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## **Introduction**

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

## **Preface**

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

## **Description**

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

## **IMPACT OF ECONOMIC CRIMES ON INDIAN ECONOMY.**

AUTHORED BY - MS. RAZUAL SINGH PUREWAL<sup>1</sup>

### **ABSTRACT: -**

This research paper analyses the affect that economic crimes have on economic growth and development of the country, while we take a glance of the economy and the scale of business in the Indian Economy.

It is most pertinent to note that India, is a stern promoter of the competitive market which is makes it flexible for buyers and sellers to enter and exit the market with their respective businesses. Since, this type of market is much harder to manipulate, the defaulters run there hands primarily through the *monopoly sector*<sup>2</sup> and the *oligopoly sector*<sup>3</sup>, where as far as the former is concerned it's governed with an ownership of 51 percent while the latter is but dominated by a group of cartels, popularly known as the "*Mafias of the market*"<sup>4</sup>.

The Indian Economy has been on the forward move since 1951. It's achievement in the course of over last seven decades has been reasonably impressive. During this period a lot of many significant structural changes have obviously taken place. These changes are of permanent nature and are capable of bringing sustained economic development to the Indian Economy. However, right after the independence in 1947, India had been an advocate of "swadeshi"<sup>5</sup>. According to, Sumit Sarkar it offers a more comprehensive and most accurate definition: "The sentiment-closely associated with many phases of Indian nationalism, that *indigenous goods should be preferred by consumers even if they were more expensive than and inferior in quality to their imported substitutes, and that it was the patriotic duty of men with capital to pioneer such industries even though proof its initially might be minimal or non-existent.*"<sup>6</sup>

**Keywords:-** Indian Economy, Economic Crimes, Indian Sectors impacting Economy, Post Independence Economy, Indigenous Products, Imports and Exports, Choice Architects, 5 -year plan and Self-Reliance.

## **INTRODUCTION:**

The Indian Economy also had a socialist approach<sup>7</sup> towards embarking on the journey of establishing a new economy for trade and commerce.

Post the Economic Reformation of the '92 LPG Policy, In the Mixed Economic System<sup>8</sup>, the government is required to under- take the task of industrialisation and economic development on a massive scale. The government was also expected to play an important role in raising the rate of investment, undertaking massive investment to build up an infrastructure like transport system, energy etc. and to develop basic and heavy industries. The private entrepreneurs had neither the resources nor the desire to undertake investment on such a larger scale.

Choice architects<sup>9</sup> in any economy need to know how to encourage other socially beneficial behaviour, and also discourage events. Usually, they are provided with two basic categories. The *first one involves information*—if many yore people do something or think something, their actions and their thoughts convey information about what might be best for the citizens to do or think. The *second one is called peer pressure*—Peer pressure from other countries having a stronger economy from which our country gains goods and services. Social Scientists<sup>10</sup> generally find less conformity, in the same circumstances as Arch's experiment, when economists are asked to give anonymous answers.

The period from 1947-1992 that it often known as the "Policy Phase Plan" for the Indian Economy saw an instrumental protest of principle of economic policy of the newly formed democracy. The most important of these plans was the Visveshwarya's Plan<sup>11</sup> that centralized decision-making and investment in large-scale heavy industries to pave an effective path to the economic self-sufficiency.

Gandhi Plan<sup>12</sup> as stated in previous chapters called for the exact opposite: which was the decentralised decision-making and small-scale cottage industry. The famous Bombay Plan<sup>13</sup> was proposed in the late 1940's by prominent businessmen of the country.

During the Drafting of the Indian Constitution, Mahavir Tyagi<sup>14</sup> introduced a motion to instate swadeshi sentiments in Indian through the Directive Principle of State Policy (DPSP).<sup>15</sup> This resulted in India upholding the values of Swadeshi for four decades until the economic reformation in 1992.

Another impact during this period was the spike in corruption due to limited stakeholders having control and business rights in the economy as majority of them were Indians for the prime reason that India at that time was a closed economy.

In June, 1962 during the debate on the Demands for the Ministry of Home Affairs<sup>16</sup> as the Congress Party under the leadership of three time prime minister Shri Jawaharlal Nehru was taking charge of their duties during a third tenure(post independence), many Members of Parliament referred to the growing menace of corruption in administration. Shri Lal Bahadur Shastri who was the then Home Affairs Minister replied to this debate on 6th June 1962, while stating:

“I feel that this matter should not be entirely left for consideration in the hands of officials. It is desirable that there should be exchange of views between them and public men of experience. Perhaps, Hon. members might have read in the papers that I have suggested that a formal Committee should consider the important aspects of the evils of corruption. But I do not want to make it a formal Committee as such and wait for its report. Since we know most of the problems, the real point is to take remedial action. I, there- fore, propose to request some members of Parliament and, if possible, other public men to sit with our own officers in order to review the problem of corruption and make suggestions.”<sup>17</sup>

Subsequently, an eight member committee known as the Santhanam Committee was formed on the 10th September, 1962 with it's Chairman as Shri K. Santhanam. The objective of the Santhanam committee are as follows:

1. To strengthen the procedure and methods of work of the Special Police Establishment.
2. To consider and suggest steps to be taken to emphasise the responsibilities of various department to keep checks on corruption.
3. To suggest changes in law which would ensure speedy for cases concerning bribery, corruption and criminal mis-conduct that would make the law more effective.

4. Look after the rules and regulations of the disciplinary committees.
5. Examine the Government Servant's Conduct Rules and to accommodate changes for ensuring maintenance.
6. Support anti-corruption measures.
7. Suggest special measures that may be necessary in corporate public undertakings to secure integrity amongst employees.

The Public Accounts Committee<sup>18</sup> reported in their sixth report (Third Lok Sabha) as follows:-

“The Committee are rather alarmed at such a large number of cases of under-assessment involving considerable amounts, detected in the test Audit by the Comptroller and Auditor General, when it is borne in mind that this scrutiny was limited to only a small percentage of cases in 235 Income-tax -yards out of 1,310 wards in the country. It is significant to note that the number of cases in which defects, discrepancies, etc., involving under-assessment to the extent of Rs. 120.77 lakhs were found, works out to about 16 per cent of the total number of cases audited (ie. 13,357 cases).”<sup>19</sup>

The estimated amount of tax evasion alone in the year 1962 was Rs. 48 crore. The Income-tax Investigation Commission drew this data in 1,058 cases investigated by the enforcement agencies. In totality, the **concealed income amounting to Rs. 70 crores was disclosed by the assesses themselves under the Voluntary Disclosure Scheme of 1951 in 20,912 cases and the amount disclosed thereby was six times the amount originally reported.**<sup>20</sup>

The 5 year plan's in India though having being operated since the independence has had a drastic, transition over the few years especially with the Planning Commission of India being renovated, renamed and revamped into the Niti Aayog.<sup>21</sup>

These five year plans have had a role in bringing out the economic aspirations of the government in the form of a policy to aid and assist the citizens to fulfil the economic goals for the sake of growth and development. So, it would be righteous to say that as the policies of the government change so the economic plans. As far as the approach towards the governments initiative on

promoting socialism is concerned it is most evident through the *third five year plan*<sup>22</sup> and the *fifth five year plan*<sup>23</sup> of the government.

Figure 1.1:- The third five year plan and it's objective:

The third five year plan follow the same objective of earlier

No of Firms	Percentage Share	Concentration Level
3 leading firms of Industry	< 75%	High
3 leading firms of Industry	60% to 70%	Medium
3 leading firms of Industry	50% to 60 %	Low
3 leading firms of Industry	>50%	Zero

Source: - Pacific Business Review Journal.

### SECTORS IMPACTING ECONOMIC OFFENSES:

Corruption and malpractice cannot be completely eliminated or even significantly reduced unless certain preventive measures are planned and implemented in sustained and effective manner. Preventive action must include administrative, legal, social, economic and educative measures. Most, of the representatives of business and trade, working in metropolitan cities tried to shift onus on non-association of trade organisations to their representatives in matters like licensing and allocation of scarce commodities that have encourages malpractice and corruption to some extent for the same reason it is necessary to analyse the types of markets that usually allow such malpractices, corruption and economic offences to arise.

Monopoly<sup>24</sup> and Oligopoly<sup>25</sup> in India mainly contribute to these malpractice and dominating the business for certain factors like Single Seller, Restricted Entry, Full control of Price, Price Discrimination, Increased Scope for Mergers, Price Elasticity, Lack of Innovation and Lack of Competition; such factors make room for domination to occur in the economy. **Government owned monopolies**<sup>26</sup> have manipulated the entire economic fixtures in India for time immoral. Some of them are follows:

1. **Indian Railway Catering and Tourism Corporation (IRCTC)**<sup>27</sup> though primarily owned

by the Government of India has ruled the Railway Industry in India for a period of more than 70 years, often refurbishing, it's methods, tastes and desires for an equitable profit sharing but more often high- lighted for corruption and lack of adequate public spendings through the allocated annual budget. With a bleak chance to upkeep with the growing technology, the present government has plans to privatise this company listed on the National Stock Exchange of India(NSE).

2. **Oil and Natural Gas Corporation(ONGC)<sup>28</sup>**- the Second biggest example of the government owned ownership is the Oil and Natural Gas Corporation(ONGC) in which the Union of India hold 61.4% shares, there-by controlling the entire monopoly of oil and gas in the Indian Subcontinent. The regulators can control the prices of oil and gas rapidly due to various factors like inflation, recession, stock market crash, budget release etc.

Figure 1.2 :- Product-wise revenue breakup for FY 2016–17 (₹ billion):

Product	Revenue
Crude oil	562.38
Gas	168.88
LPG	31.48
Naphtha	76.8
C2-C3	13.44
SKO	3.69
Others	1.59
Adjustments	- 32.74
Total	825.52

Source:-<https://economictimes.indiatimes.com/industry/energy/oil-gas/at-indian-oil-rd-chief-will-not-lose-board-seat/articleshow/97625909.cms>

1. **Bharat Heavy Electricals Limited(BHEL):-** <sup>29</sup>This company is often referred to as the powerhouse of the India white it's prime function of manufacturing equipment and

providing Indians with the basic amenity of Electricity, back in the day when India become Independent this company was held responsible for power generation up to 1,00,000 MW by the turn of the century. Accordingly a decision was taken by the Government to set up three more plants for the manufacture of heavy electrical equipment. During the 1990's , BHEL become the only organisation of its type in the country, which has demonstrated its international competitiveness, by bagging all the power plant orders in the domestic market, under transparent international competitive bidding (ICB) procedures. The company also opted for selective financing services to meet the customer requirements.

2. **Coal India Limited**<sup>30</sup>:- Thus company is a public sector organisation that has ably engaged in mining, processing and transportation of the coal. The company has a huge market share of over 80% in the Indian Economy. The company is also responsible for the most coal globally exported through it's seven units that efficiently produce coal in India.
3. **Indian Energy Exchange (IEX)**<sup>31</sup>:- The energy market in India has developed a system of actual supply of power, renewable energy and certifications. Modern, user-friendly and customer-focused technology enabling and enhancing the simplicity of power purchase that could enable production by heavy industries. It also has a strong base of 4600+ commercial and industrial consumers representing industries such as metal, food processing, textile, cement, ceramic, chemicals, automobiles, information technology industries, institutional, housing, and real estate, and commercial entities.

John D Rockefeller<sup>32</sup> once said that, "**Own nothing, control everything.**"<sup>33</sup> The philosophy led to one of the richest men of the 19th century. It was first to put modern monopoly principles into practice. Rockefeller was a staunch supporter of the collusion of big corporations against the competition. This philosophy has produced billionaires via massive monopolies and cartels that have accumulated huge wealth and power.

According to the **Monopolies Inquiry Commission Report (MIC)**<sup>34</sup> in 1964 led to the total coverage of 1,298 products, 437 had only one firm in each case and it is not clear, however, and how many of these were established monopolies such as natural or patent-protected monopolies and how many have presented a transient phenomenon of the historically first firm in a new product.<sup>35</sup>

Power corrupts and absolute power corrupts absolutely, this phrase is often used in democracies. Similarly when it comes to the case of oligopoly there is no difference in understanding that if one man/ company is given a charge of an entire sector, enterprise or industry, it will but lead to corruption and malpractice in the economy.

An important characteristic of oligopoly is collusion in which rival firms enter into an agreement in mutual interest on various accounts such as price, market share etc. Firms either openly declare their decision of collusion, or may collude tacitly. When a number of producers (or sellers) enter into such an agreement formally, it is called explicit collusion; on the other hand, collusion which is not overt is known as tacit collusion. The most commonly found form of explicit collusion is known as *cartels*<sup>36</sup>. The government does not encourage collusion because it creates monopoly and leads to *anti-competitive agreements*<sup>37</sup>.

Let's take a comprehensive look at companies prevailing in India that promote oligopoly to understand better this sector. Some of the examples of these companies are as follows:

1. **Airline Industry**:- This industry is highly competitive and requires large investments by the investors. In India, the first airline to have ever made a mark post-independence was Air India- the maharaja designed by the Indian industrialist was a government owned airline industrial, till the recent transfer of power to Tata.

Domestic Airfare was a cause of concern for the Indian airline industry. The changing trends in 2000's led to a drastic impact on new airlines coming into the picture like Jet Airways, Vistara, Indigo, Kingfisher etc. which only changed the dynamic of domestic flying within the country but sought to cater to a benchmark for the substitute transportation industry like the railways and bus services. Air Industry was perceived as a mode of luxury within the country back in times, now it's treated as the most compact, fast and accessible mode of transportation. *At the point when firms in an oligopoly fix their individual prices and the supply quantity, while evaluating, they should consider what the other in the market are doing, for the price and quantity is inversely proportional to each other. In the event that every one of the players produce excessively, at that point the prices may take a dip and reach below the average total costs (ATC)*<sup>38</sup> causing all of them losses. In order to avoid this the firms can restrict amount to that level in the market, which resembles a model where the

*marginal cost id equal to marginal revenue for the whole of oligopoly market, which would result in profit maximisation.*<sup>39</sup>

2. **Car Manufacturing Industry:-** Aristocracy in India created a large demand for luxury cars and a sophistication to afford them created the supply for comfort travelling. Since the time of Independence this has evolved and grown some in-home brands for car manufacturing. In case of Indian Automobile Industry it has been observed that, *“few firms in Indian automobile sector produced the bulk of output, where they consider these firms as oligopoly firms (oligopoly refers to a situation where few firms say 5 to 6 dominate the entire industry). They found that in the automobile industry, there were three leading producers Maruti Udyog Ltd., the Hindustan Motors and the Premier Automobiles Ltd. In case of commercial vehicles they further observed the dominance of two major firms Telco and Ashok Leyland and in jeep segment Mahindra & Mahindra and Tata Account for the major portion of industry output and sales.”*<sup>40</sup> Tata Motors and Ashok Leyland are the leader in Medium and heavy commercial vehicle segment<sup>41</sup>.

3. **Non-Banking Financial Corporations(NBFC's):-** Often referred to as the housing finance sector in India has over the past few years transformed from a perfect competition to an oligopoly, especially post the IL&FS crisis<sup>42</sup> and RBI's change in the policy. Non-banking financial companies recognition to nurture at a real and healthy growth rate of 7-10% throughout the subsequent five years. Obviously, **NBFCs are setting down deep roots.**<sup>43</sup>

Every NBFC's-MFI's in India are getting highly subjective by its performance in the marketplace. The Non-banking financial companies-MFI's in India detailed the outcome of their actions, which turns to be very difficult to understand and perform relative analyses.<sup>44</sup>

4. **Steel Industry:-**The establishment of Tata Iron and Steel Company (TISCO) in 1907 was the starting point of modern Indian steel industry. Afterwards a few more steel companies were established namely Mysore Iron and Steel Company, (later renamed Vivesvaraya Iron & Steel Ltd) in 1923; Steel Corporation of Bengal (later renamed Martin Burn Ltd and Indian Iron & Steel Ltd) in 1923; and Steel Corporation of Bengal (later renamed Martin Burn Ltd and Indian Iron and Steel Co) in 1939.1 All these companies were in the private sector.<sup>45</sup>

Steel is manufactured as a globally tradable product with no major trade barriers across national boundaries to be seen currently. *There is also no inherent resource related constraints which may significantly affect production of the same or its capacity creation to respond to demand increases in the global market.*<sup>46</sup> The fact that internationally steel has always been an oligopolistic industry, sometimes has raised concerns about the anti- competitive behaviour of large firms that dominate this industry. *On the other hand the set of large firms that characterise the industry has been changing over time. In this sector, therefore a far-sighted pro-competitive action would be more to deal with enabling rapid entry and expansion, reducing controls on international trade, and ensuring a level playing field.*<sup>47</sup> These are no so much regulatory but policy issues, but they will have ramifications on competition in the sector. *The Competition Act has in fact paid very little attention to government policies and actions which supports anti-competition conditions in business and such behaviour among individual agents in the economy.*<sup>48</sup> Opinions by the Commission in matter of policy of competition of the government are not binding on it.

### **RECENT DEVELOPMENT'S IN THE ECONOMIC SECTORS:**

The recent privatisation of Air India has led to an oligopoly in the Airlines Industry with the TATA group taking over the Maharaja to compete with private stakeholders running domestic and international flights. Of what seemed as a great step- it's set to formulate a cartel so to say to evade the money of the flights and the luxury/ technology that is set to change with the changing times.

According to Saurabh Mukherjea, Founder and Chief Investment Officer of Marcellus Investment Managers, large swathes of the Indian economy are controlled by 20-25 families. *"The top 20 companies in India generated 70 per cent of profits of the corporate sector (in 2019/20), compared to only 15 per cent in 1992/93."* Mukherjea thinks this will only increase over time. *"An OECD discussion paper on market concentration suggests that in many markets, firms that have built market power, perhaps through innovation or efficiency, and have capitalised on the success by engaging successfully in lobbying and rent-seeking for regulatory protection. The paper also hints that regulation and (poll) campaign spending are responsible for an increase in mark-up of 1-2 per cent. Mark-ups measure the extent price exceeds the marginal*

**cost, and an increased mark-up suggests a firm has a better ability to raise and maintain price above the level that would prevail under competition.”<sup>49</sup>**

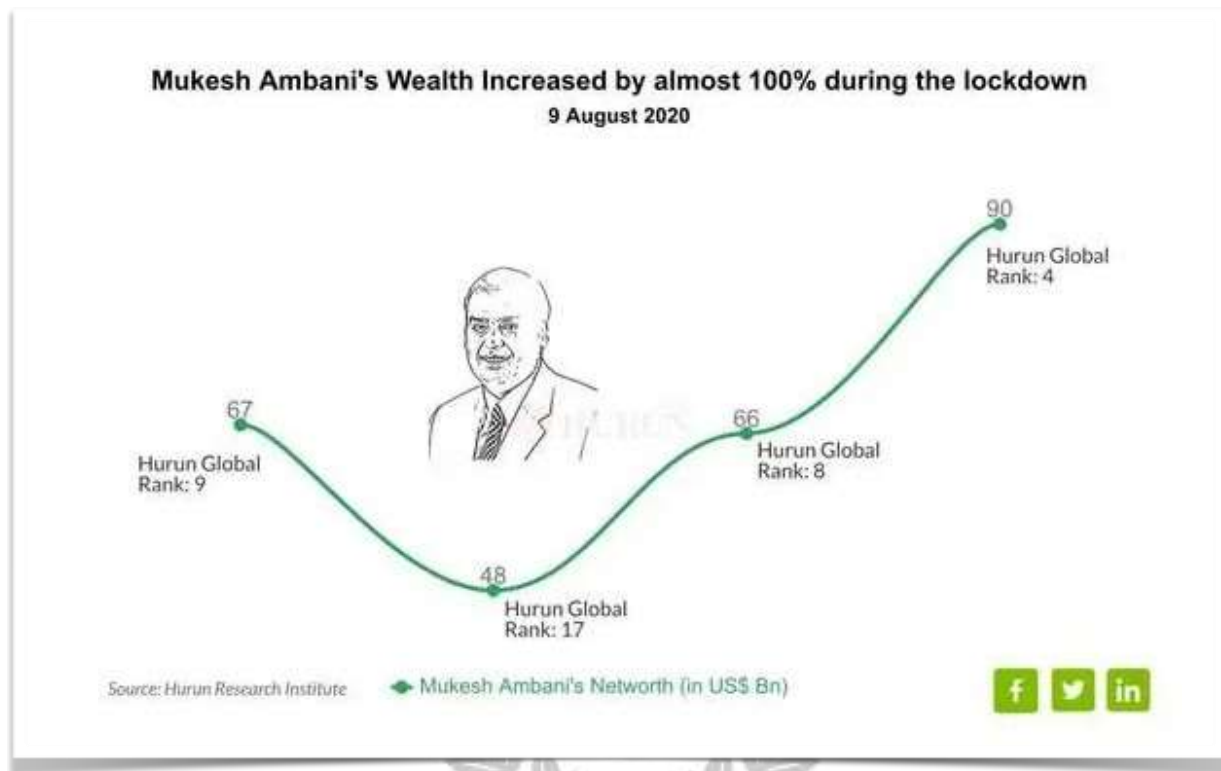
These sectors even though of higher profitability and great interest to the economy has created a pass-way for government employees to manipulate and forge to fill their won pockets with tons of money as was observed in the case of continuing offence by the apex court.

In the case of *Bihar v. Deokaran Nenshi*<sup>50</sup>, the hon'ble Supreme Court of India held that, “*continuance offence is one which is suspected of continuance and is distinguishable from the one which is committed once for all. It is one of those offences, which arise out of a failure to obey or comply with a rule of it's requirements and involves penalty, the liability for which continues until the rule or it's requirement is obeyed or complied with. On every occasion that such disobedience or non-compliance occurs and recurs, there is the offence committed.*”

While keeping business analyst Saurab Mukherjee and Ravi Kant's perspective in mind, it is but necessary some strata of high ranking businesses in the economy are not only running the affairs of the businesses but also impacting the Indian economy by setting it's trajectory for the ease of running business. In 2019, India added three new billionaires every month while most of the rest of the world was in an economic slowdown. The total number of billionaires reached 138, the highest after China and the US.

Political allegiance, favouritism and race (identity) plays an important role in determining how a businesses will run in the economy and what kind of profit of share it would earn. In India alone, *Mukesh Ambani*<sup>51</sup> is the richest man in the country. And in the year 2022, ***he surpassed Europe's wealthiest man, Benard Arnault, to become the fourth-richest man in the world, with a net worth of US\$80.2 billion, only trailing Jeff Bezos (\$187 billion), Bill Gates (\$121 billion), and Mark Zuckerberg (\$102 billion).***<sup>52</sup>

Figure 1.3:- Mukesh Ambani's Wealth increased 100% during Covid lockdown.



Source:- Human Research Institute.

A society that goes in for a purposively initiated process at a fast rate of change has to pay a social price, the price being higher where the pace of change excludes the possibility of leisurely adjustment which is possible only in societies where change is gradual. Thus, *there has come about a certain amount of weakening of the old system of values without its being replaced by an effective system of new values.*

Economic nationalism is nationalism applied to the economy. *Its proponents accepted that it would result in costlier products of lower quality. They argued that the price is worth paying in order to achieve nationalist goals.*<sup>53</sup> Dominant as it has been for nearly two centuries, both the economic and political case for swadeshi has been contested in elite discourse within the broader public sphere.

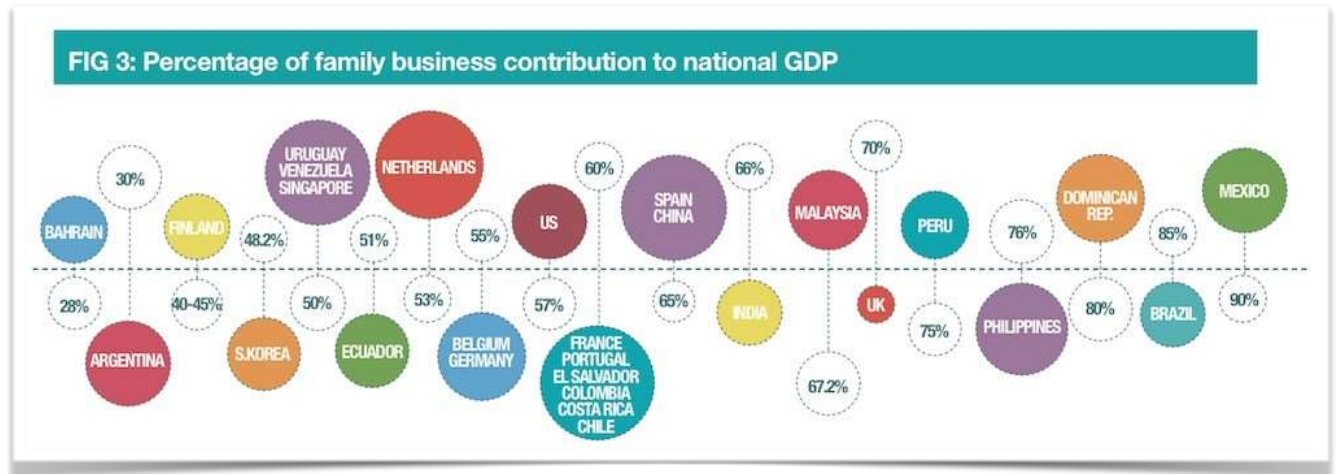
***Geopolitically too, India is an open-economy that offers the pathway to greater power and influence.***<sup>54</sup> A protected economy holds little interest for other countries, and thus loses the ability to promote its interests, socialism was serving as a backlash for the Indian Economy to edge the mentality of 'self-reliance' which was serving an opposing effect. Until the 1980's the World Bank Group labelled and categorised India as a third world 'developing country'.

Due to the brainchild of three time Prime Minister Dr. Manmohan Singh, the economy became strong and led to foreign direct investment (FDI), thereby making India a rising power. Today, India has almost every foreign investment in the country for the consumers enhancing employment and *per capita income*<sup>55</sup> of the citizens which has ultimately led to a higher *GDP*<sup>56</sup>.

However, even after 75 years of Independence, what hasn't changed is that the chains of the India Economy remain in the hands of family oriented businesses who haven't left the sight from regulating and manipulating the market. One such private player at the Moment is Mr. *Gautam Adani*.<sup>57</sup>

If any policy-maker in the country were to err, it would date back to 1991 reforms, where the entire nexus of opening the economy was to break free from the coalition of the business elites and the politicians and therefore run independent production lines of goods and services to provide equal opportunities to emerging entrepreneurs in the country for the well-being of the society at large.

On the contrary, the relationship between these two groups has further strengthened with large investments that have been paid through huge bribes to political leaders, have often become an investor in these businesses and forced financial intuitions to lend huge amount of loans to industrialists who were in the inner circle of those in power. Evidently, in the next chapters of this dissertation, we will come across such case studies wherein the financial institutions have been compelled to name certain businessmen as fugitive because they were unable to recover the debt owned to them in terms of the security deposit against the loan sanctioned.

Figure 1.4:- Family Owned Business's contributing to the GDP.<sup>58</sup>

Source:- Tharawat Magazine for family owned businesses and entrepreneurs.

For any business to flourish in a competitive market like the India, with huge margins in consumption. It is necessary for domestic businesses to have a higher innovation in technology and indigenusness in productivity to run their business. However this is opposite compared to economies of Unites States of America, China and Japan. Furthermore, inefficiency in India's infrastructure, logistics and supply chains also indicated to the underline issue of corruption.

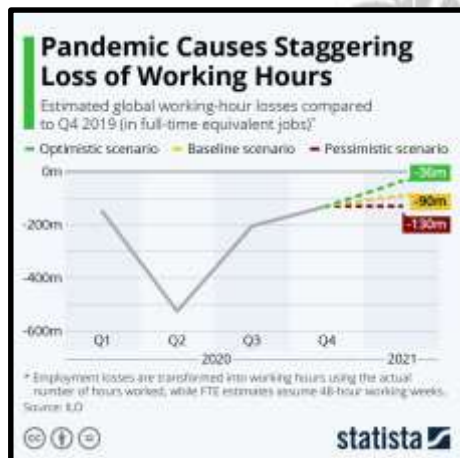
In the Modi era, when Reliance Industries decided to launch Reliance Jio in the telecom Industry, not only was it promoted with a national sentiment but it was also single-handedly distributed amongst it's consumers for the lowest data charges in the world, that led to a price war between the old operators ruling the industry for decades. The political sentiment which was given a veil of social welfare that, each citizen in the nations irrespective of his social status should be able to use internet services actually helped the reliance industries earn crores of money when the newly-launched industry had set it's foot into the business.

Saurabh Mukherjea at the dawn of this era, in his article contends that, ***“Power and wealth in India are shifting towards a new regional elite. The dynamics of coalition politics will allow these elites to pull more federal taxpayers' funds their way and bend policy in their direction. New Delhi being forced to cede more power is no bad thing because given the***

differences in economic structure and wealth, policies suited to state-specific needs are more likely to be created in the state capitals than in New Delhi.”<sup>59</sup>

Ashoka Mody<sup>60</sup> in his book titled, **“India is Broken”**<sup>61</sup> writes about the trynaany of the pleb citizens and the adverse effect the covid pandemic had on the Indian Economy stating that , **“ On the day after the lockdown was announced in March 2020, the factories in Surat closed down. A story of two migrants, narrated beautifully in the New York Times, was about two men who decided to stay on in Surat because going back did not hold much promise for them. Their ancestral lands had been fragmented to a degree where, if they went back, they wouldn’t have a living. However, after a few weeks out of a job in Surat, their savings ran out and they were forced to go back. What happened during the pandemic was extreme and does not happen regularly, but it does tell you that the cities are still inhospitable because there are too few good jobs.”**

Figure 1.5:- Loss of Jobs due to covid-pandemic in India



Source:- International Labour Organisation (ILO)

These contradictions in two totally opposing situation of one citizen becoming a billionaire during the pandemic and other loosing his daily wage as a migrant worker, **highlight the deep erosion of social norms and public accountability. We may be in a trap**<sup>62</sup>. The question remains with ideals having changed from the path of socialism to capitalism, its rather unfortunate that even in the

21st century “*we used the fig-leaf of national security to perpetuate inequities for another generation.*”<sup>63</sup> Unaccountable politicians do not impose accountability on themselves, and this becomes a Catch 22.

Defaults are ubiquitous and powerful. They are unavoidable in the sense that for any node of choice architecture system, there must be an associated rule that determines what happens to the decision-maker if the associated rules that determine what happens to the decision maker if nothing is sought after the problem has arisen. Ofcourse, usually the answer is that if one does nothing, nothing changes; whatever is happening continues to happen, but that is not always the case. If an Iron Lady<sup>64</sup> in the great Britain in 1980’s hadn’t come with the idea of privatisation the British economy would have been in shambles today. Humans make mistakes. A well-designed system, expects it’s users to learn, relearn, adapt and function in-accordance with the law.

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<sup>2</sup> **Monopoly**, implies an exclusive possession of a market by a supplier of a product or a service for which there is no substitute. In this situation the supplier is able to determine the price of the product without fear of competition from other sources or through substitute products. It is generally assumed that a monopolist will choose a price that maximizes profits.

Available at:- <https://www.britannica.com/money/topic/monopoly-economics> (Last visited 17 June,2023)

<sup>3</sup> **Oligopoly**, market situation in which each of a few producers affects but does not control the market. Each producer must consider the effect of a price change on the actions of the other producers. A cut in price by one may lead to an equal reduction by the others, with the result that each firm will retain approximately the same share of the market as before but at a lower profit margin.

Available at:- <https://www.britannica.com/money/oligopoly> (last visited 17 June,2023)

<sup>4</sup> Duncan Watts, “The Kerry Cascade:How a 50’s Psychology Experiment can explain the Democratic Primaries.” Slate, February 24,2004.

Available at:- <https://slate.com/news-and-politics/2004/02/the-psychology-experiment-that-explains-kerry-s-victory.html> (last visited 17 June, 2023)

<sup>5</sup> Gandhi who was responsible for propagating his term in India, offers perhaps the most extreme and intellectually the most honest definition. In his 1916 address to the Missionary Conference at Madras, he described swadeshi as *“that spirit in us which restricts us to the use and service of our immediate surroundings to the exclusion of the more remote...I must restrict myself to my ancestral religion. In the domain of politics, I should make use of the indigenous institutions...In that of economics, I should use only those things that are produced by my immediate neighbours and those industries by making them efficient and complete where they might be found wanting.”*

<sup>6</sup> Sumit Sarkar. *The Swadeshi Movement in Bengal (1903-1908)*, people’s publishing house 1973. p.108

<sup>7</sup> Socialism is both an economic system and an ideology (in the non-pejorative sense of that term). A socialist *economy* features social rather than private ownership of the means of production. It also typically organises economic activity through planning rather than market forces, and gears production towards needs satisfaction rather than profit accumulation. Socialism, by democratising, humanising, and rationalising economic relations, largely eliminates these problems.

Available at:- <https://iep.utm.edu/socialis/> (last visited 17 June,2023)

<sup>8</sup> Mixed economy, in economics, a market system of resource allocation, commerce, and trade in which free markets coexist with government intervention. A combination of free market principles of private contracting and socialist principles of state ownership or planning is common to all mixed economies. The British Corn Laws of the early 1800s, for example, were government interventions in the free market to protect native agricultural interests by limiting imports. The laws encouraged foreign protectionist responses and resulted in higher food and labour costs at home, which in turn led to an invigorated laissez-faire and free trade movement.

Available at:- <https://www.britannica.com/topic/mixed-economy> (last visited 17 June,2023)

<sup>9</sup> David P. Daniels and Julian J. Zlatev, “Choice architects reveal a bias towards positivity and certainty”,—— Human decisions reveal a variety of biases that appear to violate standard economic models of rational choice (Bazerman and Moore, 2013, DellaVigna, 2009, Kahneman, 2003, Kahneman, 2011, Thaler and Sunstein, 2008, Tversky and Kahneman, 1981). Many of these biases can be used to influence people’s choices in profound and often surprising ways. For instance, describing a choice between a risky option and a safe option using a gain frame (e.g., “number of lives saved”) will nudge decision makers toward choosing the safe option, while describing the same two options using a loss frame (e.g., “number of lives lost”) will nudge decision makers toward choosing the risky option (Kahneman and Tversky, 1979, Tversky and Kahneman, 1981).

Available at:- <https://doi.org/10.1016/j.obhdp.2018.12.004> (last visited 17 June,2023)

<sup>10</sup> Social influence tactics that capitalise on these kinds of behavioural insights are increasingly recognized as powerful interventions that can be used to promote individual and social welfare (Thaler & Sunstein, 2008). However, *surprisingly little is known about how good people are at strategically using nudges and biases to influence others, despite the fact that such influence opportunities are pervasive in social interactions* (Bohns, 2016, Halevy, 2016, Johnson et al., 2012, Thaler and Sunstein, 2008, Zlatev et al., 2017). For example, negotiators nudge other negotiators, policymakers nudge citizens, managers nudge employees and consumers, and physicians nudge their patients (Zlatev et al., 2017).

Available at:- <https://doi.org/10.1016/j.obhdp.2018.12.004> (last visited 17 June,2023)

<sup>11</sup> The engineer-Statesman, Shri Visvesaraya, was the first to advocate the idea of planning for India. In his famous book, *“The Planned Economy For India”*, published in 1934, he proposed a ten-years’ plan with the aim of doubling the income of the country. His main emphasis was on industrialisation so as to reduce the population dependent on agriculture and to increase the population employed in industry. Sri Visvesvaraya’s plan was more on the lines followed in the U.S.A. and Turkey; its basic policy was to avoid *‘communistic tendencies’*—In short, his plan was drawn within the framework of a capitalist economy.

Available at:- <https://www.economicdiscussion.net/india/planning/economic-plans-in-india/21263> (last visited 17 June,2023)

<sup>12</sup> This plan was drafted by Sriman Nayaran, principal of Wardha Commercial College. It emphasised the economic decentralisation with primacy to rural development by developing the cottage industries.

Available at:- <https://www.insightsonindia.com/indian-economy-3/planning-in-india/historical-evolution-of-planning-in-india/> (last visited 18 June,2023)

<sup>13</sup>In the early 1944, several eminent industrialists and economists of Bombay Sir Purshottamdas Thakurdas, Mr. J.R.D. Tata and six others made another attempt and published a development plan, which was called Bombay plan. Its main purpose was to stimulate the thinking of the people and to lay down the principles on the basis of which a

national plan could be formulated and executed. The planners observed that the plan set out in it is neither in any sense a complete scheme nor as comprehensive as that of the National Planning committee. The total outlay of Rs. 10,000 crores was recommended. The planners believed that this could be achieved only by reducing the overwhelming predominance of agriculture and by establishing a balanced economy.

Available at:- <https://www.insightsonindia.com/indian-economy-3/planning-in-india/historical-evolution-of-planning-in-india/> (last visited 18 June,2023)

14 Mahavir Tyagi was a prominent freedom fighter and a Parliamentarian. He belonged to Dehradun, Uttar Pradesh (presently in Uttarakhand). He completed his education in Meerut, Uttar Pradesh. Thereafter, he joined the British Indian army and got posted in Persia. He gave his resignation after the Jallianwala Bagh Massacre on 13 April 1919. Mahavir never saw his personal benefits and thought all about the nation. Mahavir Tyagi was not a leader who always adhered to the party lines. He was an honest, emotional, and courageous leader who always stood on the side of the truth.

Available at:- <https://amritmahotsav.nic.in/unsung-heroes-detail.htm?11541> (last visited 18 June,2023)

15 Gautam Bhatia, *“Directive Principles of State Policy: Theory and Practice”* (March 18,2014). Oxford Handbook for the Indian Constitution, Oxford University Press, 2015.

16 The Ministry of Home Affairs (MHA) discharges multifarious responsibilities, the important among them being - internal security, border management, Centre-State relations, administration of Union Territories, management of Central Armed Police Forces, disaster management, etc. Though in terms of Entries 1 and 2 of List II – ‘State List’ – in the Seventh Schedule to the Constitution of India, ‘public order’ and ‘police’ are the responsibilities of States, Article 355 of the Constitution enjoins the Union to protect every State against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution Available at:- <https://www.mha.gov.in/en/page/about-ministry> (last visited 20 June, 2023)

17 GOI, Report of the Committee on Prevention of Corruption, P. 1

18 The Committee on Public Accounts was first set up in 1921 in the wake of the Montague-Chelmsford Reforms. The Finance Member of the Executive Council used to be the Chairman of the Committee. The Secretariat assistance to the Committee was rendered by the then Finance Department (now the Ministry of Finance). An important function of the Committee is to ascertain that money granted by Parliament has been spent by Government "within the scope of the demand." The implications of this phrase are that (i) money recorded as spent against the grant must not be more than the amount granted, (ii) the expenditure brought to account against a particular grant must be of such a nature as to warrant its record against the grant and against no other, and (iii) the grants should be spent on purposes which are set out in the detailed demand and they cannot be spent on "any new service not contemplated in the demand."

Available at:- <https://prsindia.org/parliamentary-committees/public-accounts> (last visited 20 June,2023)

19 GOI, Report of the Committee on Prevention of Corruption, P.18

20 *Ibid* at 19.

21 The Government, in January 2015, replaced Planning Commission with NITI Aayog (National Institution for Transforming India). Its aim is to achieve Sustainable Development Goals and to enhance cooperative federalism by fostering the involvement of State Governments of India in the economic policy-making process using a bottom-up approach. The institution has to provide governments at the central and state levels with relevant strategic and technical advice across the spectrum of key elements of policy.

Available at:- <http://www.niti.gov.in> (last visited 20 June,2023)

22 The *“Third Five Year Plan”* is a projection and a continuation of the First and Second Plans, and it will lead to the Fourth and subsequent Plans. Planning is a continuous movement towards desired goals and, because of this, all major decisions have to be made by agencies informed of these goals and the social purpose behind them. Even in considering a five-year period, forward and long-term planning has always to be kept in view. Indeed, perspective planning is of the essence of the planning process. As this process develops, there is a certain rhythm of expansion in the development of the people, and a sense of enterprise and achievement comes to them. They are conscious of a purpose in life and have a feeling of being participants in the making of history. Ultimately, it is the development of the human being and the human personality that counts. Although planning involves material investment, even more important is the investment in man. The people of India today, with all their burdens and problems, live on the frontier of a new world which they are helping to build. In order to cross this frontier they have to possess courage and enterprise, the spirit of endurance and capacity for hard work, and the vision of the future.

Available at:- <http://164.100.161.239/plans/planrel/fiveyr/index4.html> (last visited 20 June,2023)

23 In the “**Fifth Five Year Plan**” some of the constraints which seriously hampered the process of growth in the earlier period have been removed to a considerable extent. There is easy availability of essential raw materials and inputs. There is greater economic discipline and a renewed dynamism in the country at present. A considerable measure of price stability has been achieved and it is hoped that the recent increase in price level will be contained by effective measures which have been initiated. There is a large buffer stock of food-grains with the public agencies and the position of foreign exchange is satisfactory. The international monetary system has also stabilised to a certain degree. The Planning Commission, therefore, consider this an appropriate time to finalise the Fifth Plan. With this end in view a meticulous and detailed examination of the development programme for the remaining two years of the Fifth Five Year Plan has been undertaken. What emerges is a clearer delineation of the targets and policies specially in relation to the priority sectors.

Available at:- <http://164.100.161.239/plans/planrel/fiveyr/index4.html> (last visited 20 June,2023)

24 According to Prof. Thomas, “*Broadly, the term **Monopoly** is used to cover an effective price control, whether supply or demand of services or goods, narrowly it is used to mean a combination of manufacturers or merchants to control the supply price of commodities or services.*”

25 According to Prof. Stoneur and Hague, “***Oligopoly** is different from monopoly on one hand in which there is a single seller, on the other hand, it differs from erred competition and monopolistic competition also in which there is a large number of sellers. In other words, while describing the concept of oligopoly, we include the concept of a small group of firms.*”

26 “*Government Owned Monopoly*” —a situation in which the government owns and controls a particular industry and there is no competition.

Available at:- <https://dictionary.cambridge.org/dictionary/english/government-monopoly> (last visited 19 June, 2023)

27 Available at:-[https://contents.irctc.co.in/en/Awards\\_And\\_Achievements.pdf](https://contents.irctc.co.in/en/Awards_And_Achievements.pdf)(last visited 19 June,2023)

28 Available at:- <https://ongcindia.com/web/eng/about-ongc/ongc-at-a-glance/corporate-profile> (last visited 19 June,2023)

29 Available at:- <https://www.bhel.com/history-bhel> (last visited 19 June,2023)

30 Available at:- <https://www.coalindia.in> (last visited 19 June,2023)

31 Available at:- <https://www.ixindia.com/Aboutus.aspx?id=Gy9kTd80D98%3d&mid=Gy9kTd80D98%3d> (last visited 19 June,2023)

32 Rockefeller was the eldest son and second of six children born to traveling physician and snake-oil salesman William (“Big Bill”) Avery Rockefeller and Eliza Davison Rockefeller. In 1870 Rockefeller and a few associates, a group that included American financier Henry M. Flagler, incorporated the Standard Oil Company (Ohio). Because of Rockefeller’s emphasis on economical operations, Standard prospered and began to buy out its competitors until, by 1872, it controlled nearly all the refineries in Cleveland.

Available at:- <https://www.britannica.com/biography/John-D-Rockefeller> (last visited 19,June,2023)

33 Selina Parker, “The Principle Of Own Nothing Control Everything: How To Protect Your Assets”, 25 December, 2022

Available at:- <https://fullyfundedmethod.com/own-nothing-control-everything/> (last visited 19 June,2023)

34 V.D. Kulshrestha, “*Report of the Monopolies inquiry Commission: An Evaluation*”, Indian Law Institute, Vol. 8, No. 3 (July-September, 1996)pp. 413-427.

35 Aurobindo Ghose, “*Monopoly in Indian Industry: An Approach*”, Vol. 7, No. 5/7, Annual Number (Feb. 1972) p. 385

36 The Competition Act defines a 'cartel' as "an association of producers, sellers, distributors, traders or service providers who, by agreements amongst themselves, limit, control or attempt to control the production, distribution, sale or price of, or trade in goods or provisions of services". Given that this is an inclusive definition, other concerted activities may also fall under the provisions on cartels.

Available at:- <https://www.mondaq.com/india/antitrustcompetition-law/1213070/cartels-comparative-guide#:~:text=The%20Competition%20Act%20defines%20a,goods%20or%20provisions%20of%20services%22.> (last visited 20 June,2023)

37 S. 3 Competition Act, 2002.

“An agreement includes any arrangement, understanding or concerted action entered into between parties. It may or may not be in writing. Anti-competitive agreements under competition law are broadly classified into two categories, the Anti-competitive Horizontal Agreement and Anti-competitive Vertical/Agreement.”

Available at:- <https://www.cci.gov.in/antitrust> (last visited 20 June,2023)

38 William Spaulding, 'Firm Production And Costs'

Available at:- <http://Thismatter.com> (last visited 19 June,2023)

39 Shikha Tripathi and Rishika Srivastava, “Cartelization in Indian Aviation Industry: A critical Analysis”, Commonwealth Law Review Journal, Volume 5 - Issn 2581 3382.

40 George, S. “*Concentration in British Industry*”, Cambridge University Press.

41 Neeraj Kumar and Pooja Choudhary, “Concentration in the Indian Automobile Industry”, Pacific Business Review International, ISSN 0974-438.

42 The key reason was the way IL&FS is structured. A debt of 91,000 crore against the equity of 9.83 crores. The parent would raise debt that would then be infused as equity in each subsidiary. The subsidiary would then use that equity (which was debt on the parent IL&FS's books) to raise more debt. This created a mismatch in the asset liability part. Another reason was the slow rate of approvals and government banks distancing themselves from long term loans due to an increase in Non Performing Assets (NPA's). This resulted in short term financing being used for long term projects and IL&FS started facing cash flow issues and losses due to various projects stuck at different levels. At the same time, short-term debt and interest had to be paid when it became due.

43 Gupta, R. (2017, October). Non-Banking Financial Companies—Scripting Dawn of New-Age Banking: October 2017. Retrieved from <http://bfsi.eletsonline.com>:

Available at:- <http://bfsi.eletsonline.com/non-banking-financial-companies-scripting-dawn-of-new-age-banking-october-2017> (last visited 20 June, 2023)

44 Kramaric, P., & Kitic, M. (2012). Comparative Analysis of Concentration in the Insurance Markets in New EU Member States. World Academy of Science, Engineering and Technology, 66, 687-691

45 Government of India, Joint Plant Committee Report 2007.

46 Radhakrishna, B.P., (2007). Boom in India's Iron and Steel Industry, Current Science, 1210 Vol. 92, NO. 9, 10 May 2007.

47 Firoz, A.S., (2008). Competitiveness, Market Distortion and Competition Issues: A study of Indian Steel Industry, Unpublished manuscript.

48 Ghosh, S., (2005). Iron and Steel Industry in India - Past, Present and Future. (www.pib.nic.in, 2008).

49 Alejandra Medina, Adriana De La Cruz and Yun Tang: Corporate Ownership and Concentration; Working paper 27, 2022.

Available at:- <https://www.oecd-ilibrary.org/docserver/bc3adca3-en.pdf?expires=1675615843&id=id&accname=guest&checksum=AF5C3F6C10477D63E2B1BA28456C0867>

50 AIR (1973) 1 SCR 1004

51 Mukesh Ambani chairs and runs \$104 billion (revenue) Reliance Industries, which has interests in petrochemicals, oil and gas, telecom and retail. Reliance was founded by his late father Dhirubhai Ambani, a yarn trader, in 1966 as a small textile manufacturer. After his father's death in 2002, Ambani and his younger sibling Anil divided up the family empire. Reliance sparked a telecom price war with the launch of 4G phone and broadband service Jio in 2016. Today, it has more than 430 million subscribers and is rapidly rolling out 5G services.

Available at:- <https://www.forbes.com/profile/mukesh-ambani/?sh=5021bbc6214c> (last visited 20 June,2023)

52 Ravi Kant, “*the rise of the monopolists in Modi's India*”, October 12, 2020.

53 Nitin Pai, “A Brief Economic History of Swadeshi” Indian Public Policy Review, 2021, 2(4): p. 54.

54 Baru, Sanjaya. 2002. “Strategic Consequences of India's Economic Performance.” Economic and Political Weekly (JSTOR, [www.jstor.org/stable/4412299](http://www.jstor.org/stable/4412299).) 37 (26): 2583-2592.

55 Per capita income (PCI) or “average income” is the measurement of average income per person in a specific country, city, or region within a definitive time period. Used primarily in economics, PCI utilises average income to calculate and present the standard of living and quality of life for a population or area in study.

Available at:- <https://corporatefinanceinstitute.com/resources/economics/per-capita-income-pci/> (last visited 21 June, 2023)

56 gross domestic product (GDP), total market value of the goods and services produced by a country's economy

during a specified period of time. It includes all final goods and services—that is, those that are produced by the economic agents located in that country regardless of their ownership and that are not resold in any form. It is used throughout the world as the main measure of output and economic activity.

*GDP = Consumption + Investment + Government Spending + Net Exports. (GDP = C + I + G + NX)*

57 “Gautam Adani” is chairman of the \$32 billion (revenue) Adani Group, with interests in ports, airports, power generation and transmission, and green energy, among others. The Adani Group, which began in 1988 as a commodities trading firm, expanded through acquisitions and with the support of Indian Prime Minister Narendra Modi. In January 2023, U.S. firm Hindenburg Research accused Adani and his companies of financial fraud and stock market manipulation. The Adani Group has denied any wrongdoing. Adani is India's biggest airport operator and also controls Mundra Port, India's largest, in his home state of Gujarat. Adani became India's second-largest cement producer in 2022, after acquiring Swiss firm Holcim's Indian assets for \$10.5 billion.

Available at:- <https://www.forbes.com/profile/gautam-adani-1/?sh=e6168845b0e1> (last visited 21 June, 2023)

58 Available at:- <https://www.tharawat-magazine.com/economic-impact-family-businesses/> (last visited 21 June, 2023)

59 Saurabh Mukherjee, “The rise of a new elite”, VCCIRCLE, 18 November, 2013. Available at:- <https://www.vccircle.com/rise-new-elite> (last visited 21 June, 2023)

60 “Ashoka Mody” is Charles and Marie Robertson Visiting Professor in International Economic Policy at the School of Public and International Affairs, Princeton University. He is author of *EuroTragedy: A Drama in Nine Acts*. Previously, Professor Mody was Deputy Director in the International Monetary Fund's Research and European Departments. He has worked at the World Bank, AT&T's Bell Laboratories, and the Centre for Development Studies, Trivandrum. He has been a Visiting Professor at the University of Pennsylvania's Wharton School and is a non-resident fellow at the Center for Financial Studies, Frankfurt. He received his Ph.D. in Economics from Boston University.

Available at:- <https://amody.scholar.princeton.edu> (last visited 21 June, 2023)

61 Ashoka Mody, *India is broken*, Stanford university press, 14 February, 2023, ISBN: 9781503630055.

62 Kavitha Iyer, “ ‘A Small Indian Elite Controls Narrative, Talk Of India's Decade Is Juvenile Economics’ 18 Jan, 2023. Available at:- <https://article-14.com/post/-a-small-indian-elite-controls-narrative-talk-of-india-s-decade-is-juvenile-economics--63c752d70a18f> (last visited 21 June, 2023)

63 *Supra* note 182.

64 Herein referred to Margaret Thatcher the first woman prime Minister of Great Britain who was often referred to as “the iron lady”.

Available at:- <https://www.nytimes.com/2013/04/09/world/europe/former-prime-minister-margaret-thatcher-of-britain-has-died.html> (last visited 21 June, 2023)