

Digital Identity, Anonymity and Pseudonymity in India

Rowena E. Rodrigues
University of Edinburgh
Edinburgh, UK
rowena_edw@yahoo.com

Abstract. The concepts of digital identity, anonymity and pseudonymity are primary to digital discourse and often the focal point of debates revolving around the Internet and digital technology. Much research has gone into defining and analysing these concepts from the western philosophical and social point of view. This paper will look at the concepts of identity, anonymity and pseudonymity with special reference to India. It will show how these concepts have been moulded by its peculiar history, ethos, cultural and social and customary pinings. We will examine how identities are performed and experienced from the Indian context. How have traditional identities transmuted online? Does the concept of a fixed identity in the real world affect dealings online? How much of their offline selves do people choose to divulge? Given the level of governmental regulation are people choosing to be their real selves, take on an assumed identity or simply remain anonymous? We also look at the use of anonymity services – or lack of use thereof.

1 Introduction

The concepts of digital identity, anonymity and pseudonymity are primary to digital discourse and often the focal point of debates revolving around the Internet and digital technology. Much research has gone into defining and analysing these concepts from the western philosophical and social point of view.

There is a dearth of literature on how these concepts play out in eastern countries like China, Japan or even India. After studying all three systems, and concluding that covering all three countries in a single paper would do neither of the three any justice, the scope of this paper has been limited to India.

This paper will look at progress in India's digital (primarily Internet) usage. It will also examine the concepts of identity, identification, anonymity and pseudonymity, some manifestations of the same, its regulation and effects.

2 Digital India

India was reported to have around 37 million internet users in September 2006, a period during which the number of active users rose to 25 million. 1 This figure is estimated to rise to 54 million ever users and 43 million active users. 2 These figures were based on survey reports from the Internet and Mobile Association of India (IAMAI-IMRB). The survey results also highlighted that 9% of Internet users access the Internet primarily for entertainment purposes and that as opposed to the past, ecommerce was making positive progress.

This shows that India's increasing internet use, while not that impressive as compared to neighbouring China or the other developed countries, is a very real event that is changing the lives of its people on a nanosecond by nanosecond basis. Access to the Internet remains primarily through cyber cafés, which are doing booming business in the metropolitan cities and towns across the country. This is because home internet access has not caught on, as it an expensive prospect given that the Internet is by and large still traditionally accessible (though dial up connections) and broadband has not made the huge difference it was expected to. The small cyber cafés are privately run. There are also funded tele-centres like E-Seva in Andhra Pradesh, which are targeted at specific users and their development and training needs. Most colleges and universities have free Internet access for students and schools are increasing usage as well.

From simply supporting basic communication needs, the use of the Internet is moving towards more complex applications like blogging, P2P, digital radio, online games etc. Increasing use is being made of the Internet to transmit localized content. Social networking sites are very popular. Orkut 3 in fact has nearly 6.6 million registered Indian users (of its 49 million worldwide users). Recruitment websites and matrimonial websites like Shaadi.com 4 are doing booming business.

There is also much evidence to show how multimedia tools like web cams and microphones are largely popular due to the inherent problems of text based services.

3 Identity, identification, anonymity and pseudonymity in India

Identity in India is a very complex phenomenon not unlike elsewhere. Both India's history and geography have contributed to the development of identity categories spawned by migrating communities and diverse cultures. India has journeyed through the era of the Indus valley civilization, the days of the Moghul empire, through a difficult colonial period and a post-Independence development period. We must take all these factors into account when we examine the concepts of identity and identification in India.

It would be relevant at this stage to determine what the local terminology for identity and their connotations are. Identity has various interpretations in Hindi 5 just as it does in English. It is variously interpreted as being, तत्समक, व्यष्टित्व, सर्वसमिका, पहचान, अभिज्ञान, शिनाख्त, समानता, सरूपता. There is also the concept of मौलिक पहचान which refers to fundamental identity. The concept of anonymity is referred to as अनामिकता or गुमनामी.

Identity and identification have also been affected and effectuated by the introduction and promotion of reservation policies for the “weaker, disadvantaged” and marginalized sections of society. These policies cover seats in legislature, government jobs and even admissions to universities and colleges and the establishment of identity is primary to the availment of these benefits. Jenkins 6 in fact emphasizes that “contemporary Supreme Court decisions have demonstrated the continuing legal reinforcement of official identity categories.”

Courts in India have been called on time and again to decide on matters of identity and identity fraud in relation to social status certificates, conversions, marriage etc. In *Kumari Madhuri Patil v Additional Commissioner Tribal Development and others*, 7 a case of verification of identities, the Supreme Court outlined procedures for verifying identities after stating that identity claims had to be judged on “legal and ethnological basis.” In *Mrs. Valsamma Paul v. Cochin University & Ors* 8 the Supreme Court further stated that, “people have several identities which constantly intersect and overlap.”

4 Manifestations of digital identity, anonymity and pseudonymity

We will for the purposes of this part of the paper, stick to Clark’s very basic definition of digital identity: the association of data with a particular person 9.

India’s first case of cyberstalking brought digital identity into the spotlight. A woman complained to the police that a person was using her identity to chat over the Internet on the *www.mirc.com* website in the Delhi channel. The person concerned was also using the woman’s name, giving out her address and encouraging other people in the chat room to make telephone calls to her, which not just disrupted her personal life but caused her a lot of harassment and trouble. The matter was investigated, the IP addresses were traced and the person responsible was arrested under S.509 of the Indian Penal Code.

There is a lot of evidence to suggest India is primarily a ‘collectivist society.’ 10 And therefore the individual identity is not as important as the group identity. 11 Common examples of cohesion are the caste system and the joint family. 12 While life in the cities and towns is more impersonal, life in rural India is characterized by everybody having a deep personal knowledge of the other- villages are small communities with very close social bonds

Perhaps the best illustration of how open information and identity sharing is in India and how this has influenced digital use is best explained with the example of India’s first knowledge village. 13

The village website 14 purports to be a “web interface for all stakeholders involved in the development and upliftment of the village.” The village website not only has a citizens’ directory, but also has a list of voters and a pensioners list. The Citizens Directory is very comprehensive in its coverage and contains both personal data 15 like name, date of birth, age, occupation, sex etc. While this is an alarming proposition from the point of view of data protection and privacy law that is well developed in Europe and other parts of the world, this is nothing to be astounded at

in India, for reasons explained earlier as well as for the simple reason that the western concept of privacy (and data protection) is yet to trickle down to the grass root level.

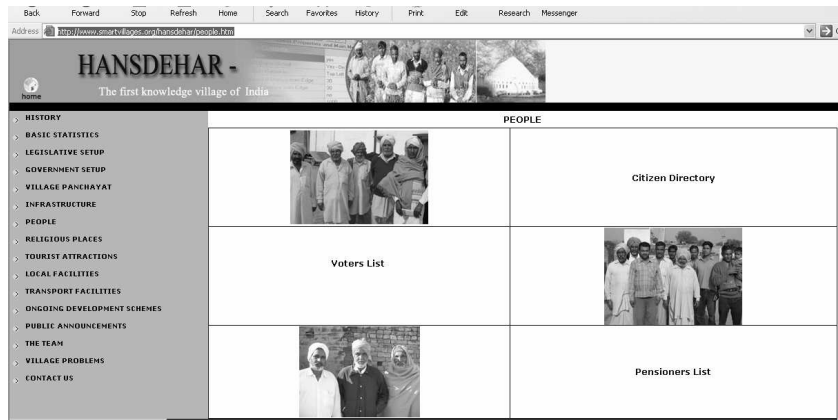


Fig. 1 [Source: <http://www.smartvillages.org/hansdehar/index.htm>]

We move on to the use of anonymous services in accessing the Internet. Even amongst the Internet savvy there is not much awareness about the existence of anonymising services like anonymous remailers, anonymous web surfing services etc. Consequently, there is not much use of the same. One other factor that could explain the lack of use thereof could be the time factor (users of cyber cafés are billed by the hour and would generally tend to be too busy making the most of their one hour entertaining themselves or satisfying their curiosity or making contact with their friends or even finding a job to focus on trying to protect their identity)

However, digital anonymity has come to be seen as a liberating feature by certain sections of the population. Take for instance, women. India is still largely a male dominated society. For a large majority of women, the Internet has come to represent a medium through which they can express themselves, anonymously or pseudonymously, without fear of social stigma or pressure. Similarly, anonymity and pseudonymity on the Internet have also become cathartic means of breaking traditional barriers of caste, class, religion and family which still exert very strong influences in the offline world.

5 Regulation and its effects

5.1 The Information Technology Act 2000

India passed the Information Technology Act 2000, 16 the first substantial piece of legislation affecting electronic communications, primarily with a view to facilitate the conduct of ecommerce and e-governance. This Act which was a much welcome legislative initiative while commendable in its features has come under severe

criticism for not adequately addressing problems generated by the use of the Internet and other computer based services. 17

The Act seeks to “provide legal recognition for electronic forms of communication and transactions carried out by means of electronic data interchange and other means of communication, commonly referred to as electronic commerce.” The Act also touches upon privacy 18 and breach of confidentiality, validated digital signatures, and created information technology offences, sets out authorities to regulate the information technology sector, and makes consequential amendments to related existing laws.

One of the most significant criticisms leveled against the Act and most relevant to the discussion at hand is the provision that the Act makes for the interception of information transmitted through a computer resource if “necessary or expedient in the interest of the sovereignty or integrity of India, the security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of any cognizable offence.” 19 This provision has been questioned for its potential for misuse by corrupt and oppressive governments as a tool of victimization. 20 This fear is not unfounded.

5.2 Relevant cases

An interesting case to analyse at this time is that of *State of Tamil Nadu v Suhas Katti*. 21 This case concerned the posting of obscene, defamatory and annoying messages about a divorcee woman in the Yahoo! message group. The perpetrator also forwarded emails to the victim for information through a false e-mail account which he had opened in the victim’s name. The woman got annoying phone calls from people who were under the misapprehension that she was soliciting. On complaint, the police traced the perpetrator who turned out to be a family friend of the victim, and had nursed intentions of marrying her and began harassing her after she was reluctant to marry him. The accused was found guilty of offences under Sections 469, 509 Indian Penal Code and 67 of Information Technology Act 2000 and the accused is convicted and is sentenced for the offence. This was the first conviction successfully carried out under the 67 of Information Technology Act 2000.

Another case that is relevant to this paper is that *Nasscom v. Ajay Sood & Others*. 22 The Delhi High Court, in this case, declared phishing on the Internet to be an illegal act entailing an injunction and the recovery of damages. The Court went on to lay down the ambit of phishing –declaring it to be a form of internet fraud where a person pretends to his advantage to be a legitimate association, such as a bank or an insurance company in order to extract personal data from a customer such as access codes, passwords, etc. The Court further went on to state that though there was no specific legislation in India to penalise phishing, it was held it to be an illegal act by defining it under Indian law as “a misrepresentation made in the course of trade leading to confusion as to the source and origin of the e-mail causing immense harm not only to the consumer but even to the person whose name, identity or password is misused.”

5.3 The MNIC

Identity and identification have taken on a new twist lately with the government rolling out the Multi-purpose National Identity Cards (MNIC) on 26 May 2007 with the handing over of cards to citizens of Pooth Khurd at Narela. ²³ The Scheme aims to provide a “credible individual identification system and simultaneous use for multifarious socio-economic benefits and transactions within and outside the Government” for efficient e-governance. ²⁴

In the run up to this, the Citizenship Act 1955 was amended in December 2003, to provide for compulsory registration of all citizens and issue of a national identity card. A pilot project had earlier been initiated in November 2003 to test the proposal had been conducted prior to implementation in Assam, Delhi, Goa, Gujarat, Jammu & Kashmir, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand, Tamil Nadu, West Bengal, Andhra Pradesh, and Pondicherry. Data, in targeted sectors of the pilot areas was collected using the census approach. Particulars of individuals above 18 years of age were ascertained and photographs and finger biometrics were collected.

The Citizens Database is to be supported by 20 fully technologically equipped centres that have been set up at the Tehsil/Block headquarters. Bharat Electronics Limited (BEL) has been entrusted with the back end management of these centres. The CPSUs [Consortium of Central Public Sector Undertakings comprising Bharat Electronics Limited (BEL), Electronics Corporations of India Limited (ECIL) and Indian Telephone Industries (ITI)] will handle the personalization of the cards. ²⁵

The MNIC bears a unique 16 digit NIN (National Identification Number) for each citizen. It has a 16kb memory microchip. The card is secured with asymmetric and symmetric key cryptography, to protect it from falling prey to any tampering or cloning.

The scheme has not been without its critics (and even local resistance ²⁶) who argue that the cards give too much control to bureaucrats who may be able to misuse the system to their own ends more so since there are no express legislative safeguards in place to deal with consequential problems. It is reported that experts have underlined the key difficulties in implementation of the cards to be the twin problems of illiteracy and lack of documents to support claims of residence. ²⁷

The MNIC scheme is also fraught with data protection and privacy implications – which have not been thought through, or legally catered for by appropriate safeguards. The government’s proposal to link various databases to the NIN database gives us an idea of what is to come and why the privacy conscious are worried. The Fig. 2 (sourced from the MIT) will adequately illustrate the nature of the problem:

5.4 Other developments

A recent news item reveals that the cyber crime cell of the Mumbai police has got Orkut to make an arrangement (albeit informal) called the Priority Reporting Tool, by which Orkut has endeavoured not just to block those forums and communities containing “defamatory” or “inflammatory” content as also to provide the IP addresses from which such content was generated. ²⁸ It will be interesting to see how this will pan out.

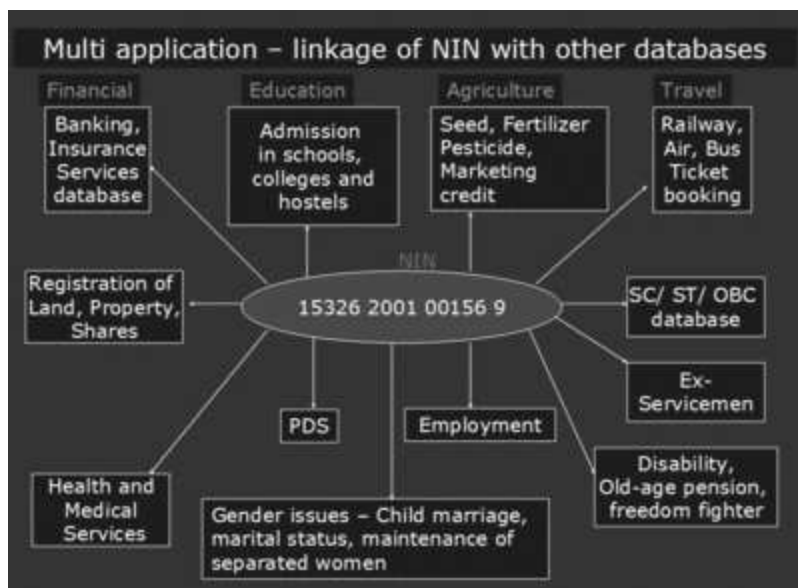


Fig. 2 [Source: <http://www.mit.gov.in/plan/ppt/national%20ID.ppt>]

6 The future

The concepts of digital identity, anonymity and pseudonymity are taking shape in India. It remains to be seen what direction these concepts will take. Given that Internet usage is to increase by leaps and bounds and taking into account the myriad influences the close knit world the World Wide Web weaves, perhaps there will be a new genre of digital identity making its play. The key question is whether the law will be able to address the underlying and resultant issues and problems effectively. The trouble is that the legislative policy makers, as of today, still don't understand technology and the Internet enough to legislate keeping the interests of all stakeholders in mind, and the legal and academic community is still finding its feet in this area of law. There is a long journey to traverse.

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