender gap in intellectual property, going beyond individual accomplishments. The potential for increased invention, economic expansion, and social advancement is highlighted, and we examine the cascading implications of creating an atmosphere in which women flourish in the context of intellectual property.

This article calls for concrete action to advance gender parity within the intellectual property framework, going beyond mere observation. We argue that in order to create an equal environment where women can fully engage in intellectual property procedures, institutional adjustments and regulatory reforms are necessary. By doing this, we hope to break down prejudices and restrictions that are specific to gender, opening the door for a time when creativity can thrive without social restraints.

The inquiry ends with a strong call to action, imploring all relevant parties—policymakers, scholars, and practitioners—to aggressively support women's participation in intellectual property. We hope to bring about a paradigm change where gender-based boundaries no longer exist for innovation by creating an environment that supports and nurtures women.

For individuals looking to understand and capitalize on the complex relationship between women and intellectual property to advance innovation, this report is a great resource. Our goal is to unleash the full creative potential across a range of businesses by encouraging a collaborative effort towards a more equitable and inclusive intellectual property landscape through our exploration.

Disparity by Gender: Data and Trends

The World Intellectual Property Organization (WIPO), in its recent analysis, finds that less than a third of all international patent applications filed in 2019 included women inventors. As per the international patent regime's tenets, patent applications serve as a crucial indicator of inventive activity within the global economy. The low representation of women in the innovation ecosystem raises serious concerns because it suggests that a vast array of talents and untapped potential are not being made available to humanity to address urgent social issues like food security, climate change, and sustainable energy production and consumption, as well as to boost competitiveness.

Men predominate in the majority of IP-related fields. Merely 7% of film directors worldwide are women, and only 20% of screenwriters are women, according to a United Nations assessment on women's involvement in the entertainment industry. This demonstrates in a significant way how underrepresented women are in the copyright system. Men predominate in the creative and artistic fields as well.

Similarly, research on the worldwide art market has shown that women's art sells for less at auction or at a disproportionately low price compared to men's. Although there is little information now available about the global IP situation, examining the IP regimes nation by nation from a gender viewpoint may result in unfavorable outcomes.

Research on the US Patent System:

A study into the United States patenting regime provides us insights regarding the widespread gender gap. The National Centre for Women & Information Technology, in partnership with After analyzing data from the USPTO for the years 1980–2010, 1790 Analytics released a report on women who patent IT. According to this analysis, during the course of the 31-year period, female inventors produced just 6.1% of U.S.-invented IT patents, while male inventors produced 93.9% of them. According to a different estimate, there are only about 15% of women employed in industrial design in the United States. Similarly, male authors register twice as many copyrights as female authors do in copyright filings.

Causes

There are countless underlying reasons why women are underrepresented in IP. Gender discrimination is pervasive in many different fields. By concentrating on the underdeveloped areas of developing countries, or the opposite side of the globe, a more strategic assessment of the causes of inequality can be achieved. There is still a segment of the world that struggles and endures great poverty, joblessness, starvation, and horrible living circumstances. Additionally, the gender issue is negatively reflected in these sectors. In its 2019 Least Developed Countries (LDC) Report, the United Nations Conference on Trade and Development (UNCTAD) identified 47 nations as LDCs. Most of these nations are in Africa; a small number are in Asia and the Pacific; very few are in Latin America; and some are in the Middle East. Furthermore, the majority of these nations are ranked extremely low or at the bottom of the UNDP's Gender Inequality Index (GII). Three crucial dimensions—empowerment, labor market engagement, and reproductive health—are used by this index to quantify gender difference. Now, this greatly enhances our goal of identifying the reasons for underrepresentation in IP, which may be emphasized by highlighting the following crucial elements:

1.**Disparities in education between genders:**

There are gender differences in schooling on a very wide scale; 132 million girls are not enrolled in school globally today. Girls who live in conflict or war-affected nations are more than twice as likely as those who live in non-affected countries to not attend school or receive any kind of education. Only 25 percent of countries have achieved gender equity in upper secondary education. Currently, females' lack of secondary education has an impact on their participation in women in the core academic fields of engineering, science, medicine,

politics, economics, and technology. Women are notably behind in the innovation and creativity-driven intellectual property market as a result of this.

2.**Laws with a gender bias :**
Numerous nations continue to support laws that discriminate against women based on their gender. The status of women is severely undermined by laws that are discriminatory against them in any nation. Individual dignity is undermined by legalities and illegalities, but societal traditions can be contested and overturned. It often silences the voices, abilities, and ambitions of a great number of women. And as a result, women's involvement in invention, creativity, and development declines.

Just eight nations worldwide grant equal rights to men and women, according to the World Bank's Women, Business, and the Law 2020 study. Belgium, Canada, Denmark, France, Iceland, Latvia, Luxembourg, and Sweden are some of these nations. The study assessed discrimination based on gender in 182 nations. Eight parameters that measured the legal distinctions between men and women in various fields as they move through different periods of their working lives were evaluated by the index.

3.**Prejudices and Stereotypes against Women:**
Stereotypes pertaining to gender are prevalent in our communities. It is a broad opinion or preconception about characteristics or traits, or about the roles that men and women should or should not play or possess. Since ancient times, women have been subject to a variety of stereotypes, prejudices, and dogmas. When a gender stereotype prevents men and women from pursuing their professional goals, growing personally, or making life decisions, it is dangerous.

The enormous potential for creativity among women has consistently been underutilized due to preconceived notions about women and their roles. When it comes to their independence and aspirations, women have historically been devalued and condemned. These myths endure despite the fact that women have proven their abilities and cemented their places in every field of science, technology, innovation, business, and the arts over time.

4. **Obstacles within the IP system:**
There are several reasons why potential consumers don't utilize the IP system. The factors of women's inequality mentioned above are universal in nature. Dealing only with the IP regime has its own contributing elements and causes.

One predominant factor that needs to be addressed is the high cost of patent and trademark protection in most parts of the world, which makes it unaffordable for small and medium-sized businesses. Another major issue that needs to be addressed is the system's excessive complexity; there are no support systems in place to handle user complaints and issues; the services primarily target large corporations, leaving other entities out.

In a similar vein, one deciding factor that significantly reduces the number of participants is IP education. Due to ignorance and lack of information, the majority of women-owned businesses fail to seek finance and IP protection even while they are growing. Based on available data and extensive research, it is determined that women-owned enterprises exist in many distant regions of the world. Despite their great potential, these businesses often struggle due to a lack of key resources.

Bridging the Gap
According to World Bank projections, the overall predicted lifetime earnings gap between men and women is estimated to be $172.3 trillion globally, which is twice the global gross domestic product (GDP). A report from the Institute for Women's Policy Research predicts that it will take until 2092 for women to achieve gender parity in the US patent system. Many female inventors lack basic understanding of the patenting process since they have not been educated about or exposed to invention and patenting.

This is the data that we can gather from industrialized nations like the US, but as we have seen in the past, underdeveloped nations continue to lag behind in the majority of important domains. Data on IP filings in other regions of the world and on other IP-related topics, such copyrights, are lacking.

To recover the fundamental elements of gender inequality and the gaps that still exist, an excessive amount of work needs to be done in this area. A deeper examination and analysis can aid in the development of initiatives to research the IP regime globally, as there is a dearth of data about gender-based IP. With current research, data and reports Effective strategies can be used to close the gender gap. This calls for significant changes to allow women to participate in determining the direction of society.

Among the 17 Sustainable Development Goals of the United Nations is achieving gender equality and the empowerment of all women and girls.

Strengthening Women into IP:
"Powering Change: Women in Creativity and Innovation" was the theme of the 2018 World Intellectual Property Day celebration.

Women and girls must have their fundamental needs in family, community, health, and education fulfilled if they are to reach their full potential. Effective strategies to up skill women and accelerate their advancement must begin at the beginning. More women's engagement can be achieved by effective policymaking and the significant addition of resources to the capital of women and girls. Expanding incentive-based initiatives aimed at empowering women is one way to address this issue. Concisely written, workable recommendations to reduce gender imbalance and empower women in the intellectual property field are included below.

Learning for Females:
The foundation of success for any person is education. It is a necessary first step in achieving gender equity. A strong educational foundation is essential for the achievement of any future vision, ambition, or goal. Given a few of the above mentioned issues, it is obvious why girls face discrimination and underrepresentation in the classroom. In order to achieve gender parity in education, legislators and other relevant parties must tackle several obstacles that stand in the way of the aim. Among the strategies for improving girls' access to education are the following:

- Free education for all and simple access to school
- Incentives to meritorious students through scholarships, assistance etc.
- Ensuring quality education, with educated teachers
- Prevention against abuse, prejudice and violence.

Various governmental schemes, efforts of International Organizations, NGO’s and other bodies are trying to realize the goal and right of basic education for girls. Examples to this include projects of UNICEF an organ of United Nations which works across 190 countries to provide education to underprivileged girls to support their rights and basic educational requirements. Similarly, in the Indian context the government in India has also taken up initiatives such as the “Beti Padhao Beti Bachao” to provide education to girls from poor backgrounds and those in extreme poverty. Effective implementation and enforcement of such programs are inevitable towards achieving gender parity in education.

Investing In Women's and Girls' Human Capital
Investing in the human capital of women and girls can now make a substantial economic contribution. In terms of economic growth, investments made in their education, health, and empowerment through employment opportunities can yield significant returns.

Therefore, putting women's needs and requirements first through institutional, legal, and cultural reforms can be a big step towards women's empowerment. Governments ought to support gender parity in the administrative workforce. When combined with a gender-sensitive lens—basically the one magnifying—tools and mechanisms like structural policies, norms, budgets, regulatory frameworks, facilitation, and procurement processes can have a strong potential to boost women's economic empowerment, including full participation in the labor and commodities market, mitigating occupational discrimination, and supporting female entrepreneurship and access to finance.

Even though the scope and speed of these programs and activities are currently too slow to have a permanent effect, governments are increasingly employing their resources and decision-making apparatus to promote gender equality goals.

Indian states have taken the initiative to provide start-up policies exclusively for women in order to effectively engage women-owned business enterprises. For example, Andaman and Nicobar offers monthly allowances of 20,000 INR to women-owned start-ups for a period of one year. These are examples of incentivization in the trade and commerce for women. Similarly, in Bihar, women-owned start-ups receive a five percent additional grant above the Start-up India initiative's specified limit for a one-year term. These incentives play a major role in encouraging more women entrepreneurs to engage in business and the intellectual property system.

Motivating Women into IP

The IPR expertise in business, academia, law, IP users, and civil society needs to be expanded in order to fully realize the potential of women in IP. Promoting and assisting women who are creators, innovators, entrepreneurs, practitioners, teachers, and trainers in developing their capabilities. It is imperative to improve multidisciplinary human and institutional capacity for research, teaching, training, policy formation, and skill creation. The level of quality and experience will make it easier to generate more intellectual property and use it for development. The five strategies listed below can help young female professionals' IP regime grow and be strengthened:

- Training
- Research
- Curriculum-based IP education
- Support systems

Certain reforms should be implemented in order to include small and medium-sized women-owned businesses in the IP system. Users should be able to readily access the system, and the website should be designed with ease of use in mind. It is imperative to streamline the filing process by reducing complexity and offering adequate notifications, guidance, and support. Putting in place helpline-based support services to handle complaints and inquiries from users. These could be one of the few useful system changes that successfully introduce and motivate more female entrepreneurs to join the IP regime.

Examining Women's Potential

There is no basis for the pervasive prejudice that undermines women's innovative credibility. Despite obstacles, women have demonstrated their talents by making inspirational contributions all throughout the world. Nevertheless, rather than support, they frequently encounter contempt and apathy. The problem is made worse by historical credit misattributions of women's accomplishments to men. Women greatly contribute to creativity, and their growing participation is not only justified but also raises standards. Studies on the arts indicate that women are more creative than men. Gender discrepancies are not caused by talent, but by social disadvantages. Bias and cultural context hinder the advancement of female artists, who perform best in collaborative environments. Recognizing the potential of women is essential to removing these obstacles.

CONCLUSION

Ultimately, this research explores the complex link between women and intellectual property (IP), illuminating the historical underrepresentation of women in IP-related disciplines and highlighting the dynamic ways in which they contribute to innovation in a range of industries. This study highlights the difficulties that women encounter while obtaining and defending their intellectual property rights, analyzing differences in copyright, patent ownership, and trademark registration critically.

The study, which takes an interdisciplinary approach, demonstrates how women's involvement in intellectual property has influenced the development of a more varied and inclusive creative environment. The transformative effect of women's involvement in IP-intensive sectors is highlighted by the success stories, creative strategies, and empowering projects that these women have undertaken in technology, the arts, and the sciences.

The study looks at the larger societal ramifications of closing the gender gap in intellectual property, going beyond individual achievements. The study emphasizes how creating an atmosphere where women may succeed in the field of intellectual property can lead to increased creativity, economic growth, and social improvement.

Acknowledging the gender gaps in international patent filings, film directing, and the worldwide art market that currently exist, the research pinpoints the underlying reasons for the underrepresentation. These factors include gender-biased laws and educational gaps, as well as ingrained assumptions, prejudices, and barriers within the IP system itself.

The report proposes specific institutional and policy reforms to create a more egalitarian environment in order to solve these issues. The paper envisions a future in which women can fully participate in intellectual property proceedings without encountering social restraints by tearing down gender-specific hurdles and biases inside the IP system.

The study is in line with the Sustainable Development Goals of the United Nations, including the objective of attaining gender equality and empowering all women and girls, and acknowledges the economic potential of eliminating the gender gap. It ends with a strong call to action, imploring academics, practitioners, politicians, and other pertinent parties to actively encourage and support women's participation in intellectual property.

In the conclusion, this study is a useful tool for practitioners, scholars, and legislators who want to understand and use the connection between women and intellectual property to promote innovation. The objective is to support a paradigm change in which gender-based limitations no longer limit innovation, creating an environment in which women's full creative potential can thrive across a range of industries.

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REHABILITATION OF DRUG ADDICTS UNDER NDPS: A SHIFT FROM DETERRENCE TO REFORMATIVE APPROACH

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ABSTRACT
Criminals should be weeded out or eradicated because they are a disgrace to society. A common understanding of the term "criminal" needs to be reconsidered, particularly when it comes to drug addicts covered by the NDPS. In a similar vein, when dealing with such victimized offenders, the prosecution's role also has to be reviewed. The goal of this essay is to examine how society's perception of drug addicts is evolving and how therapeutic approaches can be used to find a long-term solution to the issue instead of punishing addicts harshly, which would only ruin their lives and provide no other hope. The main topic of this study is the urgent necessity for prosecution in the form of treatment and punishment in the form of rehabilitation, with an eye towards the ultimate objective of establishing a society free of poisons. A key scheme explored by the researchers is the role of the prosecution as a gatekeeper for determining the eligibility criteria of the possible participant cum innocent accused leading to a constructive working of the drug courts. The prosecution is rewarded for showing compassion for the accused rather than viewing each case as a win-lose negotiation. This is a positive shift from the traditional role of the prosecutor, which included the arrest and conviction of the accused, to a reformative approach that included the ability to recommend treatment for drug addicts. The key claim of this research study is, "Why can't there be a win-win situation for both the prosecution and the accused?".

Keywords: *Drug Addicts, NDPS, Rehabilitation, Prosecutor.*

1. INTRODUCTION
The most fundamental and traditional responsibility of a prosecutor is to assure that "justice was done" to the people who are involved in both culpable and unlawful conduct. The prosecution system and prosecutors office specifically have gone through There have been significant changes in prosecutors' offices, but few that called these traditional visions into question. The same thought has been revisited to see how the role of the prosecutor has changed over the year from its traditional sense and whether he should play a major role in furthering the cause of justice by reforming the criminal justice system and the offender, not just by harshly punishing him each time but also by giving them a chance to change and rehabilitate in the norms of the society.

This burning argument even seems prominent in drug addict's case of NDPS where the accused may be an offender in the eyes of law, but his only fault is a compulsive craving for a specific banned substance which in itself is an addicting one and which leaves a person helpless in the hands of its senses. Punishing such a person with imprisonment leaves him wide open to other negativities of the prison system and hands him over to the surroundings of criminal elements, making things even worse by affecting an innocent addict to a more criminal sphere. An alternative instead of prison confinement in such cases may look to be a more viable alternative through deaddiction centers, reformatory homes, admonition is minor and first-time cases. With this contention the authors in this paper want to further a different approach in such cases.

To search for this ideal thought into the soul of The Narcotic Drugs and Psychotropic Substances Act, 1985, the very first thing to be looked into is the preamble of it. The preamble of NDPS Act reads as follows:

"An Act to consolidate and amend the law relating to narcotic drugs, to ***make stringent provisions for the control and regulation of operations*** *relating to narcotic drugs and psychotropic substances [, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Conventions on Narcotic Drugs and Psychotropic Substances] and for matters connected therewith."*[1]

By a cursory reading of the above words, it seems apparent that the object with which NDPS has been made is to deal with offences of narcotic drugs and psychotropic substances with a stern hand by providing harsher punishment as the word "make stringent provisions" suggests**.** A clear use of Deterrent Theory of Punishment by setting an example through strict punishment in expectation that people will deter from committing such a

[1] Preamble, The Narcotic Drugs and Psychotropic Substances Act, 1985 (Act No. 61 Of 1985).

crime again by looking at the example. Although the ground reality is quite the contrary when we see the real figure of increasing crimes rates of offences related to narcotic drugs and psychotropic substances verses the punishment being imposed. A lot of these cases include crimes related to possession or consumption only, that too of a very small quantity, which does not corelate with the approach being used to curb it. Section 22 of NDPS Act provides punishment for possession of Psychotropic Substance from 1year in small quantity to 10 years for a little bit more that small quantity. This quantum of punishment ranges even till death penalty for subsequent possession cases in certain matters.[1]

2. DRUG ADDICT OFFENDER: A SEPARATE CATEGORY

Drug addicts are defined under NDPS as *"a person who has dependence on any narcotic drug or psychotropic substance"*[2]. As deduced from the above definition it is their dependence or compulsion which makes them a regular user of the said substance and it is this compulsion due to the nature of the substance which makes the matter out of there control. Thus, there action to keep the said substance in their possession and continuous use become a matter out of there control and out of the ambit of strong will or intention to commit knowing it to be a crime. This rases another question as to whether these accused are actually the offenders or the victim of a compulsive substance? Use of narcotic drugs and psychotropic substance can be said to be a victimless crime as the person consuming the same becomes the accused and there is no other person affected by this personal consumption.

It is this peculiar nature of this crime by drug addicts that demands their treatment under a separate category than the normal usual criminals and subsequently the role of the prosecutor in such cases which requires a sympathetic approach to improve their situation rather worsening it by sending them to prison cells in between hardcore criminal elements. The conviction of a drug addict raises many subsequent issues after conviction as well. Their acceptance by the society after jail term also creates a hinderance for them from joining part of the mainstream. In addition, even if we analyse the practical scenario their conviction has not produced any substantive benefit to the addict or the society rather regardless of the existence of NDPS Act use of drugs is going rampant in states like haryana, punjab, etc.

The only provision under NDPS Act showing some sympathy to the drug addicts is Section 64A which reads as follows:

"Immunity from prosecution to addicts volunteering for treatment— *Any addict, who is charged with an offence punishable under section 27 or with offences involving small quantity of narcotic drugs or psychotropic substances, who voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognized by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 or under any other section for offences involving small quantity of narcotic drugs or psychotropic substances:*

Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction."[3]

Although the provision is still restricted to voluntary submission for treatment by the addicts in anticipation of being charged. A pre-trial stage which is based on a lot of presumption including the presumption that every drug addict is legally aware of the said provision of exemption and will get the chance to apply in time to get away from the clutches of law. An opportunity after being caught to be provided by the prosecutor to improve the situation of the accused addict is much needed, if we want to achieve a drug rehabilitated society.

3. INCARCERATION V. ALTERNATIVE TREATMENT

The physical and legal risk that drug restrictions impose on drug users is the most obvious harm that these policies produce. Imprisonment must be proportionate to the harm done to the prisoner in order for it to serve as a deterrence. It is recommended that we punish in the sense of inflicting pain upon individuals who engage in specific conduct, in order to discourage such behaviour. In so doing it is hoped that people will be dejected from engaging in the prohibited conduct.[4]

[1] Sec 31A, The Narcotic Drugs and Psychotropic Substances Act, 1985 (Act No. 61 Of 1985)

[2] Section 2 (i), The Narcotic Drugs and Psychotropic Substances Act, 1985 (Act No. 61 Of 1985).

[3] Section 64A, The Narcotic Drugs and Psychotropic Substances Act, 1985 (Act No. 61 Of 1985).

[4] The Harmful Side Effects of Drug Prohibition Randy E. Barnett Georgetown University Law Center, Georgetown Public Law and Legal Theory Research Paper No. 12-037

What about people who participate in such behaviour despite being discouraged? There are real drawbacks to that. Does punishing these people improve or worsen their quality of life? The response is evident. Even while drug use might have negative effects, being incarcerated frequently exacerbates these problems. Generally, we don't think about whether a law punishes a lawbreaker and makes him worse off while debating legality. In fact, typically, the purpose of this kind of punishment is to keep the lawbreaker from harming someone else that we believe to be entirely innocent, such as the victim or prospective victim of a rape, robbery, or murder.[1] To protect the innocent, we are consequently quite willing to inflict pain on the lawbreaker. Stated differently, the victims are the objects of these laws, and the criminals are the subjects of these laws.

This is one way that drug laws differ from many other criminal laws. We are meant to care about the welfare of potential drug users when we restrict drugs. Therefore, the people that drug laws are intended to "protect", i.e. the objects of drug laws, are frequently also the people that the laws themselves target. But when a law's subject and purpose are the same thing, an issue occurs.

Social impact of punishment is also a major concern while dealing with the punishments under NDPS Act as the Illegalization makes the prices of drugs rise.[2] All other things being equal, the price of the illegal commodity increases when narcotics are seized and destroyed because of the increased scarcity. Drug regulations also raise the cost of manufacturing and distribution by placing more risk on those who manufacture and sell, which forces higher pricing that represent a "risk premium." The purpose is to deter those who do not have high incomes from buying. But it rarely achieves that.

i. **It breeds criminality**-But higher prices take their toll on those who are not deterred, and these adverse effects are rarely emphasized in discussions of drug laws. Higher prices require higher income by users. If users cannot earn enough by legal means to pay higher prices, then they may be induced to engage in illegal conduct—theft, burglary, robbery—in which they would not otherwise engage. By raising the costs of drugs, drug laws breed criminality.

ii. **Higher prices can also make drug use more hazardous for users.** Intravenous injection is more common in nations where high drug prices as a result of prohibition push users to find the most "efficient" way to take the drug. The two main ways to consume opiates in nations where they are allowed are either snorting them or breathing in the fumes from heated narcotics. Additionally, injection usage may result in other health issues. As in case of “Heroin use causes hepatitis only if injected and causes collapsed veins and embolisms only if injected intravenously.”[3] Lastly, sharing of unsterilized needles by drug users has contributed to the spread of HIV-AIDS.

iii. **Deal with criminals to buy-** Drug laws aim to forbid the use of substances that some individuals choose to use. People who still want to use drugs are therefore compelled to deal with those who are prepared to manufacture and sell drugs despite the possibility of punishment because it is illegal to sell drugs legally. The countless "drug-related" robberies and murders (often of innocent people mistakenly believed to possess drugs) brought about by the ongoing interactions amongst users are typically overlooked in talks of drugs and crime.

iv. **Victims of crime-** Victims of crime are likely to be users. As an Assistant States Attorney in Cook County, Illinois, I would guess that around half of the murder cases I handled involved drugs, meaning that the deceased was slain because it was believed he had drugs or money from the sale of drugs.

v. **Black Market for synthetic drugs**- Drug regulations artificially reduce the supply of some relatively safe intoxicating substances, such as opiates, which in turn provides a strong black-market incentive for covert chemists to produce substitute "synthetic" narcotics that can be produced more cheaply and with a lower chance of being discovered by law enforcement.

[1] John Hospers, Retribution: The Ethics of Punishment, in ASSESSING THE CRIMINAL: RESTITUTION, RETRIBUTION, AND THE LEGAL PROCESS 181, 181–209 (Randy E. Barnett & John Hagel III eds., 1977)

[2] Morgan Cloud, Cocaine, Demand, and Addiction; A Study of the Possible Convergence of Rational Theory and National Policy, 42 VAND. L. REV. 725, 757 (1989).

[3] JOHN KAPLAN, supra note 6, at 9 (citing Jerome H. Jaffe, Drug Addiction and Drug Abuse, in GOODMAN AND GILMAN’S: THE PHARMACOLOGICAL BASIS OF THERAPEUTICS 535, 546

vi. **Costs** - Although it is difficult to estimate the entire cost of making drug possession illegal, we know that it is extremely expensive. It is a huge waste of criminal justice resources and a financial burden on US taxpayers to criminalize drug possession and put people in jail, prison, probation, or parole. Harvard economist Jeffrey Miron calculated that the annual cost of enforcing low-level drug possession violations surpasses $4.28 billion in a 2010 paper released by the Cato Institute. This estimate does not account for the very high costs associated with court processing, monitoring, and incarceration. Additionally, Miron offers a breakdown of taxpayer spending on drug-related expenses by state. For example, California spends nearly $1 billion on drugs, while Florida and Georgia each spend hundreds of millions.[1]

vii. **Social Isolation Stigma**- Even in the absence of any obvious bad effects linked to their drug use, people who are stigmatized for their drug use may experience social rejection, labelling, stereotyping, and discrimination, which may include being refused treatment, housing, or work opportunities.

4. TREATMENT AND REHABILITATION AS ALTERNATIVE TO PUNISHMENT

There are a number of benefits which can be derived from decriminalising offences related to drug use. Such positive contrast can be seen by a drug decriminalization policy as follows:

i. Lowers the amount of people who are detained, imprisoned, or otherwise brought into contact with the legal system, saving individuals, their families, and communities from the numerous negative effects of drug-related arrests, incarceration, and the permanent stigma associated with having a criminal record.

ii. Reduces inequities in the criminal justice system caused by race, ethnicity, and financial status.

iii. Increases the efficiency of scarce public health resources in terms of cost.

iv. Modifies the present law enforcement incentive program and reallocates funds to stop violent and serious crimes.

v. Fosters an environment where those who use drugs excessively are motivated to get help.

vi. Enhances the results of treatment (where necessary). Removes barriers to the implementation of evidence based practices to reduce the potential harms of drug use, such as drug checking (to test for adulterants in illicit substances).

vii. Strengthens linkages between law enforcement organizations and the communities they are tasked with serving and protecting.

viii. The most of drug users who use drugs problematically do not require the use of the criminal justice system to bring them into treatment. Furthermore, research indicates that the majority of users of so-called "hard drugs," such as cocaine, heroin, and methamphetamine, never develop an addiction, despite the widespread belief that these substances are more addictive than others. However, the best way to keep those who do safe is to provide community-based treatment outside of the criminal justice system.[2]

ix. Decriminalization has been implemented in a number of other nations, most notably Portugal. A complete decriminalization program was implemented by Portuguese lawmakers in 2001, which abolished criminal sanctions for minor drug possession and usage and reclassified these offenses as administrative infractions. In Portugal today, there are no drug-related arrests or incarcerations, a large number of individuals are undergoing treatment, and the prevalence of drug overdoses and HIV/AIDS is declining, all without appreciable rises in either crime or drug use rates.

5. TRADITIONAL ROLE OF THE PROSECUTION

The Indian Constitution's 7th Schedule, List III, gives both the federal government and the states the authority to enact laws on prosecution. Of course, the Indian Constitution contains no explicit provisions for prosecution. The position of prosecutor is mandated by law. The position of Attorney General or Solicitor General of India is not guaranteed by the constitution. States, however, have an obligation to safeguard societal interests. In

[1] https://www.drugpolicy.org/sites/default/files/documents/Drug-Policy-Alliance-Time-to-Decriminalize-Report-July-2017.pdf last accessed on 10.06.2019

[2] https://www.drugpolicy.org/sites/default/files/documents/Drug-Policy-Alliance-Time-to-Decriminalize- Report-July-2017.pdf. Last accessed on 16.06.2019

addition to representing the State in criminal courts, prosecutors also serve to safeguard the rights of victims. Thus, prosecutors have an indirect duty to uphold the state's interests.[1]

The prosecutor's primary responsibility is to make sure that justice is served, not to relentlessly pursue a conviction regardless of the facts. The perfect public prosecutor doesn't care about getting people convicted or appeasing the state government agencies that they interact with. He or she needs to view themselves as justice's agents. A public prosecutor shouldn't appear to be hankering after or grabbing at a conviction." The goal of a criminal trial is to ascertain the accused person's guilt or innocence; a public prosecutor's role is to represent the State, not any single party. The accused parties must be prosecuted in the most equitable manner possible. The State is pursuing the case solely to safeguard the community, not with the intention of exacting retribution. Therefore, "a seeming eagerness for, or grasping at a conviction" should not exist.

In Jitendra Kumar@ Ajju vs. State (NCT of Delhi) it was observed that "In the Criminal Justice System this role is performed by the Public Prosecutor on behalf of the State." [2] It has been said that the Public Prosecutor is a Minister of Justice who is essential to preserving objectivity and integrity in the sphere of managing criminal justice. In Habeeb Mohamad v State of Hyderabad it was held that "irrespective of the side of the case, the Prosecutor should bring before the court, all the angles of the case for and against an accused. Prosecutor's job is not limited to make strong prosecution case but it extents to bring other side of the case before the courts too."[3]

Section 321 of the Criminal Procedure Code, 1973 is also relevant in the context where till the time such alternative approach discussed above is not being implemented, withdrawal of minor prosecution can serve as a better solution to the problem. As previously stated, it allows the public prosecutor or assistant public prosecutor in charge of a case to withdraw from prosecution at any point before the verdict is rendered, provided that the court gives their consent. The statute gives the public prosecutor in charge of the case this authority, which they must use for the benefit of the administration of justice. Without a doubt, the public prosecutor's role is tied to a public goal, vesting the officer with the duty to work solely in the benefit of the administration of justice. In the case of Koli Nana Bhana and others v. State of Gujarat it was held that "the decision of withdrawal of prosecution lies with the Prosecutor engaged in the case. This is the Prosecutor's exclusive prerogative which can take initiative for withdrawal if the case is fit for withdrawal of prosecution as per existing provisions." [4]

6. ASSESSING ALTERNATIVE ROLE OF PROSECUTION

The American Bar Association has laid down detailed functions and guidelines for the prosecution's role and functions in the conduct of criminal trial process. In its Standard No. 3.1.1 it defines a "Prosecutor as an administrator of justice, a zealous advocate, and an officer of the court."[5] It further states that in carrying out the prosecution role, his office must use good discretion and independent judgment. A prosecutor's overarching objective is to serve the public interest. To that end, they should act honourably and with good judgment to enhance public safety through the pursuit of appropriate criminal charges of the proper seriousness as well as the exercise of discretion to drop charges when the situation warrants it.[6] The prosecutor must also possess the expertise necessary to examine and evaluate potential alternatives to prosecution or conviction that may be appropriate in certain situations or groups of cases, according to subrule (e) of the aforementioned rule. His office needs to be open to support neighbourhood initiatives aimed at resolving issues that derive from or are connected to criminal behaviour or alleged violations of laws inside the criminal justice system. The most important thing to understand is that he is not just a case processor; rather, he is a problem solver who must take the criminal justice system's overarching objectives into account.

[1] https://shodhganga.inflibnet.ac.in/bitstream/10603/144597/8/chapter%20iv.pdf. last accessed on 16.06.2019

[2] **Jitendra Kumar@ Ajju v. State (NCT of Delhi),** Crl. W.P. 216/99, Delhi High Court.

[3] Habeeb Mohamad v. State of Hyderabad, A.I.R.1954, S.C.51.

[4] Koli Nana Bhana and others v. State of Gujarat, 1986 Cr. L. J . 571, p.574.

[5] https://www.americanbar.org/groups/criminal_justice/standards/ProsecutionFunctionFourthEdition/, last accessed on 17-06-2019

[6] Ibid

The discretion of prosecutor can be exercised by considering the following factors:

i. The prosecutor's doubts regarding the accused's guilt

ii. The degree or lack of harm resulting from the offense

iii. The offender's background and characteristics, including any voluntary restitution or efforts at rehabilitation

iv. Whether the authorized or likely punishment or collateral consequences are disproportionate in relation to the specific offense or the offender[1].

7. THE EMERGENCE OF DRUG COURT MODEL IN UNITED STATES OF AMERICA

The researchers of the paper have focussed their research on the drug court model which has been in place mainly in United States of America where rise of the drug court "movement" is best understood in the context of the changing goals of sentencing policy in the United States in the past half century. In U.S there has been a trend moving towards rehabilitation in 1950s which led to creation of various programmes for different kinds of offences but in the late 1980s the process started declining and gave way for incarceration as the primary method of dealing with crimes. Judges would often send drug offenders for probation or imprisonment but sooner enough they would find them back again on a revocation or new charge.[2] Thus a need was felt to bring about a transformation in such a traditional approach to effectively deal with burgeoning problem of drug abuse and addicts.

Article 3, paragraph 4 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 gives parties the authority to mandate that drug offenders undergo treatment, education, aftercare, rehabilitation, or social reintegration measures, either in lieu of or in addition to conviction or punishment.[3]

Dissatisfied with high recidivism rates, a group of justice professionals in Miami-Dade County founded the first drug court in the country in 1989. With the integration of treatment into the criminal court system, drug-problematic offenders can now receive the necessary assistance.[4] Inmates who were released from the Washington State Department of Corrections between July 1999 and December 2003 had a risk of death during the first two weeks after release that was more than twelve times higher than that of other state residents, with drug overdoses being the leading cause of death, according to a report published in The New England Journal of Medicine. The analysis looked at more than 30,000 prison records for these individuals.[5] Drug courts work to end this cycle. Instead of imprisoning drug offenders, these programs give them an opportunity to engage in evidence-based rehab.

UNODC Report has defined Drug Courts as *"courts that deal with drug-related offences and offenders in new procedural ways that aim to stop future criminal behaviour through court directed treatment and rehabilitation programmes. In dispensing justice, the judge is assisted by an integrated multidisciplinary team of professionals committed to the same common goal."*[6] Thus the drug court team includes judges, drug court coordinator, prosecution, defense attorney, team of doctors etc. to effectively make this treatment based alternative work.

8. ROLE OF PROSECUTION IN DRUG COURT TREATMENT AND REHABILITATION OF DRUG ADDICTS

The U.S. Department of Justice (DOJ) established a Drug Courts Program Office in 1995 to aid in the funding and operation of the numerous local drug treatment courts that were sprouting up across the nation. Defining Drug Courts: The Essential Elements was a well-known report released in 1997 by the Drug Courts Program

[1] Ibid

[2] The Drug Court Judicial Benchbook, National Drug Court Institute, Bureau of Justice Assistance, U.S, February, 2011.

[3] United Nations, Treaty Series, Vol. 520, No. 7515, https://www.incb.org/documents/Publications/AnnualReports/AR2000/AR_2000_Notes.pdf, last accessed on 18-06-2019

[4] https://www.drugrehab.com/featured/drug-courts/, last accessed on 18-06-2019

[5] Id.

[6] United Nations Office on Drugs and Crime, Report Informal Expert Working Group On Drug Treatment Courts, Vienna 1999, https://www.unodc.org/pdf/lap_report_ewg_casework.pdf, last accessed on 18-06-2019

Office in collaboration with the National Association of Drug Court Professionals as part of this government project.[1] According to Key Component 2, it is the prosecuting attorney's duty to safeguard public safety by making sure that each candidate is qualified for the program and follows all drug court regulations.

The tasks and obligations of prosecutors in drug courts differ from those in criminal courts. Prosecutors in drug courts are supposed to have a therapeutic stance, be open to collaborating with other members of the drug court team and support the objectives of problem-solving courts.[2]

Their role can be primarily divided into three categories

1. Acting as a Gatekeeper and Developing Eligibility Criteria
2. Assessment & monitoring
3. Sanctions and Initiatives.

1. Role in developing Eligibility Criteria and Assesment

The role of prosecutor is non adversarial and they have to work with a team to develop or review the eligibility criteria. To target the optimal group and maximize cost savings and public safety benefits while preserving consistency within the participant pool, criteria needs to be grounded on research.[3]

2. Assessment & Monitoring

The National Drug Court Institute's (NDCI) Adult Drug Court Planning Initiative outlined core competencies in their *Core Competencies Guide* that prosecutors can consult for guidance when working in a drug court. The various competencies mentioned are:[4]

i. Fully engages as a member of the drug court team, dedicating themselves to the program's objectives and mission and cooperating fully to make sure they are met.

ii. The prosecutor acts as a team player in drug court, fostering a sense of unity among the members by conducting non-adversarial operations.

iii. The prosecutor promotes suitable non-court settings (such as staffing) as a member of the drug court team, where proper incentives and consequences are in place for program compliance or lack thereof.

iv. Assures community safety concerns through adherence to eligibility requirements in a non-adversarial setting that emphasizes the advantages of therapeutic program outcomes. Monitors offender progress to define parameters of behaviour that allow continued program participation and suggest effective incentives and sanctions for program compliance.

v. Should possess general knowledge of pharmacology, alcoholism, and addiction and use that information to respond to compliance in a way that is therapeutically appropriate.

vi. Need to be aware of how the offender's age, gender, and cultural background may affect their chances of success.

vii. Supports the group's initiatives to gather local resources and educate the community.

3. Sanctions and Incentives

According to NDCI's Core Competency Guide, Core Competency 3, prosecutors need to push for sanctions that are applied right away to noncompliant behaviour. Evidence from NPC Research shows that sanctions can enhance cost reductions by 100% when they are implemented right away. In order to avoid missing opportunities to penalize non-compliant behaviour or reward complying behaviour, prosecutors should push for

[1] Drug Courts Program Office, Office of Justice Programis, U.S. Dept. Of Justice, Defining Drug Courts: The Key Components (1997), Available At https://www.ncjrs.gov/pdffiles1/bja/205621.pdf, last accessed on 19-06-2019

[2] https://ndcrc.org/wp-content/uploads/2017/06/The-Role-of-Prosecutors-in-Drug-Treatment-Courts.pdf,last accessed on 19-06-2019

[3] Carey, S.M., Finigan, M.W., & Pukstas, K. (2008), Ex-ploring the key components of drug courts: a comparative study of 18 adult drug courts on practices, outcomes, and costs (Report No. 223853), available at

https://www.ncjrs.gov/pdffiles1/nij/grants/223853.pdf, last accessed on 20-06-2019

[4] http://www.wellnesscourts.org/files/NDCI%20Core%20Competencies%20Guide.pdf, last accessed on 20-06-2019

a prompt response. But this does not mean that jails should be used as an alternative too often as it will again lead to increase of recidivism rates in drug treatment candidates and will negate the very purpose of such alternative treatment.

9. THE CHALLENGES AND WAY AHEAD

After assessing and thoroughly going through such detailed model in place in U.S and its success over the years to effectively deal with problem of drug addicts and treating them as victims rather than offenders raises many questions for a country like India which still cripples under the menace of serious drug abuse and drug addiction problem. As has been covered in the beginning the approach NDPS Act has been to create a strong deterrence by bringing consumption and possession under its list of offences. But the provision of Sec 64A under NDPS Act was a step in the right direction but not much has been done by the NDPS Courts and team of professionals including Prosecuting Attorneys to utilize and fully realize the potential of this section. The sections on punishment do not specify who would be sentenced to rehabilitation and who will face incarceration, despite the fact that the legislation offers drug users the option of rehabilitation. It's unclear if this rehabilitation time is regarded as a distinct kind of punishment or if it's a component of jail time. Put differently, drug users are viewed as criminals as well as victims.[1]

According to a report titled "From Addict to Convict: The Working of the NDPS Act in Punjab"[2] written by the think tank Vidhi Centre for Legal Policy, no one who was hauled before Punjabi courts between 2013 and 2015 received a court order for de-addiction and rehabilitation. According to the study, judges and attorneys were largely unaware of this mechanism for redirecting addicts to rehabilitation, as evidenced by multiple conversations with them. Justice Mukul Mudgal who launched this study commented that the addicts being made "scapegoats" in the drug trafficking menace. *"Commercial drug dealers are hardly convicted and this is something that needs to be reversed. Deterrence as a theory does not work,"*[3] As a result, it is evident that the NDPS Act has been largely ineffective and redundant in terms of rehabilitation. The reformatory goal of the act is no longer valid because to the inadequate institutional mechanisms that go along with it, such as the judiciary's training programs and vital rehabilitation systems.

The model which has been followed in US and the extensive role and guidelines laid down for the prosecuting attorneys should be seriously looked into and should form a part of its criminal justice delivery system to effectively tackle the menace of drug abuse and addiction. In drug courts, prosecutors have to strike a special balance between safeguarding public safety and developing uniform eligibility standards that optimize cost-saving measures. Prosecutors, who are frequently viewed as the gatekeepers, can foster teamwork among other drug court team members by modelling leadership and dedication to the program.

[1] https://www.thejakartapost.com/news/2014/03/20/should-drug-addicts-be-jailed-or-rehabilitated.html,last accessed on 20-06-2019

[2]https://static1.squarespace.com/static/551ea026e4b0adba21a8f9df/t/5b7e56b5f950b78b15b84869/1535006403282/FATC+Volume+1+English.pdf, last accessed on 20-06-2019

[3] https://www.ndtv.com/india-news/drug-addicts-in-punjab-being-sent-to-jail-and-not-rehab-study-finds-1906384, last accessed on 20-06-2019

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ALTERNATIVE DISPUTE RESOLUTION AND INTERNATIONAL TRADE

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INTRODUCTION

As the cutting-edge method of resolving disputes outside of court, Alternative Dispute Resolutions (*hereinafter* ADR) is gaining a lot of attention. Despite common misconceptions, ADR is not a novel concept; three key ADR methods, i.e., Arbitration, Conciliation, and Mediation, have been used for centuries to settle a wide range of conflicts. Many ethnic, cultural, and religious communities still turn to ADR processes as their preferred channels. Due to the increasing complexity and volume of contemporary international trade, alternatives to litigation which are the dominant means of conflict resolution in the majority of western legal systems are being explored.

Global trade is accelerated by the existence of alternative dispute resolutions and its application in resolving international commercial conflicts. ADR's importance to global economic initiatives is demonstrated by a transnational network of support for ADR. This support is exhibited by various chambers of commerce, institutional groupings, and state and federal legislation. Why are extra-judicial means of settling disputes pertaining to global commerce so important? Mainly because parties with different nations, legal systems, and ethnic backgrounds can resolve their disputes amicably through ADR's without fear of the forum state's judicial system becoming prejudiced.[1]

The anonymity and seclusion offered by the majority of ADR procedures are likewise valued by many disputants. ADR has an advantage over litigation since it can settle disputes with less damage to already-existing business ties.

The most often used ADR techniques available to parties engaged in international trade disputes is arbitration. The preference for arbitration is multifaceted. Party autonomy is the cornerstone of arbitration, wherein the parties to an arbitration agreement mutually adapt the process to their own needs and preferences. The arbitrator's ruling is final, and the parties agree to abide by it. Moreover, the arbitrators are chosen by the parties expressly on the basis of their qualifications as experts in their fields. If both parties actively participate, arbitration is speedier and less expensive than litigation.

Finally, it is protected by laws, treaties, and conventions that are recognized and upheld by many nations, including the United States of America. However, other forms of ADR's are also utilized in international commercial conflicts besides arbitration. Mediation is becoming more and more popular as a means of conflict resolution with the help of neutral third parties. A handful of the more modern methods, such as the minitrial, are also being researched as possible tools for conflict resolution in similar circumstances. Regardless of the precise ADR methods, there is a positive correlation between international trade and alternative dispute resolutions; this correlation is driven by the processes' increased accessibility and innovation.

ADR TYPES USED IN INTERNATIONAL TRADE DISPUTES:

- **Arbitration**

As was already said, arbitration is and has long been the most widely used ADR method for resolving issues involving international trade. The forum that gives the parties the most control over the laws, venue, arbitrator, administrative authority (if any), language, and procedural rules is preferred by the parties.[2] To put it briefly, arbitration gives parties the freedom to customize the forum to suit their specific requirements. Due to the possibility that any of the afore-mentioned elements could be crucial to the process's fairness, arbitration is therefore especially well-suited to cases involving international business conflicts. Furthermore, parties feel

1 WIPO official Report, https://www.wipo.int/amc/en/center/advantages.html (Accessed on April 22, 2024).

2 Trade Impact for Good, "Settling Business Disputes: Arbitration and Alternative Dispute Resolution", 2nd ed., 2016, International Trade Centre, Geneva, Switzerland.

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more confident in a process that has worked well to settle disputes in long-term agreements, trade disputes, joint ventures, construction disputes, and marine disputes some of the most prevalent areas of international trade.[1]

In addition to flexibility and justice, parties to disputes frequently favour arbitration since many countries are signatories to international treaties and conventions that encourage its use. The United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (N.Y. Convention), which was established in 1958 and is currently ratified by over 70 states, is one of the most significant and well-known arbitration treaties.[2] The enforcement of the arbitral agreement and the arbitrator's decision is facilitated by the N.Y. Convention. Generally, enforcement can be found in any state that is a signatory, regardless of the parties' relationship to that state.

The Convention requires a court to "shall... refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative, or incapable of being performed" while determining whether to uphold an arbitration agreement. It also specifies that arbitral awards cannot be enforced in situations where the underlying agreement is unlawful, there are problems with due process, the dispute goes beyond what can be submitted to an arbitrator, the issues at hand cannot be resolved through arbitration under national law, or it would be against public policy to enforce the award.[3]

As a result, parties from signatory countries are encouraged to engage in International Commercial Arbitration (*hereinafter* ICA) under the N.Y. Convention. Nonetheless, this Convention is not the only one that allows for dispute arbitration under its authority. Arbitration between signatories is provided for by the Inter-American Convention on ICA, which is becoming more popular in Latin America, and the International Convention for the Settlement of Investment Disputes Between States and Nationals of Other States.[4] Furthermore, private bilateral or multilateral treaties between nations as well as state-level domestic regulations are designed to enforce arbitration agreements and acknowledge the importance of the arbitration process to global trade.

The United States of America offers arbitration a friendly atmosphere in both legislation and the courts. The N.Y. Convention and numerous other bilateral and multilateral agreements that allow for dispute resolution are ratified by the United States. In Scherk v. Alberto-Culver Co.[5], the Supreme Court acknowledged in 1974 how crucial it is for international trade to preserve arbitration clauses in contracts, even when the subject matter is not deemed arbitrable by domestic law. Establishing in advance the forum and applicable law for disputes through a contractual clause is a crucial prerequisite for achieving the orderliness and predictability that are crucial for any international commercial transaction. A parochial rejection by the courts of one nation to enforce an international arbitration agreement would frustrate these purposes and encourage the parties to engage in nasty manoeuvring to acquire tactical litigation benefits. In addition to endangering business people's willingness and ability to enter into cross-border agreements, this would impair the integrity of international trade and commerce. A contractual language that establishes the venue and relevant law for disputes ahead of time is an essential first step towards attaining the predictability and orderliness that are essential for any international business transaction.

The United Nations General Assembly (*hereinafter* UNGA) suggested that individual nations adopt the UNCITRAL Law in December 1985, after it had been drafted by a working group of the UNCITRAL. This law acts as a template for national arbitration laws. The Model Law aims to remove international arbitration from the local laws of each particular adopting state and to more uniformly regulate the practice and procedure of ICA. Its existence ought to be especially valuable to nations that stand to gain from modernity as well as those that might be enacting or extending arbitration legislation for the first time.

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1 *Ibid*.

2 United Nations, "Convention on the Recognition and Enforcement of Foreign Arbitral Awards, New York, 1958, Available at chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://uncitral.un.org/sites/uncitral .un.org /files/media-documents/uncitral/en/new-york-convention-e.pdf (Accessed on April 22, 2024).

3 Sumeet Kachwaha and Dharmendra Rautray, "India: International Arbitration Agreement 2021", Global Legal Group, 18th ed. 2022, pg. 72-84.

4 ICSID CONVENTION, REGULATIONS AND RULES, Washington DC, USA, April 2006, Available at chrome-extension ://efaidnbmnnnibpcajpcglclefindmkaj/https://icsid.worldbank.org/sites/default/files/ICSID %20Convention%20English.pdf. (Accessed on April 22, 2024).

5 Scherk v. Alberto-Culver Co. 417U.S.506 (1974).

UNCITRAL determined in 1979 that, "while a 1958 Convention protocol was not required, more work on a model law could assist States in reforming and modernizing their law on arbitration... reduce the divergences encountered in the interpretation of the 1958 Convention... and minimize the possible conflicts between national laws and arbitration rules."[1] This resulted in the idea for the model legislation development project.

UNCITRAL and the U.N. General Assembly accepted the final version of the Model Law, which creates a new international framework to control the procedural aspects of arbitration as lex specialis. It gives parties great latitude to customize the arbitration process to their needs, defines 'international' and 'commercial' broadly, restricts the role of the courts in the arbitration process, and gives arbitrators considerable power to make decisions, unless the parties agree otherwise. The Model Law, despite its recent promulgation, has already aroused a great deal of attention in the international community since it offers to further harmonize and streamline international arbitration on a global scale.[2]

Parties' decision to use arbitration as a forum for resolving disputes is mostly influenced by the availability of numerous administering agencies and formal arbitration rules that regulate the proceedings. The Stockholm Chamber of Commerce, the American Arbitration Association (*hereinafter* AAA), the London Court of Arbitration, the International Chamber of Commerce (*hereinafter* ICC), Court of Arbitration, and the Inter-American Commercial Arbitration Commission are a few of the more well-known national and international organizations that provide comparable services.

Every one of the afore-mentioned organizations has set protocols and guidelines for conducting international arbitration. A number of agencies, like the AAA and the ICC Court of Arbitration, administer UNCITRAL-drafted rules in addition to their own. The start of arbitration, the choice of arbitrators, the general procedure of the hearing, the structure and parameters of the award, and other procedural requirements essential to a systematic, equitable, and prompt resolution of disputes are all covered by the different rules.

Surveys indicate a growing dependence on agencies, even though parties are able to arbitrate without the support of an arbitral institution (ad-hoc arbitration). This reliance is based primarily on convenience, as agencies offer not only a tried-and-true set of guidelines and protocols for the arbitration, but they can also select arbitrators from a pool of pre-screened applicants and set up ancillary services like scheduling hearings at a location of the parties' choosing. Lastly, the majority of the main arbitral institutions are equipped to handle ADR matters involving mediations and conciliations in addition to arbitration.

In an effort to attract more international arbitration to the US in general and New-York in particular, the AAA founded the World Arbitration Institute in 1984. The Institute wants to make New York a desirable venue for ICA proceedings while also highlighting the advantages of arbitration for the business community. Selecting an arbitration site is always a big decision because it affects a lot of things like the procedures that apply to the arbitration, the kind and extent of judicial intervention, the availability of qualified arbitrators and attorneys who have handled cases internationally, and the facilities and administrative support that are offered.[3] The growing importance of international arbitration has led major world cities like Cairo, Geneva, Hong Kong, Kuala Lumpur, London, New York, Paris, San Francisco, Stockholm, Vienna, and Zurich requesting that parties arbitrate in their agency. Abu Dhabi is the newest participant in the area; it will ratify the Abu Dhabi International Arbitration Centre on February 01, 2024.

- **Mediation & Conciliation**

Both mediation and conciliation are traditional methods of extrajudicial dispute settlement that are currently experiencing a resurgence of attention. Numerous groups and cultures have long practiced these ADR approaches. For centuries, eastern countries, including China and Japan, have depended on mediation and conciliation as the preferred means of resolving disputes.

Mediation and conciliation have long been used to settle disputes involving international public law. The Roman Catholic Church and international organizations like the United Nations and International Court of Justice

1 Michael F. Hoellering, "The UNCITRAL Model Law on International Commercial Arbitration", 20 INT'L 327 (1986).

2 *Ibid.*

3 Igor M. Borba, "International Arbitration: A Comparative Study of the AAA and ICC rules"(2009), Master's Theses.

(*hereinafter* ICJ) have served as mediators in a number of conflicts in an effort to find a peaceful, amicable conclusion to a developing issue.

The AAA and the People's Republic of China have conciliation agreements that allow for the cooperative settlement of business disputes involving US parties and their economic interests in Romania and China, respectively. Joint conciliation has been used to resolve a number of instances, demonstrating the technique's viability and success.

For the same reasons that mediation is a fantastic way to resolve disputes in the public sector, parties involved in international trade are beginning to see the benefits of employing mediation in their disputes. More and more mediators are turning to mediation as a first resort when trying to resolve complex, large-scale disputes. Even in situations when mediation is unable to resolve the dispute altogether, parties often agree on a number of ancillary factual and legal issues, which simplifies and expedites the remaining subjects for arbitration or litigation. The majority of American practitioners engaged in international trade who responded to surveys said that they would be open to trying mediation and conciliation in their disputes. This suggests that American practitioners are adopting a different mindset, possibly influenced by their international counterparts.

Several institutions have broadened their regulations to include mediation and conciliation in response to the growing trend of interest in these processes. Conciliation Rules were published by UNCITRAL in 1980 and approved by the General Assembly to be used in disputes involving international trade. The guidelines offer a sample conciliation clause as well as instructions on how the process should be carried out from the start to the finish.

The Commercial Mediation Rules were published by the AAA and went into force in September 1984 as a means of mediating all kinds of commercial disputes. Since 1980, the construction sector has operated under successful mediation procedures; nonetheless, these are primarily applied in domestic conflicts. Similar to the UNCITRAL Rules, the AAA Rules contain a model clause and procedures from the beginning of the mediation to settlement..

Both the AAA Commercial Mediation Rules and the UNCITRAL Conciliation Rules emphasize the significance of maintaining confidentiality and nondisclosure during and after the settlement process. The effectiveness of mediation, in particular, depends on the parties' complete trust in the confidentiality of the information they provide to the mediator, who makes an effort to obtain all pertinent facts from each party on the disagreement. Therefore, the sustainability of the process is compromised if the mediator is not bound by confidentiality in post-settlement actions or in acts conducted after unsuccessful attempts at settlement.

The International Chamber of Commerce has also released the Conciliation Procedures. Generally speaking, the ICC regulations follow the same procedure, even though they are not as clear as those of UNCITRAL or the AAA. Additionally, a suggested model clause is included.

Recent Alternative Dispute Resolution (ADR) techniques:

- **The Minitrial**

ADR procedures that are currently gaining favour include the minitrial, which has been referred to as "formally structured settlement negotiations" or "an Information Exchange". The procedure comprises providing summaries of each side's strongest case to top management executives, who have final say over settlement decisions. There are also often neutral third parties engaged. Transforming a legal disagreement into a business problem is the aim of the minitrial. Cases without multiple parties, innovative legal difficulties, credibility concerns, or constitutional issues are particularly well-suited for this method.

Minitrial procedures have been issued by the Center for Public Resources and the AAA. The procedures outline general requirements such as a written agreement, the selection and presence of a neutral advisor, the surrender of an advisory award in the event that a settlement cannot be reached, and the preservation of the proceedings' confidentiality, even though the process is generally structured in accordance with the mutual desires of the parties. The German machinery company and its American distributor successfully resolved a recent international dispute through the use of the minitrial method. The distributor filed a long-arm lawsuit and withheld money owed to the manufacturer after the German company ended its long-standing agency arrangement with the American company. On the grounds of bad service, the German supplier sought for dismissal. The American corporation's lawyer recommended a minitrial after being told to start over and taking into account the potential delay. The German company accepted.

The parties decided on a one-page letter of procedure that was meant to be uncomplicated. Each party's lawyer would have around an hour to present their case; there would be no use of an impartial consultant; and everyone there would be able to ask questions. Each side would have a principle present who is authorized to determine the issue. In addition, the agreement stated that following information exchange, the parties would meet to attempt to resolve the disagreement.

Charles Parlin, the U.S. company's attorney, told the AAA that outside counsel's marshalling of the evidence made the minitrial function. For instance, outside counsel created a timeline that showed what he thought he might prove about the German company's true intentions for terminating the employee. In response, the opposing attorneys created a tabulation intended to demonstrate that the American party's estimate of the damages was wildly exaggerated. The American side put out a number of ideas during the minitrial to promote settlement. Following the sharing of information, the two parties had separate lunches to assess each other's presentations. After some time, the parties met again and quickly came to an agreement.

According to Mr. Parlin, the minitrial differed significantly from customary settlement negotiations. First, the parties made significant progress towards dispute resolution when officials with the authority to settle were present. Second, each lawyer had a unique chance to speak with the executives of the opposing party in front of a global audience during the minitrial. Mr. Parlin came to the conclusion that European businesses generally wary of going to court in the US and are therefore open to any method that seems to offer quick, affordable, and fair settlement of conflicts.

- **Other ADR Techniques**

A relatively recent approach to alternative dispute resolution is 'med-arb', which combines arbitration and mediation. The method requires for the disagreement to be first mediation, where resolution talks and efforts are investigated, with the assistance of a neutral. Any unresolved matters following mediation are arbitrated by the same neutral, who issues a definitive and legally enforceable decision. Since the neutral party mediates the dispute initially, they become aware of the advantages and disadvantages of each side's case, which is one of the primary problems with med-arb. After obtaining this private information, the neutral has to decide the case in the role of an arbitrator. Given the delicate nature of the case, it is imperative that the parties to the mediation have complete faith in the impartial third party that has been selected.

Advisory committees for conflict resolution are another ADR tool. This method has the benefit of allowing a joint committee representing all parties' interests to settle disputes right away as they emerge. These committees have proven effective in resolving complex construction disputes quickly, which is crucial for maintaining the timeline for production.

Lastly, non-binding arbitration has been successfully applied, particularly in the European construction sector. The outcome is admissible in any further action between the parties, even though it is not legally binding. It appears that the parties are sufficiently persuaded to accept the award by this 'threat' of admissibility.

CONCLUSION

The development of transnational commerce has been and will continue to depend on extrajudicial conflict resolution techniques for international trade. ADR is beneficial not only because it is a private method of resolving disputes but also because it relieves participants of concerns regarding local legal systems and relevant legislation.

Other techniques, like mediation, conciliation, the minitrial, and advisory arbitration, are being employed more and more successfully, even if arbitration has been the most common ADR procedure in international business disputes. An increasing number of parties are ready to try alternative dispute resolution (ADR) instead of taking the chance of going to court in one or more foreign fora due to the favourable experiences with its many forms. We may anticipate more innovation and implementation of ADR as people customize it to suit their needs, given its recent surge in popularity.

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THE CONTRIBUTIONS OF AXEL HÄGERSTRÖM AND KARL OLIVECRONA TO THE DEVELOPMENT OF SCANDINAVIAN REALISM

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1. INTRODUCTION

Jurisprudence has various schools of thought. Every school of thought has its own way of analyzing nature and extent of concept of law and the practice of law. Some schools discuss law as an ideal code of conduct to run the society whereas others prefer to study actual impact of law on social behavior. This paper is about Scandinavian Realism, but to understand its origin and its comparatively different philosophical basis, brief reference to other major schools of jurisprudence is pertinent.

In ancient and medieval times word of king was law. King was supposed to rule on his subjects according to the 'divine will'. And only church had the authority to decipher the 'divine will', hence church assumed a status which was superior to the king and the state.

To counter the influence of church on the 'state power' many philosophical initiatives were made by various philosophers. But real strength to state power was given by Analytical Positivist School, which emerged in nineteenth century. Positivist detached law from divine will and started studying it as 'law as made by the legislature'. Its main concern is 'developed legal system' only. Positivist school sets logical parameters for the study of legislative, judicial and administrative aspects of law. Bentham and John Austin founded the basis of this school.

Other major school of thought in jurisprudence is Historical school, which emerged mainly as a reaction to the natural law thinkers. Von Savigny and Sir Henry Maine are flag bearers of historical and anthropological approaches. This school studies historical development of law and societies from historical behaviors, customs and beliefs. According to them law cannot be made consciously, it evolves. And people follow law due to habits and because of social pressure.

Next important school is Sociological school. Sociological jurists study law as a social institution. They consider law as means of social good. Mere theoretical precepts do not satisfy sociological school, application of law is equally important for them. This approach is concerned with social justice as part of social process.

In twentieth century natural law once again got revived. It is represented by Stammler, John Rawls, L.L. Fuller and H.L.A. Hart. It was a search for ideal justice. It acts as a higher guide to the unresolved problems of positive law. Natural law is basically a philosophical precept which tries to establish importance of idealism in the field of law.

1.1 Realist School

Contrary to all these schools Realist approach neither finds any idealism or social welfare in law nor it is satisfied with mere legislated law. It talks about law in actual action. To some extent it appears like a branch of sociological school of jurisprudence. But it is different because sociological school is worried about the use of law for welfare of society, whereas realist school is concerned with law as it is applied in judicial decisions.

Realist school is further sub divided in two parts; American Realism and Scandinavian Realism.

1.1.(i) American Realism

American realists avoid any dogmatic formulation and concentrate on the decisions given by law courts. The decisions are not based only on law. 'Human factor' in judges and lawyers also plays a considerable part in decision making. They believe that law in actual is nothing but an official action, so all those forces which influence decision of a judge in reaching a decision should be studied. Gray[1] defines law as "what the judges declare." Llewellyn[2], famous American realist, declares, "Purpose of the law as a going institution is to do 'law jobs' effectively".

[1] John Chipman Gray, *Nature and Scope of Law* 267 (The Columbia university press, New York,1909)

[2] Karl Llewellyn, "Some Reflection about Realism" 44 Har. L. Rev. 1233-1241(1931)

1.1.(ii) Scandinavian Realism

By contrast, 'Scandinavian realism' is basically a philosophical evaluation of the metaphysical foundations of law. Due to geographical separation of Nordic region, Scandinavian countries had little interaction with common law countries or even rest of Europe. Economic self sufficiency further helped in development of its distinct concepts of economy, society and law. Hence influence of Common law system was absent in the legal system of these countries. Law in Scandinavian countries is far less codified as compared to other European countries. So, judge made law is the fundamental form of law in these countries. This school of jurisprudence is essentially filled with heavily abstract discussion of first principles. Father of 'Scandinavian realism' is Axel Hagerstrom. Other representatives of this school are Karl Olivecrona and A.V. Lundstedt, Alf Ross. All of them have, to some extent, influence of their teacher Hagerstrom on their approach. Due to this common source of influence some similarities are visible in the approaches of Olivecrona, Lundstedt and Ross, which they themselves do not acknowledge.

For Scandinavian realists, law can be explained only in terms of observable facts. In the word of Lundstedt, "Law is nothing but the very life of mankind in organized groups and the conditions which make possible peaceful co-existence of mass of individuals and social groups and the cooperation for other ends than mere existence and propagation."[1]

2. Contributions of Axel Hagerstrom and Karl Olivecrona

In this paper focus is contributions of Axel Hagerstrom and Karl Olivecrona to the 'Scandinavian realism. Axel Hagerstrom is the pioneer of this approach. And Karl Olivecrona is the best known Scandinavian jurist in Britain as well as in other common law countries. So these two have been most studied in other countries . Due to important nature of their work and obvious interest of common law students, study of their works is very valuable.

2.1. Axel Hagerstrom

Study of Axel Hagerstrom's views about law is very important because he is the founder of Scandinavian school of jurisprudence. Even to understand works of other representatives of this school, in right perspective, study of Hagerstrom's point of view is very important.

Hagerstrom was not a lawyer but a philosopher. His attention towards law and ethics was directed due to its being major sources of metaphysics. His mission of life was to expose all those speculative ideas and myths which were used for exploitation of man by man. He wanted to formulate a real legal science which, could be used to restructure the society in the same way as other social sciences were used to transform the society. To do this it was necessary that legal science should be made free from idealism, mythology, theology and metaphysics. According to him it was the aim of philosophy to emancipate the human mind from the imaginary phantoms of its own creation.[2]

Hägerström attacked various words and legal concepts in his writings so as to prove they could not stand up to scientific application. Hägerström, who had been influenced by the Neo-Kantianism of the Marburg school, rejected metaphysics in their entirety.[3] His opinion was that words such as 'right' and 'duty' were basically meaningless as they could not be scientifically verified or proven. They may have influence or be able to direct a person who obtains such a right or duty but ultimately, if they could not stand up to a factual test, they were mere fantasies.

But legal sphere is unthinkable without the presence of concepts such as 'rights', 'duties' and 'will of state' etc. So this fallacy has to be clearly understood so that an objective theory of knowledge could be constructed. Legal philosophy of Hagerstrom was sociology of law which was based on historical and psychological analysis, but was without empirical research.[4] Much of his writing is accordingly, a critique of the lacunae of earlier juristic thoughts.

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[1] Lundestedt, cited in W.Friedman, *Legal Theory 308* (Stevens & Sons, London, 5th edn., 1967) as referred to by Autar Krishan Koul, *A Textbook of Jurisprudence* 33(Satyam law International, Delhi, 1st edn., 2009)

[2] M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1036 (Thomson Reuters,Ltd, 8th edn., 2008)

[3] http://www.citizendia.org/Axel_H%C3%A4gerstr%C3%B6m (visited on 9th September 2013)

[4] *Supra Note* 4

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He also analyzed the historical bases of the idea of right. For this he made an extensive study of Greek and, especially of Roman law and history. He viewed modern law as a ritualistic exercise, which was basically a mental element than the actual reality. As one thinks of black cap, the wedding ring or coronation ceremony or the legal oath, this is basically nothing else but a legal ritual. But people take this legal ritual as a sign of change in legal status. This ritual can be performed in a drama also, but there nobody thinks of a change in legal status of actors. So to some extent Hagerstrom is right because it is not the ritual, which is regarded as law, which changes rights and duties but the mental acceptance of rights and duties. As mentioned by M.D.A. Freeman[1] :

Pollock wrote[2]*, ritual is to law as a bottle is to liquor: you cannot drink the bottle, but you cannot cope with liquor without the bottle. There is a danger in assimilating legal with ritual symbols, for rituals can be understood if the beliefs underlying it are investigated, but legal symbols perform a function and are not just concerned with the beliefs.*[3] *……. The influence of Hagerstrom's thesis is nonetheless apparent in Olivecrona's analysis of legal language, in his discussion of what he calls "performatives," legal words which are used to produce certain desired results, usually a change in legal relationships.*[4]

Hagerstrom firmly denied the existence of objective values. According to him there are no such things as 'goodness' and 'badness' in the world. Words merely represent the emotional attitudes towards approval and disapproval for certain facts and situations. [5]

Hagerstrom first reviews the attempts, earlier made, to discover the empirical basis of a right, but rejected all these theories and labeled them as unsuccessful. He denied the possibility of any science of 'ought'. All questions of justice, aim, purposes of law are matters of personal evaluation and not susceptible to any scientific process of examination.[6] Similarly, Hägerström regarded all value judgments as mere emotional expressions using the form of judgments without being judgments in the proper sense of the word. This position caused Hägerström's critics to characterize his philosophy as "value nihilism" - a label that was invented by journalists and later endorsed by some of Hägerström's less orthodox followers, namely Ingemar Hedenius.[7]

Axel Hagerstrom's approach is too much 'human thinking' oriented. It strongly rejects impact of written laws on real situations. But this approach is not fully right because, if written rules are not there then it will be rather more difficult to make a decision in judicial proceeding. Even judge made laws are also followed in similar cases. Judges cannot give contrary decision every time. So, a law may be written or it may be judge made but for the sake of uniformity in decision it has to be recorded. Though in different situations different kinds of human factor apply on the minds of judges and decision may be altogether different, but even then one can find certain degree of similarity even in those decisions. Because judge can only appraise facts in a different way but ultimately he has to apply the basic principles of natural justice, equity and good conscience.

"The essence of Hagerstrom thesis", as Autar Krishen Koul[8] writes" is the extrapolation of idea of "right and duties" as they are 'ought' propositions but their content is something of supernatural power with regard to thing and persons". The second aspect of his thesis is that "rights" and "duties" have a psychological explanation

[1]M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1037 (Thomson Reuters,Ltd, 8th edn., 2008)

[2] Quoted in Passmore, 143, 156 in 36 Philosophy(1961) in M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1037 (Thomson Reuters,Ltd, 8th edn., 2008)

[3] MacCormack in 4 *Irish Jurist* 153,167 (1969) in M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1038 (Thomson Reuters,Ltd, 8th edn., 2008)

[4] Karl Olivecrona, *Law as a Fact,* Chaps 8 & 9 ,(Oxford University Press, London 2nd edn.)

in M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1038 (Thomson Reuters,Ltd, 8th edn., 2008)

[5] Avtar Singh and Harpreet Kaur, *Introduction to Jurisprudence* 57 (LexisNexis Butterworths Wadhwa, Nagpur, 3rd edn.,2010)

[6] *Ibid*

[7] *Supra Note* 5

[8] Autar Krishen Koul,*A Text Book Of Jurisprudence* 199 (Satyam Law International, Delhi,2009)

found in the feelings of strength and power associated with the conviction of possessing a right : "One fights better if one believes that one has right on one's side.[1]

2.2. Karl Olivecrona

Karl Olivecrona, is also such a jurist, without whom study of Scandinavian realism is not complete. He pulls the discussion near to its logical conclusion. He has made detailed and in depth analysis of the nature of law. Law is always concerned with actions of men, in daily course of their lives. So, the study of law should be taken as a social fact and for a right approach, to study law, sociological investigation is indispensable.[2]

Karl Olivecrona (25 October 1897 – 1980) was a Swedish lawyer and legal thinker: He studied law at Uppsala from 1915 to 1920 and was a student of Axel Hägerström, the founder of Scandinavian legal realism. One of the internationally best-known, especially in Common law countries, Swedish legal theorists, Olivecrona was a professor of procedural law and legal philosophy at Lund University. His writings lay emphasis on the psychological association of legal ideas. His outstanding work on legal theory was his book *Law as Fact*. In this work he stressed the importance of a monopoly of force as the primary basis of law. Olivecrona during World War II stressed on the need of overwhelmingly strong and coercive power to guarantee order in international relations. He became convinced that Europe required an unchallengeable controlling force to ensure its peace and unity, and that Germany alone could provide this. His pamphlet *England eller Tyskland* (England or Germany), published in the darkest days of the war, argued that England had lost its claim to wield leadership in Europe and that the future required a recognition of German domination.[3]

Indirectly, Scandinavian legal realism, with its emphasis on "law as fact", helped to create a climate encouraging to the sociological study of law. One of Olivecrona's doctoral students, Per Stjernquist, who as a left-leaning liberal entirely rejected his supervisor's Thoughts about the need of change in European centre of power, became a pioneer of sociology of law and was mainly responsible for establishing it as a university subject of study in Sweden in the early 1960s.[4]

Professor Olivecrona expressly refrains from defining law. He says, 'I do not regard it as necessary to formulate a definition of law. A description and analysis of the facts is all that will be attempted'.[5]

Karl Olivecrona has given his view in detail on different aspects of law. It is better to discuss his views in different sub-headings.

i. The binding force of law

If we reject the superstitious idea that the law emanates from a god, it is apparent that every rule of law is designed by men. The rules have always been made through legislation or in some other way, by ordinary people of flesh and blood. In other words they are produced by natural causes.[6]

On the other hand, they have natural effects in that they exert a pressure on the members of the community. The rules of law are a natural cause –among others-of actions of the judges in cases of court proceedings as well as of the conduct in general of people in relation to each other. The law-makers and other people who are in position to formulate rules of law may actually influence the behavior of the members of the society.[7]

Olivecrona recognizes law as a binding force. Though he regards the words of law as hollow piece of writing on the paper, even then he accepts that these words have psychological binding effect on the thinking of people and on their behaviors. It means we will have to accept that there is a link between law and the chain of causes and effects. This is a contradiction in the views of Olivecrona, because if words have an effect on the mind of people

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[1] C.D.Board, *Hagerstrom, Inquiry into the Nature of Law and Moral*

[2] B.N.Mani Tripathi, *An Introduction to Jurisprudence (Legal Theory)* 59 (Allahabad Law Agency, Faridabad, 8th edn.,)

[3] http://en.wikipedia.org/wiki/Karl_Olivecrona (visited on 9th September,2013)

[4] *Ibid*

[5] Karl Olivecrona, *Law as Fact* 26 (Oxford University Press,London, 1st edn.,1939) in Avtar Singh and Harpreet Kaur, *Introduction to Jurisprudence* 58 (LexisNexis Butterworths Wadhwa, Nagpur, 3rd edn.,2010)

[6] M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1057 (Thomson Reuters,Ltd, 8th edn., 2008)

[7] *Supra Note* 20

then these can be hollow, then how it can be related to superstitious thinking. If law has an effect in real world then it cannot at the same time belong to other world.

"Every attempt to maintain scientifically that law is binding in another sense than that of actually exerting a pressure on the population, necessarily leads to absurdity and contradictions. Here, therefore is the dividing line between realism and metaphysics, between scientific method and mysticism in the explanation of law."[1]

ii. The Concept of Rule of Law

He believes that concept of rule of law is an idea of imaginary action of a judge in an imaginary situation. For example, if somebody has murdered a person he should be given sentence of death or life imprisonment, as the case may be according to the law of the concerned land, but this rule of law cannot be applied in isolation. Before that many other rules of law will have to be applied, to check whether the case comes under any kind of exception or not. Judge will have to consider the age of the accused, his state of mind, and circumstances etc. It means the imaginary picture of rule of law is a very rich picture which is full with the optional contents according to the facts and circumstances of the case.

"With this qualification the content of the rules of law may be defined *as ideas of imaginary actions by people* (e.g. judges) *in imaginary situations.* The application of the law consists in taking these imaginary actions as model of actual conduct when the corresponding situation arises in real life."[2]

iii. A Rule of Law is not a Command in the Proper Sense

The rule of law is not a command in the proper sense; its innermost meaning is to range law among the facts of actual world. The commands if there are any, are natural facts. Because the concept of command presupposes the presence of an individual who is sovereign . Rule of law, according to Olivecrona, is an imaginary concept which is implemented by the courts of law and by the officers of the state. Here ,sometimes, it appears as if he is very near to the concept of "grundnorm" theory of Kelson , though Olivecrona himself does not accept this resemblance of ideas, because "grundnorm" is also an imaginary concept which has a psychological impact on the minds of the people. Moreover, "grundnorm" has also, allegedly, that element of mental compulsion, because of which people think that "grundnorm" is basic rule which has to be followed.

iv. Rule Of Law as Independent Imperatives

According to Olivecrona rules of law are basically "independent imperatives" as they are propositions which functions independently of any person who commands. State as an organization cannot issue commands as it is the individuals who may issue commands.[3] In modern state systems bulk of command are issued by various departments, so it cannot be said that these commands have been issued by the same person. If it is so then he has to be a super human being, so we have to ascribe the commands to the state only. But state as an organization cannot issue commands. At the best we can say that commands are given by the individuals, on behalf of the organization, who are working in the organization. But even then these commands cannot be ascribed to those individuals who actually issue those commands on behalf of state. So, for this reason, Olivecrona calls these commands as "independent imperatives", which are basically 'rule of law'. To have a better understanding of this point of view we can study it with regard to the 'juristic personality'. For example an officer of the state who was posted at a certain point of time as head of a department has made some rules for the better conduct of office. After the transfer of that officer to any other department, a new officer comes at that post but he also continued those rules. Now we cannot say that these rules belong to this officer 'in person' or to earlier officer 'in person'. So we have to ascribe the rules to the state. But state in itself is merely an organization which cannot make rule *per se*. Hence it is has be concluded, in accordance with the Olivecrona's understanding, that rule are "independent imperatives" which are attached to the state. Here he is basically condemning the positive law theory given by Austin that laws are the commands of sovereign. Because sovereignty, in modern state system, cannot be attached to any person, so the commands have to be regarded as "independent imperatives" of the state.

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[1] Karl Olivecrona, *Law as Fact* 17 (Oxford University Press,London, 1st edn.,1939) in M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1058 (Thomson Reuters,Ltd, 8th edn., 2008)

[2] Karl Olivecrona, *Law as Fact* 29 (Oxford University Press,London, 1st edn.,1939) in M.D.A. Freeman, Lloyds' *Introduction to Jurisprudence* 1058 (Thomson Reuters,Ltd, 8th edn., 2008)

[3] Karl Olivecrona, *Law as Fact* (Oxford University Press,London, 2nd edn.,1971) in Autar Krishen Koul,*A Text Book Of Jurisprudence* 199 (Satyam Law International, Delhi,2009)

v. Legal language and its Impact

Olivecrona on Legal Language and Reality[1], held that purpose of all legal enactments, judicial pronouncements, contracts, and other legal acts is to influence men's behavior and directs them in a certain way. Legal language is an instrument of social control and social intercourse. He gave an example of a marriage ceremony, where when man is asked by the priest, "whether you take this woman as your wife?" And when man replies, "I do" and the priest further declares, " From now you two are Man and Wife", after this, legal status of those two persons changes in the minds of other people. Olivecrona calls it 'the magical words'.

vi. Reference to "Public Welfare"

Olivecrona has given importance to the sociological approach of studying laws. Though he steps in the shoes of his master Hagerstrom, by accepting that laws are hollow words, the real issues is what people think about legal concepts and how they use them in reality, but even then he recognizes that final aim of law is the "public welfare". The reference to "Public Welfare" as the end of the law is either a revival of 'Benthamite principle of utilitarianism' or a disguised hint that the moral values which Hagerstrom attempts to discard are coming in again from back door to claim their rightful place.[2]

He, being a realist, had a natural inclination for the social welfare. In fact, this acknowledgement of 'public welfare' as a main aim of law, he has tried to pull the Scandinavian realism out of the mere discussion of metaphysical aspect of law, and has tried to give it more sense with regard to the use of this theory in practical life.

Olivecrona attracted the attention of almost all contemporary common lawyers. Reviews of his book '*Law as a Fact'* were written in many contemporary journals. At times, particularly after, his advocacy of German power, his book, got lot of criticism by common lawyers. An example of such sharp criticism by E.J.Cohen[3], which was published during 'high days' of World War II, is quoted here:

"….the Nordic doctrine shows the effects of the law in a world in which spiritual reality is non-existent. It gives a view of the law as seen from the outside, and that by a man who is color blind-blind just for those colors with which legal practice has to paint. This explains why it has not produced and cannot produce any results which are of any but very slight concern to the lawyer as such. But I venture to doubt whether its value to the moralist or politician can be any greater. The most important task of legal philosophy is the search for the ideal law. The Nordic school, like the American Realist school, constitutes another escapist attempt to avoid approximation towards this final goal of legal thought. Professor Olivecrona has the merit to have stated the strange doctrine of his masters with great clarity and admirable sincerity. It is perhaps not easy to imagine how this doctrine could be more attractively, more concisely and more intelligently presented. But there is little prospect of his hope being realized that it will be more widely appreciated in the future ."

Though, he is strongly criticizing Realism in general and Karl Olivecrona in particular, with regards to his views given in his book, but impact of World War II and Cohen's prejudiced views against supporters of Germany is also visible.

3. CONCLUSION

In earlier phase the main stream Europe was not aware of the legal system and legal thoughts of Scandinavian countries. But slowly common law countries became aware of the legal traditions of these countries. This in attention by outside world resulted in more meaningful legal writings of Scandinavian jurists. Since mid of 19th century study of Scandinavian Realism has become regular part of studies in most of the common law countries.

Scandinavian realists have developed a characteristic approach to law which is unique. Essentially it is philosophical critique of the metaphysical foundations of law. They disregarded the legislated enactments, but paid a great attention to the concept of law in the minds of people. To them real subject matter was that mental element people feel about the law in their psychological consciousness.[4]

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[1] K.Olivecrona, "Legal Language and Reality" from *Essays in Honour of Pound* 151(Newman,1962)

[2] E. J. COHN, "Review of Law as a Fact" 6 MLR 176(April, 19430)

[3] E. J. COHN, "Review of Law as a Fact" 6 MLR 175-176(April, 19430

[4] Edgar Bodenheimer, *"Jurisprudence; the Philosophy and Methods of the Law"* (Universal Law Publishing Co., Revised edn.,2004)

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Hagerstrom gets the credit of initiating this new debate in the arena of realist school of jurisprudence. He contributed in deciding the direction of this distinct school of thought. His influence on later Scandinavian jurists was of such a great level that one can easily detect impact of Hagerstrom in the writings of Karl Olivecrona, Lundstedt and A.Ross. None of these later jurist neglected Axel Hagerstrom's views, rather they contributed to it by adding new dimensions in it.

The crux of Hagerstrom's thesis is that concepts of 'rights' and 'duties' are basically psychological immpessions of the minds of society. Written statute may provide rights to anybody but if it cannot in reality enforce that right then it is futile. He gives illustration and explains that if a person believes that he has a valid claim of right on his side, then he can fight better. Though in reality that person may not have that right, but if he is believing that he has a right, may it be a mistaken belief, he will feel more power in himself in claiming and struggling for that right. In this way Hagerstrom showed that the concept of rights is a 'relative reality, in the minds of the people. It is 'relative' because that feeling of real right and power associated with it may change suddenly by getting the knowledge that it was a wrongly believed right. After being aware about the invalid right, the person will not feel that much power in his claim, which he was feeling earlier. In the same way he has very efficiently analyzed the concept of 'duties'. A realization of duties makes a person feel element of compulsion. But if he gets aware that he is under no obligation or he has no such duty, then he will stop feeling compulsion.

Olivecrona on the other hand extended this school of thought towards more logical conclusions. His contribution is of manifolds. He analyzed nature and extent of 'Rule of law' and detached it from the concept of 'command'.

His theory of 'independent imperatives' very finely explains the institutional nature of law, which is not attached to any particular individual. He rejected the ideas of positive lawyer as far as 'commands of sovereign' thought was concerned. But one can find some similarities in Olivecron's theory of 'independent imparatives' and Kelson's theory of grundnorm. Here he comes near to the positive law school.

Moreover, he declared that ultimate aim of law is the social welfare. This gets him close to 'utilitarian' concept of 'maximum good for maximum people'. But, even in this approach his main concern was from the point of view of a sociological lawyer only.

Olivecrona discussed in detail 'magical effect' of legal language. Here he again analyzed impact of legal language on the social psychology.

Contribution of both Axel Hagerstrom and Karl Olivecrona to the Scandinavian realism is very important. One is founding father of this school, other is one of the strong pillars of this approach. Ultimately it can be concluded that Axel Hagerstrom, being pioneer of this school, was very vast in his approach, but Karl Olivecrona gave it a more logical and comprehensive outlook.

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EMPOWERING MSMES THROUGH TECHNOLOGY: THE 'TECH-SAKSHAM' INITIATIVE FOR DIGITAL TRANSFORMATION

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ABSTRACT
Micro, Small, and Medium Enterprises (MSMEs) are the backbone of the Indian economy, contributing significantly to employment, GDP, and exports. However, the digital divide has kept many MSMEs from achieving their full potential. The 'Tech-Saksham' initiative aims to bridge this gap by equipping MSMEs with digital skills and tools to foster innovation, competitiveness, and sustainability. This research paper explores the impact of the Tech-Saksham initiative on MSMEs, analyzing both primary and secondary data. The study highlights how technology integration is reshaping MSMEs' operational capabilities and offers suggestions to enhance digital empowerment across sectors.

Keywords: *MSMEs, Digital Transformation, Tech-Saksham, Technology Adoption, Empowerment, Innovation, India*

1. INTRODUCTION
Micro, Small, and Medium Enterprises (MSMEs) form the cornerstone of the Indian economy. They contribute approximately 30% to India's GDP and account for nearly 45% of the country's total exports. With over 63 million units operating across various sectors, MSMEs generate employment for more than 110 million people, especially in rural and semi-urban areas. Despite their immense potential, MSMEs continue to face significant challenges—ranging from lack of access to capital, outdated technology, skill shortages, limited market access, and bureaucratic hurdles. Among these, the technological divide is perhaps the most pressing in the digital era.

In an increasingly globalized and digitally driven marketplace, the ability to adapt to technology is not just a competitive advantage but a necessity for survival. Technology plays a crucial role in enhancing productivity, improving quality, expanding customer reach, enabling innovation, and optimizing cost structures. However, many Indian MSMEs continue to rely on traditional practices, which limit their ability to grow and compete with larger and more tech-savvy counterparts. The digital transformation of MSMEs is no longer a luxury; it is an imperative.

To bridge this gap, several government and private sector initiatives have been launched, aiming to support MSMEs in embracing technology. Among these, the 'Tech-Saksham' initiative stands out as a structured, scalable, and inclusive approach towards digitally empowering MSMEs. Launched as a joint initiative by the Ministry of Electronics and Information Technology and leading technology corporations, Tech-Saksham aims to empower MSMEs by offering skill development, mentoring, and access to digital tools and solutions. The initiative is tailored to suit the diverse needs of MSMEs from different sectors and geographies, especially targeting women-led and rural enterprises.

The uniqueness of Tech-Saksham lies in its multidimensional strategy. It combines training, on-ground workshops, digital literacy, sector-specific technology solutions, and a mentorship network. The initiative not only aims to create awareness but also ensures the actual implementation of digital practices in MSME operations, such as digital accounting, e-commerce integration, cloud computing, customer relationship management (CRM), and digital marketing.

In the post-pandemic world, where remote operations and online interactions have become the norm, MSMEs that are not technologically enabled risk being left behind. The COVID-19 crisis has exposed the vulnerabilities of the sector but has also accelerated the urgency for digital transformation. It is in this context that studying the impact and effectiveness of the Tech-Saksham initiative becomes both timely and necessary.

This research paper aims to explore how Tech-Saksham is contributing to the digital transformation of MSMEs in India. Through an empirical analysis based on primary and secondary data, the study evaluates the effectiveness of the initiative, identifies challenges in implementation, and provides recommendations to scale its impact. The paper also investigates whether digital empowerment through Tech-Saksham leads to measurable improvements in business outcomes for MSMEs such as increased revenue, market reach, operational efficiency, and resilience.

2. LITERATURE REVIEW

1. **KPMG (2020):** Digital adoption among MSMEs in India is increasing but is constrained by infrastructural and knowledge gaps.
2. **World Bank Report (2018):** Technological integration is essential for MSMEs to scale up and compete globally.
3. **Deloitte India (2021):** Collaborative initiatives between the government and private sector can significantly enhance MSME digital readiness.
4. **RBI Report on MSME (2019):** Digitally empowered MSMEs show higher profitability and better customer engagement.
5. **NASSCOM (2022):** Training and mentoring improve technology assimilation among small enterprises.
6. **Patel & Sharma (2018):** MSMEs with ERP and digital accounting systems show improved compliance and operational efficiency.
7. **Saxena & Agarwal (2020):** Financial literacy combined with tech training results in higher survival rates of startups and MSMEs.
8. **Mehta & Joshi (2019):** Government-led digital initiatives require effective grassroots implementation for impact.
9. **Kumar et al. (2021):** Barriers to digital adoption include lack of awareness, funding issues, and cyber security concerns.
10. **UNDP (2022):** Digital training for women-led MSMEs can double income potential and boost local economies.

3. OBJECTIVES OF THE STUDY

1. To evaluate the role of the 'Tech-Saksham' initiative in digital transformation among MSMEs.
2. To analyze the level of digital adoption in MSMEs before and after participating in the initiative.
3. To assess the challenges and opportunities in implementing digital technologies in MSMEs.
4. To suggest policy recommendations and strategies for better tech adoption.

4. RESEARCH METHODOLOGY

- **Research Design:** The study adopts a descriptive and analytical research design to assess the impact of Tech-Saksham on MSMEs.
- **Data Collection:**

- **Primary Data:** Structured questionnaires and interviews with MSME owners who have participated in Tech-Saksham.
- **Secondary Data:** Government reports, academic journals, industry publications, Tech-Saksham program documents.

- **Sample:** A purposive sample of 300 MSMEs across Haryana, Maharashtra, and Tamil Nadu—50% from urban and 50% from semi-urban/rural areas.
- **Hypotheses:**

- **H_0:** There is no significant improvement in MSME performance after adopting digital technologies under Tech-Saksham.
- **H_1:** There is a significant improvement in MSME performance after adopting digital technologies under Tech-Saksham.

- **Statistical Tools:**

- Descriptive statistics (mean, mode, standard deviation)
- T-test and Chi-square test for hypothesis testing

- Regression analysis to study performance factors

5. ANALYSIS AND INTERPRETATION

State	Number of MSMEs
Haryana	99
Maharashtra	94
Tamil Nadu	107
Total	300

Objective 1: To assess the level of technology adoption among MSMEs after the Tech-Saksham initiative

Table 1: Tech Adoption by State

State	Low	Medium	High
Haryana	20	50	29
Maharashtra	21	51	22
Tamil Nadu	29	48	30

Interpretation: Across all states, medium adoption is the most common. Tamil Nadu has a higher number of low adopters, suggesting regional differences in adoption barriers.

Objective 2: To evaluate the change in business performance after adopting digital tools

Table 2: Average Revenue Change by Tech Adoption Level

Tech Adoption Level	Avg. Revenue Change (%)
Low	11.57
Medium	12.37
High	13.64

Interpretation: A positive correlation exists between tech adoption level and revenue change. High-tech adopters experienced the greatest gains.

Table 3: Average Revenue Change by State

State	Avg. Revenue Change (%)
Haryana	12.24
Maharashtra	12.54
Tamil Nadu	12.78

Interpretation: All three states report similar revenue growth, with Tamil Nadu slightly ahead.

Objective 3: To explore the integration of e-commerce and digital marketing practices

Table 4: E-Commerce Usage by State

State	Yes	No
Haryana	63	36
Maharashtra	50	44
Tamil Nadu	71	36

Table 5: Digital Marketing Usage by State

State	Yes	No
Haryana	81	18
Maharashtra	66	28
Tamil Nadu	80	27

Interpretation: Digital marketing is widely used across all states. Tamil Nadu leads in e-commerce integration, reflecting better access or training.

Objective 4: To study the correlation between technology adoption and business expansion

Table 6: Business Expansion by State

State	Yes	No
Haryana	55	44

Maharashtra	60	34
Tamil Nadu	59	48

Interpretation: Around 58% of respondents confirmed business expansion post-tech adoption, validating the transformative role of Tech-Saksham.

Objective 5: To examine MSMEs' satisfaction with Tech-Saksham and its perceived usefulness

Table 7: Average Satisfaction Level (1–5 scale)

State	Avg. Satisfaction Level
Haryana	3.27
Maharashtra	3.18
Tamil Nadu	2.99

Interpretation: Satisfaction levels are moderate, with Haryana reporting slightly better outcomes. More localized customization could improve experience in Tamil Nadu.

Table 8: Chi-Square Test – State vs Tech Adoption Level

Test	Chi^2 Value	p-Value	Significance Level	Result
State x Tech Adoption Level	2.70	0.609	0.05	Not Significant

Interpretation: Technology adoption levels are not significantly different among the states of Haryana, Maharashtra, and Tamil Nadu.

Table 9: ANOVA – Revenue Change across Tech Adoption Levels

Test	F-Statistics	p-Value	Significance Level	Result
Revenue Change x Tech Adoption Level	2.63	0.074	0.05	Marginally Not Significant

Interpretation: There is some variation in revenue change across different tech adoption levels, but the result is not statistically significant at 5% level.

Table 10: Pearson Correlation – Revenue Change vs Satisfaction Level

Variables	Correlation Coefficient (r)	p-Value	Significance Level	Result
Revenue Change x Satisfaction Level	-0.133	0.021	0.05	Weak Negative Correlation

Interpretation: A weak but statistically significant negative correlation exists. This indicates that higher revenue change does not necessarily correspond to higher satisfaction with Tech-Saksham.

Table 11: Chi-Square Test – Tech Adoption Level vs Business Expansion

Test	Chi^2 Value	p-Value	Significance Level	Result
Tech Adoption x Business Expansion	0.80	0.671	0.05	Not Significant

Interpretation: There is no significant relationship between the level of technology adoption and whether the MSME experienced business expansion.

6. MAIN FINDINGS AND SUGGESTIONS

Main Findings

1. Technology Adoption is uniform but varied in Depth

- **Result:** The Chi-Square test (p = 0.609) revealed that MSMEs in Haryana, Maharashtra, and Tamil Nadu have adopted technology at comparable levels.
- **Insight:** Tech-Saksham has successfully ensured geographical outreach, but the depth and type of adoption vary among industries and business sizes.

2. Tech Adoption Positively Influences Revenue—Though Not Strongly

- **Result:** ANOVA results (F = 2.63, p = 0.074) suggested that higher levels of digital adoption tend to associate with increased revenue, but the relationship lacks strong statistical significance.
- **Insight:** The impact of digital adoption on financial performance is evident but moderated by external factors like market size, competition, and product relevance.

3. Satisfaction Levels Do Not Always Reflect Financial Gains

- **Result:** A weak but statistically significant negative correlation (r = -0.133, p = 0.021) between revenue growth and satisfaction.
- **Insight:** MSMEs with improved revenues do not necessarily express higher satisfaction, indicating gaps in user experience, support, or expectations from Tech-Saksham.

4. No Significant Link between Tech Adoption and Business Expansion

- **Result:** Chi-Square test (p = 0.671) showed no significant relationship between technology adoption and overall business expansion.
- **Insight:** Growth and expansion of MSMEs are influenced by multiple dimensions, including access to finance, market demand, and operational scale, rather than just digital upgrades.

5. Major Challenges Identified by MSMEs
From both primary and secondary data, MSMEs cited:

- Inadequate digital training
- Resistance to change from traditional models
- Lack of skilled manpower
- Poor infrastructure (especially in rural areas)
- Financial limitations to adopt advanced tech

Suggestions

1. **Strengthen Digital Literacy and Handholding Support:** Conduct state- and sector-specific workshops and digital helpdesks to assist MSMEs in implementing and troubleshooting technologies under Tech-Saksham.
2. **Customize Technology Solutions by Sector:** Develop tailored digital tools for specific sectors (e.g., manufacturing, textiles, logistics) to increase usability and relevance for MSMEs.
3. **Foster Tech-Market Linkages:** Align tech adoption with market expansion by integrating e-commerce platforms, CRM systems, and digital marketing tools through Tech-Saksham.
4. **Introduce Incentives for Sustained Adoption:** Provide financial subsidies, tax reliefs, or access to low-cost digital loans to MSMEs showing consistent use and performance improvement via technology.
5. **Build a Feedback-Driven Monitoring System:** Incorporate MSME feedback loops in Tech-Saksham to assess satisfaction levels, address implementation gaps, and refine service delivery continuously.
6. **Facilitate Peer Learning and Networking:** Establish cross-state forums or digital communities under Tech-Saksham for MSMEs to share success stories, challenges, and innovations.
7. **Policy-Level Coordination for Infrastructure Development:** Recommend that Tech-Saksham work with state governments and local bodies to improve digital infrastructure in underserved regions, ensuring equitable access to MSMEs.

7. CONCLUSION
The study titled "Empowering MSMEs through Technology: The 'Tech-Saksham' Initiative for Digital Transformation" provides a holistic understanding of how digital adoption is reshaping the Micro, Small, and Medium Enterprises (MSME) sector in India. With primary data collected from 300 MSMEs across Haryana, Maharashtra, and Tamil Nadu, and supported by secondary literature and statistical analysis, this research reveals critical insights into the reach, impact, and challenges of the Tech-Saksham initiative.

The findings clearly indicate that technology adoption under Tech-Saksham has reached MSMEs across the studied states uniformly, indicating successful outreach of the initiative. However, the depth and effectiveness of implementation vary, with multiple businesses still struggling with infrastructural and operational challenges. While some positive impact on revenue and efficiency was observed, the statistical significance of this relationship remains moderate. The disconnect between revenue gains and satisfaction further highlights the need for better user support, training, and post-implementation assistance.

Furthermore, the study found that technology alone does not guarantee business expansion—emphasizing those digital tools must be embedded within a broader business strategy, supported by financial access, market intelligence, and entrepreneurial capacity. Challenges such as resistance to change, skill gaps, inadequate training, and financial constraints emerged as common barriers.

The statistical tools—Chi-Square tests, ANOVA, and Pearson correlation—provided nuanced evidence for interpreting relationships among variables such as revenue growth, satisfaction, business expansion, and tech usage.

In conclusion, while the Tech-Saksham initiative presents a promising platform for driving digital transformation among Indian MSMEs, its success hinges on contextual implementation, continuous feedback mechanisms, and integration with broader capacity-building efforts. With the right combination of policy support, financial assistance, and customized technological solutions, Tech-Saksham can play a pivotal role in empowering MSMEs to become more competitive, resilient, and digitally self-reliant in the evolving global economy.

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MANUSCRIPT SUBMISSION

GUIDELINES FOR CONTRIBUTORS

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2. Book review must contain the name of the author and the book reviewed, the place of publication and publisher, date of publication, number of pages and price.
3. Manuscripts should be typed in 12 font-size, Times New Roman, single spaced with 1" margin on a standard A4 size paper. Manuscripts should be organized in the following order: title, name(s) of author(s) and his/her (their) complete affiliation(s) including zip code(s), Abstract (not exceeding 350 words), Introduction, Main body of paper, Conclusion and References.
4. The title of the paper should be in capital letters, bold, size 16" and centered at the top of the first page. The author(s) and affiliations(s) should be centered, bold, size 14" and single-spaced, beginning from the second line below the title.

First Author Name1, Second Author Name2, Third Author Name3

1Author Designation, Department, Organization, City, email id

2Author Designation, Department, Organization, City, email id

3Author Designation, Department, Organization, City, email id

5. The abstract should summarize the context, content and conclusions of the paper in less than 350 words in 12 points italic Times New Roman. The abstract should have about five key words in alphabetical order separated by comma of 12 points italic Times New Roman.
6. Figures and tables should be centered, separately numbered, self explained. Please note that table titles must be above the table and sources of data should be mentioned below the table. The authors should ensure that tables and figures are referred to from the main text.

EXAMPLES OF REFERENCES

All references must be arranged first alphabetically and then it may be further sorted chronologically also.

- **Single author journal article:**

Fox, S. (1984). Empowerment as a catalyst for change: an example for the food industry. *Supply Chain Management*, *2*(3), 29–33.

Bateson, C. D.,(2006), 'Doing Business after the Fall: The Virtue of Moral Hypocrisy', Journal of Business Ethics, 66: 321 – 335

- **Multiple author journal article:**

Khan, M. R., Islam, A. F. M. M., & Das, D. (1886). A Factor Analytic Study on the Validity of a Union Commitment Scale. *Journal of Applied Psychology*, *12*(1), 129-136.

Liu, W.B, Wongcha A, & Peng, K.C. (2012), "Adopting Super-Efficiency And Tobit Model On Analyzing the Efficiency of Teacher's Colleges In Thailand", International Journal on New Trends In Education and Their Implications, Vol.3.3, 108 – 114.

- **Text Book:**

Simchi-Levi, D., Kaminsky, P., & Simchi-Levi, E. (2007). *Designing and Managing the Supply Chain: Concepts, Strategies and Case Studies* (3rd ed.). New York: McGraw-Hill.

S. Neelamegham," Marketing in India, Cases and Reading, Vikas Publishing House Pvt. Ltd, III Edition, 2000.

- **Edited book having one editor:**

Raine, A. (Ed.). (2006). *Crime and schizophrenia: Causes and cures.* New York: Nova Science.

- **Edited book having more than one editor:**

Greenspan, E. L., & Rosenberg, M. (Eds.). (2009). *Martin's annual criminal code:Student edition 2010.* Aurora, ON: Canada Law Book.

- **Chapter in edited book having one editor:**

Bessley, M., & Wilson, P. (1984). Public policy and small firms in Britain. In Levicki, C. (Ed.), *Small Business Theory and Policy* (pp. 111–126). London: Croom Helm.

- **Chapter in edited book having more than one editor:**

Young, M. E., & Wasserman, E. A. (2005). Theories of learning. In K. Lamberts, & R. L. Goldstone (Eds.), *Handbook of cognition* (pp. 161-182). Thousand Oaks, CA: Sage.

- **Electronic sources should include the URL of the website at which they may be found, as shown:**

Sillick, T. J., & Schutte, N. S. (2006). Emotional intelligence and self-esteem mediate between perceived early parental love and adult happiness. *E-Journal of Applied Psychology, 2*(2), 38-48. Retrieved from http://ojs.lib.swin.edu.au/index.php/ejap

- **Unpublished dissertation/ paper:**

Uddin, K. (2000). A Study of Corporate Governance in a Developing Country: A Case of Bangladesh (Unpublished Dissertation). Lingnan University, Hong Kong.

- **Article in newspaper:**

Yunus, M. (2005, March 23). Micro Credit and Poverty Alleviation in Bangladesh. *The Bangladesh Observer*, p. 9.

- **Article in magazine:**

Holloway, M. (2005, August 6). When extinct isn't. *Scientific American, 293*, 22-23.

- **Website of any institution:**

Central Bank of India (2005). *Income Recognition Norms Definition of NPA.* Retrieved August 10, 2005, from http://www.centralbankofindia.co.in/ home/index1.htm, viewed on

7. The submission implies that the work has not been published earlier elsewhere and is not under consideration to be published anywhere else if selected for publication in the journal of Indian Academicians and Researchers Association.

8. Decision of the Editorial Board regarding selection/rejection of the articles will be final.

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