The online video environment in India: a survey report

iCommons, Open Video Alliance & Centre for Internet and Society | 2010-10-13

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iCommons, the Open Video Alliance, and the Centre for Internet and Society have initiated a research project which seeks to survey the online video environment in India and the opportunities this new medium presents for creative expression and civic engagement. This report seeks to define key issues in the Indian context and begins to develop a short-term policy framework to address them.

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Introduction

The basic assumption of this paper is that the online video medium should support creative and technical innovation, competition, and public participation, and that open source technology can help develop these traits. These assumptions are not elaborated upon here. Instead, this report looks at questions of "openness" that are not strictly technological; that are specific to video in India; and that provide points of entry to a simple policy framework.

1. National Character of Indian Videos and Channels of Dissemination

1.1. Historical Tryst with Cinema

India and its traditions have long been replete with visual culture. Cinema has been a popular and engaging form—not only for the urban literate populations, but also for the masses—from as early as the beginnings of cinema itself.

Soon after the first screening of the Lumiere moving pictures in London, the film was screened one year later in Bombay, in July 1896.[1] India's first short film was directed by Hiralal Sen and released in 1898. India's first full-length motion picture, *Raja Harishchandra*, was produced by Dada Sahib Phalke in 1913.

In the early part of the twentieth century, cinema gained popularity across various economic segments of the society. Indian filmmakers began to be noticed around the world for incorporating various aspects of the Indian culture like Parsi theatre, folk art (*nautanki*), and the epic traditions of Ramayana and Mahabharata in their films. Bombay quickly established itself as the centre of production of Hindustani cinema. Studios also emerged in Chennai and Kolkata, which became the major film centers for regional movies. During the Indian independence movement, cinema became a means for cultural revival, with cinema halls in every city providing entertainment access to the common man at a low price.[2]

By 1949, the Government of India established a films division, which eventually became one of the largest documentary film producers in the world, overseeing an annual production of over 200 short documentaries, each released in 18 languages with 9000 prints.[3] Today, India is the world's largest producer of films. In 2009, India produced a total of 2961 films on celluloid that include

[1] The Lumiere films were again screened at Kala Ghoda in Mumbai during a retrospective in 1999. http://www.indianexpress.com/ie/daily/19990214/ile14038.html

[2] *Encyclopedia of Indian cinema* / Ashish Rajadhyaksha, Paul Willeme, New Delhi : Oxford University Press, c1999

[3] See Rajadhyaksa, Ashish (1996), "India: Filming the Nation", *The Oxford History of World Cinema*, Oxford University Press, ISBN 0-19-811257-2.

a staggering figure of 1288 feature films.[4] Films are an everyday part of an Indian's life and shape the national character of India.

1.2. Rise of Video: Post-Liberalization Explosion

Unlike the steady rise of films and cinema exhibition across India in the nineteenth century, the medium of video came into its own only in the post-liberalization era of the 1990s. Owing to a largely socialist economic regime established in the post-independence India, television began in the 1980s with a single, government owned channel—Doordarshan. Despite limited programming through a single channel, the country witnessed rapid growth of televisions through the 80′s. From a meager 41 television sets in 1962, the number shot up to 84,000 in 1972, and by the end of 1985—despite a single channel available—there were over seven million television sets across the country.[5]

Mayur Suresh studies the currents of change washed in by television in the 1980s, especially the effects of the Indian state's monopoly over media:

> "When the state introduced video technology in the early 80′s, little did it realize that its traditional ability to control and monitor the viewing activity of its citizens would be fundamentally challenged. Video emerged as a big dark spot for the state's gaze because hitherto, the state could regulate mass media such as cinema and radio but video technology allowed for viewing beyond the state's regulatory reach. Video and other new media allowed for decentralized, thus uncontrolled ownership, control and consumption, and also challenged the monopoly of the state controlled media."[6]

Under Prime Minister P.V. Narasimha Rao, the central government launched a set of economic reforms in 1991. In a distinct departure from the socialist model of economic control and regulation, the government allowed for private and foreign broadcasters to engage in limited operations in India. Within months, foreign channels like CNN, Star TV, MTV and domestic channels Zee TV and Sun TV started satellite broadcasts. Cable networks proliferated in every city, covering 70 million homes with an audience of over 400 million through 100 television channels. As of 2010, over half of India's population (223 million households) has access to a television set, out of which 103 million have access to cable or satellite television, including 20 million households of DTH subscribers.[7] The television penetration in urban households is over 85 percent. It is estimated

[4] Annual Report, Central Board of Film Certification, Ministry of Information and Broadcasting, Government of India. http://cbfcindia.gov.in/

[5] Statistics from the Doordarshan website. http://www.ddindia.gov.in/

[6] 'Video Nights and Dispersed Pleasures' by Mayur Suresh. http://www.piracyresearch.org/new/siteadmin/tinymce/uploaded/file/Video%20Night%20and%20dispersed%20pleasures.pdf

[7] TAM Annual Universe Update, 2010. http://www.tamindia.com/

that there are over 1400 TV channels across the country, covering all the main languages spoken in the nation.

> **i** Television as a Political Tool
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> The use of television as a political tool has been a centrepiece of many state policies. The ability to connect with a large voter base through politically motivated video content has been exploited by many political parties.
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> Most notably, a free color TV scheme formulated by the Tamil Nadu-based DMK (a state-level political party) was a huge factor in the political fortunes of that party in 2006. The announcement of distribution of free color television sets to poor families enabled DMK to return to power in the Assembly elections in the state. Amid criticism from the opposition parties, the state has already distributed television sets to over 8.5 million families across the state, and is in the process of distributing another 4 million in the run up to the elections scheduled in April 2011. DMK's campaign has been hugely successful, bringing electoral success to the fortune of the party both at state and national level.

1.3. Digital Technology and Piracy

Ravi Sundaram describes the transition to the 90′s as one which translated, for the first time in India, as an "urban experience," with large scale inequalities, violence, collapse of infrastructure, and rise of elite suburbia based on automobile transport. A second aspect of this new everyday experience, Sundaram points out, is a preponderant "non-legality" in media affairs—the emergence of an information and entertainment marketplace consisting of thousands of small cable television operators, pirate audiocassette shop owners and grey-market companies evading state control.[8]

Alongside the proliferation of television sets, and the cable TV boom of the 90′s, a digital wave swept the country—the Video CD (VCD). In the mid-90′s, starting with China, the entire region of Asia Pacific was flooded with pirated CDs, software, computer games and VCDs that became available through informal pirates. The "leaky" digital technology VCDs rampantly replaced the VHS home video market, owing to cost-competitiveness and easy copying and replication.

Film distributors in India have traditionally relied for their profits on theatrical releases. The underground pirate market quickly took control of the home video segment, erasing this potential secondary revenue stream. Local cable TV networks swarmed every urban city. Even after more than a decade since the arrival of digital technology, the greater part of the home video segment still

[8]Recycling Modernity: Pirate electronic cultures in India by Ravi Sundaram. http://www.piracyresearch.org/new/siteadmin/tinymce/uploaded/file/Recycled%20Modernity.pdf

remains with the informal pirate market. The film industry—caught unaware, and sluggish to adapt to new forms of content distribution—quickly tried to replicate (with the help of international anti-pirate agencies) the Western model of intellectual property, lobbying for stronger punishments and huge fines for copyright violators. Numerous wings of anti-pirate organizations—mostly headed by retired police officials—came up across the country. Some established distributors such as T-Series and Yashraj started anti-pirate forces within their own organizations.[9] These groups have been engaged in reporting street level piracy (informal sales of VCDs and DVDs of films), conducting raids against violators, and lobbying with the judiciary for more stringent punishments.[10] As a new wave of Indian legal scholars like Lawrence Liang note, the legalistic debates around intellectual property in the developing world have been shrouded in the language of criminality and illegality—whereas issues of access to knowledge, comparative income and availability of films and video, and especially the social, creative and cultural impact of circulation of media goods in India remain undocumented.[11]

In recent years, the anti-pirates have pushed for video piracy to be included under the *Goondas Act*, which pertains with serious crimes such as murder, extortion, vandalism, and so on.[12] On the street, however, piracy continues unabated, and even transforms itself based on market circumstances. Though even as new companies like Moser Baer have entered the home video market by slashing the prices of their VCDs and DVDs to compete with the pirates, the informal market of circulation is beginning to change, mostly in response to the availability of content over the Internet and increasing presence of Indian consumers on the Web.[13]

Given the challenges of fostering an "above the board" means of video distribution in India, pirate distributors must become a central part of any analysis of the medium. It is important to acknowledge the VCD market and cable wallah traditions of entrepenurial piracy in trying to understand how an open video environment might work. The following chapter traces some new trends in the distribution of video in India.

[9]'Enforcement of Anti Piracy laws by the Indian Entertainment Industry' at http://www.cis-india.org/advocacy/ipr/blog/piracy-and-enforcement/

[10]The account of Media Piracy and Enforcement Networks was conducted by Nupur Jain at Sarai, Delhi. For more, see <www.piracyresearch.org>

[11]For further reading on the cultural impact of piracy, see 'Information City' by Lawrence Liang http://www.t0.or.at/wio/downloads/india/liang.pdf

[12]Further Reading 'Piracy Studies in India' at http://www.cis-india.org/advocacy/ipr/blog/piracy-studies-india

[13]Further Reading 'End of the Niche Optical Pirate' at http://www.cis-india.org/advocacy/ipr/blog/at-the-end-of-the-niche-optical-pirate

2. Digital Media and Network Transformations

2.1. Affordable Mobile Technology

In the new millennium, digital mediums are enmeshed with everyday urban culture. The country is still beginning to grasp this phenomenon and its impact. Much of this change has been made on the backbone of falling prices of cameras, editing systems and modes of replication. The shift can be seen in the surge of mobile cameras, increasing use of peer-to-peer networks online, as well as the changing patterns of distribution within the mainstream film industry itself.

Video consumption across platforms is emerging as a common phenomenon. According to a recent Nielsen Media Research comparative study of online video usage, India rates among the countries with highest rate of penetration of mobile video in Asia Pacific (along with China, Indonesia, and the Philippines). Young adults are the largest segment of viewers for online video, and cosmopolitan young adults in India are over 20 percent more likely to use mobile video than their Western counterparts. The study also reveals a keen interest in the Indian consumer towards newer video friendly screens such as touch pads and 3D, but this technology will belong to only the most elite class for some time to come.[14]

Extrapolating from statistics provided by the Telecom Regulatory Authority, estimates peg the size of the mobile internet market at 127 million subscribers, only 2 million of whom access the Internet on their mobiles on regular basis.[15] The report estimates that the recent countrywide launch of 3G services, reduced prices of 3G, along with lower-cost net enabled handsets in future, will push the number of mobile Internet users to 25 million by 2012 and up to 50 million by 2014. This growing mobile network will increase the fluidity of user-captured content, as evidenced by various MMS scandals and political embarassments.

2.2. Peer-to-Peer in India—In Lieu of a Legitimate Market

Until recently, file sharing, P2P downloads and video streaming were largely incidental to the Indian video environment. Internet connectivity in India was low, and the limited broadband infrastructure was of poor quality with low speeds and frequent disruptions. But since no significant streaming or video-on-demand market has emerged, the street tradition of unauthorized distribution has gained a foothold on the web. Though there is no comprehensive study to assess the size of the phenomenon, or the comprehensive impact that P2P has had on the Indian environment, The Social Science Research Network and IDRC Canada—along with Sarai and Alternative Law Forum—are conducting

[14]Further Reading 'End of the Niche Optical Pirate' at http://www.cis-india.org/advocacy/ipr/blog/at-the-end-of-the-niche-optical-pirate

[15]Mobile Internet in India—A report by Internet and Mobile Association of India http://www.iamai.in/Upload/Research/MobileInternetinIndia_39.pdf

an initial study.[16] The report points out that in a country the size of India, the commercial elite installed base of web subscribers is relatively small—only in the tens of millions. As such, while the phenomenon of internet video piracy is small relative to India, it is enormous in aggregate. In 2009, MPDA (the local Indian affiliate of the Motion Pictures Association) claimed that India is the fourth largest country in terms of P2P piracy traffic.[17]

2.3. Diaspora and the Worldwide Distribution of Desi Content

Assuming Indian consumers have sufficient levels of service, there are many options to legitimately acquire Western-produced content. But the worldwide distribution of Indian cultural materials is to a great extent shouldered by pirates. Major international P2P services, for their part, traffic widely in Indian media, especially Bollywood films, and larger sites like The Pirate Bay and Mininova generally offer separate searchable categories for Bollywood films. The popularity of major international torrent sites is complemented by a significant domestic P2P scene, also primarily using the BitTorrent protocol. The progenitor of these sites is DesiTorrents.com, a BitTorrent site launched in January 2004. Most other Indian BitTorrent sites emerged out of the DesiTorrents community, including the popular DcTorrent and BwTorrent. Unlike the top international sites, most Indian sites have registration fees—generally on the order of US$10.

Indian torrent sites, like many other sites below the top-tier international torrent trackers, tend to specialize in local and non-English language media. The more successful sites have communities that actively seed new content. Sites compete to post the newest releases quickly, and many of the most active groups also watermark their copies. Although there are, in principle, norms favouring the exclusivity of watermarked pirated material to the original host tracker, these do not appear to constrain the user populations of the sites. High-quality files seed very quickly across the main sites. Rapid release of Bollywood films is a top priority in these communities, and camcorded versions generally appear within a day or two of theatrical release. These are often quickly superseded by higher quality or re-mastered versions when directly reproduced audio tracks become available.[18] It is remarkable that in the absence of any formal commercial infrastructure for distributing Indian cultural materials online, that such an efficient system has emerged.

[16]To know more about the project, titled 'Towards a Détente in Media Piracy' visit <www.piracyresearch.org>

[17]See article titled 'India 4th largest illegal downloader of online content' at http://www.siliconindia.com/shownews/India_fourth_largest_illegal_downloader_of_online_content-nid-63831.html

[18]Also see The Desi/Bollywood P2P Scene - BitTorrent's Other Side, http://filesharefreak.com/2009/02/01/the-desibollywood-p2p-scene-bittorrents-other-side/

3. Mapping Content on the Internet

The previous chapters established a fluid and growing trend of alternative content distribution online, and frequently by unauthorized distributors. The following chapter will catalogue the variety and classes of content available online.

3.1. Bollywood and Regional Cinema

Commercial and independent films are perhaps the most sought-after content on the web. Owing to the demand of Indian cinema (especially by the desi diaspora) and the increased excitement in international film circles following the Hollywood success of Indian filmmakers like Mira Nair and Shekhar Kapur, Bollywood films are made widely available not only in India, but worldwide—uploaded by an indigenous "Desi Torrent" scene.

3.2. Independent Documentary Film

Independent documentary film gained its foothold in India during the years of emergency, when many filmmakers used the medium of video to express their grievances against the Indira Gandhi-Sanjay Gandhi regime.[19] After a sluggish phase of documentaries during the late 80′s and early 90′s, the trend of making documentary films was revived, largely owing to increased media exposures, rapid expansion of film schools and falling prices of cameras and editing suites. Though many filmmakers in India are skeptical of digitally distributing their films (owing to anxieties of misuse), a younger generation of filmmakers is more comfortable using free Internet distribution to promote their films. They make clips available on their websites, and even encourage remixing and sharing.[20]

The Magic Lantern Foundation is a Delhi-based NGO that helps documentary filmmakers distribute their works, and one of the few social-justice organizations to experiment with feature-length distribution of its catalog online. In an interview in Bangalore, filmmakers from Magic Lantern disclosed that the economics and practicalities have been very difficult. As such, Magic Lantern has generally limited its selection, and favored short clips as enticements for people to buy DVDs.[21] In 2010, Magic Lantern embarked on a new venture, entitled "Under Construction." With more support, and an ever improving network topology, this type of paid content distribution could meet with some success. But it will likely be limited to a very small niche for some time.

3.3. Television and Media Networks

As of 2009, there are over 1400 television stations across the country. Much of the content generated by the television networks—family shows, soap operas,

[19]'Making of the Nation and Language of Documentary Films in India' by Madhushree Datta. <www.madhusreedutta.com>

[20]Interview with Namita Malhotra, Legal Researcher, Alternative Law Forum, Bangalore, 26th June 2010.

[21]Interview with Gargi Sen, founder, Magic Lantern Foundation, Bangalore, 15th December 2009.

reality television, dance and music shows—are circulated online, after their release on the respective television stations. A recent study revealed that much of the content uploaded and downloaded on torrent tier 2 torrent networks (desitorrents.com, dctorrents.com) is the local television programming.[22] The two likely explanations for this trend are a) the existence of a bandwidth-rich subcontinental diaspora in western countries, seeking news and televised programming from home, and b) the underdevelopment of contemporary streaming video services such as Hulu or Megavideo, which makes torrents a logical destination for basic consumer practices like time-shifting and repeat viewing.

3.4. Animation, Design and Film School Students

Film, television and animation education has been a sought after segment in the past five years. Various training centres have emerged to teach filmmaking, video journalism, and other forms of media literacy. Institutes like the prestigious National Institute of Design and Satyajit Ray Film Institute, as well as the new schools like the Srishti School of Art and Design, Asian Academy of Film and Television, and Asian College of Journalism train hundreds of students in film and video. These students are then absorbed by the fast growing film and television markets—especially in Delhi, Mumbai and Chennai. The design and animation industry is relatively new—the Indian animation market was fairly stagnant through the early 90′s, but the latter half of the decade saw a rise in the sector with the emergence of animation studios. There has been a steady increase in animation training institutes in urban cities, especially through established institutes such as the Film and Television Training Institute in Pune, as well as specialized schools like the Hyderabad based Heart Animation Academy.

Much of the content generated by the educational institutes, especially as student projects, is uploaded and circulated online using video hosted sites such as YouTube or Vimeo. This is perhaps the first mass outlet available to non-commercial works in India, barring physical analog distribution networks.

3.5. Pornographic Underground Industry

There is, unsurprisingly, a thriving porn industry operating in India, producing films in various vernacular languages. Online pornography is illegal and attracts a conviction up to five years as well as hefty monetary fine. Nevertheless, pornography is easily accessed both online as well as offline.

3.6. Mobile Camera Content

With 652.42 million mobile phone connections, India is the second largest telecommunication network in the world, after China. Primarily an urban phenomenon, the mobile market in cities is now saturated and the rural sector

[22]This is based on the information collected as a torrent track on <www.desitorrents.com> and <www.dctorrents.com> as a part of the research project titled ‘towards a détente in Media Piracy’.

is the area of growth. The popularity of video "handy cameras," as experienced in the Western or far Eastern world, never became a phenomenon in India due to high prices. Yet video is now an increasingly accessible medium because of the mobile camera. The cheapest camera cellphone is available in the Indian markets for as low as Rs.2500 ($50). High end HD recording cameras are in the range of $500 models and increasingly accessed by the urban population. The content produced over cellphones—photographs and videos—are increasingly visible on social networks and YouTube, the most popular online forum. The access to video has also provided for citizens using video as a tool to capture evidence such as corruption, perceived miracles, and so on, which then quickly circulate over the Internet and also run on television networks.

i A Case Study in Impact of Participatory Video: Video SEWA

Established in 1984, Video SEWA stared making videos with one set of 3/4 inch U-matic production equipment. The twenty SEWA members included women of all ages, Hindus, Muslims, craftswomen and vendors. Video SEWA tapes depict diverse opportunities for earning income, present innovative production techniques, and provide health information for members and their families. They are used for mobilizing and training current members and staff, and for reaching out to new members and other trade groups. Through video, SEWA members, many of whom are non-literate have gained valuable information on how to use SEWA's savings and credit services, how to build a smokeless stove, and how to prepare oral rehydration solution. Perhaps most importantly, they have learned how strength through solidarity can help them advocate for better conditions for themselves and their families. Video SEWA also helps support legal action.

Preparing for Their Day in Court When a group of bidi workers (women who roll cheap cigarettes) were preparing to testify, SEWA set up a mock court with a judge, witnesses, plaintiff and defense lawyers, a bailiff and a court audience. Video SEWA recorded the proceedings. These tapes were reviewed by the women who had to testify. The SEWA lawyer then talked with the women about their 'performance.' This process helped build their confidence and prepare them to stand up for themselves in court. As with athletes who visualize their performance before a critical contest, the mock trial gave bidi rollers a positive image of themselves performing under pressure in a courtroom.

SEWA tapes create visibility for the concerns of self-employed women and help them wield influence with policy makers. In a dispute over the rights of vegetable vendors to market their wares on the streets, SEWA used video as a channel of negotiation between the vendors and municipal leaders. In their tape, the vendors spoke compellingly of their situation. On seeing it, the concerned local official was impressed; he was more receptive to the vendors' homemade media message than to a confrontational approach and he became more attentive to their needs.

3.7. Community Based Media and Citizen Journalism

Participatory video made its foray into India as early as the 1960s with a first experiment by Don Snowden. Snowden—who had created the first participatory film with the fishing communities in Fogo Islands—brought his participatory video methods to India and continued to practice them until his death in 1984.[23] With the rise of the non-governmental and civil organizations, the use of video

[23]See Quarry, Wendy. *The Fogo Process: An Experiment in Participatory Communication.* 1994: Thesis, University of Guelph. http://www.uoguelph.ca/~snowden/fogo.htm

by marginalized communities became increasingly popular. These NGOs have used video for increasing awareness about their programs, as well as initiated various projects where the community members themselves participate in the creation of media. The use of community video, especially in areas with low literacy has resulted in unique experiences—documenting rural Indian life and cultures, exposing atrocities against the marginalized, and helping the poor create a voice for themselves.

Many non-governmental organizations in various parts of the country have used the Video SEWA model of community based media. The Deccan Development Society, based in Andhra Pradesh, instituted a Community Media Trust in 1998, training 15 women in all aspects of filmmaking. These women have made over 100 films over the past decade, filming the powerful visual and audio narratives of women who are marginalized by illiteracy. In 2006, Drishti Media Collective and Video Volunteers established seven community video units, in partnership with local grassroots organizations in Gujarat, Mumbai and Andhra Pradesh. Aimed at screening local content, they brought DLP projectors and hand-held screens across villages to show films which addressed issues of public health and caste-based discrimination. Video Volunteers is now coordinating India Unheard: a pan-India, web-based community news service with 30 community based reporters across the country.[24] The videos are also distributed through social media sites such as Facebook, YouTube, Twitter and Blip.tv, with the intention of spreading stories from rural India across to the world audiences. Similarly, WAVE (Women Aloud Video Blogging for Empowerment, a Goa based collective) recently trained women from each state in India in various aspects of filmmaking and helps distribute these shorts.

4. The 'Open Video' Question: A Conceptual Framework

How can we assess the openness of the online video medium in the Indian context? Certain questions, especially the ones pertaining to the technology, can be judged effectively by qualitative criteria. Are the technologies in use transparent? Do they allow you to peer inside to understand how they work—enough for someone to be able to build something similar or integrate in ways you didn't expect? Does the core technology in use require permission before it can be used? Can individuals build things and publish them without fear of a legal backlash? Are the decisions around the core technologies transparent? Legal innovations like the General Public License (GPL) are meant to facilitate open software development, and as such are hallmarks and signals of this kind openness.

[24]For more on India Unheard—see http://indiaunheard.videovolunteers.org/

This is the narrow definition of open video from the free software world: it is the idea that the basic technologies for transmission of video must be open source and their usage royalty-free.

Another set of concerns relative to open video describe the levels of access to cultural materials, and the freedom to use these materials in transformative ways. This model is closely associated with the Harvard Berkman School of thought, and draws heavily on the concepts of the public domain, fair use, and common culture.

4.1. Access: To Content, to Applications, to Services

The greater part of the challenges facing the development of a rich online video medium center around access.

For the purpose of this paper, we break access into four distinct parts:

1. **ACCESS TO THE NETWORK.** Access to the Internet is the basic requirement for participation in the medium. This requires both sufficient and well-distributed infrastructure, and a competitive market.
2. **AFFORDABILITY OF SERVICE.** The price of access must be low enough to allow for meaningful use. This is especially true for video, which is a bandwidth-intensive medium.
3. **QUALITY OF SERVICE.** The quality of the connection must be high enough to allow for the smooth transmission of video. This includes both the speed of the connection and the stability of the network.
4. **NEUTRALITY OF THE NETWORK.** The network must not discriminate against any particular type of content, application, or service. This is the core principle of net neutrality.

4.2. Intellectual Property and Fair Dealing in Copyright

The parallel film industry of Malegaon strikes as an accurate starting point for the discussion around intellectual property governance around video in India. In Malegaon, a small town in Maharashtra, a thriving film industry has emerged, producing low-budget spoofs of Bollywood and Hollywood films. These films are made by the local community, for the local community, and are distributed through local cable networks and physical media. The Malegaon film industry is a prime example of the creative potential of the medium, and the way in which it can be used to express local culture and identity.

However, the legal status of these films is often unclear. They frequently use copyrighted music and characters from mainstream films, and their distribution is largely informal and unauthorized. This raises important questions about the role of intellectual property in the online video environment. Does the current copyright regime support or hinder creative expression? How can the law be adapted to recognize the unique characteristics of the medium and the needs of content creators and consumers?

4.3. Open Source and Standards

The use of open source technology and open standards is essential for the development of a truly open video environment. This includes both the technology used to create and edit video, and the technology used to transmit and view it. Open standards ensure interoperability between different systems and devices, and prevent vendor lock-in. Open source software allows for greater transparency and collaboration, and enables individuals and organizations to build on each other's work.

4.4. Censorship and Cultural Anxiety

Self-censorship is fairly prevalent in India, though any move to formalize censorship laws will have a real impact on the free circulation of video content in India. A 2007 Economic Times report suggested that the Indian government was considering a ban on "posting private and personal videos on the internet and mobiles."[25] The reason cited for such a consideration was the inherent possibility of uncontrolled video to morally corrupt the Indian society. Though such a law never came into effect, the fact that it could be seriously discussed in the chambers of law and in the media speaks to cultural anxieties about user generated content and unencumbered dialogue.

The 2004 DPS MMS scandal is one window into this anxiety. In the middle of the last decade, as multimedia-enabled phones became commonplace, a sexually explicit 3gp video clip was shot at a public school in Delhi, and subsequently circulated using MMS services by users all over the country. The resulting controversy erupted with surprising force, revealing some fissures in Indian cyber laws. Questions of morality and its conflict with technology began to surface, and pundits weighed in heavily even as the police were investigating the scandal.

The clip gained a life of its own. In one particularly entrepreneurial instance, an engineering student created a VCD of the affair made it available for sale on an online auction and shopping website. Both the student as well as the CEO of the company were arrested. The student claimed innocence by arguing that he did not know that it was illegal to sell pornographic content online, and was simply using the auction site to raise money for his education. The CEO of the site was summoned from the US, and later arrested after it was established that the website posted the item for sale for three days, as well as sold eight copies of the clip, which were also circulated over the Internet through P2P and email. The school student who filmed himself and the girl was also arrested. Both the students were expelled by the educational institution. Section 67 of the IT Act, section 292 of the IPC (sale of obscene material) and 294 (indulging in an obscene act) were invoked. The episode served to illustrate the near impossibility of halting the distribution of taboo or illegal materials,

[25] http://economictimes.indiatimes.com/articleshow/2506623.cms

given the porous characteristics of email, web, MMS, and even physical media —barring, of course, deep technological counter-measures.

The Indian state has responded clearly on issues of obscenity and cyber crimes but there are larger grey areas in the policy, especially for borderline content. To judge the openness of freedom of the environment in which the video is created and screened, one needs to ask two questions: first, is the spectatorship of the video curbed by any kind of systematic or latent censorship? Secondly, is there any perceived threat (political, physical, social) to the viewer in accessing the video?

Freedom of speech and expression is a fundamental right guaranteed by the Constitution of India. The law on censorship of online video remains unclear. Where it exists, it is enforced by community and social structures, almost always with the silent support of the state. Like the ban on screening of *Parzania* in Gujarat, there have been various instances of the state agencies taking down online content which it finds objectionable.[26]

4.5. Host Liability

One largely contested area in the online environment for video hosting websites and archives is host liability (in fact, the 2010 edition of the National Law School's annual Consilience symposium in Bangalore was entirely focused on the question of internet intermediary liability). A stronger liability regime for hosting sites would presumably strengthen the hand of political opponents to certain types of content, resulting in more restrictive online video sharing.

In an interview about online video and pornography, Namita Malhotra, a legal researcher with the Alternative Law Forum in Bangalore identified host liability as a key policy decision linked to open video in India. Speaking in context of video archiving practices, she elaborates: "What we have seen, especially in case of Internet censorship in India, is that not only are offenders posting obscene and copyright infringing videos held liable under the established law, but that the host is often held accountable for the same offence." Malhotra suggests that platform operators should not be made entirely liable for third party postings online, as long as a self-regulatory mechanism is in place—for example users being able to flag videos, or obscene content being filtered out by the host on a regular basis.

The law in India on online intermediary liability is laid out in section 79 of the Information Technology Act, which was revised last in 2008. That law now states that an intermediary should not be held liable for any act of a third party as long as that intermediary is a true intermediary (i.e., does not initiate the transmission, select the receiver, nor select/modify the content) and observes due diligence by acting upon actual knowledge of an unlawful act, and has not conspired or abetted or aided or induced the unlawful act. This provision does

[26]See 'Orkut co-operates with Mumbai Police by sharing IP addresses for offenders' at http://www.techshout.com/

not seem to apply for copyright-related matters, though lawyers and academics are still debating the meaning of the exception (in section 81 of the Act). There have been a few recent cases filed where that section will need to be interpreted, including a case by T-Series against MySpace and against a search engine, Guruji.com.

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The liberal character of the Indian state, and its guarantee of freedom of expression, is sometimes threatened by right-wing Hindu extremism. Various filmmakers have broached the subject of communal violence in their films, and later become subject to threat and censorship by non-state actors.

The state of Gujarat is currently administered by the right-wing Hindu political organization Bharatiya Janata Party. Under the chief ministership of Narendra Modi (who is under investigation for his role in supporting riots across the state in 2002) Gujarat has been notorious in supporting unofficial bans on films that show the state in poor light. In 2007 the cinema hall owners in Gujarat collectively refused to screen *Parzania*, a film portraying a sub-plot of the 2002 riots. Their decision was made under fear of attacks and vandalism by Bajarang Dal, a notoriously violent communal outfit which is criticized in the film. The cinema hall owners reasoned that the film might disrupt the communal harmony of the state. Though the state government did not officially ban the film, the cinema hall owners expecting little sympathy or support from the state. Internet forums were filled with anger against the unofficial ban on the film, sparking an online petition campaign, signed by over 2500 individuals, condemning the state government's "tactical support for the undemocratic and lawless actions of goons" and curbing the freedom of speech and expression which is guaranteed by the Constitution of India as a fundamental right of every citizen. Various human rights NGO groups organized closed-door screenings of the film, viewed under threat of their projectors and screens being vandalized and their audiences being physically harmed.

5. Conclusion

Increased and instantaneous access to video, paired with the ease by which it can be distributed to any part of the world, holds an immense cross-sector potential for India. The new logic of production and exchange is ushering in an altogether new paradigm through which audiences connect with video and the world around them. Part of the potential inherent in the medium is cross-cultural, interactive visual communication and improved access to knowledge. Especially for socially and geographically marginalized groups, video can break the barrier of illiteracy by defaulting to visual language. These are not far-fetched ambitions, but rather a practical vision based on the impact already

exemplified in various parts of the country. Yet owing to underdeveloped network infrastructure, these experiments are limited in scale and scope—and the tools of visual literacy, while more available than ever, are not evenly distributed.

Moreover, Indians are less able to participate in the global video conversation. As things stand, the large corporate and market-based models of film distribution and the widespread network of television content are viable models for the spread of offline video (and may some day extend to the web). But they do not suffice as models for truly open video, providing for access, creative independence, and the ability to reuse.

There are many different ways of understanding the 'openness' of a video, and thus far the open video movement has operated in the context of Western democratic concerns and levels of network deployment. For instance, while the understanding of freedom of speech by the higher judiciary in India and the Constitution might not be that very different from that in the United States, the practical aspects of how freedom of speech can and cannot be exercised are indeed starkly different.

India, and most other developing countries, are leapfrogging over many older technologies. For instance, the number of mobile phones long ago surpassed the number of landlines in India. Video technology provides a similar leapfrogging opportunity over print technology. While an illiterate person is handicapped when it comes to print-based communications, video and audio offer a form of levelling. While visual literacy requires more expensive technolgies than traditional literacy, case studies like SEWA show that this might not be an insurmountable obstacle. Indeed, as the growth of citizen journalism continues, there are deep implications for local development. The boundless optimism of media activists is in fact grounded by a rather practical vision, already visible in various parts of the country, where video is being used to further social justice and community development.

These changes are most clear when considering the explosion of mobile phones with in-built cameras. Mobile photography and videography are widely practiced in India, from the educated urban elite, to security guards, college students, auto rickshaw drivers, and countless others. This has undoubtedly made the creation of short videos very simple. While Internet connectivity on these phones still remains a barrier, and the uptake of MMS hasn't been as great in India as in countries such as the Philippines, the proliferation of such mobile phones still makes video an increasingly important medium of self-expression and communication.[27]

[27]Perhaps it should be noted that the proliferation of phone-shot videos on the Internet, on sites like YouTube and Facebook, and the genre of "MMS videos" (in fact 3GP videos) indicate that the lack of Internet connectivity on the phones themselves might not be an insurmountable problem in distribution.

And so, tempered by technological, economic, and cultural challenges, online video distribution is in a very unique crossroads. The vision of the multimedia citizen, who participates in a daily pastiche of video interactions, continually recontextualizing and using other's voices, in real time and delayed—will not soon describe the Indian experience. Worldwide, video is becoming a primarily means of communication, and the currency of a global conversation. But the ability of individuals to speak with as easily as they watch video is by no means guaranteed. For online video to support these kinds of interactions, various stakeholders will need to build an alternative video revolution in India. International networks, national and local government agencies, NGOs, filmmakers, and developers all have a role to play.

6. Full Report

- Full report

References