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# THE EVOLUTION OF JUSTICE: FROM ANCIENT GREEK AND INDIAN

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## ABSTRACT

*The concept of justice has evolved significantly from the ancient philosophies of Greece and India to the sophisticated frameworks of contemporary law systems. This paper traces the philosophical roots of justice as seen through the works of thinkers like Plato, Aristotle, Kautilya, and Manu. It further explores how these ancient notions of justice have influenced modern legal systems, drawing parallels between the ethical and legal foundations laid in antiquity and the principles that govern contemporary justice systems today. By examining both the historical and contemporary perspectives, the paper seeks to provide a comprehensive understanding of justice's enduring relevance*

**Keywords:** Aristotle, Justice, Kautilya, Law, Plato, Philosophy.

## INTRODUCTION

The concept of justice has been central to the evolution of human civilization, deeply embedded in philosophical, legal, and ethical frameworks across cultures. From the philosophies of ancient Greece and India to the complex systems of contemporary law, justice has undergone a profound transformation, yet its core remains focused on fairness, equality, and the moral rightness of actions and societal structures. Philosophers such as Plato and Aristotle in Greece, and Kautilya and Manu in India, provided foundational ideas about justice that have continued to influence legal systems around the world. In ancient Greece, justice was a central theme in the works of Plato and Aristotle. Plato's theory, presented in *The Republic*, conceptualized justice as a harmonious structure, both within the individual and society, where each part performs its designated function. Aristotle, in his *Nicomachean Ethics*, provided a more practical perspective, defining justice in terms of fairness, balance, and proportionality. His ideas about distributive and corrective justice laid the groundwork for much of modern legal theory in the Western world.

Simultaneously, ancient Indian philosophers like Kautilya and Manu were constructing their own concepts of justice, grounded in the principles of dharma (duty and righteousness). Kautilya's *Arthashastra* was a treatise on governance and statecraft, where justice was seen as essential for maintaining social order and stability. Manu, through his *Manusmriti*, proposed a hierarchical and duty-based conception of justice, emphasizing the fulfillment of societal roles as the path to maintaining order and cosmic balance. The evolution of these philosophies from ancient Greece

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By tracing the development of justice from ancient philosophical traditions to modern legal systems, this paper seeks to explore the enduring relevance of these foundational ideas and their impact on the legal frameworks that shape societies today. In the sections that follow, this paper will examine the philosophical underpinnings of justice in ancient Greece and India, followed by a discussion of how these early ideas have permeated modern legal systems. Through a comparative analysis, this study will illuminate the continued significance of ancient theories of justice in addressing contemporary legal and ethical challenges.

## **II. Philosophies of Justice in Ancient Greece**

The ancient Greek understanding of justice was profoundly shaped by the works of philosophers such as Socrates, Plato, and Aristotle. These thinkers laid the intellectual groundwork for Western legal and ethical thought by conceptualizing justice not merely as a legal construct but as a moral and societal virtue essential to human well-being. Their philosophical inquiries into justice continue to influence contemporary debates on law, ethics, and governance.<sup>1</sup>

### **A. Plato's Vision of Justice**

In his seminal work *The Republic*, Plato presents a theory of justice that goes beyond mere legalism, envisioning it as a fundamental principle of harmony both within the individual and society. For Plato, justice occurs when every individual and every class within society perform their designated role without interference from others. He uses the allegory of the soul to explain this concept: just as the rational part of the soul must rule over the spirited and appetitive parts for an individual to be just, so too must the ruling class (philosopher-kings), the auxiliaries (soldiers), and the producing class (workers) perform their distinct roles for society to function justly.<sup>2</sup> Plato's ideal society is one in which justice ensures that all parts of the community work in concert, much like the parts of the soul. For him, justice is "doing one's own work" (*to dikaion prattein*) and ensuring that all elements of society are in their rightful place, governed by wisdom and reason. This vision of justice emphasizes social harmony and the collective good, offering a utopian ideal where justice is synonymous with the proper functioning of a well-ordered society.

### **B. Aristotle's Concept of Distributive and Corrective Justice**

Aristotle, Plato's student, offers a more practical and grounded approach to justice in his *Nicomachean Ethics*. Rather than focusing on an ideal state, Aristotle explores justice in everyday transactions and governance. He divides justice into two key types: distributive justice and corrective justice.<sup>3</sup>



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**Distributive Justice:** Aristotle's concept of distributive justice is concerned with the fair distribution of goods, honors, and wealth within society. According to Aristotle, fairness is not based on equality in the absolute sense but on proportionality. People should receive resources and opportunities based on their merit or contribution to society. Thus, distributive justice involves ensuring that individuals receive what is due to them based on a proportionate measure, rather than an equal division of goods <sup>4</sup>. This notion of proportional fairness has deeply influenced modern economic theories of justice, as well as the distribution of legal rights and obligations.

**Corrective Justice:** In contrast to distributive justice, corrective justice deals with the rectification of wrongs and the restoration of balance when an injustice has occurred. This form of justice is often applied in legal systems, particularly in torts and contract law, where the aim is to correct an imbalance created by wrongdoing, fraud, or unfair transactions. Aristotle's corrective justice focuses on returning the parties to a state of equality by rectifying any disproportionate gain or loss that resulted from the injustice <sup>5</sup>.

Aristotle's work stands out for its methodical and systematic approach to justice. His emphasis on equity, fairness, and proportionality has had a lasting influence on Western legal thought, particularly in the realms of civil and criminal law.

### **C. The Socratic Method and Justice**

Though Socrates left no written works of his own, his dialogues as recorded by Plato contributed significantly to the development of justice as a philosophical inquiry. Socrates engaged his interlocutors in a dialectical method known as the Socratic method, a process of asking probing questions to reveal contradictions in thought and clarify ethical concepts, including justice. Socrates famously challenged traditional notions of justice in Athenian society by questioning whether justice is simply the advantage of the stronger, as was proposed by the Sophists. Through his method of inquiry, Socrates sought to show that justice is not merely a matter of power or self-interest but is intrinsically linked to virtue and the moral order. His approach laid the foundation for critical thinking about justice as something that must be rationally examined rather than accepted based on tradition or authority <sup>6</sup>.

The Greek philosophers provided two complementary visions of justice. Plato's idealistic view of justice emphasized a well-ordered society where each individual and class fulfills its appropriate role, leading to harmony and balance. Aristotle, meanwhile, focused on the practical aspects of justice, centering his theory on fairness in distribution and rectification. Together, their ideas laid the intellectual foundation for much of Western thought on justice, influencing legal theories of rights, equality, and fairness in modern jurisprudence. The examination of these classical notions of justice reveals a deep

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concern with the balance between individual rights and societal harmony. Both Plato and Aristotle viewed justice as essential not just for the functioning of legal systems but for the moral and ethical development of individuals and society as a whole. Their ideas continue to resonate in contemporary legal systems, offering valuable insights into the nature of law and justice.

### **III. Philosophies of Justice in Ancient India**

The concept of justice in ancient India was deeply rooted in the philosophical and spiritual traditions of dharma (moral duty) and rta (cosmic order). Justice was not viewed merely as a legal or societal construct but as a fundamental aspect of the moral order of the universe, reflecting a harmony between individual behavior, societal roles, and the divine. Two of the most prominent figures in the development of justice in ancient Indian philosophy were Kautilya and Manu, whose works on law, governance, and ethics continue to influence modern Indian legal thought.

#### **A. Kautilya's Pragmatic Approach to Justice**

Kautilya, also known as Chanakya, was an ancient Indian philosopher, economist, and political strategist who is best known for his treatise, the Arthashastra. This text is one of the earliest comprehensive works on statecraft, politics, and law, and it offers a highly pragmatic approach to justice, emphasizing the role of the ruler in maintaining order and protecting the state. Kautilya's philosophy of justice is grounded in practical governance. He believed that the stability of the state depended on a strong legal framework enforced by a powerful ruler. The king, in Kautilya's view, was the ultimate authority on justice, tasked with upholding dharma (moral law) and ensuring the well-being of his subjects. Justice, according to Kautilya, was a means of maintaining social order and preventing chaos, with the ruler responsible for protecting the weak from the strong, ensuring fairness in economic transactions, and punishing wrongdoers to deter crime 8

Kautilya's justice system was both retributive and preventive. He believed that harsh punishments, including corporal and capital punishment, were necessary to deter criminals and maintain law and order. However, his vision of justice also included aspects of fairness and equity, as he advocated for the protection of marginalized groups, such as women, children, and the poor. Kautilya's emphasis on the ruler's role in dispensing justice reflects a highly centralized form of governance, where law and justice were seen as tools of statecraft designed to strengthen the power of the king and ensure societal stability 9.

#### **B. Manu's Dharma-Based Justice**

The Manusmriti (Laws of Manu), attributed to the sage Manu, is one of the oldest and most influential

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texts on law and justice in ancient India. The text presents a comprehensive code of conduct that governs all aspects of life, from individual morality to the organization of society. Justice in the Manusmriti is inseparably linked to dharma, the concept of duty and righteousness, which dictates the proper conduct of individuals according to their caste (varna) and stage of life (ashrama).<sup>10</sup>

Manu's philosophy of justice was deeply hierarchical, reflecting the structured social order of ancient India. The varna system, which divided society into four main classes (Brahmins, Kshatriyas, Vaishyas, and Shudras), was central to Manu's conception of justice. Each class had specific duties and responsibilities, and justice was achieved when individuals fulfilled their prescribed roles. The laws outlined in the Manusmriti were designed to maintain the cosmic and social order by ensuring that everyone adhered to their dharma.<sup>11</sup> Justice in the Manusmriti was also linked to the concept of karma, the idea that one's actions in this life would determine their fate in future incarnations. Manu's justice system was therefore not only concerned with punishment and retribution in this life but also with the moral consequences of actions in the cycle of rebirth. While the text has been criticized for its rigid social hierarchy and its often unequal treatment of women and lower castes, its influence on traditional Indian legal and social systems has been profound and long-lasting.<sup>12</sup>

### **C. Justice and the Vedic Tradition**

The philosophical underpinnings of justice in ancient India are also rooted in the Vedic tradition, which predates the Arthashastra and the Manusmriti. In the Vedic texts, justice is closely related to the concept of rta, or the cosmic order, which governs both the natural and social worlds. Rta is the principle that ensures harmony and balance in the universe, and it is maintained through the proper observance of dharma. The gods, particularly Varuna, are seen as the upholders of rta, and human justice is conceived as a reflection of this divine order. The idea of rta influenced the development of both individual and societal justice. Individuals were expected to live in accordance with dharma, performing their duties without causing harm or disruption to the cosmic order. Similarly, rulers were expected to govern justly, ensuring that laws and punishments were in line with the divine will and contributed to the preservation of order. This connection between divine order and human justice is a recurring theme in ancient Indian philosophy and highlights the spiritual dimension of justice in Vedic thought.<sup>13</sup>

### **D. Comparison with Greek Philosophical Justice**

While the Greek philosophers, particularly Aristotle, emphasized distributive and corrective justice, the ancient Indian conception of justice was more focused on the fulfillment of duties according to one's position in society. In India, justice was not only a matter of fairness but also a means of maintaining social harmony and cosmic balance. The Greek philosophers viewed justice more as a social and legal

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construct that applied universally, whereas in India, justice was deeply personal and relational, dependent on the individual's role in society and their adherence to dharma.

Furthermore, where Aristotle's justice involved rectifying inequalities and restoring balance through fairness, Indian justice—especially in the Manusmriti—was more about maintaining the established social order. The hierarchical nature of justice in the Indian tradition was contrasted by the more egalitarian ideals of justice in Greek thought, where citizenship and merit determined one's standing in society rather than birth or caste.<sup>14</sup>

The philosophies of justice in ancient India offer a unique perspective on the relationship between law, morality, and social order. Kautilya's pragmatic approach emphasized the role of the state in maintaining justice through governance and punishment, while Manu's Manusmriti connected justice to dharma, presenting a more hierarchical and duty-based system. These philosophies laid the foundation for traditional Indian legal systems, and their influence continues to be felt in modern Indian law and social practices. The deep interconnection between justice, cosmic order, and individual duty remains one of the defining features of ancient Indian philosophical thought.<sup>15</sup>

#### **IV. Justice in Contemporary Legal Systems**

Justice in contemporary legal systems has evolved significantly from the ancient philosophical foundations laid by thinkers in both the Greek and Indian traditions. Today, the notion of justice is inextricably linked with the rule of law, human rights, and the principles of fairness and equality. While ancient conceptions of justice focused on duty, virtue, and social harmony, contemporary legal systems prioritize individual rights, democratic governance, and procedural fairness. Nevertheless, many of the core ideas from ancient traditions, such as proportionality, fairness, and the need for social order, continue to influence modern legal frameworks.<sup>16</sup>

##### **A. The Influence of Western Legal Tradition**

The Western legal tradition, particularly in Europe and North America, has been profoundly shaped by the ideas of justice formulated by Greek philosophers such as Plato and Aristotle. These ideas have permeated legal theory, informing the development of constitutional law, civil rights, and criminal justice.

**Constitutional Law and Human Rights:** Modern constitutions, particularly in liberal democracies, enshrine justice as a central principle, often expressed through guarantees of equality before the law, protection of individual liberties, and the right to due process. The Universal Declaration of Human

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Rights (UDHR), adopted by the United Nations in 1948, embodies the idea of justice as fairness, echoing Aristotle's principles of distributive and corrective justice. The declaration emphasizes the need to protect human dignity and ensure that individuals are treated equally regardless of their background<sup>17</sup>

The influence of Greek philosophical traditions is evident in the framing of constitutions that aim to balance state authority with individual rights. Aristotle's emphasis on proportionality and fairness has influenced constitutional scholars, ensuring that laws promote the public good while protecting individual freedoms. Contemporary debates about social justice, particularly those concerning racial, economic, and gender equality, can be traced back to the ancient Greek commitment to fairness and balance in the distribution of resources and opportunities.

**Criminal Justice Systems:** The principle of proportionality, as articulated by Aristotle, continues to play a pivotal role in modern criminal justice systems. The idea that the punishment should fit the crime—ensuring that offenders receive sanctions proportional to the severity of their offenses—remains a cornerstone of criminal sentencing practices<sup>18</sup>. This principle has been institutionalized through the development of sentencing guidelines and judicial precedents that seek to ensure fairness in punishment.

Additionally, the concept of corrective justice, which deals with rectifying wrongs and restoring balance, is foundational in civil and criminal law. Modern legal systems have adopted mechanisms like compensation for damages, restorative justice programs, and rehabilitation-focused sentencing, all of which aim to repair the harm caused by wrongdoing rather than simply punish the offender. This reflects a shift from retributive justice models toward more equitable systems of redress and reconciliation.<sup>19</sup>

## **B. The Influence of Indian Legal Tradition**

Contemporary legal systems in India have evolved from a complex interplay between ancient indigenous traditions and colonial legal frameworks. The Indian Constitution, adopted in 1950, reflects both the legacy of British common law and the influence of ancient Indian philosophies, particularly those related to dharma and justice.

**Dharma and Social Justice:** The Indian concept of dharma has influenced modern legal thought, particularly in the realm of social justice and governance. The Indian Constitution incorporates principles of justice that are not only legal but also ethical and moral, echoing the dharma-based justice found in texts like the Manusmriti and the Arthashastra. Articles in the Constitution, such as those pertaining to affirmative action (reservation policies for disadvantaged groups), aim to rectify historical inequalities and ensure fairness in opportunities, much like the ancient concern with maintaining social

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balance through justice<sup>20</sup>

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Indian jurisprudence has also been deeply influenced by the idea of restorative justice, which seeks to repair the harm caused by crime or injustice. This principle is reflected in several progressive judgments by the Indian judiciary, which have emphasized reconciliation, social rehabilitation, and the protection of marginalized communities. These judgments, while modern in their application, echo ancient Indian values of justice as a means of maintaining societal harmony and balance.

**Rights-Based Legal Frameworks:** The Indian legal system has integrated ancient ideals with modern principles of justice, particularly in its protection of fundamental rights. For instance, the Right to Equality (Article 14 of the Indian Constitution) guarantees that all individuals are treated equally before the law, while Article 21 guarantees the Right to Life Personal Liberty, which has been expansively interpreted to include a broad array of human rights protections, from environmental justice to the right to privacy<sup>21</sup>. These constitutional protections reflect a fusion of ancient Indian concerns with justice and fairness, as well as contemporary liberal legal values.

**Caste and Justice:** One of the most significant justice-related challenges in contemporary Indian law is addressing the legacy of the caste system, which has deep roots in the varna-based justice outlined in the Manusmriti. Modern Indian law, through various constitutional provisions and statutes, has sought to dismantle caste-based discrimination and promote social justice for historically marginalized groups, including Scheduled Castes and Scheduled Tribes. Affirmative action policies and legal protections for disadvantaged communities reflect an effort to rectify historical wrongs, a concept that resonates with both modern and ancient ideas of distributive justice<sup>22</sup>.

### C. Global Legal Systems and Justice

Globally, justice in contemporary legal systems is increasingly framed in terms of human rights and international law. Institutions such as the International Court of Justice (ICJ) and the International Criminal Court (ICC) have adopted principles of justice that transcend national boundaries, applying universal legal norms to address issues like war crimes, genocide, and crimes against humanity. These institutions embody a vision of justice that reflects both the Greek philosophical ideals of fairness and proportionality, as well as Indian notions of dharma, where justice serves to uphold universal ethical standards.

International legal systems are built on the premise that justice must serve the global good, ensuring that individuals and states are held accountable for violations of international law. This global vision of

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justice, rooted in the post-World War II era, draws heavily from the philosophical traditions of both the East and West, uniting concepts of legal order, fairness, and moral responsibility.<sup>23</sup>

#### **D. Challenges in Contemporary Justice Systems**

While the evolution of justice has seen significant advancements, contemporary legal systems face several challenges in upholding justice in an increasingly complex world. Issues such as economic inequality, discrimination, and access to justice remain persistent barriers to achieving true fairness. In many parts of the world, marginalized groups continue to face systemic injustice, whether through discriminatory laws, corrupt practices, or unequal access to legal resources.

In response, modern justice systems are increasingly incorporating restorative justice approaches, which focus on healing and reconciliation rather than punitive measures. Additionally, legal systems are embracing alternative dispute resolution mechanisms, such as arbitration and mediation, to promote fair outcomes without the delays and costs associated with formal litigation. These approaches reflect a shift towards a more holistic understanding of justice, one that values community, dialogue, and mutual respect.<sup>24</sup>

Justice in contemporary legal systems reflects a complex tapestry of ancient philosophies and modern legal developments. The influence of Greek philosophers like Plato and Aristotle is evident in the emphasis on fairness, equality, and proportionality in modern constitutional and criminal justice systems. Similarly, Indian traditions of dharma and social order continue to shape legal frameworks that emphasize restorative justice, social equity, and the protection of marginalized groups.<sup>25</sup> While contemporary legal systems have made great strides in institutionalizing justice, ongoing challenges such as inequality, discrimination, and access to justice remind us of the continuing relevance of both ancient and modern approaches to legal and ethical questions. By drawing on the wisdom of the past and the innovations of the present, modern legal systems can continue to evolve towards a more just and equitable future.

#### **V. Conclusion**

The evolution of justice, from the philosophies of ancient Greek and Indian thinkers to contemporary legal systems, reveals a profound and enduring commitment to fairness, order, and the well-being of society. While justice in ancient times was deeply intertwined with moral duty, social hierarchy, and cosmic balance, modern legal systems have shifted towards a more rights-based, egalitarian approach. Yet, the fundamental principles laid down by philosophers like Plato, Aristotle, Kautilya, and Manu



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and Manu continue to shape how justice is conceived and applied today. In ancient Greece, Plato's vision of justice as harmony and Aristotle's emphasis on distributive and corrective justice laid the foundation for Western legal thought, influencing modern concepts of human rights, fairness, and proportionality. Their philosophies contributed to the development of legal principles that continue to guide contemporary jurisprudence, particularly in constitutional law and criminal justice.

Similarly, ancient Indian conceptions of justice, particularly through the works of Kautilya and Manu, have influenced the development of modern legal frameworks in India. Concepts of dharma, social responsibility, and governance have left an indelible mark on India's legal social systems. The legacy of caste and the hierarchical nature of justice in ancient India continues to challenge modern Indian legal thought, as the country seeks to reconcile its traditional values with contemporary ideals of equality and social justice. In the broader context of global legal systems, the ancient principles of justice have been adapted to address modern issues such as human rights, international law, and global governance. Institutions like the United Nations, the International Criminal Court, and various national constitutions reflect the enduring influence of these ancient traditions, which continue to inform how justice is understood and implemented.

However, contemporary justice systems face persistent challenges. Inequality, discrimination, and limited access to justice remain obstacles to achieving true fairness. As legal systems continue to evolve, there is an increasing emphasis on alternative approaches, such as restorative justice, mediation, and community-driven legal reforms, which draw on both ancient wisdom and modern innovations. Justice, as a philosophical and legal concept, has transformed over millennia but remains a fundamental principle in society. From the ancient philosophers of Greece and India to the modern architects of constitutional democracies and international law, the quest for justice is ongoing. As legal systems continue to evolve, they must balance the ancient ideals of duty, fairness, and order with the contemporary demands for equality, rights, and social progress, ensuring that justice remains a vital and living principle in the governance of society.

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## WAIVER OF FUNDAMENTAL RIGHTS AND NATURAL JUSTICE : MICROSCOPIC

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### ABSTRACT

*A waiver is an abandonment of right. The assumption behind waiver is that a man is best judge of his interest. If he waives his right, he cannot claim it later. In order to establish waiver it is necessary to establish that the person waiving his right had full knowledge of the right or privilege, and that the right or privilege was conferred principally for his benefit and not principally for the benefit of public, for in the latter case it would be against the policy of the law to allow him to waive it. 1*

**Key Words:** Waiver, Fundamental Rights, Statutory Rights, Natural Justice, Doctrine of Waiver.

### INTRODUCTION

It is open to a citizen to waive any of the fundamental rights conferred by part 3 of constitution. These rights have been put in the Constitution not merely for the benefit of the individual but as a matter of public policy for the benefit of the general public. It is an obligation imposed upon the state by the constitution. No person can relieve the state of this obligation, because a majority of our people is economically poor, educationally backward and politically not yet conscious of their rights. In such circumstances, it is the duty of this court to protect their right against themselves

#### Doctrine of Waiver

A waiver is an intentional relinquishment of a known right. There can be no waiver unless the person against whom waiver is claimed had full knowledge of this right and facts enabling him to take effectual action for the enforcement of such right.

*In Motilal Padampat Sugar Mills v. State of U.P.*, the government sought to impose the sales tax. The petitioners agreed to pay half of the normal rate. Thereafter, they challenged the levy. But the government cannot be allowed to raise the plea of waiver for the first time at the hearing of the writ petition because it

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had not been taken in its affidavits. He further stated that the instant case, waiver could not apply as there was nothing to show that the appellants had full knowledge of their right and that they intentionally abandoned it.

### **Waiver of Fundamental Rights**

The question whether a Fundamental Right can be waived arose before the Supreme Court in *Basheshier Nath v. C.I.T.*<sup>2</sup> The facts of the case were that the appellant whose matter had been referred to the Investigation Commission in pursuance of section 5(1) of the Taxation of Income (Investigation Commission) Act, 1947 entered into a settlement with the department with respect to his income liability arising out of concealment of large amount of his income. He was allowed to pay his tax liability under the settlement in instalment. In the meanwhile, the Supreme Court, in another case,<sup>3</sup> had declared that section 5 (1) of the Taxation of Income (Investigation Commission) was ultra vires the Constitution as it was violative of Article 14.

The assessee paid a few installments even after the Court's ruling, but then stopped making payments on the ground that the settlement became invalid in view of ultra vires character of the relevant law. He invited the Court to hold that he absolved of his obligation under the settlement.

On the other hand, the Government contended that the settlement was enforceable as he had waived his Fundamental Right under Article 14 by his conduct. In an unanimous decision, the Court held in appellant's favour and ruled that there was no waiver by him of his rights. The Court observed :

*“Waiver is voluntary relinquishment or intentional abandonment or relinquishment of a known right, benefit, privilege or advantage, which but for waiver, the party could have enjoyed”.*

According to this test, there was no waiver on the appellant's part as he could not be presumed to know that the Act in question was constitutionally invalid. However judges delivered separate opinions in the Court.

S.R. Das, C.J. and Kapoor, J., confined their opinion to the fundamental right involved in the case and held that right under article 14 cannot be waived. Bagwati and Subba Rao, JJ., held that it is not open to a citizen to waive any of the Fundamental Rights guaranteed by Part 3 of the Constitution. S.K. Das, J., took the view that Fundamental Rights may be waived, except on grounds of public policy.

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In course of time, Bhagwati, J.'s opinion has become the binding norm and the position is that no Fundamental Right can be waived.<sup>4</sup>

The doctrine of waiver cannot be invoked where the legislature passing the statute lacks the very competence to enact the law. **In Behram Khurshid v. State of Bombay**,<sup>5</sup> Venkatarama Ayyar, J. seems to be correct when he observed :

*"If the statute is beyond the competence of the legislature, as for example, when the State enacts a law which is within the exclusive competence of the Union, it would be anullity."*<sup>6</sup>

Thus, it is in such a case that there would be no question of waiver.

### **Waiver of Statutory Rights**

Whether a person can waive his right or not depends on consideration of two First, whether the statute guaranteed rights exclusively in favor of the person concerned or third persons as well. The doctrine of waiver cannot be applied in the latter case.<sup>7</sup>

**Secondly**, even if the statute vests rights exclusively in the person waiving that right, still the waiver may not be allowed on the grounds of public policy, public interest or public morality.

Thus, in *Murlidhar v. State of U.P.*,<sup>8</sup> the Court came to consider the question of waiver of statutory right on the ground of public policy. In this case section 3 of the UP. (Temporary) Control of Rent and Eviction Act, 1947 provided that no suit would be filed by a landlord against a tenant for his eviction without the permission of the District Magistrate. However, an agreement was concluded between the parties that no party would claim the statutory benefit. The landlord filed a suit for eviction of the tenant without obtaining the permission of the District Magistrate.

The question posed before the Court was whether section 3 was enacted for the benefit of tenants or whether there was a „public policy underlying it which precluded a tenant from waiving its benefit. It was held by the Court that section 3 was founded on public policy and was

*"intended to protect the weaker section of the community with a view to ultimately protecting the interest of the community in general by creating equality of bargaining power."*

On the other hand, such provisions of Rent Control Act as are for the benefit of the landlord can be waived

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d by him, for he is not in the same bargaining position as a tenant.<sup>9</sup>

In **Director of Inspection of Income Tax v. Pooran Mal and Sons**,<sup>10</sup> under section 132 (5) of the Income Tax Act, 1961, the Income Tax Officer passed an order for retaining seized silver bars within ninety days but without giving reasonable opportunity of hearing to the petitioner. A petition was filed before the High Court under Article 226 for issue of Writ. The High Court passed an order quashing the I.T.O.'s order but allowing him to look into the matter afresh after giving an opportunity to hear the petitioner. After hearing the petitioner, a similar order as the one before was passed again. A writ petition was filed challenging the validity of the said order on the ground that the ITO had no jurisdiction to pass the impugned order after the prescribed time. The High Court gave him relief. But in appeal the Supreme Court upheld the said order on the ground of waiver.

*It was held that as the period of limitation prescribed by section 132 (5) “ is intended for the benefit of the persons like the respondents ”, they could waive it and that they had in fact waived it.*

In **Superintendent of Taxes v. O.N. Trust**,<sup>11</sup> the petitioners were granted from the High Court interim orders staying the tax proceedings against them on basis of invalidity of the Act. But the Supreme Court held the Act to be valid. In the meantime, the statutory time limit for issuing notices for initiating assessment proceedings had expired. The Government contended that the petitioners should be deemed to have waived their right to receive notices within the time-limit by their conduct in obtaining Stay Orders from the High Court. The Supreme Court by majority refused to accept the contention.

*The majority observed “A distinction arises between the provisions which confer jurisdiction and provisions which regulate procedure. Jurisdiction can neither be waived nor created by consent. A procedural provision may be waived by conduct or agreement”.<sup>12</sup>*

In this case the issue of notice related to the exercise of jurisdiction and could not be waived.

In **State of Kerala v. Aluminium Industries Ltd.**,<sup>13</sup> the petitioners submitted their sales tax return showing their taxable turnover and paid the tax accordingly. However, later, they came to know that some part of the turn-over was not taxable under the Constitution.

It was, therefore, that they applied for refund. Taking the plea of waiver, the government refused to refund the money to the petitioners. It was ruled that there was no question of waiver as the mistake of law was common to both the parties.

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## Waiver of Natural Justice

A person may waive his objection to his matter being decided by a person subject to the disqualification of bias. Thus in *A.C. Cooper v. Union of India*,<sup>14</sup> the bench adjudicating upon the constitutionality of the statute nationalising the 14 major Banks consisted of two judges having some shares in some of the Nationalised Banks. On behalf of the Government of India, the Attorney-General waived the objection against those judges hearing the case. Thereafter, the Bench proceeded with the hearing.

Waiver may be inferred if the party or his legal representative knew of the disqualification of the judge but acquiesced in the proceeding by raising no objection in the proceeding at the earliest practicable opportunity. The Supreme Court has propounded the principle in the following words:<sup>15</sup>

*“The alleged bias in a member of the Tribunal does not render the proceeding invalid if it is shown that the objection against the presence of the member in question had not been taken by the party even though the party knew about the circumstances giving rise to the allegations about the alleged bias and was aware of his right to challenge the presence of the member in the Tribunal. It is true that waiver cannot always and in every case be inferred merely from the failure of the party to take the objection. Waiver can be inferred only if and after it is shown that the party knew about the relevant facts and was aware of his right to take the objection in question.”*

As regards the position of waiver with respect to other aspect of natural Justice there is judicial authority for the proposition that if the initial notice is bad, acquiescence by the party does not preclude him from subsequently contesting it.<sup>16</sup> However, the rest of the hearing may be waived by not taking advantage of it as it is meant for the benefit of the affected person

Thus, in a disciplinary proceeding under Article 311 of the Constitution,<sup>17</sup> an Opportunity was afforded to a civil servant to explain his conduct but, he did not avail it. The Court held that the principles of natural justice were not violated if the inquiry was conducted ex parte.<sup>18</sup>

## CONCLUDING REMARKS

From the explanation above, it may be concluded that a person is always free to waive out their rights, whether they are statutory or contractual. The doctrine of waiver is completely compatible with the estoppel principle because it plays a crucial part in acts of waiver. There is no real consideration needed to exercise a right that has been waived because waiver is consensual in nature and always requires two or more parties.

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The public policy and interest vested in the right sought to be waived must be taken into consideration, and this has its own limitations that must be determined from the facts of each instance. This is something that cannot be ignored. The fundamental rights, on the other hand, are so fundamental and important to the public's interest that they are currently completely prohibited with no exceptions.





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# ROLE OF MEDIA IN PROTECTING DEMOCRATIC VALUES

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## **ABSTRACT**

*Democracy cannot make real progress without media or a free press. In clear words, democracy is the power of the people, for the people and by the people. In this sense dynamic and vigilant participation of a free press is important in a vote-based society. This is the voice of the people. It is expected to play a monstrous role in the guise of a healthy democracy. Media is seen as the heart of a democratic society. As an essential wellspring of information, it makes people aware in all the countries of the world. Media is generally tried to be presented as the fourth backbone of democracy. It alerts people about different events from grounds like sports, official issues, financial and social etc. The Paper is an undertaking to examine the specific function of the media in the Indian democracy.*

**Key Words:**

*India, Democracy, Media, Corruption*

## **INTRODUCTION**

In important terms, democracy is characterized as a relationship of the people, for the people and by the people. The media is considered the fourth pillar of a society ruled by the majority, after the leader, the law-making body, and the truth guide. Democracy and media run strong. The media encourage the pace of progress while promoting sustainable values and norms. The years saw a more significant qualm of interest among the standard person and the media. It is the media itself that has become a part of the presence of the people of India who depend on it for the most part for various needs including information and redirection. Media keeps social classes mixed and it cannot be denied that it has become a great instrument of social change.

There was special control over the media during the British rule. In the 20th century, for the security of the state, people were denied terrible information and straightforwardness was a distant dream when it came to spending time. The print media was expected to play a primary role during India's entry struggle and found a guilty accomplice. It is a plain truth that a vast majority of political dissidents were familiar with the dissemination data and should be journalists. The media influenced India's turn of events to a greater extent. As in the post-India period, the accountability and control of the media was improved, in any case the activities of the media were explicitly regulated during the time of the Emergency.

The media today essentially touch all parts of our public life. The media is expected to play a fundamental and essential role in connecting and educating people. The media can help with public

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relations by moving issues forward and through data, authority and moving people forward. Keep in mind about various regular advancement programs, family orchestrating improvements can be disseminated using the media. It exposed farmers to new and improved methods of agriculture and crop protection. The media is expected to play an amazingly proven part in mobilizing people against the various calamities won in the entire public like child marriage, female infanticide, malevolent performance of girl child etc. Irrespective of the illuminating undertakings, it can cover multiple students in a single step.

The control of the media in the vote-based structure has been broken for the most part. India has one of the best democracy on earth and media has strong sectors in the country. In fact, Indian media has been dependent on a lot of assessment of how they have discharged their obligation towards social responsibility. In the field of media, a dangerous master blueprint has affected the outer layer of Indian democracy. Today's vast mix of media preoccupations has compromised the presence of pluralistic perspectives.

Democracy is usually clearly a type of government that is subject to extraordinary power. It is an ideal held by people at the most essential level as opposed to states or higher social systems. One of the crow wonders of the permanent based structure is the opportunity for explanation and the space given to the public from different areas of view. A sustainable based plan can compete beyond its most ridiculous potential when there is massive help from the general public which is unfathomable without making up for the various issues people face.

Its wide correspondence in various plans has influenced human life for a hundred consecutive years. They have basically given information and redirection to the people of the countries. The print media, having been the torchbearers through a wide range of time, is now challenged by television, which is reshaping countless social reactions. Radio separated by giving news and viewpoints has thus gained much validation, in addition to fostering an energy for redirection. Similarly, with the web, new media is its standard carrier. The web has a point of truth that has made it possible to virtually spread information and thought around the world.

The normalizing approach on the press militates that direct media need to scrutinize open interests. Basically open interest criteria that consider inclusive opportunities for media transportation, large share in media ownership, hierarchy in information, culture and evaluation, support for a clear quality based political structure, support for public mention and protection of express Require, thorough compass, the nature and culture of information spread to all, respect for common entry routes and avoidance of

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mischievous to individuals and the public as a whole.

## **ROLE OF MEDIA IN PROTECTING DEMOCRATIC VALUES IN INDIA**

In enlightening the occupiers about development among the common people and helping them to seek informed alternatives, the media prepares democracy to function in its authentic spirit. It also holds elected representatives accountable to the people who elected them, whether they have fulfilled the objectives for which they were elected and whether they have stuck to their obligations of office. Media should be freed from administrative and secret control to work in an ideal vote based scheme. Firm article opportunity is needed to pursue open interests. In such a situation, for the prosperity of democracy, there is a need to create platforms of coordinated mediums and reliable voices.

Political development in India is close in spirit to the model of liberal democracy. The power of the law-making body, the pioneer and the real guide, has been completely curtailed in the Constitution of India. The party structure being developed is a serious one with compatibility and constraint of the businesses of government. There is also an opportunity for the press, for evaluation and also for a meeting.

Indian democracy has always generally stood aloof and has made experts ponder the mystery of its flourishing amidst the epic potential consequences. The classification in India is wild and it is the beginning and the end except a built up country. Issues of poverty and exclusiveness to access to pay have been tangible woes. Soon, democracy prevailed in the country till date. Control of the media in India, the world's best democracy, is essentially unusual involving scattered information and redirection. It should also be within its purview to show maximum part for their social upliftment. In a country where there is widespread poverty, unemployment and underdeveloped media, there is an obligation towards developmental news-expectation. It influences the game behind the advancement of eminent evaluation which may call philosophical social events to decide the central issues oppressing the development of the country. Regardless, the general valuation may be constrained by private stakes to meet their own goals.

The media can cover authentic factors and run principled schemes to influence voters and largely rule results accordingly. Values such as objectivity and rigor in the manifestation of data and ideas can be fully dealt with. After its entry into India, mass assisted broadcasting was given a lot of importance. It was used as a weapon of social change.

The stakes are to turn it into a first-rate mouthpiece of choice in a monopolistic media structure under state control. The situation to be ascertained with the overall composition would be subject to some change with the opening up of the Indian economy. It hailed a serious market move in the media sector,

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with public aid broadcasters getting into trouble with private parties. Despite this, there were seeds of another issue of ownership.

The improvement in the media mix and their solid presence has increased the apprehension of control of thought by a negative few concrete people on vote-based grounds. Corporate giants have engaged in comparatively severe competition, delivering news and content largely obliterated by sensationalism, waste and glitter in order to yield to more conspicuous business districts. A disturbing pattern that has consistently emerged in the media case is the use of the media in battles between rival political parties.

In fact, this new quirk is actually in India, where newspapers and news tend to lean to one side while presenting the real factors. A comparable event may be presented in two newspapers or two television spots in two different trends.

Given the risks related to the level of progress in the media, it must be said that the media in India has also played a role in maintaining democracy. As the watch dog of a large part of the governance structure, the media has exposed its various shortcomings. The authentic identity on paper and in television media has helped to expose the weaknesses of the massive expansion that has ruined the country.

When affiliations, de facto pioneers or other public functionaries have crossed the Lakshman Rekha, voices have been raised in newspapers and on television. There have equally been campaigns for residents to move neighborhoods to air their inclinations. This is a fundamental leap in the direction of alternative media use away from supernatural new developments. The importance here lies more in participative communication from the grassroots rather than communication flowing downwards. Separate television openings have given space to standard tenants to air their views, as live-in editors run the gamut-based experience. The letters have shown more portion by showing them about the updates in the field of science and progress. In addition they have areas of strength for the serious to guard against those tendencies which hurt the people as a whole. Many developmental news have been broadcast equally with the help of radio. The almost negligible cost and wide acceptance among the more despicable classes have made it overall a strong tool to give valuable consideration to the individuals.

Democracy is public power based on the exclusive consent of the governed. In the standard appearance of a clamorous essayist, distributor, broadcaster or media owner, key principles are not being fully clarified when doing one's job. Newsroom or broadcasting studio that cements deadlines, squashes spending plans, targets limited electronic and library resources, cites bosses, dispersal challenges, and draconian media regulations to pass on nothing to data subjects, which in some respects the feature

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writers are careful about, while not conceivably clearly compromising. This makes for an annoying working environment, and it's fundamental for editorialists to ignore the zeros at high altitudes. The enhanced attitude created by the essayists reflects how we engage with each other as individuals, and is a measure of how well our overall people are functioning. Alliance guidelines that concern us as individuals are facilitated and enforced by means of how more specialized social establishments like the media and government help one another out. You can tell a lot about a country's state of relations, as well as its commitment to democracy and financial and social innovation, by seeing whether it respects its residents and its media. This handbook cleans up the rules made from one end of the world to the other and best practice models of vote-based media governance. It looks at overall agreed guidelines for normality-based media and salience-based telecommunications regulations, as well as standards for persuasion or non-preparation of constraints on media content.

The control of the media in furthering paranormal affiliation is evident. All the pieces of good relationship work with areas of strength to cape a free medium inside a holistic people. Whenever editorialists are allowed to screen, research and review the design and practice of public administration, there can be unfathomable involvement at any point. The free media appears to be a partner that should be welcomed, while assuming that nothing really should be covered and raised to a more critical level. Positively, this is the fundamental link between media functioning and extraordinary involvement – considering how the media constantly scrutinize and assess government activities by many occupiers and help bring public concerns and voices out of the shadows

## **DISCUSSION**

Taking everything into account, many a times state-run affiliations employ a strategy of control and comfort to keep their activities hidden from the normal attention-grabbing quality or fundamentally unprecedented for their approach to the media. More recently, various congregations have attempted to co-opt scholars by paying them compensation rates or by granting them specific types of access on the condition that they will not respond according to different viewpoints. If the media is to serve the public interest, states need to protect the free functioning of the media and provide alternative approaches to prosper in the public eye.

Valuable and potentially vote-based frameworks require more than alternatives, the presence of a free certified trailblazer and other democratic foundations, and, a free press. They require the presence of an elaborate, real relationship between the state and the occupier. Such engagements are dynamic, complex and take many plans, yet they really depend on how states and residents talk to each other. For states to be credible, responsive and achievable, residents need a vote-based corner as well as potential opportunities

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to pass on their viewpoints and needs among the options. Political cycles are – at an exceptionally essential level – correspondence processes, driving interactions between people, parties, pressure meetings and affiliations to run the state. In order to attend to the occupants, they need information that grants them to rehearse generality-based choices. Sound political cycles subsequently require a state of open correspondence. Common communication tools – including the Internet and the phone – provide people with vast avenues for obtaining additional information and data and engaging with the individuals who direct them. Anyway, the expectation is that the variety of information, correspondence plans and levels of progress become more open, immediate and comprehensive in using these entry routes.

The media is likely to act as an extension of the people and public power and is an incredibly basic resource with the ability to create and break normal judgments. It has some control over perceptions or outbursts of emotion. This is how it has gained the trust of the people. It controls the hearts and minds of the people through the media, various magazines, television and movies. Straightforwardness was thought to be entirely personal and the responsibility as the most reasonable restriction of a notoriety-based structure has pushed the country into the hands of conformity and mortification in a confederacy of drawn affiliations with regulatory issues. Media democracy gives people the option to participate in media, it develops media relations with media, where information is collected and people can see and share it. The media is portrayed as concerned with disseminating information and viewpoints, which are replicated through correspondence activities to all. Media democracy and mass correspondence spread through various mediums, for example, electronic redirection and the general press through mechanized media to help people chat with each other and appear essential to normal society information to consider. Media democracy recommends that corporate ownership and commercial pressure influence media content, increasingly limiting news, evaluation and redirecting recipients' consent. Likewise, they needed a much fairer distribution of monetary, social, and informational resources, which would lead to more enlightened residents as well as more political discussions.

Media and administrative issues are the most essential and certainly important part of democracy and one cannot be expected without the other. The media allow its residents to feel much better and perhaps participate in it. Legitimate issues and the media use a vehicle called democracy. Media technology made administrative issues more feasible in continuous memory than later. Likewise, each base and end may be shown to the residents as faultless and in perfect. Without media there can be no hope of decisive issues and without valid issues there can be no media. The media works as the best and worst part and it works much later. This allows the stream of information between the public power and its residents to be merely a substitute for the clarification of the media. The road to further modernization must be made in the throes of globalization and the media must go unobtrusively if one must not be trained. Behind



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there will be some requirement and there may be some enquiry.

## CONCLUSION

The media cannot win without a free press. A free press is especially important because it is the voice of the people, but the media will not succumb to any monetary or any other inducement and truly serve the people. The media is expected to play a major role in the making of the human mind. It informs us about various activities like administrative issues, sports, monetary, social and social activities etc. Just as a mirror shows clear truths and a part of the time it would normally be inexplicable. Regardless, it is expected to play a major role in shaping the human mind significantly. Media is expected to play an important role in building democracy. It is known as the foundation of democracy. It attracts occupants through information. The media organizes chats on concerns and questionable techniques of late so as to bring out different viewpoints on a comparative issue.

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# MATRIMONIAL RIGHTS OF HINDU WOMEN

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## **ABSTRACT**

*This paper shall examine the history of women's rights under Hindu family law. There will be a discussion and analysis of many legislative changes and significant court rulings. An overview of Hindu marriage rules, guardianship, and succession will be included in this course. What impact these have had on mothers, wives, daughters, and widows. The stances taken by various courts on the rights of women to marriage, right to maintenance and adoption will also be discussed in this part. This study will attempt to trace the laws of succession as applicable to Hindus. It will touch upon the issue of unilateral divorce and payment of alimony through the various cases. It will also underscore the rights of daughters, wife, mother and widows where is concerned.*

**Keywords:** Divorce, Marriage, Maintenance, Property and Succession.

## **INTRODUCTION**

Hindu law from long ago discriminated against women on many fronts. Men and women were not subject to the same marital laws. The Vedas provide a description of Hindu marriage. These differences have almost disappeared thanks to the Hindu Marriage Act of 1955. It has established monogamy as the norm for both sexes. According to the law, a woman is permitted to end her marriage and get married again. The grounds for divorce have been listed in the Hindu Marriage Act of 1955. Despite their gains, women in India continue to confront enormous hurdles. Gender discrimination and violence against women continue to be important concerns, particularly in rural regions, causing concern. Under Hindu law, women have right to marriage, right to restitution of conjugal rights, right to divorce, right to maintenance and right to property. Owing to the Hindu population in India's strong traditional traditions and rigorous adherence to Manu Smriti, its execution is viewed as a significant difficulty. Women who are wives, mothers, daughters, and widows are included in this research. One of the most contentious topics causing a rift between the reformist and orthodox schools of thought is the property rights of Hindu women<sup>1</sup>. India has demonstrated that it can go forward with reformation agendas into legislation enactment so as to offer and govern equal status for both sexes in property rights, even in the face of strong opposition from interest groups and religious pressure.

## **II. MATRIMONIAL RIGHTS OF WOMEN IN HINDU LAW**

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Over the years, women in India have been awarded a number of legal rights to advance gender equality and safeguard their interests. The following are some of the most significant privileges that Hindu law grants to women:

### **A. RIGHT TO MARRIAGE**

We consider marriage to be one of the cornerstones of our civilization. Contrarily, there are obligations and guidelines associated with marriage that both sexes must follow. For women, this entails taking charge of the household and catering to the family's needs. Because they've been socialized to believe in these beliefs and the fantasy of happily ever after, most Indian women enter weddings unaware that it may also be an unhappy or stressful relationship. There are various legal rights of a wife over the husband. Every woman, whether married or not, young or old, should be aware of her legal rights as a wife over the husband. If women are aware of the legal right of a wife over the husband, they may punish any tyranny in marriage and claim independence and dignity from the union. In light of the government's plans to raise a woman's legal marital age from 18 to 21, there are certain legal privileges that every married Indian woman is entitled to.

Any party to the marriage may request the remedy under a clear provision (section 9) of the Hindu Marriage Act of 1955. Despite being presented in a gender-neutral manner, this cure has different effects on husbands and wives. This was noted by the Andhra Pradesh High Court, which expressed the opinion that, in the woman's situation, if her husband was given the remedy, the court would have to authorise "humiliating sexual molestation," which would end in a pregnancy that is "forced upon her by the state and against her will." Based on this rationale, the High Court determined that the legislation transgresses the Indian Constitution's guarantees of dignity and the right to privacy.

### **B. RIGHT TO DIVORCE**

The Hindu Marriage Act of 1955 gives wives, the authority to file for divorce without their husbands' consent. Divorce can be granted for a variety of grounds, including infidelity, abuse, desertion, expulsion from the marital residence, and mental illness<sup>3</sup>. By mutual consent, divorce is also permitted by the statute. There are various additional grounds for the wife as a legal right of a wife over the husband. Even today, we do not teach our girls or future brides how to deal with a painful marital union. The stigma attached to terms like divorce and separation is indicative of this. However, things have changed, and women are no longer reliant on their close relatives for knowledge, at least when it comes to obtaining it. When divorce laws were introduced, a Hindu woman can be separated from her spouse, lose her marital property, and become estranged from her joint family after a divorce.

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### **C. RIGHT TO MAINTENANCE**

A married woman has the legal right of a wife over the husband to request permanent maintenance, from her husband under the provisions of the law. If a marriage fails, the Hindu Marriage Act gives women the legal right of a wife over husband to seek support for themselves and their children from their husbands both during (interim maintenance) and after divorce (permanent maintenance). Section 18 of the aforementioned Act deals with maintenance and the wife's separate residence: Regardless of when the aforementioned Act went into effect, Hindu wives are entitled to lifetime maintenance from their husbands. If a Hindu woman becomes a sanchaste or converts to another faith, she will no longer be eligible for separate housing and maintenance from her husband. Section 24 of the Hindu Marriage Act of 1955 (henceforth referred to as the HM Act) allows for the provision of interim support to either the lady or the husband. The request for interim maintenance is based on the lack of an independent source of income for self-support. The section makes no mention of maintenance amounts; instead, it is at the court's discretion. The other spouse is required to pay court expenses, and in the event that the claimant is not self-supporting, they will require pendente lite support.

Right to maintenance as married daughter, Both the mother and the father have an equal responsibility to provide for all children, biological and adopted, as stated in Section 20 of the HAM Act. One distinctive feature of the Hindu legal system is the equal responsibility of both parents for parenting their children. Under the HAM Act, minor children are entitled to maintenance under Section 20(2). The daughter is still eligible for support until she marries. The expenses of her wedding must be met by her parents. If the claimant is in charge of the children's maintenance, then the children have a entitlement to maintenance after submitting an application in accordance with HM Act sections 24 and 25. This suggests that the claimant's maintenance entitlement also includes the children's maintenance entitlement.

Right to maintenance as Mother, Furthermore sec. 20 of the HAM Act also creates a maintenance obligation for parents who are too old or too handicapped to take care of themselves using their own assets, such as their home and income. The "HAM ACT" is the first law in India requiring children to provide for their parents. In addition to sons, daughters are also subject to the requirement for maintenance. The HAM Act allows for maintenance claims to be made by both the father and the mother

### **D. RIGHT TO MATRIMONIAL HOME**

A wife has the legal right to live in the marital residence even after her husband passes away. She has the right to live there even if it is his parents' or a rented property instead of the husband's. In the case of a divorce, she is free to move back in with her parents or stay in the married residence until a better one is found for her. There is no clause allowing a married woman to move back to her parent's house under the Hindu Marriage Act,

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1955<sup>4</sup>. If and when she wants to stay, she has the legal right of a wife over her husband. One of a wife's significant legal advantages over her husband is the right of matrimonial home.

## **E. RIGHT TO PROPERTY**

Right to property as married daughter, According to amendment act 2005, states that a daughter has the same rights to inherit her father's assets as her brother, regardless of marriage<sup>5</sup>. In order to provide girls in Hindu families with equal inheritance rights, the Hindu Succession Act of 1956 was amended in 2005. Daughter's Right to Ancestral Property Inheritance Report of the 174th Law Commission (2000) The Hindu Succession Act of 1956's provisions were the subject of pervasive gender discrimination (against women), according to the 174th Law Commission report. The study addressed the prejudice in section 6, which dealt with the daughter's inherited rights to family property. Amendments to the Hindu Succession Act in 2005 granted daughter equal rights to coparcenary property. Coparcenary rights are extended to coparcenary property by the 2005 amendment<sup>6</sup>. The 2005 amendment eliminates the disability that girls experienced and grants them the coparcenary right to property at birth, together with all of a son's rights and obligations.

**Right to property as Wife and Widow :** Even if the property is held by the husband, a wife is entitled to live in her husband's house, often known as the "matrimonial home," under the Hindu Marriage Act. In the event of a divorce or separation, the woman is eligible to receive maintenance from her husband in addition to a portion of his assets, including both inherited and self-acquired property. According to the Hindu Succession Act, the wife and his other legitimate heirs are entitled to a portion of the husband's estate in the event of his death. In Hindu law, a wife is entitled to a share of her husband's ancestral property. The Hindu Succession Act of 1956 states that a wife's part is equal to that of a son. According to the Hindu Succession Act of 1956, a wife's portion of ancestral property is equal to that of a son's. But this privilege does not extend to possessions that the spouse has independently obtained; rather, it solely covers ancestral properties.

**Right to Property as Mother:** A mother obtains the same portion of her deceased son's assets as his wife and kids since she is a class 1 heir. A mother is entitled to the same portion of the family assets as each of her children if the children split the assets after the father passes away. Here eligible children must also provide her with maintenance and a place to live. She is fully entitled to her possessions and can use them whatever she pleases. However, all of her children get her possessions equally upon her death.

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### III. CONCLUSION

In conclusion, while there has been a notable improvement in the position of women in India recently, much work remains. Acknowledging the progress accomplished thus far and carrying on with efforts to create a fairer and more equal society for women is imperative. We can guarantee that women in India may fully engage in all facets of life and contribute to the advancement of their nation by tackling the obstacles that women encounter and advocating for gender equality. The argument that Indian laws are somewhat biased in favour of women is unavoidable after talking about all the legal privileges that Indian women have and how they develop after marriage. The reason for this is that becoming a bride in Indian society frequently means sacrificing one's individual identity. But a woman should stand up for herself and empower herself for all the right reasons, if no one else does.

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# “Influencer Marketing” in India in 2021

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## **ABSTRACT**

*Influencer marketing is a form of social media marketing involving endorsements and product placement from influencers. Social media influencers are winning over the Internet with their outstanding work and presence. Their opinions have a powerful impact on people, especially on young generation. The rise in popularity has been linked to influencer marketing - the phenomena of brands using internet celebrities to promote their products - according to the INCA India Influencer Report. More and more people are following such influencers so that they do not miss out on their content. Even though influencer marketing is a relatively new strategy, it continues to be a viable solution for marketers who are willing to think outside the box while building relationships with their target market. The paper examines this new trend in a social media context. The purpose of the paper is to explain the concept of influencer marketing in a marketing concept. The paper presents the classification of influencers and growth of influencer marketing in India in 2021.*

**Key Words:** Influencer Marketing, Social Media, India, Growth, Influencers.

## **INTRODUCTION**

Day by day, we are advancing towards a digital era. The year 2020 led to a shift of business from the physical to the digital realm. As all the physical activities were halted, people are restricted in their homes, but this has surged internet usage in general and social media in particular.

With ad production and shooting on hold, marketers have resorted to content creators and digital influencers as social media use and engagement have risen significantly. Social media networks have also become an important marketing platform today. Social networking websites have become a popular means for brands to achieve the objectives of relationship marketing and enhance their brand value (Arora & Sanni, 2019; Chakraborty & Bhat, 2018; Dodoo, 2018; Ibrahim et al., 2020; Kumar et al., 2020; Ott et al., 2016; Papasolomou & Melanthiou, 2012; Pinto et al., 2019; Shen & Bissell, 2013). Many social media platforms are quite popular in India including Facebook, YouTube, Instagram, Twitter, Snapchat, etc.

The influencer marketing platform vendors have implemented various types of organic and inorganic growth strategies, such as new product launches, product upgradations, partnerships and agreements,

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business expansions, and mergers and acquisitions to strengthen their offerings in the market. The major vendors in the global influencer marketing platform market include IZEA Worldwide (US), Quotient Technology Inc. (US), Launchmetrics (US), Julius Works,

Inc. (US), Traackr, Inc. (US), Upfluence Inc. (US), Klear (US), AspireIQ (US), CreatorIQ (US), Mavrick (US), Impact Tech, Inc. (US), Brandwatch (UK), Linqia, Inc. (US), Onalytica (UK), Social Beat Digital Marketing LLP (India), ExpertVoice Inc. (US), Lefty (France), Lumanu Inc. (US), InfluencerDB (Germany), Taggermedia (US), Heepsy (Spain), Fourstarzz Media LLC (US), Juulr B.V. (The Netherlands), Intellifluence (US), Insense Ads, Inc. (US), Talent Village Ltd. (UK), The Room (UK), Blogmint (India), Zine Ltd. (UK), and Captiv8 Inc. (US). The study includes an in-depth competitive analysis of these key players in the Influencer marketing platform market with their company profiles, recent developments, and key market strategies

This year, influencers promoted brands using several features. There was a great emphasis on short video content, particularly reels, because it is actively pushed by Instagram and is more cost-effective than long films, offering more authenticity and interaction. iPhone 11 Cover and iPhone 12 Cover are high in demand as they are better protective equipment and stylish features. Their followers purchase more of these covers when they see the influencers using them.

Apart from general influencer trends, skincare and cosmetic brands are one area where it is truly working. Influencers can demonstrate the benefits and applications of items; therefore, during the lockdown, when people cannot go and try the products, they believe everything the influencers say.

### What is Influencer Marketing?

An influencer is a person who influences a specific group of people and can impact their purchasing decisions through sponsorship and product placement. Influencers are someone (or something) with the power to affect the buying habits or quantifiable actions of others by uploading some form of original—often sponsored—content to social media platforms like Instagram, YouTube, Snapchat or other online channels. Influencer marketing is when a brand enrolls influencers who have an established credibility and audience on social media platforms to discuss or mention the brand in a social media post. Influencer content may be framed as testimonial advertising.

Celebrities and renowned personalities have long been used by businesses to market their products and develop reliability. However, as companies realize how much people value other people's opinions over

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everything else, a new pool of influencers has emerged.

With the rising power of influencers in shaping customer's behaviors across a wide range of industries, consumers must be aware of what marketers have paid-for content. Today's consumers buy products and services recommended by influencers and believe in the brand narrative they build.

### **Types of Influencers in India:**

In influencer marketing, marketers hunt for preferable influencers who can:

- Expand the brand's reach among the target audience

- Strengthen the brand's messaging

- Influence consumer buying decisions

Bring an adequate amount of profit for the brand. Brands should ensure the right candidates are selected to carry out all the tasks mentioned above. For that, brands should have a sound knowledge of all different categories of influencers.

They can be classified based on various factors:

- Followers

- Implementation

Each kind of influencers possesses a special kind of power and have the ability to persuade their audiences. Each category has its perks and gives a full platter to brands to choose which influencer is eligible for the campaign.

### **Nano Influencers:**

The influencers that fall in this category have a follower track ranging from 100-1000. The follower circle usually involves family and friends of the influencer. Although the reach is limited, they have a high level of authority. Brands like to collaborate with nano influencers as the credit is less likely to be questioned because if the follower count is low, the chances of fake followers automatically decrease. The audience is most authentic, and they have a high level of influence over their small but tight-knit network of followers. Brands who target quality over quantity opt for nano influencers, which means brands want more people to have a real connection rather than having more people know about it and have a high level of engagement in their social group.

### **Micro-Influencers:**

This category generally consists of influencers with the following rate of 1000-10K. Microinfluencers in India have the same benefits as Nano influencers, but just with the power of greater reach. They are

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relatable, authentic, and trustworthy. Their functioning is just like word-of-mouth but a bit more measurable.

Brands pick micro-influencers for campaigns because their chances of conversion rate become higher with the help of their niche audiences. They are comparatively much affordable than mega and macro-influencers and would go the extra mile in curating high-quality content to attract more brand deals in the future.

#### Macro Influencers:

This group has 10,000-100,000 followers. Macro influencers in India have a broader reach and more social media presence than the categories mentioned above. Macro influencers collaborate with brands on an everyday basis and have a touch of professionalism added to their work. Even though they demand high prices, brands still collaborate with them because influencers understand what the brand needs, and sometimes, if the brand is open to suggestions, they give constructive inputs as well.

#### Mega Influencers:

This category includes all celebrities and influencers who have followers up to the range of 100k-millions. These influencers in India have a high range of reach among the audience. They help in generating millions for a brand in terms of media value. Working with mega influencers in India is a hassle-free, time-saving job because celebrities have a management team that ensures all the back-hand work is done accordingly. Just one celebrity could do the work, which may have required multiple micro or nano influencers. The drawback of working with Mega influencers is that the brands have to pay massive amounts, and the engagement rate rarely turns out satisfactory.

#### Influencer classification based on the implementation

##### **Personal influencers:**

These influencers know their target audience personally and have a high power of influence. The audience is usually friends, family, and acquaintances.

##### **Experienced influencers:**

People who have a direct connection with the brand's business, product, or service fall into this category. They do not have a direct relationship with the target audience but can be a great asset as they have great power of influence because of their experience.

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### **Expert influencers:**

People who have expertise over the brand's business, product, or service are called expert influencers. They use their authority and power to influence the audience around them.

### **Celebrity influencers:**

This category includes all the celebrities from all fields that have a considerable fan base. Brands use public figures to reach the maximum number of audiences at once.

The composition of influencers into different categories helps brands calculate various campaign parameters and prices. By looking at the categories, brands can easily decide who to approach for a specific objective. Not every influencer type can be relevant to the brand. Categories simplify the job of the marketer and attain profitable results

### **The current state of the Influencer Marketing landscape**

Standing out in 2014 on Instagram was easier than today. If you were lucky enough to be featured on Instagram's featured page or your look was just distinctive enough, then your chances of being tapped as an influencer were high. After enough brand partnerships, some have turned social media influencer marketing into a full-time career

Influencer marketing is a type of marketing that uses influencers to promote a brand to a larger market. Influencers are opinion leaders with a social following base. They appear as experts or trustworthy sources of information.

### **Why is Influencer Marketing Important?**

Influencer marketing is closely related to social media marketing, as most opinion leaders gather their audience from social platforms. This channel gives you access to an enormous audience –half of the global population uses social networks.

Better yet, influencer marketing enables you to reach people you can't attain through traditional advertising. Two-thirds of consumers use ad blockers, but the same people willingly take advice from influencers. 80% of users have purchased something based on an influencer's recommendation.

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Brands that already employ influencer marketing have proven the effectiveness of this channel. 89% of marketers say that ROI from influencer marketing is comparable to or better than other marketing channels. It's no wonder that 17% of companies spend over half of their marketing budget on influencers.

So, influencer marketing is crucial in the age of social media and ad fatigue. This channel helps build trust for your brand and drives impressive results. Now, let's move on to the other benefits influencer marketing provides.

### **Growth:**

The global influencer marketing platform market size to grow from USD 6.0 billion in 2020 to USD 24.1 billion by 2025, at a Compound Annual Growth Rate (CAGR) of 32.0% during the forecast period. Various factors such as the customers' shift toward video-based content across the OTT space and an increase in the adoption of ad-blocking software are expected to drive the adoption of the influencer marketing platform market.

The Indian influencer marketing industry is estimated to reach a value of Rs 900 crore by the end of 2021, according to GroupM INCA's India Influencer Marketing Report. The market is expected to grow at a compound annual growth rate (CAGR) of 25% till 2025 to reach a size of Rs 2,200 crore, the report added. —Over the last few years, brands have shown significant interest in influencer marketing. The pandemic has accelerated the adoption of influencer marketing by brands making it an integral part of the brand marketing strategy and is now an important part of our media mix recommendation to brands, Prasanth Kumar, CEO, GroupM South Asia, said.

—The key factor that has got brands interested is the bond of trust and authenticity that influencers share with their audiences, thus helping brands associate with an influencer to leverage the same. This report is our effort to help marketers understand various aspects of influencer marketing in the country. Consumer behaviour is changing at a fast pace, and we want to empower marketers with the knowledge that can help them, Kumar added.

GroupM's brand-safe influencer and content marketing solution unit INCA has released 'The India Influencer Marketing Report' on Friday. As per the report, personal care (25%), F&B (20%), fashion and jewellery (15%) and mobile and electronics 10% are the top four categories that contribute to 70% volume of influencer marketing. Besides, celebrities account for 27% of influencer marketing spends

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while influencers account for 73%. Furthermore, nearly two-thirds of the Indian population follow an influencer.

100% of marketing leaders have agreed that influencer marketing was a high or top priority for their marketing calendar for 2021, as per INCA influencer marketing survey. The survey has also found that the 50% of respondents are set to increase influencer marketing spends by 25-36%.—Influencer marketing industry is at a point of inflexion and can take off, subject to the industry initiating to measure, quantify and make investments in influencer marketing accountable. The ‘India Influencer Marketing Report’ is GroupM and INCA’s attempt to do the same,|| Ashwin Padmanabhan, president, partnerships and trading, GroupM India, stated.

#### COVID-19 impact on global influencer marketing platform market

COVID-19 has shocked the entire world. Many businesses are fighting to survive and are using different marketing strategies to recover the loss. As per the Global Web Index survey, over 80% of consumers in the US and UK say they’ve consumed more content during COVID-19. This has posed a good opportunity for brands and influencers to engage with their audiences with impactful messaging. The importance of influencer marketing as a core marketing strategy has grown during the COVID-19 crisis. Companies must continue to depend on influencers to act as their spokespeople and execute their messaging in a trustworthy and human way. TikTok has been identified as one of the most popular mediums for video content consumption so brands and influencers alike must look for ways to increase their exposure in this fairly new avenue. Through the personal views and support of followers, influencers will continue to shape the conversations occurring in the post-lockdown world. The effects of COVID-19 will be long-term, and as a result, marketing strategies must be revised to suit the new environment in which smaller and larger companies are surviving currently.

#### Market Dynamics

Driver: Customers’ shift toward video-based content across the OTT space

With the increasing use of smartphones and 3G and 4G networks, video consumption has grown tremendously in the last few years. Therefore, organizations are designing marketing strategies for video-based content streaming across digital channels. In the last three years, television viewership has rapidly decreased and shifted toward social media channels, such as Facebook, YouTube, and Instagram. As per a Google study in 2017, YouTube is the second-most used search engine across the world. Moreover, as the television viewership reduced by 50% among the age group of 18–26 in 2017, video-



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o-based marketing increased from 63% in 2017 to 81% in 2018, according to Wyzowl's statistics. Similarly, according to the Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2017–2022, the world's mobile video traffic increased by 59% in 2017. These statistics show the continuous shift of consumers toward OTT and social media. However, owing to a decentralized consumer base, organizations are unable to target their potential consumers through traditional marketing techniques. Therefore, they are moving toward the influencer marketing technique that enables them to target potential buyers. According to the analysis from Twitter and Annalect, 40% of Twitter users make purchase decisions with the help of tweets.

#### Restraint: Lack of capabilities to measure campaign effectiveness

The influencer marketing technique effectively reaches buyers and enhances customer engagement throughout campaigns. However, it lacks in measuring campaign effectiveness due to improper planning. Mostly, brands conduct campaigns without planning their key aspects, such as clarity of end goals, geographic areas, and type of influencers. Campaigns are failing or producing limited results due to the lack of planning. Moreover, campaigns' effectiveness needs to be analyzed through various channels. In some scenarios, people make buying decisions through offline conversation. For instance, if people are sharing product details through their personal emails and LinkedIn, or other private accounts, then their buying decisions are not counted during measuring campaigns. Brands are, therefore, finding it difficult to measure campaign effectiveness.

#### Challenges:

##### Increase in the number of fake followers

The influencer marketing technique has been immensely growing since 2016, as consumers have shifted from TV to social media and other OTT channels. Therefore, organizations are competing with each other to engage with authentic and effective influencers for promoting products and enhancing sales. The growing competition has increased the demand for micro and macro-influencers. However, with the growing competition, identifying authentic influencers with a large number of followers has become the biggest challenge for brands and organizations. There are many influencers who use fake followers through bots to show their popularity and attract big brands. According to Mediakix's survey, an influencer marketing agency, big brands have come across 50% of influencers who have bought fake followers. Similarly, according to the 2017 statistics of Sway Ops, an anti-fraud company, one day's Instagram posts had 50% fake followers. The stats show that the growing use of fake followers would waste the money invested in influencers. According to White Ops/ANA, the global losses due to bot



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t frauds were estimated to be USD 7.2 billion in 2016. To tackle the issues, organizations are adopting auditing tools that identify fake accounts by scanning influencers' account, and show the data of authentic and fake followers. The tools might help brands identify authentic influencers in the coming years.

Search and discovery application segment to have the largest market size during the forecast period

The influencer marketing platform market by application has been segmented into search and discovery, campaign management, influencer relationship management, analytics and reporting, and compliance management and fraud detection. The other applications comprise workflow automation and time management, and third-party integration. The market size of the search and discovery application segment is estimated to be higher in 2020. The search and discovery application provides advanced search options to find relevant and valuable influencers for marketing campaigns. Organizations are increasingly adopting the influencer marketing platform to find potential influencers who can promote their brands, enhance brand exposure, and create a higher level of customer engagement. The search and discovery tool provides influencers' comprehensive information, such as personal, geographic, and professional details, interest areas, audience demographics, social media channels, traffic history, and engagement rates.

Opportunity:

Influencer marketing platform to gain customer trust and create new brand image

Consumer demand is based on product authenticity and reliable products and services. Traditional marketing and advertising techniques are continuously forcing customers to buy products. The traditional techniques can create a poor brand image. Moreover, consumers' shift toward the OTT space and various social media channels has decentralized the consumer base across channels, which has led to high marketing expenses with zero Return on Investment (ROI). Therefore, organizations are increasingly adopting effective marketing techniques that reach to end users without annoying them. The influencer marketing technique is one of the effective marketing strategies that reach direct customers through macro and micro influencers and builds a strong bond among customers and brands. Brands endorsed by celebrities, bloggers, vloggers, and well-known personalities through social media channels create trust in the minds of customers. According to ClickZ, 22% of users in the age group of 18–34 make their buying decisions after watching celebrity endorsements. The statistics above show that brand image may be hampered if companies breach the trust of their consumers. Organizations have huge opportunities to gain consumer trust and acquire new customers by providing quality

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and transparency

### **Conclusion:**

—Over the last few years, brands have shown significant interest in influencer marketing. pandemic has accelerated the adoption of influencer marketing by brands making it an integral part of the brand marketing strategy and is now an important part of our media mix recommendation to brands,|| Prasanth Kumar, CEO, GroupM South Asia, said.

—The key factor that has got brands interested is the bond of trust and authenticity that influencers share with their audiences, thus helping brands associate with an influencer to leverage the same. Consumer behaviour is changing at a fast pace, and we want to empower marketers with the knowledge that can help them,|| Kumar added.

As per the report i.e. ‘The India Influencer Marketing Report’, personal care (25%), F&B (20%), fashion and jewellery (15%) and mobile and electronics 10% are the top four categories that contribute to 70% volume of influencer marketing. Besides, celebrities account for 27% of influencer marketing spends while influencers account for 73%. Furthermore, nearly two-thirds of the Indian population follow an influencer. 100% of marketing leaders have agreed that influencer marketing was a high or top priority for their marketing calendar for 2021, as per INCA influencer marketing survey. The survey has also found that the 50% of respondents are set to increase influencer marketing spends by 25-36%. Influencer marketing has rapidly become one of the most popular ways of acquiring new customers in the e-commerce industry. By 2025, the global influencer marketing sector will be worth \$ 24.1 billion with a 32.0 percent compound annual growth rate. New trends and developments have emerged as a result of the sector’s rapid growth. Vanity metrics give way to specificity, authenticity, and reliability in the influencer marketing industry, which is becoming more data-driven, emphasizing engagement and income. Despite the drastic impacts of the pandemic on the country’s economy, the influencer marketing sector performed well.

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*Mediating Role of Credibility :Saima, Research Scholar, Department of Commerce and Business Studies, Jamia Millia Islamia, Delhi, India and Prof. M. Altaf Khan, Professor, Department of Commerce and Business Studies, Jamia Millia Islamia, Delhi, India*

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