

The Indian Legal Brief: Jurisdiction & Rights

Feature Report: Transnational Matrimonial Disputes & The Evolution of Digital Censorship



Two Fronts of Legal Conflict

From the Private Sphere to the Public Square

This brief examines two critical legal battlegrounds currently before the Indian Courts, centered on the tension between individual rights and ~~tre~~er individual rights and systemic power.

Feature A: Cross-Border Marriages

The Supreme Court determines if Indian law can halt foreign divorce proceedings to protect a citizen's rights.

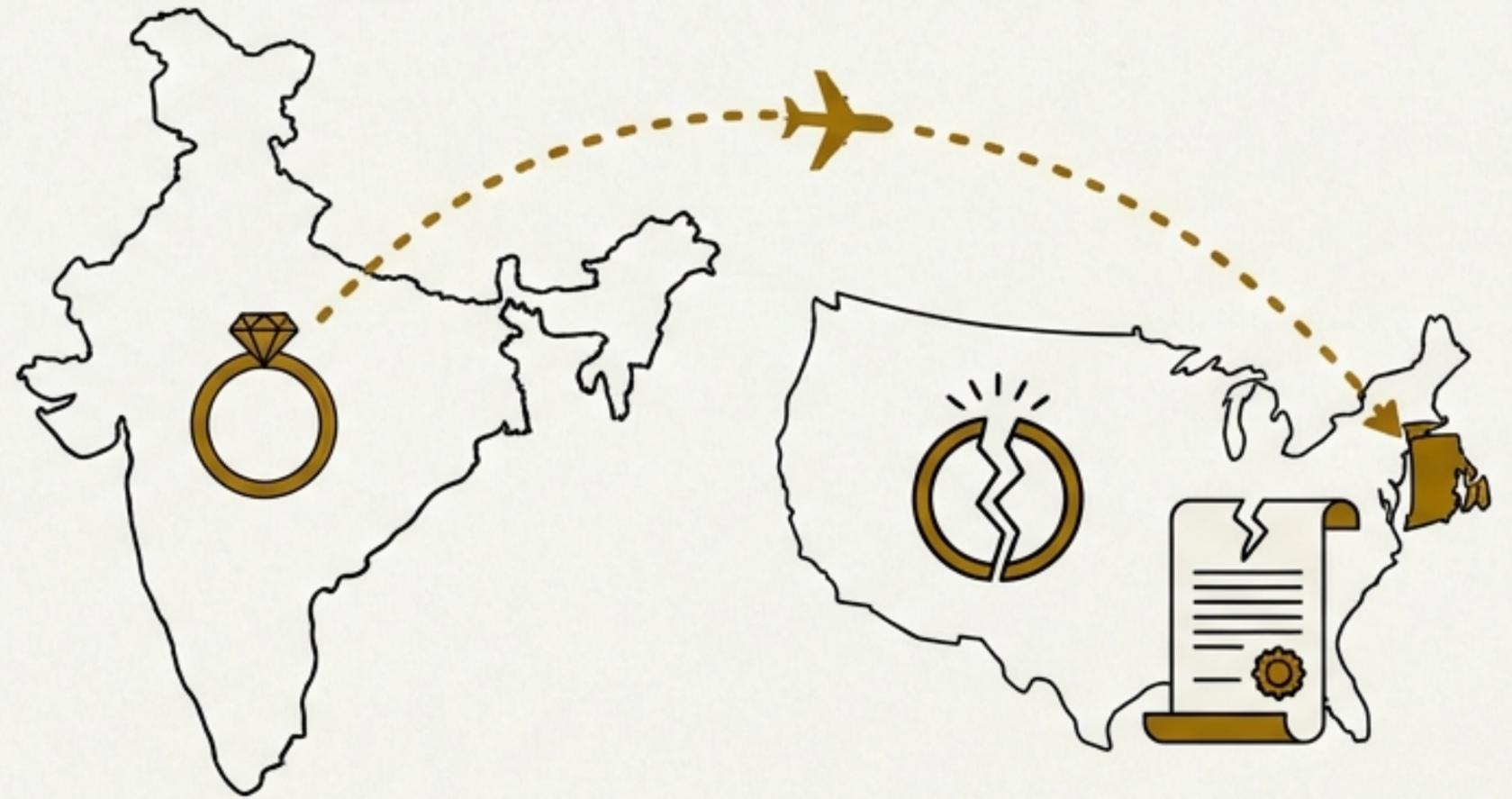
Feature B: Digital Freedom

A constitutional challenge against the 'Sahyog' censorship portal and the expansion of executive blocking powers.

When Marriage Travels, Does the Law Follow?

The Scenario:

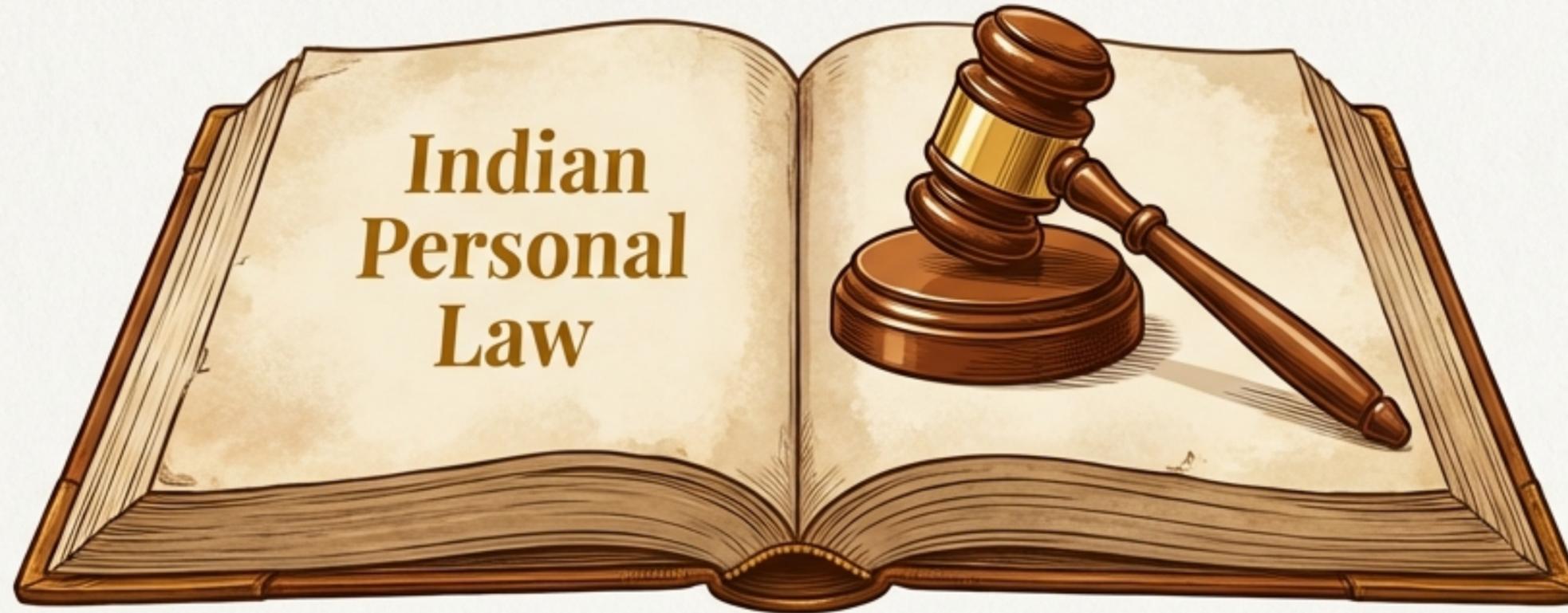
- **The Marriage:** Solemnized in India under Christian rites (2009). Wife domiciled in India.
- **The Conflict:** Husband moves to the US, files for divorce in Rhode Island (Oct 2025) without wife's consent.
- **The Plea:** Wife argues she is remediless before a foreign court lacking jurisdiction under Indian law.



A grave issue of transnational matrimonial abuse, forum shopping, and extortion.

The Rule of Domicile

The Conflict of Laws



Key Legal Precedent: **Y Narasimha Rao v. Y Venkata Lakshmi (1991)**

The Ruling: The Supreme Court established that matrimonial disputes must be adjudicated by courts of competent jurisdiction in accordance with the parties' personal law and domicile.

The Application: The current petition argues that the attempt to secure a divorce abroad is a strategic move to 'defeat Indian law'—specifically the Indian Divorce Act, 1869.

Halting the Foreign Gavel

The Weapon: Anti-Suit Injunctions



Definition:

An order restraining a party amenable to Indian jurisdiction from initiating or continuing proceedings in a foreign court.

Precedent: Modi Entertainment Network vs WSG Cricket

- Relief is discretionary.
- Must balance the 'ends of justice' against the principle of comity (mutual respect between judicial systems).

The Criteria for Intervention

When Do Courts Intervene?



1. Amenability

The defendant must be personally amenable to the jurisdiction of the Indian court.



2. Ends of Justice

Refusing the injunction would defeat the ends of justice.



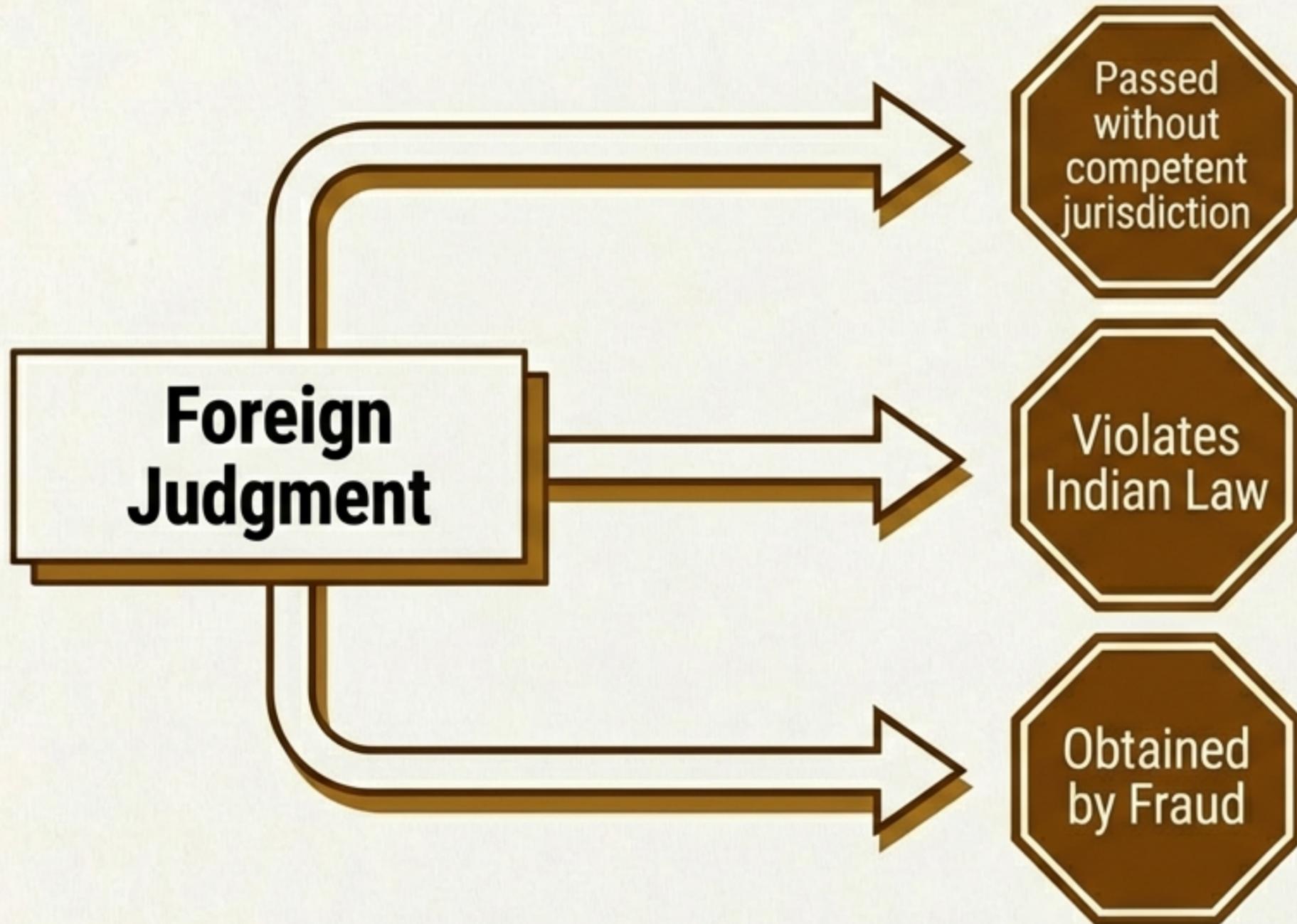
3. Oppression

The foreign proceedings are found to be 'oppressive or vexatious'.

Insight: International comity does not prevent intervention when a foreign suit strips a spouse of their rights under Indian personal law.

The Gatekeeper: Section 13 of the CPC

When is a Foreign Judgment NOT Conclusive?



Section 14: Courts presume jurisdiction unless contrary is proved.

Section 44A: Allows execution of decrees from reciprocating territories ONLY if they withstand Section 13 tests.

Solemnization vs. Dissolution

The Context of Christian Marriage Law



The Marriage

Governed by how it is performed.
The statute governing the ceremony takes primacy.



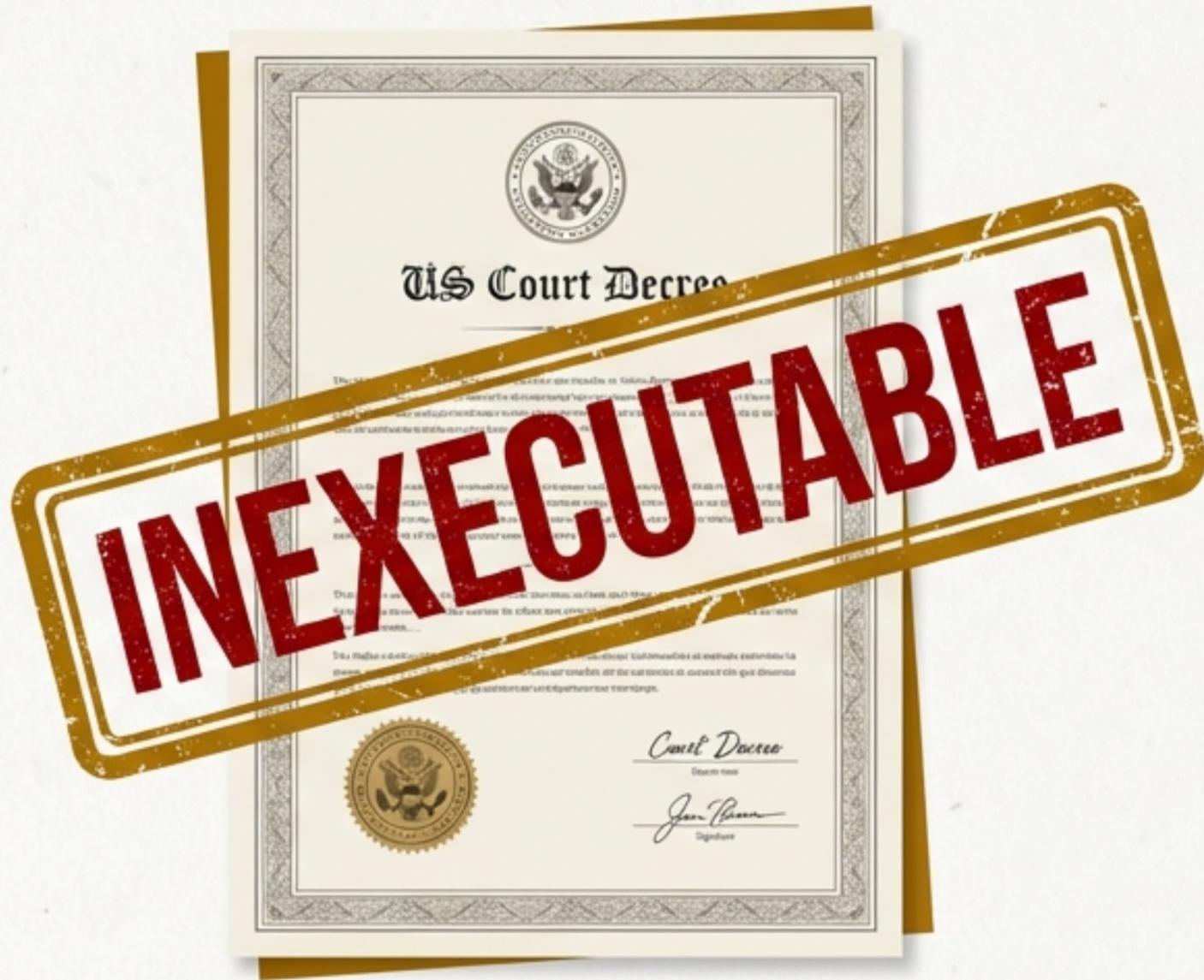
The Divorce

Governed by the Indian Divorce Act, 1869.

Section 88 Insight: Nothing in the Act validates a marriage forbidden by personal law. A foreign decree cannot override this statutory structure if it violates the specific personal law governing the marriage.

The Consequence of Defiance

The Vivek Rai Gupta Precedent



The Case Study:

- Wife obtained an Ohio divorce decree despite an interim Supreme Court order asking her to stop.

The Ruling:

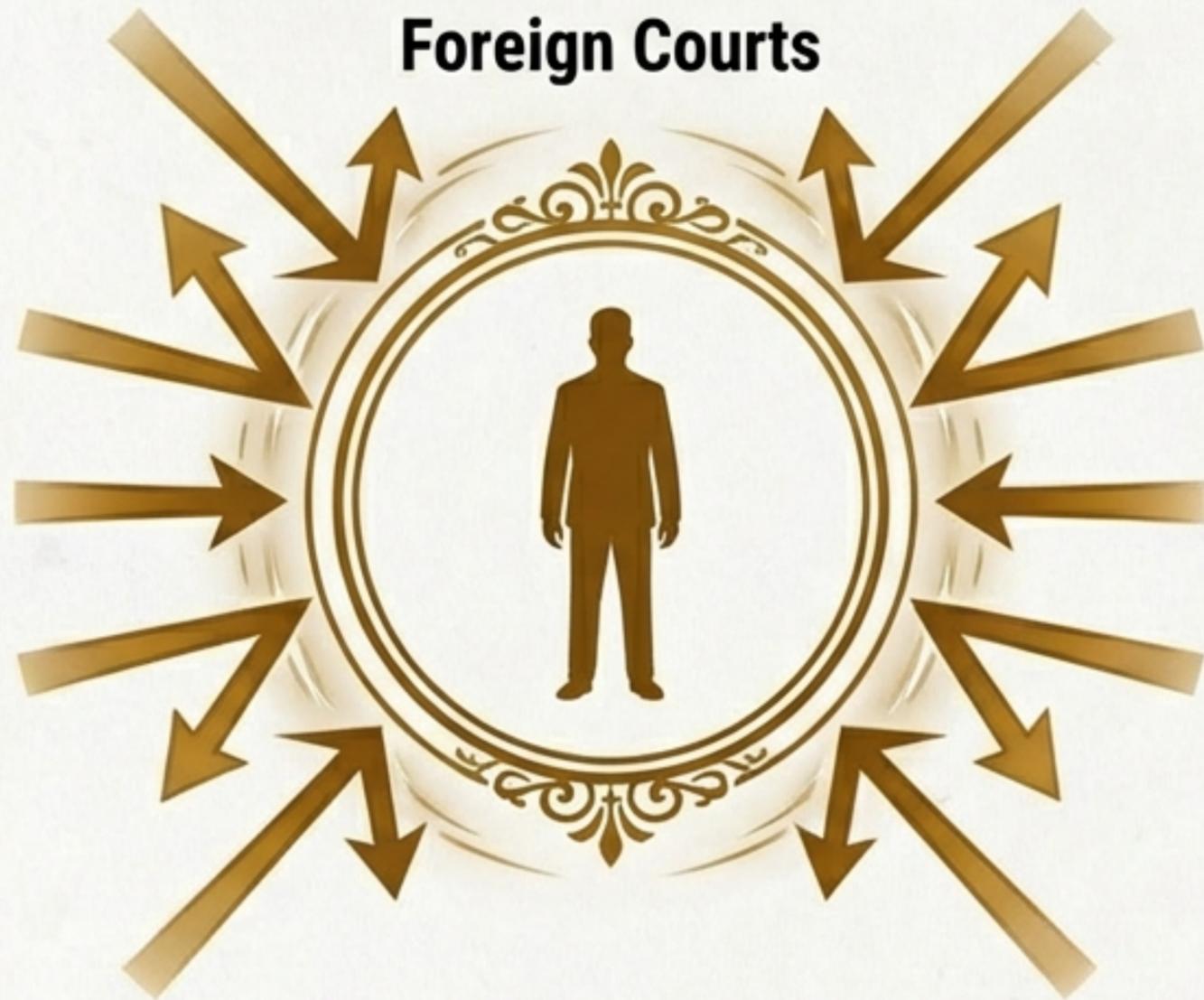
- The violation was termed 'contumacious'.
- The SC restrained ALL Indian courts from implementing the foreign decree.

Key Takeaway:

The Indian court cannot 'delete' the foreign judgment, but it renders it a paper tiger— inexecutable within Indian territory.

Jurisdiction In Personam

Section Summary



The Core Concept:

Indian courts act against the individual, not the foreign property or court.

The Shield of Equity:

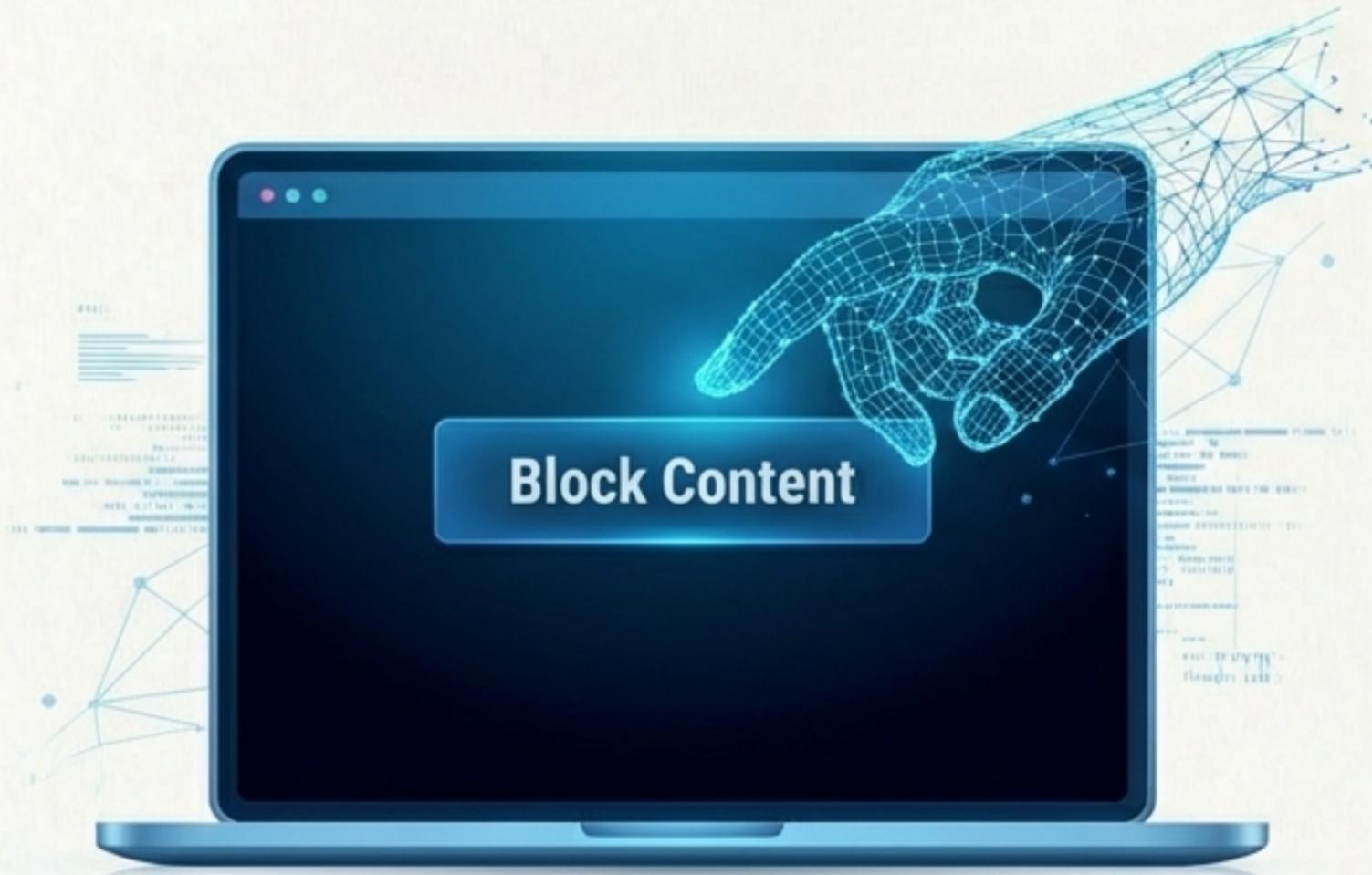
A litigant who bypasses an Indian injunction to secure relief elsewhere is 'disentitled' to the assistance of Indian courts.

Conclusion:

A decree may exist overseas, but it remains unenforceable in India if obtained in defiance of judicial orders.

The Invisible Hand: Inside the 'Sahyog' Portal

Feature B: Digital Rights & Censorship



The Challenge:

Comedian Kunal Kamra & Advocate Haresh Jagtiani vs. Union of India (Bombay High Court).

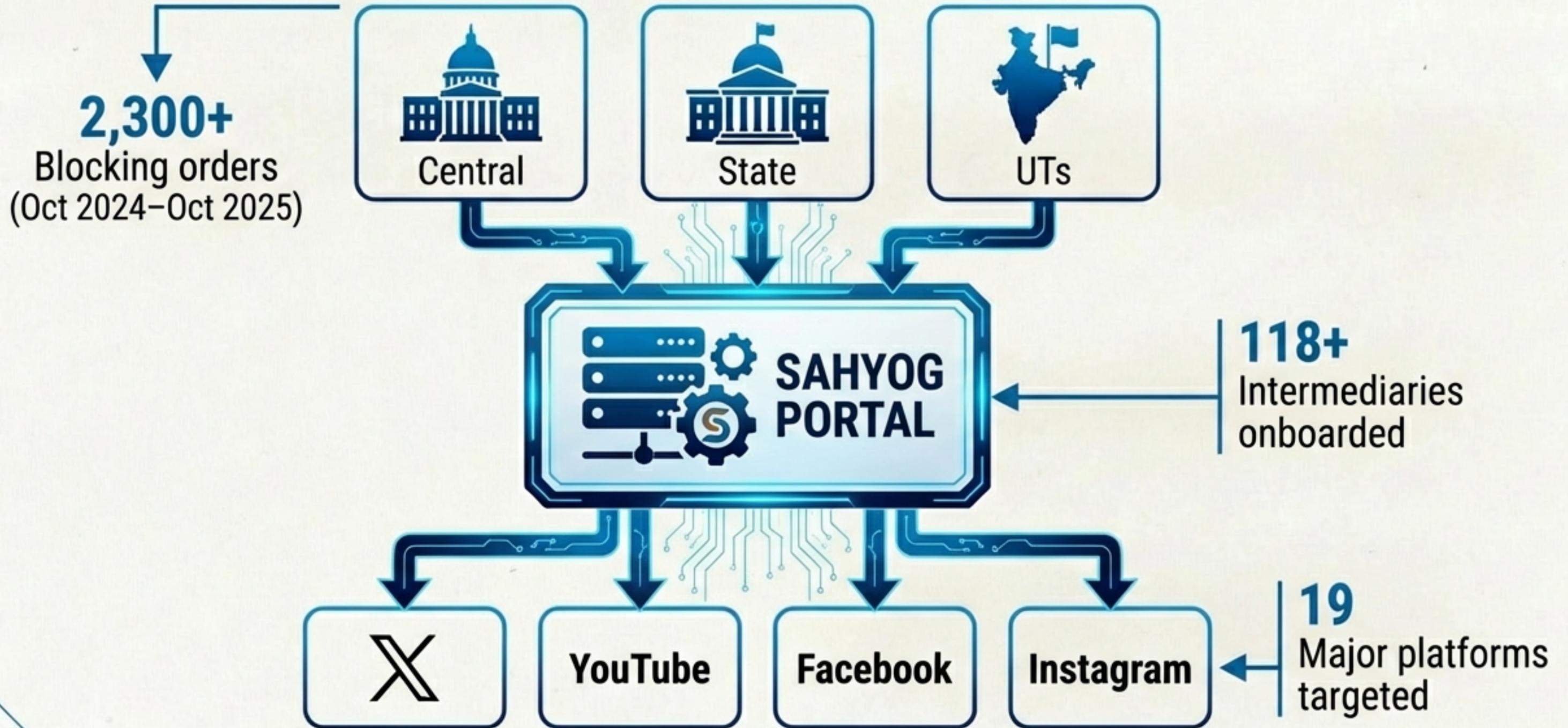
The Target:

The 'Sahyog' Portal—a platform developed by MeitY and MHA.

The Accusation:

A 'parallel regime' of censorship that unlawfully confers power to thousands of officers to issue immediate takedown orders.

The Architecture of Takedowns



The 36-Hour Ultimatum

Amended Rule 3(1)(d)



The Requirement:

- Intermediaries must remove or disable access to information within **36 hours**.

The Trigger: “Actual Knowledge”

defined as:

1. A Court Order

OR

2. Written notice from an authorized senior officer specifying the unlawful act and URL.

A 'Parallel Regime' of Censorship?

Petitioner Argument I: Procedural Bypass

Section 69A (IT Act)	Sahyog / Rule 3(1)(d)
Requires specific procedures , review committees, and secrecy safeguards.	Allows thousands of officers to peremptorily issue takedown orders without these checks.

“Unlawfully conferred powers.”

Fundamental Rights at Stake

Petitioner Argument II: Constitutional Violations



Violations Cited:

- **Article 19(1)(g):** Right to practice profession/trade (Content Creators).
- **Article 14:** Right to equality (Arbitrary application).

The 'Originator' Gap:

The system allows unilateral takedowns without providing a hearing or remedy to the person who actually **created the content**.

“ Strikes at the heart of democracy and a citizen’s right to information.

The Government's Stance

Transparency & Accountability

Defense:

The rules ensure intermediaries act on unlawful content in a **'transparent, proportionate, and accountable manner'**.



Judicial Context:

- **Karnataka HC (Sept 2025):** Single judge upheld the portal's validity (Challenge by X).
- **Current Status:** X's appeal pending. Bombay HC hearing set for March 16.

The Plea to 'Disable and Dismantle'

Relief Sought by Petitioners

Declaration:

Declare Amended Rule 3(1)(d) invalid.

Clarification:

Section 79(3)(b) does not confer authority to issue blocking orders.



Action:

'Forthwith disable and dismantle the Sahyog Portal.'

Interim Relief:

Restrain officers from bypassing Section 69A procedures.

Algorithmic Governance vs. Due Process

Section Summary

The Core Tension:
Does the efficiency of blocking 'objectionable' content justify the removal of procedural safeguards?



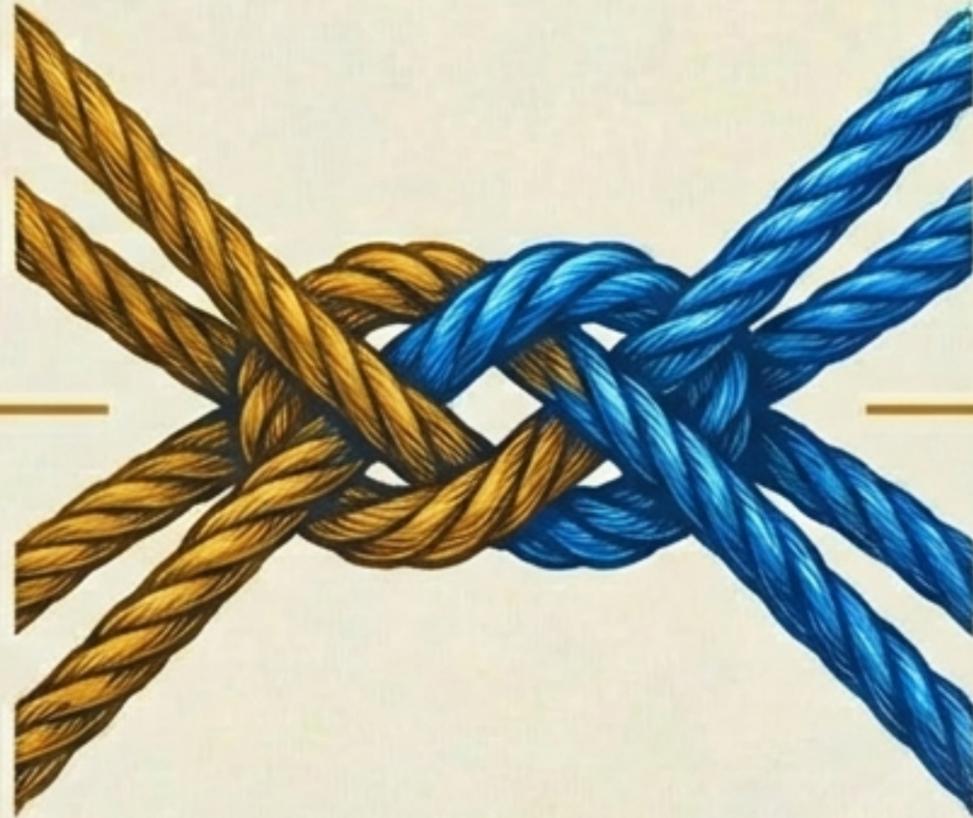
The Decision Point:
The court must decide if 'Actual Knowledge' notices from officers can legally substitute for the rigorous process of Section 69A.

The Common Thread: Jurisdiction & Reach

Comparative Insights

In Divorce (The Private Sphere):

- Citizens ask Courts to extend their reach to **PROTECT** them from foreign judicial overreach.



In IT Rules (The Public Sphere):

- Citizens ask Courts to **RESTRICT** the State's reach to protect them from domestic executive overreach.

Conclusion:

In both arenas, the Judiciary remains the final arbiter of fairness and boundaries.

Sources & Further Reading

The Indian Express: **'Can Indian courts stop divorce proceedings abroad?'** (Feb 7, 2026)

The Indian Express: 'Explained: Why Kunal Kamra approached Bombay HC against Sahyog Portal' (Feb 8, 2026)

Disclaimer: This presentation is for educational purposes only, based on 'Explained' reporting.

End of Brief.

Thank You



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