

## **BREAKING (THE) NEWS:**

*The Case of Gantantra TV and the Jan Matdan Yantra – EVM 2.0*<sup>1</sup>



Vidyutanu Vigyan Anuprayog Nigam



Gantantra TV

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The characters, corporations, and events portrayed in this scenario are fictitious. Any resemblance to actual events or persons, living or dead, is somewhat coincidental. However, like all fiction everywhere, the scenario is loosely informed and inspired by the goings-on of the real world, past and present. As either Ralph Waldo Emerson or Jessamyn West wrote, *“fiction is the truth that reality obscures”*. In that sense, perhaps, the scenario is a patchwork tapestry of our dysfunctional world.

The scenario is based in the Republic of India. A note on applicable laws and use of extraneous facts is provided in Appendix I. A glossary of Hindi terms used is provided in Appendix II.

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<sup>2</sup> Satish Acharya <<https://www.cartoonistsatish.com/the-return-on-evm-conspiracy/>>.

## Adheer Swami & The (Right) News

As a young man, Adheer Swami was a self-described citizen journalist. He had established ‘The (Right) News’ Podcast in 2013 from his college bedroom, which had steadily grown into one of India’s most popular podcasts. He was known for advocating a conservative right-wing view of the world, informed by so-called ‘Indic civilizational values’. As he became increasingly popular, he began appearing as a frequent guest commentator on prime-time news shows. A sympathetic magazine once described him in a feature as, “*the defender-in-chief of our government, our faith and our Indic values*”.

### Dakshinpanthi Patrakarita Pvt. Ltd. & Gantantra TV

While he was appreciative of the increasingly right-ward tilt of the Indian news media and its anchors, he had grown frustrated with the cacophony and mayhem that ensued on prime-time news shows each night. On the 7<sup>th</sup> of May 2018, after a particularly grueling shouting match on a channel he had appeared on, he posted a Twitter Poll asking his millions of followers—

*“I am sick of this. Aren’t you all? Should we set up our very own news channel?”*

And the rest, as they say, is history.

A few days later, *Dakshinpanthi Patrakarita Pvt. Ltd.* was incorporated, with Adheer Swami as majority shareholder and Chief Executive Officer. It launched Gantantra TV, which began broadcasting in the form of a free-to-air channel on the 1<sup>st</sup> of July 2018. Adheer Swami was announced as its Chief Editor and prime-time host. Its website states:

“Gantantra TV is the harbinger of a new era of journalism which has nationalism at its core, which is unhindered by agendas, and which stands up for Indic civilizational values.



We are fueled by the pursuit of truth and justice for the forgotten millions, and in this pursuit, we promise to break the norms of traditional newsrooms. We stand for diversity of thought and offer an alternative to the

left-of-center news media dominated by elitist intellectuals.”<sup>3</sup>

<sup>3</sup> A word salad loosely drawn from the ‘About Us’ pages of:

Republic TV <<https://www.republicworld.com/about-us.html>>

Fox News <<https://www.foxnews.com/about>>

The Indic Collective <<https://www.indiccollective.org>>

## **‘Knowing What’s Right’**

Gantantra TV sought to become one of the most watched news channels in India, hoping to draw heavily on right-leaning audiences from Adheer Swami’s ‘The (Right) News’ Podcast and other television news channels. The timing of its launch seemed propitious—just about a year preceding the 2019 General Election. It was a period which was expected to see sustained political interest among the masses as well as the intelligentsia.

The channel’s headline offering was ‘Knowing What’s Right’ which would air between 8 PM and 10 PM in prime-time and was to be hosted by Adheer Swami. Unlike other prime-time news shows, it would not feature screaming panels of guests, banner headlines, and hashtags. Rather, the show would mimic the style of late shows in the United States, and would feature a lengthy monologue featuring commentary on the day’s news by Adheer Swami, two one-on-one interviews with persons in the news, and prerecorded field reports from correspondents. The show would be painstakingly produced each day, peppered with eye-catching visuals and catchy segments. It would also feature a live audience.

### **Vidyutanu Vigyan Anuprayog Nigam (“VVAN”)**

In 2016, a group of three friends (all alumni of IIT Kharagpur) had incorporated the Vidyutanu Vigyan Anuprayog Nigam Pvt. Ltd. under the Companies Act, 2013. The object of the company was to apply the science of electronics to create products in the spheres of defence and elections. They had created prototypes of several specialized products including a new voting machine. Having seen indications of early interest from representatives of the Election Commission of India and the Ministry of Defence, they had been able to secure the requisite funding to start the company. Its website states:

“We seek to harness the power of the *vidyutanu* or the electron, known and discovered in ages past, to transform the defence and election sectors of our country. We take this step to serve the interests of national security.



Inspired by the vision of the Hon’ble PM, we want to ‘Make in India’, in the *Amrit Kaal* for startups.

To this end, we have established the Vidyutanu Vigyan Anuprayog Nigam Pvt. Ltd. We aspire to use innovation to cement India’s place as the ‘Mother of Democracy’, and empower our brave soldiers

stationed from the Andaman & Nicobar Islands to the Siachen Glacier.”

### **A new voting machine: ‘Jan Matdan Yantra – EVM 2.0’**

On being advised on the history and regulatory scheme relating to “voting machines”,<sup>4</sup> the Vidyutanu Vigyan Anuprayog Nigam Pvt. Ltd. customized their own voting machine prototype to meet the essential conditions found in the Representation of the People Act, 1951, and the Conduct of Election Rules, 1961. They dubbed it the ‘Jan Matdan Yantra – EVM 2.0’ and contacted the Election Commission of India to conduct a demonstration.

VVAN claimed that “*The Jan Matdan Yantra – EVM 2.0 has an advanced futuristic design which simplifies the set-up significantly, renders it more portable and secure, and makes it eco-friendly, while retaining all essential features and a paper trail*”. The trial demonstration on 6<sup>th</sup> February 2017 was attended by the members of the Commission and representatives of various political parties and the government. It was emphasized that compared to the existing EVMs (only a fraction of which were equipped with the VVPAT), every EVM 2.0 would come internally equipped with a paper trail system. VVAN assured the Commission that it could manufacture and deploy enough units in time to cater to the 2019 General Election.

A week later, at the Global Conference on Elections with Integrity, the Chief Election Commissioner made a mention of the EVM 2.0 and the recent demonstration which had occurred, stating that, “*God willing, the 2019 General Election will be held on the Jan Matdan Yantra! A testament to democratic resilience in India approaching Azaadi ka Amrut Mahotsav.*”

On 1<sup>st</sup> March 2017, the Election Commission issued an order approving the design of the EVM 2.0, ending its contract with BEL and ECIL, and placing an order with VVAN for 22 lakh EVM 2.0s to be fulfilled by 31<sup>st</sup> December 2018. It clarified that the existing EVMs would continue to be used till the end of 2018. The stated objective was that EVM 2.0s would be used for all elections scheduled from 1<sup>st</sup> January 2019.

The corridors of power were abuzz. There was a great deal of speculation on how an up-start (start-up) company established just a few years ago had secured such an important contract fundamental to the success of Indian democracy. That too, by displacing two public sector undertakings with a proven track record!

While some had long questioned the credibility of the existing EVMs, the brouhaha surrounding the new EVM 2.0s was deafening. The most common refrain was that VVAN was “*untested*” and could not be given such a responsibility.

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<sup>4</sup> See Appendix III, for a brief history of EVMs and related legal provisions.

## United, in opposition

The Chief Election Commissioner of the time was well known for his neutrality and independence. Further, his term was set to last well into 2020, leaving no doubt that the 2019 General Election would occur under his oversight. His bold decision to cancel the contracts with ECIL and BEL while awarding one to VVAN on a short timeline, rankled almost all stakeholders. Opposition to this move stemmed not only from the political opposition, but also from the governing ranks as well as elements of civil society.

The opposition parties pointed to the ostensible political leanings of the company's founders to question its reliability, pointing to their seeming coziness with and adoption of the ruling party's messaging. The government on the other hand was looking to stop in its tracks the sudden arrival of an unpredictable element in the electoral system. It was a rare moment of unity in Parliament when all parties spoke up against the decision.

A PIL filed in the Supreme Court was dismissed with a terse order stating that:

*“ECI is a constitutional body under Article 324 charged with superintendence, direction, and control over elections in India. This Court is not inclined to question the expertise or judgment of that body on what is essentially a policy issue. This petition is dismissed. No order as to costs.”*

Many in civil society made process-oriented arguments as well. However, the Chief Election Commissioner was determined to follow through with the decision. Over time, the skepticism appeared misplaced, with VVAN consistently meeting its monthly deadlines, passing spot inspections, and conducting public demonstrations of the EVM 2.0. There seemed to be building public support of VVAN and the use of EVM 2.0s. Even some political parties began to soften their stance.

## Meanwhile, on Twitter, @Q-India

As all of this was unfolding through 2017, a more insidious movement began taking root. As one might expect, the origin of this movement was found to be on free-speech-loving Twitter. Modelled on the Q-Anon conspiracy in the United States, an account by the name of @Q-India had posted a viral tweet in December 2017:

*“I am a high-ranking officer of the Election Commission. Have you all been wondering why the trusty old EVMs are being replaced by the Jan Matdan Yantras? Today, I am blowing the whistle on this Deep State plot! The Chief Election Commissioner, backed by the military-industrial complex which funds VVAN, wants to steal our elections. He is a wolf in sheep's clothing—he is close to the Italians. Save your democracy if you can. Yours, Q.”*

## The Confluence

While most quickly concluded that this was a conspiracy theory, it did have many takers, especially on the fringe right wing. Over the next couple of months, the echo chambers spanning Twitter, WhatsApp and Telegram did what echo chambers do.

In a Sherlock-Holmes-ian investigation, they found disparate “confirmations” all over the internet—“hidden” family relationships, old retweets and likes, money trails, out of context and doctored videos, and more anonymous declarations—each building upon the other in one unsolvable tangle, until a portion of the internet was convinced of the plot.

The ‘Italian’ reference had already tickled the imagination of many. The conspiracy had gained many prominent believers, including some Members of Parliament. It had its own leaders and followers, and cheerleaders and apologists.

One such person of the last description, was one Adheer Swami of Gantantra TV fame—who felt that *“if a large enough number of people believe something, it is the media’s job to take it seriously”*. By the time Adheer Swami incorporated Dakshinpanthi Patrakarita Pvt. Ltd., the Q-India theory had already become a subject of discussion and debate on many news shows and newspaper editorials.

Almost every other commentator built upon similar themes: the rise of fake news and online conspiracy theories, and the receptiveness of the public towards polarizing content.

### “Enemies of the Republic”

However, when Adheer Swami began planning the content of the inaugural telecast of ‘Knowing What’s Right’ on Gantantra TV, he decided to take a less cautious path.

He was in large part governed by the strong beliefs of his existing followers from ‘The (Right) News’. The popularity of the theory among the fringe right wing weighed on him. To those on the outside, it appeared to be a clear case of “audience capture”<sup>5</sup>.

Thus, on 1<sup>st</sup> of July 2018, he decided to center ‘Knowing What’s Right’ on @Q-India’s allegations and the surrounding online investigations.

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<sup>5</sup> “Audience capture is an irresistible force in the world of influencing, because it’s not just a conscious process but also an unconscious one. While it may ostensibly appear to be a simple case of influencers making a business decision to create more of the content they believe audiences want, and then being incentivized by engagement numbers to remain in this niche forever, it’s actually deeper than that. It involves the gradual and unwitting replacement of a person’s identity with one custom-made for the audience.” <https://gurwinder.substack.com/p/the-perils-of-audience-capture>.

In his opening monologue, after quoting the viral tweet, he continued with his statement in the first person without any qualification. He was not quoting anyone else nor repeating what 'others' or 'people' may have said or thought, but rather, what he himself thought. He rewove the elaborate web of conspiracies in his monologue, ending with the statement:

*“What @Q-India originally said, and what our investigation has further uncovered, we have laid out before all of you.*

*I think and I believe it is safe to say that VVAN and its three founders are enemies of the republic and agents of the Deep State, and that they have hatched a heinous conspiracy.*

*A conspiracy to destroy India’s flourishing democracy.*

*A conspiracy to insert tampered election machines into our elections – using the so-called Jan Matdan Yantras – EVM 2.0s. This machine can flip our votes.*

*It is a conspiracy to steal our votes.*

*Yours, dear viewer, and mine.*

*A conspiracy to make us subservient to foreigners once again!*

*A massive and coordinated effort to steal control of our own fate from We, the People.*

*These goons from VVAN run a company remote-controlled by people in Rome.*

*Many in the Opposition have financial interests in this company. And the defence industry!*

*This is corruption, pure and simple.*

*I have too many questions! And from too many people!*

*To the government: Why do you stand by and let this happen?*

*To VVAN: Have you no shame?*

*And to you dear reader: What will you do to stop it? Or rather, what will you not do to stop it?*

*What we at Gantantra TV want to tell you is that we will keep looking at this issue and keep bringing you all the facts about it to you.*

*That is why our program is called ‘Knowing What’s Right’!*

*We bring you only the facts and nothing more. We will keep doing that.*

*Thank You.”<sup>6</sup>*

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<sup>6</sup> I must acknowledge some inspiration from the 'Complaint' and 'Dominion's Brief in Support of its Motion for Summary Judgment on Liability of Fox News Network LLC and Fox Corporation' in *US Dominion Inc. & Ors. v. Fox News Network LLC* filed before the Superior Court of the State of Delaware.

## Tumult & Lis

The broadcast of Adheer Swami on 1<sup>st</sup> July 2018 caused a furore in the country. It was seen as revelatory by many, confirmatory by others, and defamatory by most. People felt that Adheer Swami had become *non compos mentis*. The echo chambers on Twitter were excited—they had been brought out of the closet, and into the mainstream. That very night, VVAN sent a detailed legal notice to Adheer Swami, Gantantra TV and Dakshinpanthi Patrakarita Pvt. Ltd., demanding a retraction and apology and explaining why they were wrong. Adheer Swami, however, continued his crusade against VVAN on his nightly monologues, claiming that it was his duty to air any “newsworthy” content.

However, there were many across the country who were enthralled by this manufactured conspiracy theory, including some in government. Many employees of VVAN including the founders began receiving death threats. There were reports attributed to sources that VVAN’s defence and election deals were “*being reviewed*”.

The opinion pages excoriated Gantantra TV daily. One astute commentator noted:

*“... While the freedom of the press is part of the constitutional guarantee under Article 19(1)(a) of our Constitution,<sup>7</sup> VVAN’s and its founders’ right to their reputation and right not to be defamed are also implicated.<sup>8</sup> After all, Article 19(1)(2) provides for the exception of defamation. The protective cover of press freedom must not be misused. If a newspaper publishes what is improper, mischievously false, or illegal and abuses its liberty it must be punished by court of law.<sup>9</sup> While ordinarily this commentator would be loath to advocate prosecuting a news channel, I find that this is a fit case for Gantantra TV to be held accountable civilly and criminally<sup>10</sup>.”*

On 1<sup>st</sup> December 2018, VVAN filed a civil suit against Dakshinpanthi Patrakarita Pvt. Ltd. and Others under the original civil jurisdiction of the Delhi High Court, seeking:

*“... compensation for actual losses as well as punitive and exemplary damages from and against the defendants for making maliciously defamatory statements against the plaintiff as well as for a permanent and prohibitory injunction restraining the defendants from broadcasting statements of a similar nature against the defendant in the future.”*

VVAN’s calculation on the quantum and degree of damages was Rs. 1,000 Crore.

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<sup>7</sup> *Indian Express Newspaper (Bombay) (P) Ltd. v. Union of India*, (1985) 1 SCC 641.

<sup>8</sup> *Justice (Retd.) KS Puttaswamy v. Union of India*, (2017) 10 SCC 1.

<sup>9</sup> *In re Harijai Singh*, (1996) 6 SCC 466.

<sup>10</sup> *See Subramaniam Swamy v. Union of India*, (2016) 7 SCC 221.



## Coda

- April-May 2019      The General Election was successfully conducted using the Jan Matdan Yantra – EVM 2.0 and was accepted by all parties.
- June 2019            A PIL filed in the Supreme Court challenging the validity of the election on the ground that the EVM 2.0s were faulty was dismissed.
- 2019-2023            Various Assembly Elections are successfully conducted using the Jan Matdan Yantra – EVM 2.0.
- 28<sup>th</sup> April 2023      After several preliminary hearings and extended delays in the defamation trial, the first witness testimony of the Producer of Gantantra TV is scheduled in Delhi High Court.
- 30<sup>th</sup> April 2023      Confidential Settlement Conference between the CEO / Chief Editor & Counsel of Dakshinpanthi Patrakarita Pvt. Ltd. / Gantantra TV on one side and the CEO & Counsel of Vidyutanu Vigyan Anuprayog Nigam Pvt. Ltd. on the other.

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## APPENDIX I

### *A note on applicable laws and use of extraneous facts*

1. The scenario is based in the Republic of India.
2. The scenario is, in large part, self-contained.
3. Reference to real historical or current or legal events or context, or scientific facts beyond those mentioned in the scenario is permitted, as long as they have not been specifically barred or modified in the scenario and do not conflict with, or materially alter, the information provided.
4. Reference to any actual facts or reports or events or legal developments after 31<sup>st</sup> December 2018 is barred. Any facts, reports, historical or current or legal events, or context, from before that date should be understood or referred to in such a manner so as to be in accord with the scenario.
5. It is clarified that invocation of facts which are barred or conflict with or materially alter the information contained in the scenario shall be penalized.
6. Subject to the limitations imposed by Points 3 and 4: The Constitution of India, 1950, the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, the Delhi High Court Act, 1966, and all other union laws in force in the Republic of India, along with their attendant rules and regulations, are applicable. The judgments of the constitutional courts of India are likewise applicable. Common Law, as interpreted in India, is also applicable.
7. A settlement reached between the parties must conform to the requirements under the applicable laws in force in the Republic of India, specifically the Indian Contract Act, 1872. All the terms of the settlement must be lawful and valid, and must not be in contravention of any law in force in the Republic of India.  
  
*See, specifically, Ouseph Poulo & Three Others v. Catholic Union Bank Ltd.*<sup>11</sup>.
8. It is emphasized that any form of hate speech or other discriminatory statements or behaviour shall result in immediate disqualification. It is clarified that racism, sexism, queerphobia or prejudice on grounds of religion shall strictly not be tolerated.

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<sup>11</sup> [1964] 7 SCR 745.

## APPENDIX II

### *A glossary of Hindi terms*

<i>gantatra</i>	republic
<i>vidyutanu</i>	electron
<i>vigyan</i>	science
<i>anuprayog</i>	application(s)
<i>nigam</i>	corporation
<i>dakshinpanthi</i>	right-wing
<i>patrakarita</i>	journalism
<i>amrit kaal</i>	golden era
<i>jan</i>	people's
<i>matdan</i>	voting
<i>yantra</i>	device / machine
<i>aazadi</i>	independence
<i>amrut mahotsav</i>	immortal festival

### APPENDIX III

#### *A Brief History of Electronic Voting Machines (EVMs)*

As is the case in many countries even today, Indian elections originally featured ballot papers. To prevent electoral fraud, an electronic solution was proposed—the EVM.

“First conceived in 1977 ... [by] the Election Commission, the Electronics Corporation of India Ltd. (ECIL), Hyderabad was assigned the task to design and develop it. In 1979 a proto-type was developed, which was demonstrated ... before the representatives of political parties on 6th August 1980. The Bharat Electronic Ltd. (BEL), Bangalore ... was co-opted along with ECIL to manufacture EVMs ... .

[The] first ... use of EVMs occurred in the general election in Kerala in May 1982. ... In 1989, the Parliament amended the Representation of the People Act, 1951 to create a provision for the use of EVMs in the elections. ... In 2004, in the General Election to the Lok Sabha, the EVMs ... were used in all ... constituencies in the country.

An EVM consists of two units, namely, Control Unit (CU) and Balloting Unit (BU) with a cable for connecting them both. ... Voter Verifiable Paper Audit Trail is an independent system attached with the EVMs that allows the voters to verify that their votes are cast as intended. When a vote is cast, a slip is printed on the VVPAT printer containing the serial number, name and symbol of the candidate and remains exposed through a transparent window for seven seconds. Thereafter, this printed slip automatically gets cut and falls in [the] sealed drop box of the VVPAT.”<sup>12</sup>

While the existing EVMs were manufactured only by ECIL and BEL, there did exist a regulatory scheme<sup>13</sup> for the use of any “voting machine”, subject to the Constitution.

In *Indira Nehru Gandhi v. Raj Narain*,<sup>14</sup> the Supreme Court had observed that,

“213. ... the principle of free and fair elections ... is an essential postulate of democracy ... which in its turn is a part of the basic structure of the Constitution ...”

In *Subramaniam Swamy v. Election Commission of India*,<sup>15</sup> the Supreme Court had observed:

“29. ... the “paper trail” is an indispensable requirement of free and fair elections. The confidence of the voters in the EVMs can be achieved only with ... [its use].”

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<sup>12</sup> Election Commission of India, *History of EVM* <<https://eci.gov.in/voter/history-of-evm/>>.

<sup>13</sup> See Section 61A, Representation of the People Act, 1951 r/w Rule 49A, Conduct of Election Rules, 1961.

<sup>14</sup> AIR 1975 SC 2299.

<sup>15</sup> (2013) 10 SCC 500.