

**INDIA'S BAN ON CHINESE APPS: BALANCING FUNDAMENTAL RIGHTS AND CYBER SECURITY**- Beejal Ahuja & Bhakti Rathi<sup>1</sup>**Abstract**

It is evident in the present scenario how technological advancements have played a quintessential role in our lives. But not every technological development has made a positive impact; some come up with disadvantages as well. The recent ban on 59 Chinese Apps by the Indian Government is a very big blow for people, China, and the IT Sector as well. According to the Government, though the apps banned had huge following but the national security, integrity and sovereignty of the country was at stake.

The present paper deals with this ban by India in relation with the fundamental rights and prominent sections of Information Technology Act and Blocking Rules. It discusses the Rules under which the ban has been initiated. The paper also deals with the disproportionate impact of Geo-block and deals with the question of judicial scrutiny of the ban by discussing the relevant case laws. It aims to understand how the ban has its both positive and negative, socio-legal effect on the society. It goes on analyzing the ban in relation to cyber security and how these apps were stealing the data, mentioning reference of the study and research by the US with regard to how these apps function and manage to steal data.

The questions which are analyzed in this paper are whether the ban passes Judicial Scrutiny or not? Secondly, does the ban impose a threat on free speech, as in guaranteed under the Fundamental rights enshrined under the Indian Constitution? The paper finally concludes with the alternatives which could have been adopted by India and suggestions by the authors.

**Key Words:** Ban, India, China, apps, constitution, data, privacy, government, IT Act

---

<sup>1</sup> Third Year student of New Law College, Bhartiya Vidyapeeth, Pune & Second Year Law student of NMIMS Kirit P. Mehta School of Law, Mumbai respectively

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

## INTRODUCTION

The Government of India in 2020, took a revolutionary step by has banning 59 Chinese origin apps including TikTok, SHARE It, UC Browser, CamScanner, Helo, Weibo, WeChat and Club Factory and many more.<sup>2</sup> This unprecedented change took place by the blocking orders of the government in the months of June to September. This change was informed to the general public by The Ministry of Electronics and Information Technology, Government of India (MeitY) through various press releases.<sup>3</sup>

The blocking of the apps was the effect of rising tensions between the two countries i.e., India and China. MeitY in its press releases mentions that the blocking of said apps happened because they were engaged in activities which are 'prejudicial to the sovereignty and integrity of India, defence of India, security of the state and public order', there was also an incidence of breach of data privacy of the citizens, illegal data mining, and unauthorized transmission of online data of the user. Another reason MeitY presented for this ban was that since now-a-days India is also a leading innovator in terms of technology advancement and a primary market in the digital space, so the banning of the apps also appears to be a cue to India to promote home-grown technological innovation and solutions. The apps were mainly based to protect the security of private data and to stop the process of breach of privacy.

There have been many objections raised on this decision of the government and was also asked to present the proper reasons of the ban but neither was fulfilled by the government, and the Government action has also resulted in a legal quandary, raising a brow on its legality. One of the many such disheartening questions is whether the ban is adequately protecting user data from unauthorized use?<sup>4</sup>

These limitations were implemented by a 'geo-block' which is a technical measure that blocks access to information depending on the IP addresses of the user. The precise type and extent of the constraint, however, is not fully clear and is being configured at this point of time. Some of these apps are banned to the extent that they cannot be accessed even with the help of a virtual private network or technologically advanced firewall.<sup>5</sup>

---

<sup>2</sup> K. Bharat Kumar, "What will be the impact of Chinese apps ban?" (The Hindu, July 05, 2020) <<https://www.thehindu.com/news/national/the-hindu-explains-what-will-be-the-impact-of-chinese-apps-ban/article31991127.ece>> accessed 18 January 2021

<sup>3</sup> PIB Delhi, "Government Bans 59 mobile apps which are prejudicial to sovereignty and integrity of India, defence of India, security of state and public order" (Press Information Bureau, Government of India, June 29, 2020) <<https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1635206>> accessed 15 January 2021

<sup>4</sup> Atmaja Tripathy, "The legality of app ban in India- Is it really a step to protect privacy?" (Lexology, December 14, 2020) <<https://www.lexology.com/library/detail.aspx?g=97c6a86e-8c67-4af3-bfe2-9650db241440>> accessed 17 January 2021

<sup>5</sup> Shubhangi Agarwalla, "Where Does India's Ban on Chinese Apps Fit into the Global Trade Debate?" (The Wire, 05 July, 2020) For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

After this declaration, there were various different reactions from the public ranging from disappointment, sadness, anger, protest to happiness and inter-country disputes. Some section of the society called it as ‘misadventurism’ by the Chinese at the Galwan Border in Ladakh, and others called it a mere symbolic retaliatory measure. In this paper the authors will be discussing about the reasons, effects and lacunas of such mass ban imposed by the Indian Government in detail. The aftereffects of the ban had some significant consequences since a substantial chunk of the Indian population routinely accesses those facilities, the decision to restrict access to Chinese applications has some major implications which affected the people at large. If we see practically, in India TikTok had more than 100 million active users and it had taken oppressed communities online, together with a more accessible internet, in a way that no other platform has been able to do. The ban has majorly affected the marginalized communities since those apps provide them a platform to represent and express themselves and also provide dissemination of information which is protected under the Art.19(1)(a) of the Constitution of India.<sup>6</sup>

### **LEGALITY OF THE BAN**

The Ministry of Information and Technology through an interim order or vide a press release, invoked Section 69A of Information Technology Act (IT Act)<sup>7</sup> read with Information Technology (Procedures and Safeguards for Blocking Access of Information by Public) Rules, 2009 (“Blocking Rules”). This law governs and deals with cybercrime and electronic commerce in India.

### **WHAT IS SECTION 69A OF THE IT ACT?**

This section of the IT Act gives authority to the Central Government to block the access of the public to the information or content available online on the grounds similar to that mentioned under Article 19(2) of the Indian Constitution<sup>8</sup>, i.e., sovereignty and integrity of India, the security of the states, friendly relation with the foreign states, public order, decency or morality, or to prevent incitement for the commission of the cognizable offence.<sup>9</sup>Now, there is a proper procedure laid down in the Blocking Rules for blocking any content on social media or websites. There are 2 ways in which a procedure is classified. One

---

2020) <<https://thewire.in/tech/india-china-apps-global-trade-debate>> accessed 17 January 2021

<sup>6</sup>*Ibid*

<sup>7</sup> Information Technology Act, 2000, s 69A

<sup>8</sup>The Constitution of India, 1950, art 19(2)

<sup>9</sup>*Supra* note 6

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

is the usual procedure and the other one is the emergency procedure.

The Usual Procedure - According to the Rule 7<sup>10</sup> and 8<sup>11</sup> of the Blocking Rules of the IT Act, the usual process involves firstly the filing of the complaint then the formation of a committee for blocking that particular computer resource against whom the complaint has been done. The committee is chaired by a designated officer which tries to recognize the intermediary and other persons concerning to that source and then notices are sent to those persons through email, fax or letter), which require them to appear and submit their reply to the committee regarding the notice at a specified time and date which should not be less than 48 hours of notice been issued to such person). After going through all the evidence and replies the committee will give in writing a “specific recommendation” concerning the ban. This recommendation is then sent to the Secretary of the Information Technology department. Once the secretary approves the recommendation, the designated officer shall give effect to the blocking or ban.

The Emergency Procedure - Rule 9<sup>12</sup> of the rule’s states about this procedure. Here, the designated officer examines whether the complaint falls under the ambit of Section 69 (1) of the Act and then the “specific recommendation” is submitted to the secretary of the IT department without any delay. If the Secretary is satisfied then he may proceed with blocking or banning that particular computer source after giving the reasons in writing for the interim order to give effect to the ban. This can be proceeded without hearing the other party.

The designated officer then has to send the complaint to the committee within 48 hours of Interim Order. And then the committee will function according to the Usual Procedure, where it will send the notice, then ask the parties to submit their replies and after considering all the facts, hearings, the committee will then give a specific recommendation to the Secretary of the IT department. If the Secretary approves the recommendation, then he has to confirm and pass the final order. And if not, then the interim order will be revoked.<sup>13</sup>

---

<sup>10</sup>Information Technology (Procedures and Safeguards for Blocking Access of Information by Public) Rules, 2009 (“Blocking Rules”), r 7

<sup>11</sup>Information Technology (Procedures and Safeguards for Blocking Access of Information by Public) Rules, 2009 (“Blocking Rules”), r 8

<sup>12</sup>Information Technology (Procedures and Safeguards for Blocking Access of Information by Public) Rules, 2009 (“Blocking Rules”), r 9

<sup>13</sup>*Ibid*

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

The Secretary of Ministry of Information and Technology followed the Emergency Procedure for banning those 59 Chinese apps through an interim order. The press release of interim order by the Ministry of Information and Technology stated about the reasons for the ban-

- Those 59 apps were engaged in some malicious activities which were prejudicial to sovereignty and integrity of India, the defence of India, national security and the public order.
- That the apps are responsible for breach of privacy, data transmission outside India, illegal mining of data, and profiling.
- And it also stated that another reason for the ban is the recommendations of Indian Cyber Coordination Centre, Ministry of Home Affairs about the blocking of some malicious apps and representations received by the Computer Emergency Response Team (CERT-IN) with regards to security and privacy of data.<sup>14</sup>

But since the ban has been imposed there is no detailed information regarding it, neither the detailed interim order nor the documents which were examined and led to the banning of apps. Even a right to information was filed by an NGO, but that also got declined by the Department of Telecommunications said that it comes under the ambit of prohibited information<sup>15</sup>. And according to the Blocking Rules, an interim order has to be released and the further usual process has to take place. Again, and again, the government has refused or chosen not to discuss the topic whenever asked, even when questions were raised in Lok Sabha the IT minister prevented to talk or give reply regarding the opaqueness in the information of the ban. Due to the lack of transparency in all the information, it has led to questioning the legality of the order.

#### SHREYA SINGHAL V. UNION OF INDIA

In this case<sup>16</sup>, constitutionality of Section 69A of IT Act and the rules mentioned under the act were challenged. The Hon'ble Supreme Court upheld the section and the rules but provided some adequate safeguards to be followed, which are as under-

---

<sup>14</sup>*Supra* note 2

<sup>15</sup>DevinaSengupta "Internet rights body questions govt's decision to ban 59 Chinese apps, files RTI" (The Economic Times, 30July, 2020) <<https://economictimes.indiatimes.com/tech/internet/internet-rights-body-questions-govts-decision-to-ban-59-chinese-apps-files-rti/articleshow/77257039.cms>> accessed 17 January 2021

<sup>16</sup>*ShreyaSinghal v. Union of India*, (2013) 12 SCC 73

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

- It was stated that reasons for blocking of the computer sources must be provided as that would help in challenging the order under Article 226 of the Constitution of India<sup>17</sup>, i.e., based on the order of the reasons could be challenged as to whether it is violating fundamental rights or not.
- Pre-decisional hearing is essential and should be held in order to avoid any misuse of power by the Government and also to give the affected person or party a chance to submit their replies. Even if the blocking is done by the emergency procedure still after issuing interim order, the usual process according to Rule 7 and Rule 8 has to be followed this involves a hearing before issuing a final order.
- And the Court said only if the central government thinks that they mustn't disclose the reasons then only it is permitted to do so. But still, the order has to be published. In this case, the interim order itself hasn't been published yet.

All the apps which were banned didn't fall under one category. Each of the apps provided different services. Like Cam Scanner was an app which provided the service to scan documents, WeChat was a communication app and TikTok was an online entertainment platform. So, all the apps have been just listed under a category and banned. Until and unless a detailed order is not passed it is difficult to understand what the reasons behind banning each of these apps are. This is a very strange thing that 59 popular apps with large following each belong to a diverse area of application. The Blocking Rules mentions that detailed reasons have to be stated in the order, but in the present scenario, even the order hasn't been released yet. This could set a very bad precedent in the field of law.

#### **DOES THE BAN PASS JUDICIAL SCRUTINY?**

The constitutional validity and the legality of the ban are challenged by the citizens. They are protesting for this step of government since many of them have to face so many issues due to the ban. If this issue reaches the court it will surely confront it in terms of balancing the fundamental rights of the citizens along with the security, sovereignty and public order of the state. The challenge to the ban as a result will create an inevitable tussle between constitutional rights which also includes the freedom of speech and expression, and the freedom of trade or business and the right to privacy, state security and sovereignty.<sup>18</sup>

---

<sup>17</sup> The Constitution of India, 1950, art 226

<sup>18</sup> *Supra* note 3

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

Lately, in the case of *FaheemaShirin v. State of Kerala*<sup>19</sup>, the Kerala High Court held the principle that interfering with a person's access to free use of internet among other things violates their fundamental right to privacy.

Subsequently, in the case of *AnuradhaBhasin v. Union of India*<sup>20</sup>, the apex Court observed that if a person has to suffer from indefinite suspension of the internet then it could amount to an abuse of power. But unfortunately, the case fails to reaffirm the position of the Kerala High Court in *FaheemaShirin's* judgment. The decision given by the Kerala HC in *FaheemaShirin's* case was however, not been overruled, and therefore it holds a huge persuasive significance and is assumed to be correct in law.<sup>21</sup>

If we assume that the freedom to access internet is included under Article 19<sup>22</sup> which provide for freedom to speech and expression, then the right in order to be meaningful must be inclusive and has to be available to everyone and not just to a section of the society who have enough social capital to access applications with relatively complex and inaccessible user interfaces. This is just because of the prevailing issue of low levels of digital literacy in India. Therefore, in such a context the freedom to express oneself should be done in a manner in which people usually wish to express themselves and not by the conventional ways.<sup>23</sup>

### **DOES THE BAN IMPOSE A THREAT ON FREE SPEECH?**

The ban violates the fundamental rights of the citizens as it imposes a restriction upon the use of some apps. This ban will definitely not create a good precedent to be looked upon in future as the freedom of speech and several other rights of the people are undermined and violated under it. It also gives the uninhibited power to the government of India to curb the freedom of free and fair speech by the way of blocking web-based services in India.<sup>24</sup>

The constitutional validity of Sections 66-A<sup>25</sup> and 69-A<sup>26</sup> of the IT Act were challenged in the year 2015 in which the Supreme Court held section 66-A to be unconstitutional and the

---

<sup>19</sup>*FaheemaShirin v. State of Kerala*, (2019) 2 KHC 220

<sup>20</sup>*AnuradhaBhasin v. Union of India*, (2019) SCC OnLine SC 1725

<sup>21</sup>*Supra* note 6

<sup>22</sup> The Constitution of India, 1950, art 19

<sup>23</sup>*Supra* note 1

<sup>24</sup>ShubhangiAgarwalla and SiddharthSonkar "Examining the Legal and Policy Process Behind India's Ban on Chinese Apps" (The Wire, 07July, 2020) <<https://thewire.in/tech/india-ban-chinese-apps-tiktok-legal>> accessed 18 January 2021

<sup>25</sup> Information Technology Act, 2000, s 66-1

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

reasoning behind this was that “the restriction imposed was overboard, wide enough to cover restrictions both within and without the limits of constitutionally permissible legislative actions.”<sup>27</sup> And consequently upheld the constitutional validity of Section 69-A of IT Act and the Blocking Rules. It was stated that Section 69-A withstood the test of judicial scrutiny in the.<sup>28</sup>

### **DISPROPORTIONATE IMPACTS OF THE GEO-BLOCK**

The rights of an individual can't be viewed as distinctly; instead, they should be seen as a chain of interconnected freedoms that complement each other in some or the other way. This was affirmed in *Retd. Justice Puttaswamy v. Union of India*<sup>29</sup> and in the decision of *Modern Dental College*.<sup>30</sup> The fundamental right i.e., the right to access internet is the most common right that have been violated and affected due to this geo-block of several apps. It has been challenged by the people that the banning of apps was unfair and arbitrary in nature since it violated their fundamental rights.

The basis of implementing such a limitation, would certainly be one of the numerated conditions mentioned under Article 19(2) of the Indian Constitution which includes public order, national security etc. Simultaneously it should also be fair, just and reasonable under Article 14<sup>31</sup> of the Constitution, which protects both citizens and non-citizens under its ambit.

The Indian users of the apps felt that the banning of apps curtails their right to access internet and to freely express themselves, which is quite unreasonable and depicts the arbitrariness of the state. One the one hand the government was trying to justify the ban by stating various reasons like the apps were indulged in the activities which were “prejudicial to sovereignty and integrity of India, defense of India, the security of the state and public order.”<sup>32</sup>

Subsequently on the other side, the move of banning the apps was viewed by the Chinese government as huge loss to its Digital Silk Route ambitions, since the other countries may

---

<sup>26</sup>*Supra* note 6

<sup>27</sup>*Ibid*

<sup>28</sup>*Supra* note 13

<sup>29</sup>*Justice Puttaswamy v. Union of India*, (2017) 10 SCC 1

<sup>30</sup>*Modern Dental College and Research Centre & others v. State of Madhya Pradesh & others*, (2016) 7 SCC 353

<sup>31</sup> The Constitution of India, 1950, art 14

<sup>32</sup>MohdRameezRaza and Raj Shekhar, “Indian Ban on Chinese Apps: Does the Move Contradict WTO Rules?” (The Jurist, July 2020) <<https://www.jurist.org/commentary/2020/07/raza-shekhar-india-wto-apps/>> accessed 19 January 2021

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)



take India's move as inspirational and may follow the same route, owing to the discriminatory practices of China towards companies from foreign countries.<sup>33</sup>

Following which, India was being alleged by the Chinese Foreign Ministry for implementing such measures which was done selectively and discriminatorily aiming to ban certain Chinese apps on unclear and questionable grounds, which are in violation with the fair and transparent procedure, and the WTO rules.

In order for a geo-block to be fair, just and reasonable it would have to be consistent with Article 14 of the Constitution which requires that all persons are treated equally before the law. However, it does not prohibit dissimilar treatment between two different classes when there is a reasonable classification made between them. And a classification of groups which includes Chinese apps on the one hand and American or all other apps on the other is reasonable if both the above conditions are satisfied.<sup>34</sup>

- a. There exists some intelligible differentia, or distinguishing feature between the two groups.
- b. The dissimilar treatment has a rational connection with the object that it seeks to achieve.<sup>35</sup>

Thus, here both of the conditions were not satisfied and thus the ban does not pass the judicial scrutiny and is unreasonable and arbitrary on the part of the state. It violates various rights of the individuals.

### **THE GOVERNMENT'S PERSPECTIVE**

As we know that every coin has two sides that also mean everything which is being implemented or proposed are seen with different perspective. Each and every person has a different thinking, different approach of doing things and a different perspective. Till now we have seen the ban from the point of view of the citizens and the public at large who are being affected by the ban, but we should also see it through the eyes of the government and try to understand that in what circumstances and with what perspective the government took this step.

---

<sup>33</sup>*Ibid*

<sup>34</sup>*Supra* note 23

<sup>35</sup>*Supra* note 3

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

The view of the Government of India is contradictory to the same of general public. The government is well within its powers to impose narrow restrictions towards access of any content on the internet. This power was bestowed to the government of India by the Supreme Court of India in the case of *AnuradhaBhasin v. Union of India & Ors.*<sup>36</sup> under section 69A read with the Information Technology (Procedures and Safeguards for Blocking for Access of Information by Public) Rules, 2009.

The Indian Government was concerned about the privacy of its citizens regarding their data security and loss of privacy while using these apps. Besides that, the Indian Home Ministry has coordinated with Indian Cyber Crime Bureau and the report has contended that some of these banned Chinese apps such as Helo and SHAREIt seeks a lot of personal information from the users, and by asking access to microphones, cameras and GPS location they demand such information which is not a prerequisite to render a particular service. Thus, according to the government of India the ban was prejudicial to protect the privacy of the citizens and to protect the sovereignty and integrity of India.<sup>37</sup>

## **SOCIO-LEGAL EFFECTS OF THE BAN ON INDIAN SOCIETY**

### **a. NEGATIVE EFFECTS**

Most of the 59 banned Chinese apps had a massive following amongst Indian users. And banning apps which had about millions of followers from India was a great blow. Every coin has two sides. And same is in this case this ban has both positive as a negative impact. The crux is how many million users have been affected by this order. When this order of banning 59 apps was announced, the most affected by this order were the TikTok users. It had around 200 million<sup>38</sup> of active Indian users. It was a platform where people used to exercise freely their right of freedom of speech and expression, even the poor people started gaining popularity and made it a source of livelihood and, that's why it gained massive popularity. The banning of this app resulted in reliance of the TikTok community on Instagram which is an American app, as it introduced a similar function of Reels in the app. So, this ban is somehow resulting in dependence on American apps, which may lead to American Monopoly, where the Chinese apps were tough competition.

---

<sup>36</sup>*Supra* note 7

<sup>37</sup>*Supra* note 3

<sup>38</sup>VarshaBansal, "Indian developers are racing to replace TikTok" (Rest of World Organization, 27 November, 2020) <<https://restofworld.org/2020/the-clock-is-tik-tok-tik-tok/>> accessed 18 January 2021

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

Now when we talk about the app WeChat which was in that list of 59 blocked apps. WeChat is like a Whatsapp of China, because that's the which they use for communication, and not only them but Tibetans in exile who lives in India also used that app for communicating with their families. Therefore, after banning this app Tibetans will face a great inconvenience<sup>39</sup>. Because the other messaging apps which are used in India are banned in China and now the only app left which was used in China is banned in India. The frequency of communication for them fast. Many people talked top their families for the first time after many years when WeChat was introduced in 2011, and now again they have to go through those difficulties in communicating with their families. Not only this but WeChat was a great source of e-learning for the students of India who have taken admission in China Universities. Through this app, they used to get their study material, links, video and audio sessions, etc.

After Google Chrome, people used the UC Browser, it also had users in million. The user base of such apps has been adversely affected. Another such app was ShareIt which helped its users to share a large number of files quickly, and it also had a million users. CamScanner which helped its users to scan a document and convert it in various formats. Shein, which was like one all stop for women fashionable stuff in India, but it's difficult for its users to shift and to find an app similar to it. Though alternatives could be found but it's not easy for the users of these apps to shift easily and the main point is other apps do not provide the services with so much of ease as they did.

## **b. POSITIVE EFFECTS**

Not everyone took it in a negative sense. Many people supported the government and started the initiative of boycotting Chinese products. Here are some of the benefits of the ban-

### **1. PROTECTING SOVEREIGNTY AND INTEGRITY OF INDIA**

As stated, one of the reasons by the Indian Government for banning apps is to safeguard the sovereignty and integrity of India. One of the main reasons for the ban was that these apps were hampering the privacy of the citizens so to protect the data, to prevent any infringement of personal data, and to secure citizens from any kind of

---

<sup>39</sup>Tsering D. Gurung, "You spy, we chat" (Rest of World Organization, 18 August, 2020) <<https://restofworld.org/2020/china-surveillance-tibet-wechat/>> accessed 18 January 2021

malpractice. Because while using those Chinese apps, there could be any bug or virus which can enter, to track you and that can end one in a difficult situation.

## 2. THE RISING POWER OF INDIA'S IT INDUSTRY

Chinese app had great popularity in India and that it was the US. China was a tough competitor in the IT world. But now since the apps have been banned, it's a great chance for the Indian IT industry to make its place and compete against the USA, UK, Australia, etc. India has already arrived in the world of IT, but it just has to upgrade itself to be in the list of competitors.

## 3. SELF-RELIANCE

Believe it or not, we were somehow reliant on China's passive diplomacy. By banning these apps we have somehow cleared it that we are not weak. In fact, according to Reuters report, it was found that when in 2019 TikTok was banned due to allegations of promoting pornography, at that time TikTok stated that it is losing around \$15 a month just because of that ban. And now since many of the apps are banned, obviously China's revenue must have fallen and had to face many drawbacks now. Also, it's position in the technological and development world must have been adversely affected.

## 4. SAFEGUARDING DATA PRIVACY

Through this Government as well as citizens of India have realised how important it is to protect and safeguard our databases. As this digital world is the only future, which is why it has to be secured.

### **ANALYSING THE BAN WITH RESPECT TO CYBER-SECURITY**

The main reason for banning the apps by the Government was that they were involved in activities which were prejudicial to the national security, sovereignty and integrity of India. And cyber security was also one of the reasons. Though India is the first one to take a step forward to ban a bunch of Chinese apps but definitely not the only one to ponder upon the security concerned issues with chinese apps. Countries like the US, UK, Australia, Germany, etc. have banned something or apps from China. Like the Huawei 5G technology was either blocked by some countries or they formulated their cyber security protocol by making it

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

stricter. When Indian permitted trials for Huawei 5G technology, it was warned by various countries as well.

The national security advisor of the US, Robert O'Brien said about Chinese Communist Party (CCP), "that all the Chinese companies work according to it to help in achieving the party's ideology and geopolitical agendas. He said that they seek total control over the people's lives. And said that we should be concerned for ourselves. Xi Jinping's ideological control is not limited just to Chinese but it's goal is to create 'Community of Common Destiny for Mankind' and to remake the world according to the CCP. They try to collect your most intimate data. i.e., your words, actions, purchases, whereabouts, health records, social media posts, texts, mapping your network of friends, family and acquaintances. They accomplish their goal, by subsidizing hardware, software, telecommunications and even genetic companies. And try to install their equipment across the globe. They use 'backdoors' built into the products to obtain that data. This is micro targeting."<sup>40</sup>

He has also told us the incidents which portray "that when CCP don't get the data easily, i.e., cannot buy it then, they steal it." He said "in 2014 the party hacked Anthem Insurance, and collected sensitive information on 80 million Americans. Then, in 2015, Office of Personnel Management which holds security clearance information, was hacked which gained CCP acquiring sensitive data of 20 Million Americans, who worked for the government. And similar incidents were held in 2016 and 2019."<sup>41</sup>

The tension related to the banning of apps due to security reasons was started from 2 years, when the various cyber security wings as well as the intelligence units of the government have been recommending and warning about the issues related to the Chinese apps<sup>42</sup> and the action to be taken as soon as possible, because they were of the view that the apps are stealing the information of the users. Before a month from Galwan Valley Clash took place, the government warned the users to take proper precautions while using apps and indicated about the stealing of information. This advisory warning was issued on April 14, and at that

---

<sup>40</sup>"The Chinese Communist Party's Ideology and Global Ambitions" (The White House, 26 June, 2020) <<https://www.whitehouse.gov/briefings-statements/chinese-communist-party-ideology-global-ambitions/>> accessed 19 January 2021

<sup>41</sup>*Ibid*

<sup>42</sup>Prabhash K Dutta, "World of Chinese apps and Indian ban over privacy, security" (India Today, 30 June, 2020) <<https://www.indiatoday.in/news-analysis/story/chinese-apps-indian-ban-privacy-security-1695458-2020-06-30>> accessed 19 January 2021

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

time security concerns were raised against zoom<sup>43</sup>, because that was used by military personnels, and various other people who were directly linked to or worked for the government. So, for a long time the Government has been calling for a strict action or strict cyber security protocol against the apps.

#### ALTERNATIVES AND A WAY FORWARD

- In Dec 2019, the US banned its military persons from using TikTok which is a Chinese App and now banned in India, by following the Pentagon guidance as it said that it poses a potential threat. So, the TikTok isn't banned totally in the US, just the military officers are not allowed.<sup>44</sup> Though the US and France are voicing their support to India in banning of Chinese apps. But if we talk about the expansionist way initiatives by China like the 'Belt and Road' which could have helped India to secure global legitimacy. But being a secular and liberal democracy India can use this power and acquire a moral legitimacy.
- Also, if the Indian Government felt any threat to National Security then instead of banning the apps completely-
  - a. it could have banned people directly working under or with the government from using such apps,
  - b. Or it could have suggested China to reorganise the app through a US-controlled company,
  - c. Or it could have changed or adopted a stricter data privacy policy or plan.
- Now India in order to maintain its hegemony or influence, it needs to invest more in South Asian Diplomacy, also to solve the border disputes easily without resulting in any loss, and without putting democracy at stake.
- India now has to support and invest more and more in Make in India and AtmaNirbhar Bharat ideologies, as these projects are yet to flourish, in order to turn this crisis to opportunity and to give in effect the vision of India.

---

<sup>43</sup>Vijaita Singh and YuthikaBharaghava, "'Zoom' is not a safe platform, says MHA advisory" (The Hindu, 17 April, 2020) <<https://www.thehindu.com/news/national/zoom-is-not-a-safe-platform-says-mha-advisory/article31355460.ece>> accessed 19 January 2021

<sup>44</sup> Matthew Cox, "Army Follows Pentagon Guidance, Bans Chinese-Owned TikTok App" (Military.com, 30 December, 2019) <<https://www.military.com/daily-news/2019/12/30/army-follows-pentagon-guidance-bans-chinese-owned-tiktok-app.html>>accessed 19 January 2021

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

## CONCLUSION

Today digital sector is one of the very important factor of economic development in India, and it can surely be denoted as an electronic backbone of the country, as it is caters our daily needs of new technology and helps us to do many things in a very less time. It is useful not only for the present times but also r future developments. India as a diverse country needs to recognize the importance of the digital technology along with protection of the country by striking a balance between the sovereignty and integrity of the country and its growth and development in the digital sector.

The current banning of several apps in India for protection of its citizens from the threat of data breach lacks an appropriate protocol or law for data protection. The Personal Data Protection Bill is expected to come in the coming winter session the Bill be laid before the Parliament.

Therefore, the Indian Government was trying to address the issue at hand, and deal with the malicious apps and data breaches practiced by some apps. In co-ordination with the Ministries of Home, Electronics and IT, Information and Broadcasting along with the Department of Telecommunications the government is undertaking steps to create protocols which are expected to be followed strictly by the mobile applications. And the failure of the same may lead to the banning of those apps. The government should start process of consulting public and taking the recommendation of the concerned stakeholders, as well as the owners of the app.

We know that everything has its pros and cons, and if there is some decision taken by the Government of India, it also has appreciation and challenges, because India is a country of diversity and the people are diverse have different believes, varied perspectives and discrete thoughts. Therefore, on one side the ban received opposition, various challenges were imposed on the ban, it affected the lives of many people, they had to face many problems and challenges and ultimately it leads to violating their fundamental rights to express themselves and right to use free internet. The ban also imposed a threat to free speech to the citizens and was constitutionally challenged.

However, on the other hand, people were happy with the ban and thought it as a great move for India and to increase the popularity of Indian apps and to increase the acceptance rate of

For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>

the domestic apps. Apparently, immediately after the ban there was a huge rise in the rate of downloads for domestic apps which were seen as a replacement of the banned Chinese apps and the apps such as Chingari, Roposo (replacement of Tick tock) saw its downloads rise to over ten million and fifty million on Google Play Store. Similarly, India-made Zoho Doc is stepping into the shoes of Camscanner. And the Zoom app was also replaced by its replica Jio Meet which was launched by Reliance



For general queries or to submit your research for publication, kindly email us at [editorial@ijalr.in](mailto:editorial@ijalr.in)

<https://www.ijalr.in/>