

Regulating India's Digital Public Cultures: A Grey or Differently Regulated Area

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Abstract. The paper draws on ethnographic studies of urban, peri-urban cyber cafes in Western India, to understand public norms governing digital security and privacy in a context brimming with inconsistent and arbitrary state telecom regulation and a widespread culture of software piracy. We focus on issues emerging from three interrelated contexts crucial to cyber regulation in India: the grass-root, the state and the non-formal economy. While café managers dismiss their responsibility to police on-line security, state level initiatives show contradictions in their stated enthusiasm for an IT enabled society and sporadic regulatory behaviour directing public usage of the internet. There is a lack of will and genuine bemusement in the state apparatus to handle cyber regulation in non-formal and para- legal economies.

1 Introduction

The paper reports on an ethnographic study of urban, peri-urban cyber cafes in suburban Mumbai, Alibaug town and the city of Surat, all in Western India. Our research probes concern on-line security and privacy in public and shared computing experiences, in this case, the cyber café. We focus on issues emerging from three interrelated contexts crucial to cyber regulation in India: the grass-root, the state and the non-formal economy. Our earlier work on rural PC kiosks [19] and on going research among urban/peri-urban internet cafés are showing evidence of a weak culture of internet and on-line privacy and inconsistent demands for robust web security. We also noted broader socio-economic processes supporting a non-formal/informal culture holding sway over the sustainability of cyber cafes¹.

Designing for or even promoting secure and private cyberspaces require careful and deep understanding of larger contexts: of ad hoc state regulation, the shadow economy, human-mediated services, and unconventional usages of cyber cafes and spaces for leisure and friendly pursuits.

At the grass-root level, articulations about cyber security take place in an atmosphere of arbitrary norms and regulatory practices and an everyday tolerance of pirated software transactions. From initial investigations² and interviews with café

¹ Haseloff (2005) [9] is probably the only comprehensive study of cyber café presence in India to date.

² We have covered, thus far, 20 urban, peri-urban cafes, spending several days in each café doing qualitative interviews, participatory observation, maintaining field journals, recording and transcribing interviews.

managers and participant observation in cafe premises, we found café owners and managerial staff viewing security as a non-issue and regulation as more business and ethics oriented.

Cyber security in India is limited to concerns of protecting its knowledge out source industry with increasing amounts of personal data from other countries flowing into India's backend processing units³.

State level initiatives show contradictions in stated enthusiasm for an IT enabled society⁴ and sporadic regulatory behaviour in directing its reach and impact in the public sphere. There are sudden surprise moves to monitor cyber cafés and equally startling cool-offs [22, 23]. They reveal a certain lack of will and genuine bemusement in the state apparatus, quite typical of a developing economy, to handle cyber regulation amidst non-formal and para legal economies. No special licenses are needed to run cyber cafés. We note most cyber cafés are run in an environment that may not strictly belong to the domain of formal economies despite business licenses and registrations. There are inconsistencies in billing, evidence of pirated software and multiple businesses running under a single business title. In an environment rife with non-formal business relations, cyber security fails to be a primary concern or priority among providers of public internet access.

2 Foregrounding Debates

The Indian state introduced the Information Act of India [21] in 2000, granting legal validity to digital data, signatures, communications and to retain data in digital formats. The Act was popularly viewed, as inadequate to tackle legal complexities arising out of cyber regulatory practice to suit and meet demands of a global IT driven economy in a developing nation⁵. Privacy is not just a matter bracketed by cyberspaces. It is embedded in a society's cultural prescriptions to which its members conform. These in turn affect and touch social transactions, in private and public, in the realms of the social and economic, and define frameworks of privacy that feed

³ India's \$23.4 billion outsourcing industry accounts for most of the country's software and services industry, which makes up nearly 5% of gross domestic product. The industry employs 1.2 million workers, has sparked a consumer revolution in India, and is accelerating at more than 30% a year.[10]

⁴ 1994 was a major turning point for India's engagement with ICT's. The 1994 National Telecom Policy (NTP) laid the foundation of allowing private sector to operate Basic Services. This policy document attempted to clearly enunciate the goals of the liberalization process. In 1997, establishment of Telecom Regulatory Authority of India (TRAI) was a major gain leading to 1998 Internet Policy. Around the time, the Indian software and services industry grew from \$12.8 billion in 2003 to \$17.2 billion in 2005 -- a 34% increase (DIT, 1996-97, 2005)[4]. The IT industry was given a 'bureaucracy free environment' for prospective investors in the late 1990's after India's economic reforms took off the ground. This marked a shift from the era of state planning in industries and businesses to a new ideology of more local ownership and private initiatives [16]. Following the development of India's national strategies for ICT, the government made a concerted effort to bring low-cost connectivity and ICT enabled services to the 'rural masses' [18].

⁵ Duggal (2004) [6, 7]. Telecom regulation gets to be debated mostly by dot.com owners on internet forums.

into its functioning. Definitions of domains of privacy in India, public or private, on-line or off-line, are not built alone by legal prescriptions but by how people relate to, communicate and share each other's professional, familial and personal information⁶. A brand new BPO industry with stringent norms of privacy and security is unlikely to quickly transform existing norms of privacy in the interplay of private and public realms in India.

Cyber cafes in India belong to the business environment of the unorganized and non-formal sector (Satyam Infoway and Reliance Infocomm are the only two cyber café franchises backed by large business houses) [25], [26]. Eighty six per cent of India's businesses are in the non-formal sector but account for 92 per cent of the Indian labour forces [15] and contribute 60 per cent of its GDP [12]. The informal economy and its employees operate outside the state's jurisdiction. Nevertheless they are promoted by the government, as these businesses are cheaper, more flexible, and more conducive to competitive global markets than formal labor [14], [20], [3]. In particular, Mumbai is a city where

...service economies involving law, leisure, finance, and banking, and virtual economies involving global finance capital and local stock markets live in an uneasy mix... Shifting from economies of manufacture and industry to economies of trade, tourism, and finance, they usually attract more poor people than they can handle and more capital than they can absorb.But they often contain shadow economies that are difficult to measure in traditional terms' [2: 627].

Into this economy fits the cyber café, bound by norms that govern and drive small and non-formal businesses. In our study, we find cyber cafés operating within the socio-economic ambit of small and informal business in Mumbai and nearby towns with varying degrees of formality, permanence and flows of business⁷.

Public internet cultures and services in India have yet to include vital services, especially in areas of health, transportation, commerce or real estate. Most services are human mediated and still follow conventional processes. Many people experience computers mainly through shared access outlets (home PC penetration remains as low as 5%) in the form of audio/video channels, chat rooms, photo share and e-mails rather than serious information search and e-banking activities. Cyber café become places that are sought for reasons of leisure and individual pursuits⁸. Urban areas report plenty of unregulated leisure pursuits, with income coming from the sale of internet time by the hour. Rural PC kiosks have different barriers to make security and privacy a serious matter in shared access scenarios. There is little internet time with

⁶ With regard to cultural prescriptions and privacy, Kumaraguru and Cranor (2005) [13] refer to the lack of an explicit privacy concern be it amongst family members running family business or in the work place where exists a certain amount of naïveté about data bases of personal information traded and sold between trading companies. They mention that even the constitution of India permits only the use of personal liberty rather than privacy in outlining its constitutional guarantees to the individual.

⁷ For a case-study of small business environment in Bangalore, see [5].

⁸ Nisbett(2005) [17] , in his study of cyber café in Bangalore, the IT capitol of India, notes the transformation of café space to a hang out joint for middle class youth in the absence of affordable spaces for such pre-occupations.

huge power crunches, hardware breakdowns and a small clientele who see value in net scapes and surfing [11]. In places that had the wherewithal to run a connected kiosk the same (non) regulatory practices governed internet activity. Rural kiosks reported pornographic web activities among clients, and considerable portions of para legality governing business ethics. The issue was simple. There was no felt need for cyber security when the larger public culture did not need or demand it.

3 Can Hutch Be Sued for a Bomb Scare Issued Through a Mobile Phone?

3.1 The Small Business of Internet Cafes

Sustaining the café business takes precedence over security issues. Cyber cafes in the city and suburbs of Mumbai, Surat, Alibaug, cities/towns close to Mumbai, are embedded in informal business environments. There are definite differences with regard to café owner profiles, client driven popular services and allied business alongside the café. Rather than being rooted in clearly defined formal and legal/ institutional relationships, cafes increasingly seek out and manage a diversity of services running under one business title. Several cafes assemble PCs for a local market, and operate through socio-economic networks to procure and assemble hardware components. Some also provided software solutions to local offices. Many had pirated software. Here is a small compilation of businesses that were tied to cyber cafes: A lending library of popular fiction and education guides, a fast-food catering service, a photo studio, a restaurant, mobile repair and maintenance service provider and the more popular Xerox/scanning/printing centers. More interestingly, several cyber cafes in Mumbai made most of their income from offline rather than internet based services. All of them were registered business with licenses but showed irregularity in billing, accounting profits and in maintaining records of business dealings. Many of them hosted their café in premises showing unclear legality in their ownership.

A café in South Mumbai, around 3 Kms from the stock Mumbai stock exchange in Dalal Street, ran a stock trading centre till 4 Pm. The idle PCs were offered for public use in the evenings. Pankaj, the café manager says:

This is a market place. In this locality you won't find any cyber café. So it is a major source of income, right now, for it's just a month old café. It's not completely rooted. And also it is not just the cyber café that we operate here. Our prime business is trading, National stock exchange and the Bombay stock exchange. And the cyber café is actually part time business. We first started the trading business then the cyber café. We are on trial basis. So it is not necessary that we run this cyber café business for long. If it is beneficial to us then we will continue other wise we will wind-up. And the 4-5 PCs that are idle after four, because the market is open for trading up to four, so to utilize the PCs we started the cyber café.

Similarly, most cafés become gaming centers, raking profits based on the kind of network, quality of PCs, upgrades and variety of software support. Some made money only through gaming services. In Sunderbaug, a slum area in an eastern Mumbai

suburb, the café transformed from a coin operated video parlour to a gaming centre. The owner makes additional money from a phone booth and a Xerox centre. Radhe, the manager/owner started the café having learnt computer programming and hardware but realized his neighbourhood had little value for the internet. A snippet from a conversation with Radhe (all the names are pseudonyms):

Interviewer: So your major income is from gaming

Radhe: Yes

Interviewer: What made you think that gaming would earn you money and that so many kids will come to play games on your computers?

Radhe: Earlier, kids would play games on those gaming boxes (machines).

Interviewer: Okay those ones where you have to put a coin and play?

Radhe: Yes. A lot of kids rushed to play games on them so I thought after those machines have been shut down kids would turn to computers to play games.

Interviewer: So has your communication business been affected by the cyber café?

Radhe: No it has not affected my communications business. The two work together.

His clients are children between the ages of eight and 16, some school going and others daily wage laborers, mostly construction workers. He even had flexi rates, as low as Rs10 per hour for these children.

Ganesh runs a cyber café attached to his book lending library. He used to sell greeting cards, and found business was decreasing during the last five years due to the growth of on-line greeting exchanges. "I used to do a lot of business with cards, especially Valentines Day that has caught on in India. But people switched to e-cards and business dipped... I thought of opening a café to get the same market that brought cards..."

Café owners sited the unviability of a stand alone café, especially in urban areas with high real estate rates, maintenance costs for computers, and competition from other aspiring café businesses. Cafés break even because of profits from allied businesses. Hitendra, café owner in Alibaug town, makes money from the mobile retail shop tied to the café. He said,

I started out as a computer hardware engineer and mobile repairer and used to operate from my house, as I didn't have an office... people don't buy computers everyday. Mobile repairing is a good business and the Cyber cafe brings me hard cash everyday... rather than monthly profits...

Vinod, 36, owns a café in outer suburban Mumbai. He said,

I began the café in 1998, when an internet café was an exciting option... I began with data entry work and moved to selling internet time. I charged Rs80 an hour.... I always start with the most expensive and the best service provider and my rates are always high... It was the beginning of the software boom. The same boom has now pushed home PC penetration and low browsing rates, broadband and all. I charge Rs 30 per hour, which is still high... A café in my neighbourhood charges Rs 10 though the going rate is Rs20 per hour... I have moved to assembling PCs and providing hardware solutions. I cannot sustain a stand alone café relying on internet...

3.2 Voices from the Café

Ok. So there is no software which is safe?

There is no solution to this problem and if someone has, then he'd be richer than Bill Gates⁹.

The Internet cafés we observed were mostly managed by independent entrepreneurs, who were hardware literate to some extent. This was an important skill for maintaining multi-PC cafés or kiosks. Hence, they are individuals with a know-how of computer cultures and business. They understood issues of cyber security and its unclear public status in digitally emerging public cultures. Amidst considerable computer literacy, notions of privacy and security were conceptually construed to mean several things.

Hitendra, 32, owns and manages a café in the tourist and coastal town of Alibaug, 100 Kms from Mumbai. A self taught computer engineer, he is ambitious to begin his own trading site for on-line trading. He said,

...being in the IT industry I know the importance of security. We have all the necessary anti viruses and firewalls installed. We update our software regularly. People do all kinds of banking transactions from our café...

... We don't allow two persons on one pc. Personally, I feel nobody must be able to see what you are typing or which site you are surfing. Before registering anybody we tell them to take a look at the rules... we do this to avoid any unlawful deed. We make the customers realize about their responsibility.... We don't allow anybody to download any software... We won't allow him directly to use a CD or floppy. We will transfer the file for that person. We don't allow pen drives or flash drives.

Anup, 22, who helps Prem, the owner, in managing the café on the other hand said: "You know, if I pull this wooden board here and here, bring them close, there is privacy..."

We noted in smaller cities and towns there was a shift in monitoring privacy and an element of everyday trust creeps in. Security meant a decent clientele who do not indulge in suspicious on-line practices. Jagadeesh manages his café in the city of Surat, in a busy commercial district. He has no dearth of clients and is upbeat about computing technologies. He said,

In a city of business like Surat, computers are a boon. There are new products for new markets cropping up all the time.... My café is always full of people and (they) use internet for practically everything... mailing, information, chatting, surfing...I have no problems with security... I know everybody who visits my cafe...

Bhaves, 29, is a Software engineer, providing client solutions and runs the café in his office. He said, "We do have clients who trade, use credit cards etc....provide security? What can we do about it? We are just service providers. Like the ICICI web site has tight security... What is the need for us to provide anything?" He adds in a

⁹Quote from a café owner about securing cafes and sites from tampering and fraud.

serious vein, "If offences take place are we to blame? ...Can Hutch be sued for a bomb scare issued through a mobile phone...?"

Echoing Bhavesh, Prem, another café owner and hardware engineer who offers maintenance services and assembles PCs for a small suburban market, "Well, what could we do about security? It's not our problem. We have enough problems running services and a business ..."

These statements are expressive of the broader issue of the responsibility for internet security. Café owners believe the on-line bankers and the vendors stand to gain and lose the most in matters of security and privacy. The cyber café wallah is probably the last in this chain of web access providers with the least control over the provision and securing of web sites. It is reasonable to assume concerns for security and privacy extending to protect only their businesses and clientele. Installing firewalls and site blocks, in part, to protect PCs from viruses and dubious internet content, were more to appease state machinery and moral policing rather than protect consumers' identities. Most café managers suggested a non-role for themselves with the onus squarely on companies encouraging e-services. The issue of a café as a secure space to conduct electronic transactions never seem to arise.

3.3 The State and the Café

"It might just be a general business like a vada pav business"¹⁰

The Indian state's first Information Technology (IT) Act was formulated in May 2000 [8] and it became law in November 2000. India's first cyber law makes 'punishable cyber crimes like hacking, damage to computer source code, publishing of information which is obscene in the electronic form, breach of confidentiality and privacy, and publication of digital signature certificate false in certain particulars'[7] . It provides the legal infrastructure for electronic commerce "which involve(s) the use of alternatives to paper-based methods of communication and storage of information and to facilitate electronic filing of documents with the government agencies" with little mention of directly regulating cyber spaces in the form of commercial public access outlets like cyber cafés. However, amendments to this are supposedly in queue before the Parliament [1].

There are generic government regulations to run cyber outlets. Cafés need to register, seek necessary permission from local governing bodies, and inform local police machinery that a certain café is opening in their jurisdiction. Insights gained from the 'field', point to a serious lack of regulation or governing body overseeing the functioning of cyber cafés, with regard to on-line content/services, client activity or securing café transactions through commercial and penal laws.

There is much 'ad hocism' in monitoring cyber cafés. A case in point is the aftermath of the bomb blasts that shook Mumbai suburban Metro railway killing 209 citizens and leaving hundreds wounded[24]. The blasts triggered huge debates on national security and serious suspicion about neighboring states playing a major role in instigating these blasts. Cyber policing was stepped up and café premises were treated as potential sites triggering terrorist action. Cafés were asked to put up posters

¹⁰Quote from café owner in Mumbai. *Vada Pav* is a typical low cost fast food readily available in street corner restaurants and carts.

against cyber crime with a reference to bomb blasts. The state police demanded formal registration of clients, frisking for IDs and cross checking with mobile phone numbers. Café owners, maintaining registers since the blasts, again showed irregularity. Cyber policing was a matter of tracking crime, in this case, combating terrorism rather than securing on-line transactions and monitoring internet practices

A conversation with Prem 32, who runs a café next to central Mumbai suburban station;

Prem...You see this poster... This happened after the metro rail bomb blasts... We have this register here, where each person who steps in had to register with his name and mobile number. We give him an ID and check by calling his mobile number. There is some surety that he has a photo ID at the time of purchasing his mobile.

Interviewer: You think this is fool proof?

Prem... yes it is. What more do you need.....

Interviewer: Did clients object to all this... I mean, were they uncomfortable?

Prem: Initially clientele dropped. But once we insisted, it has become normal. Every one has an ID of some sort... We follow these rules. I do not know if others are doing it. I do it...

Vinod, 36, a café owner in Suburban Mumbai, was quick to note the irregularity in framing and implementing laws governing cyber spaces. He said,

Before the bomb blasts took place, we were asked to install a sort of security software issued by the state police, less than two years ago, due to a sudden ad-hoc government regulation for the cyber café operators. We were advised not (to) allow anybody to access sites containing offensive material... We can't block all sites (with) this security software... It was provided to us on monthly trial... It was sadly inadequate and blocked good sites more than (the) offensive (ones)! Basically it has to do with our legal system. Nobody bothers whether you implement it or not as long as their hands are free. It's a grey area...The business of running a cyber café is pretty much like any other business.

Hitendra, who strictly monitors client activities, aspires to begin his own web shop. He has a view that shifts the onus of security from the state to the site provider. He says,

I have my own e-commerce site but I am not confident about using it. I still find it unsafe for trading. I am still not convinced about the protection this method of transaction provides... I think the culprits feel that they now have another method or way of cheating the masses and earning easy money. I have seen commercial sites like eBay but there (are) plenty of loopholes in it... I am a little worried. My website is completely ready. I have installed security software and everything else. I can accept payment. It has all (the) shopping cards.... Somehow in India the mentality is not ready for it. .

He admits like most others, to clients using negligible internet time for payments and purchase.

Pankaj's café being a share trading site is not a cause for worry. His files are secured by passwords and robust software provided by the Stock Exchange. He or a supervisor keeps strict vigilance while trading is going on. Like most others, even

Pankaj has 'full faith' (or ignorance) in security provided by online e-banking and other buying facilities where credit cards or other personal information are shared. He says, "They maintain the (online) security. So I don't need to install any software for extra security." For Pankaj, 'safe' stock trading is vital to his business and he ensures it. But regulating on-line activities is a matter that did not bother him with little pressure coming from customers or the government to provide secure and private internet activity.

4 Concluding Remarks

Privacy and security are not priority issues for cyber café owners. For the café owners, sustaining business, servicing a steady clientele, maintaining and upgrading computers are crucial every day issues. With leisure pursuits defining café usages, clients are satisfied if they get connected preferably fast, to the internet. Security is then the owners' responsibility, so that he or she can ensure the PCs are virus free and firewalled. He does not necessarily do it because the state law imposes it.

The research presented framed the cyber café as embedded in broader economic and business contexts. These, in various capacities, constrained provisions for privacy and security in public access to internet in these spaces. The State inconsistently regulates cyber spaces and its customers. The attention is focused on the outsourcing sector, so that there is only occasional concern about monitoring public Internet cultures. The café is thus left alone to stay afloat, make the most of available ICT technology and services, and ensure enough security to keep internet services on-going.

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