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Vol.1 Issue No. 1 December 2017

Founder, IPEM Group of Institutions

Dr. B.S. Goel

(04.08.1937-10.01.2017)

A Visionary, Educationist & Philanthropist with values

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presented to Dr. B.S. Goel Executive Director

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Editor: Dr. Sugandha Goel

Editor's Message

I am delighted to introduce our institute's new Journal, the 'IPEM LAW JOURNAL', a publication in the field of law and legal studies. The Journal provides a really exciting opportunity to consider the truly interdisciplinary nature of law across the wider national and international landscape

In this inaugural issue of the Journal compiled by the IPEM Law Academy, one can find an array of works across legal topics relevant in today's world. The legal profession demands keeping oneself regularly updated and mindful of the latest developments in the field. Legal education must always be conscious of the independent and fresh views and reviews that reflect the modern thinking .

The objective of the Journal is to publish up-to-date, high quality and original research papers along with relevant and insightful reviews. Our intent is to promote legal research amongst the law students, professionals and academicians; for that cause, the Journal will strive to combine academic excellence with professional relevance.

An enormous amount of work has gone into the development of this Journal and I believe that you will see that effort reflected in this edition and the impact that it will have in the field of legal studies. As the editor of the IPEM Law Journal, I take this opportunity to express my sincere gratitude to the authors who have contributed and chosen our publication to disseminate their research papers, articles or reviews.

Further, I would like to thank the Review Committee Members, Executive Director and the Director-General of IPEM Group of Institutions for the genesis of this Journal.

Needless to say, any papers that you wish to submit, either individually or collaboratively are much appreciated and will make a substantial contribution to the early development and success of the Journal

Best wishes and thank you in advance for the contributions to the IPEM LAW JOURNAL.

Dr. Sugandha Goel
(Editor)

"The end of law is not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings capable of law, where there is no law, there is no freedom."

John Locke

From the Editorial Board

The Editorial Board of the IPEM LAW JOURNAL is proud to announce the publication of the first volume of its Journal. This Journal provides a glimpse of the recent developments that have or are taking place in the field of law.

The Journal publishes articles on all aspects of law. Special emphasis is placed on contemporary developments; however, traditional subjects have been given due regard and place.

The papers and articles included in the Journal are intended to have the widest appeal to those interested in the study of law, whether as students, academicians or as professionals. The Journal provides an opportunity for the readers to keep themselves abreast of new ideas and developments in the legal arena

The Editorial Board has received a number of research papers and articles for submission and each paper has been thoroughly reviewed by independent reviewers who constitute the Review Board.

We hope that the IPEM LAW JOURNAL will serve the legal community well as a vehicle of presenting new ideas and research in the field of law.

Thanks are due to many people who have helped in starting up this new Journal. We are particularly grateful to the Associate Editors of the Journal who have contributed immensely to the effort.

Finally, the members of Editorial Board wish to thank the authors who submitted their papers and articles for the maiden issue of the Journal. Any contributions in the form of research papers or articles are welcome for submission to the Editorial Board for the second issue of the Journal. Suggestions for improvement or otherwise in any part of the Journal are welcome and will be highly appreciated.

IPEM LAW JOURNAL

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Ecology and Environment: Crisis and Remedies

Dr. Abhishek Atrey*

ABSTRACT

Do you know that 7 million people die in the world every year due to Air Pollution and out of this half of the people die only in India and China. According to World Health Organization around 7 million people died in the year 2012 i.e. one in eight of total global deaths, as a result of air pollution exposure. Not only air pollution but our race is now suffering from all kinds of pollution. Pollution of rivers, water bodies, degrading of forest cover, loss of wildlife and biodiversity are most serious problem with which our world is facing today

The present article deals with different different manners by which we are causing pollution and its impacts on our ecology and environment and threat to human life. Degradation of forest cover and water pollution with industrial revolution, disappearing wetlands, indiscriminate mining, no system of proper disposal of solid and hazardous waste, chemical nuisance and loss of bio-diversity and direct threat of all these pollution to human existence.

This article also deals with the efforts made by world on the forum of United Nations by Stockholm conference 1972 and Rio conference 1992 and special efforts of India to fight against pollution by preparing appropriate laws, rules, specialized authorities, tribunals, courts etc. In order to fight against this evil, the Government of the Country has passed both adjective and substantive laws such as Environment Protection Act, 1986 and several Rules there under for different kinds of wastes and its amendments time to time. Brief contents and intention of Water (Prevention & Control of Pollution) Act, 1976, Air (Prevention & Control of Pollution) Act, 1981, Forest (Conservation) Act, 1980, Biological Diversity Act, 2002, Wildlife Protection Act, 1972, Mines and Minerals (Development and Regulation) Act, 1957 and State policies and rules made there under are also covered in this article.

The landmark enactment made by India in this direction is National Green Tribunal Act, 2010, by which India created world's most powerful environmental court. Within this short span of time, NGT developed environmental law in all spheres both enlarging scope of environmental issue and locus standing and its own jurisdiction.

ENVIRONMENTAL CRISIS

Air Pollution

Do you know that 7 million people die in the world every year due to Air Pollution and out of this half of the people die only in India and China. According to World Health Organization, around 7 million people died in the year 2012; i.e., one in eight of total global deaths, as a result of air pollution exposure. This finding more than doubles the previous estimates and confirms that air pollution is now the

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world's largest single environmental health risk. Reducing air pollution could save millions of lives. In particular, the new data reveals a stronger link between both indoor and outdoor air pollution exposure and cardiovascular diseases, such as strokes and ischaemic heart disease, as well as between air pollution and cancer. This is in addition to air pollution's role in the development of respiratory diseases, including acute respiratory infections and chronic obstructive pulmonary diseases[3].

It is a reality that 333 acres of forest land is diverted each day legally by the Ministry of Environment and Forest, Government of India for various projects. 13 of the 20 most polluted cities of the World are in India. According to the World Bank, environmental degradation is costing India 5.7% of its GDP[4].

In the era of Industrial Revolution, with the help of newer and newer gadgets and machines, we started conquering the world, including its mountains, deserts, glaciers, atmosphere, water, deep seas and so on. But at the same time we failed to realize that all this led to breaking of mountains, draining of rivers, flooding of valleys, Clearing of forests, Change of land use, release of toxic gases into air and chemicals into the soil and pesticides onto the fields. For a long period we believed that any by-product of a chemical operation, for which there was no profitable use, was a waste and the most convenient and least expensive way of disposing of the said waste was up the chimney or down the river. But, consequences followed quickly and we started witnessing Environmental Degradation, Air Pollution, Water Pollution, Soil Pollution, Loss of Biodiversity etc.

Water pollution

Water-water everywhere, but not a drop to drink. Healthy populations can only develop when there are natural resources available to sustain them. Water is the most precious natural resource on our planet. It covers over 70% of the Earth's surface. Without it, life on Earth would be non existent. Even then fresh water is emerging as one of the most critical natural resource issues facing pollution. By the year 2025, 48 countries with more than 2.8 billion people i.e. 35% of the projected global population in 2025 will be affected by water stress or scarcity. Within 50 years some 60,000 sq. km of groundwater aquifers in western and central Europe are likely to be contaminated with pesticides and fertilizers[5].

In 1951, the annual per capita availability of water in India was 5177 m3, which reduced to 1342 m3 by 2000. The Union Ministry of Water Resources has estimated the country's water requirements to be around 1093 BCM for the year 2025 and 1447 BCM for the year 2050. With projected population growth of 1.4 billion by 2050, the total available water resources would barely match the total water requirement of the country. The facts indicate that India is expected to become 'water stressed' by 2025 and 'water scarce' by 2050 . According to a report of Institute for Defence Studies and Analysis, New Delhi, all of India's major rivers are badly polluted and about 50 million cubic meters of untreated sewage goes into India's coastal waters every year.

Disappearing Wetlands

In our greed, most of the natural lakes and ponds have got polluted as also encroached upon by us. Many of the ponds and reservoirs established by our forefathers have disappeared because of our greed and misdeeds. Numerous wetlands, duly protected by our ancestors, are only on the revenue records now. In our bid to have more and more energy for our ever increasing gadgets, we have plundered the riverine as well as lacustrine ecosystems. Damming and diversion of large volumes of river, away from the original flow path has adversely affected the aquatic biota, downstream as well as upstream. Even the terrestrial ecosystems bordering the original river bed are getting impacted significantly and substantial changes occur in the land use pattern both up and downstream of the dam site. We don't know, this may lead to more frequent hydrological disasters, enhanced variability in rainfall and runoff. Already we are witnessing extensive reservoir sedimentation and pollution of lakes.

Indiscriminate Mining

For the establishment of various developmental projects and housing projects, large quantities of raw material are extracted from terrestrial as well as aquatic systems. Mining for Bricks, cement, coal, minerals, and other materials has rendered large tracts of previously fertile land completely barren. Burning of fossil fuels, manufacture of cement and other similar activities introduce large quantities of pollutants in to the atmosphere.

Disposal of solid and hazardous waste

Municipal landfills & waste incinerators are almost full; not in a position to receive any more wastes. Underground aquifers and drinking water wells are seriously contaminated in many countries by leachates from hazardous wastes dumped in unlined lagoons, industrial pits and unsecured, open landfills. Agricultural runoffs containing chemical fertilizers and pesticides have polluted streams and lakes. Contaminated aquifers are a critical environmental problem in rapidly developing countries in Asia, Africa and Latin America, because of faulty means of hazardous waste disposal.

Chemical nuisance and loss of biodiversity

Globally, over 50,000 chemical substances are produced, transported and consumed today, with several thousand new chemicals entering the marketplace each year. A vast majority of compounds have not been adequately tested for their harmful effects on human population. A large number of synthetic pesticides are used in agricultural production and for household purposes. These include insecticides, herbicides and fungicides employed to eradicate harmful insects, weeds, fungi and other microbial agents. By their very intrinsic nature of being chemically toxic to animal and plant species, these pesticide products pose significant health risks to a number of organisms, including human beings. Genetic damage at the chromosome level in either chromosome number or chromosome structure measured as CA or MN assays are useful biomarkers of environmental genotoxicity testing. The chromatid and chromosome breaks were frequently observed. Our data suggested that chronic exposure to endosulfan results in an increased oxidative stress, which was reflected by increase in Lipid Peroxidation in erythrocytes, in a time and concentration dependent manner. Rate of biodiversity loss has accelerated by factors of 100 to 1,000 times since human beings first evolved on earth. At present rates of biodiversity loss, more than 25% of all species on earth may become extinct within the next half century.

Main causes for the loss of biodiversity are encroachment and destruction of forested areas, savanna grasslands, freshwater wetlands, marine resources and other natural ecosystems; high consumption rates of natural resources; introduction of alien invasive species; global climate change; air pollution and acid precipitation and widespread use of toxic substances and pesticides.

Direct impact of Loss of biodiversity on human health is the disruption of natural ecosystems, whereby local and regional food webs are permanently destroyed, leading to decreased forest and agricultural productivity and decline of marine fisheries. Such shortfalls of traditional food resources in many regions of the world could lead to serious malnutrition, illnesses and death among human populations. Indirect impacts to human health occur through loss of many valuable organisms, including hitherto undiscovered sources of plant, animal and microbial species.

India is one of the 17 mega-biodiversity countries. It has some of the world's most biodiverse regions from Ladakh to Kanyakumari. Although with only 2.4% of the global land area and 4% of water, it accounts for 7 to 8% of the recorded species of the world with 45,968 plant, 91,364 animal & 5,650 microbial species documented so far. It is home to 7.6% of mammalian, 12.6% avian, 6.2% reptilian, 4.4% amphibian, 11.7 % fish, and 6.0% flowering plant species of the world. India lies mostly within the Indo-Malaya ecozone; with upper reaches (> 2000m) of the Himalayas falling in the Palearctic ecozone.

Between 1960 and 2000, reservoir storage capacity quadrupled; water stored behind large dams about six times the water flowing through rivers at any one time. Most of the terrestrial biosphere has been altered by human residence and agriculture. Less than a quarter of Earth's ice-free land is wild; only 20% of this is forests and more than 36% is barren. Some 35% of mangroves have been lost in the last two decades in countries where adequate data are available (encompassing about half of the total mangrove area). Already, 20% of known coral reefs have been destroyed and another 20% degraded in the last several decades. Virtually all of Earth's ecosystems have now been dramatically transformed through human actions. The distribution of species on Earth is becoming more homogenous. Firstly, due to the endemic species experiencing higher rates of extinction. Since the 1970s the world's vertebrate populations declined by 30%. Today one-fifth of all vertebrates are

threatened with extinction. And secondly, because of the high rates of invasion by exotic species into new ranges, accelerating with growing trade and faster transportation.

Development of Environmental Laws

The Economic and Social Council of the United Nations passed a resolution on 30.7.1968 to convene an International Conference on problems of human environment, which was followed by resolution dated 3.12.1968 and in furtherance of these resolutions UN Conference on Human Environment took place on 5th and 6th June, 1972 at Stockholm, which set forth a duty on every person to protect environment for present and future. India was also a participating and addressing country in Stockholm conference and in order to give effect to the objectives of Stockholm Conference, India inserted Art. 48A and 51A (g) in our Constitution by 42nd Amendment Act, 1976; thereby making it a Directive Principle of State Policy to endeavor to protect, safeguard and improve environment, forest, wildlife, lakes and rivers and to have compassion for living creatures.

The Water (Prevention and Control of Pollution) Act, 1974, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 were enacted by Indian Parliament to give effect to the resolutions of 1972 Conference.

On 9th May 1992 UN Convention on Climate Change was held at Rio De Janerio for further strengthening the efforts of the world for protection of environment and; thereafter, Earth Summit was held at Johannesburg in 2002 for the same purpose.

In M.C. Mehta V. Union of India, 1987 (1) SCC 965, for the first time it was held by the Hon'ble Supreme Court that right to live in pollution free environment is an integral part of our fundamental right to life, guaranteed by Article 21 of the Constitution of India and; since then, that principle is being followed by the Hon'ble Supreme Court and different courts in India.

To give effect to Stockholm conference, 1972 and Rio conference, 1992, Government of India enacted National Environment Tribunal Act, 1995 and National Environment Appellate Authority Act, 1997. But, since both these Acts failed to achieve its objectives, the Law Commission in its 186th Report in 2003 recommended to consolidate both these Acts and to form a new Act with certain special features. As a result National Green Tribunal Act, 2010 was passed by the Parliament in 2010 after repealing both the aforesaid Acts and it came into force on 18.10.2010 and National Green Tribunal was also established by Ministry of Environment, Forest and Climate Change vide Notification dated 18.10.2010.

BASIC FEATURES OF OUR ENVIRONMENTAL LAWS

Environment Protection Act, 1986

This Act is applicable to the whole of India including the State of J & K. Central Government shall have all such powers as to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. Section 7 provides that no person carrying on any industry, operation or process shall discharge or emit any environment pollutant in excess of standards prescribed. Section 8 provides that no person shall handle hazardous substance except in accordance with procedure and safeguards prescribed. Section 15 provides that whoever fails to comply with or contravenes any of the provisions of this Act or Rules made or orders or directions issued under this Act shall be liable for imprisonment up to 5 years or fine up to Rs.1 lakh or both; and, if failure or contravention continues, additional fine up to Rs.5000/- per day and if contravention continues beyond one year after such conviction up to 7 years. Under powers of this Act, Central Government issued several Rules for protection of environment such as:

i) **Environment Protection Rules, 1986** – laid down standards for emission and discharge of environmental pollutants from industry, operation or process as specified in schedule I to VII.

ii) **Manufacture, Storage, and Import of Hazardous Chemical Rules, 1989** – any occupier of any of total 684 hazardous chemicals identified under these Rules, shall provide evidence to show that he has identified major accident hazards and taken adequate steps to prevent such major accidents and to limit their consequences to

persons and environment and shall provide to persons working on the site with information, training and equipments including antidotes necessary to ensure their safety.

iii) **Bio Medical Waste (Management and Handling) Rules, 1998** – for handling bio medical waste - issued under section 6, 8 and 25 of EP Act - Now in suppression of these Rules new draft Rules have been notified on 28.3.2016.

iv) **Noise Pollution (regulation and Control) Rules, 2000** – for laying standard and regulation of noise pollution-

v) **Municipal Solid Waste (Management and Handling) Rules, 2000** – for handling municipal solid waste - Now replaced by Solid Waste Management Rules, 2015 notified on 8.4.2016

vi) **Ozone Depleting Substances (Regulation and Control) Rules, 2000**

vii) **Batteries (Management and Handling) Rules, 2001**

viii) **Hazardous and Other Waste (Management and Transboundary) Rules, 2015** – notified on 4.4.2016 in suppression of Hazardous Waste (Management, Handling and Transboundary) Rules, 2008

ix) **Plastic Waste Management Rules, 2016** – notified on 18.3.2016 in suppression of Plastic Waste (Management and Handling) Rules, 2011

x) **E-Waste Management Rules, 2015** – notified on 23.3.2016 in suppression of E-Waste (Management and Handling) Rules, 2011

xi) **Construction and demolition Waste Management Rules, 2016** – notified on 29.3.2016 in suppression of Municipal Solid Waste (Management and Handling) Rules, 2000

xii) **Wetlands (Conservation & Management) Rules, 2016** – draft Rules notified on 31.3.2016 in suppression of Wetlands (Conservation & Management) Rules, 2010

xiii) **Chemical Accidents (Emergency, Planning, Preparedness and Response) Rules, 1996**

xiv) **Environment Impact Assessment Notification, 2006** – was issued on 14.9.2006 to make it mandatory to take prior EIA before issuing Environment Clearance for certain activities specified in its schedule such as mining etc. and the said notification is amended time to time.

xv) **Coastal Regulation Zone Notification, 2011** – was issued on 6.1.2011 to regulate coastal areas and this notification is amended time to time.

THE WATER (PREVENTION & CONTROL OF POLLUTION) ACT, 1976

Since the subject matter was relatable to entry 6 and 17 of list II of 7th Schedule of the Constitution, the Parliament had no powers to pass legislation on the subject unless Legislatures of 2 or more States pass resolution in pursuance of Article 252 of the Constitution empowering Parliament to pass such legislation. Legislatures of Assam, Bihar, Gujrat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura, Mysore and West Bengal have passed such resolutions, therefore this Act was passed by Parliament.

This Act constitutes Central Pollution Control Board and State Pollution Control Boards. Section 24 provides that no person shall cause or permit any poisonous, noxious or polluting matter, as specified, directly or indirectly into any stream or well or sewer or on land without permission of State Board. Section 25 provides restrictions on new outlets and new discharges of Sewage or trade effluent into any stream, well, sewer or land without previous consent of State Board. Section 26 provides that even existing discharges shall have to take permission. This Act provides penalties upto 7 years of imprisonment.

THE AIR (PREVENTION & CONTROL OF POLLUTION) ACT, 1981

Section 21 provides that no person shall establish or operate any industrial plant in an air pollution control area without previous consent of State Board. Section 22 provides that industries will not carry out emissions of air pollutant in excess of standards laid down by SPCB. Section 31 A provides that a board in exercise of Powers and performance of its functions under this Act may issue directions to any person, officer or authority including closure, prohibition or regulation of any industry, operation or process or stoppage or regulation of supply of electricity or water or any other service. Section 37 provides penalties up to 7 years and fine up to Rs.10,000/- per day.

FOREST (CONSERVATION) ACT, 1980

Section 2 of this Act provides that no State Government, without prior approval of Central Government, shall make any order directing that any reserved forest area shall cease to be reserved, or any forest land may be used for non forest purpose, or any forest land may be given to a private person, or any forest land may be cleared of trees. It can be done only after Stage I and Stage II forest clearances by Ministry of Environment and Forest then forest clearance by State Government. Central Government also framed National Forest Policy 1998 under this Act and for protection of trees in non forest areas Tree Protection Acts have been enacted in different States.

BIOLOGICAL DIVERSITY ACT, 2002 TO PROTECT BIODIVERSITY IN INDIA

WILDLIFE PROTECTION ACT, 1972 AND POLICY AND RULES MADE THERE UNDER

MINES & MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957 AND STATE POLICIES AND RULES MADE THERE UNDER

NATIONAL GREEN TRIBUNAL ACT, 2010

It is a landmark Act of its kind in the world. This Act established National Green Tribunal in India which is most powerful Environmental Court or Tribunal anywhere in the world. Only Australia and New Zealand have such Tribunals but they are also not powerful as ours. Section 14 of this Act provides that NGT shall have Original Jurisdiction in all civil cases where:

I) a substantial question relating to environment (including enforcement of any legal right relating to environment) is involved **and** such question arises out of the implementation of the enactments specified in Schedule I.

ii) Disputes arising out of aforesaid questions and settle such disputes.

iii) For adjudication of disputes under this section limitation is of 6 months from the date on which cause of action for such dispute first arose, however this period may be further extended but not exceeding 60 days.

Section 15 provides original Jurisdiction to provide compensation to victims of pollution and restitution of property and environment. Section 16 provides that appellate Jurisdiction of NGT. However Section 18 (2) provides Locus standi of the person who can file application under section 14 and 15 of the Act for any relief or compensation or settlement of disputes, but the word "person aggrieved" was very widely interpreted by the Tribunal and now virtually any person can file an application before the Tribunal. Section 26 provides that for failure to comply any award, order or decision of the Tribunal imprisonment upto 3 years or fine upto Rs.10 Crore or Rs.25,000/- per day for continuing offence can be imposed by the Tribunal on individuals and in case of company fine may extend upto Rs. 25 Crore and additional fine upto Rs.1 lakh per day if failure continues.

PRINCIPLES OF ENVIRONMENT LAW

While deciding environmental issues, three principles are very widely used by the Tribunal and Courts viz.

Sustainable Development:
Development that seeks to meet the needs of present generation without compromising the ability of future generations to meet their own needs and

encompasses economic, natural and social capital for present and future generations.

Precautionary Principle: Anticipation of harm before it occurs. Even if cause –effect relationship not fully established scientifically in terms of effect on human health and environment such activity should not be taken. In such cases burden of proof shifts on project proponent to prove that the activity is not likely to cause harm or damage. Lack of full scientific certainty of a consequence will not be used as a reason for postponing cost-effective measures for restoring environmental degradation.

Polluter Pays Principle: PPP invokes the principle of absolute liability arising from inherently dangerous activities or products that are likely to result in harm to another regardless of protection. Negligence is not required to be proven. Pollution is a civil wrong and Polluter must pay. PPP requires payment of cost not only of restitution of environment but also compensating the individual sufferers.

SCOPE OF NATIONAL GREEN TRIBUNAL

The NGT is continuously enhancing its scope and jurisdiction both in terms of locus standi as well as subject matter. Definition of aggrieved person has been stretched so far on the basis of several judgments passed by Hon'ble Supreme Court while dealing with locus of petitioner in public interest litigations before Hon'ble Supreme Court or before Hon'ble High Courts under Article 32 or 226 of the Constitution. Now any person from any corner of India can file any application or appeal before NGT without having any relation with the place of affected area and there are so many examples of this. The definition of aggrieved persons as given in NGT Act or under any Act specified in Schedule-I of the NGT Act left too away and had become meaningless. Meanings of the phrases "Environmental Issue" and "substantial question relating to environment" were so widely interpreted by the NGT itself that it covered almost every sphere of life. NGT did not remain confined only to the matters falling under the scheduled Acts but it entertained and disposed several matters which does not relate to the scheduled Acts in any manner and the orders and judgments passed by NGT in this behalf were also upheld by the Hon'ble Supreme Court. In Wilfred judgment NGT has given to itself all powers in relation to environmental issues as are available to High Courts under Article 226 of the Constitution and in fact NGT has become single High Court for the entire country in relation to matters related to environment and it remains least bothered about parallel proceedings pending before High Courts for the same issue.

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Analysis of Wrongful Conviction in Criminal Justice System: A Victims' Perspective

Sidharth Dahiya*

ABSTRACT

Earnestly, the right to fair trial guaranteed in international as well as in domestic instruments is a ray of hope to overcome the effects for victims of wrongful conviction. It is acknowledged on numerous occasions that no criminal justice system is infallible. Moreover, it has been seen that Indian courts are over-burdened that delays the proceedings, often drags the parties of a case into unjustifiable circumstances. Further, for the marginalized or economically unstable persons accessing justice seems a distant truth. A victim of wrongful conviction goes through the shoddy journey of Indian legal system, starting from police station to courts that infringe his/her basic human rights several times a day. The paper outlines the standpoint of a victim due to wrongful conviction and inadequacy of criminal justice system to deliver the justice appropriately. Moreover, the paper also focuses on the analysis of criminal justice system and its lacunae. Lastly, this paper is an attempt to unearth the hardships faced by the victim of wrongful conviction during and after the final acquittal. The quantity of cases in the courts is additionally expanding with every next year passing. The time for which a normal case goes on is over four years on an average. In our country, there is barely any definition that prevails for the 'victim' under criminal justice system. It is required to assert and establish the criterion for the victims who undergo the atrocities due to State excesses which proliferate amidst the inadequacy of prompt criminal proceedings.

INTRODUCTION

Earnestly, the right to fair trial guaranteed in international as well as in domestic instruments is a ray of hope to overcome the effects on victims of wrongful conviction. It has been acknowledged on numerous occasions that no criminal justice system is infallible. Moreover, it has been seen that Indian courts are over-burdened that delays the proceedings, often drags the parties of a case into unjustifiable circumstances. Further, for the marginalized or economically unstable persons accessing justice seems a distant truth. A victim of wrongful conviction goes through the shoddy journey of Indian legal system, starting from police station to courts that infringe his/her basic human rights several times a day.

Wrongful convictions occur when innocent defendants are found guilty in criminal trials, or when defendants feel compelled to plead guilty to crimes they did not commit in order to avoid the death penalty or extremely long prison sentences. The term wrongful conviction can also refer to cases in which a jury erroneously finds a person with a good defense guilty (e.g., self-defense), or where an appellate court reverses a conviction (regardless of the defendant's factual guilt) obtained in violation of the defendant's constitutional rights. This research paper deals with the first type of wrongful convictions, or wrong person convictions. Note also that the verdict of acquittal in American law is "not guilty" rather than "innocent," meaning that an acquitted person might not be factually innocent. For the sake of clarity, the term actual or factual

* *Research Associate (Law) and pursuing PhD at the National Law University, Delhi.*

innocence is used to refer to persons who did not commit the crime. Miscarriage of justice (a legal term in England) is also used to describe wrongful convictions.

A wrongful conviction is a terrible injustice that is magnified when an actually innocent person spends years in prison or on death row. This has always been recognized by the U.S. legal system. The rising number of exonerations, however, and growing awareness that such injustices occur every day in American courts, raises profound doubts about the accuracy and fairness of the criminal justice system. This understanding is supported by considerable recent research. This surge in awareness and budding research has motivated a growing number of 'innocence' projects, which work to exonerate wrongly convicted prisoners, to also propose justice policy reforms designed to reduce the number of wrongful convictions or to alleviate their effects. This research paper explains why wrongful conviction has become a prominent issue, the scope of the problem, its causes, and reform proposals.

The injustice of being convicted and imprisoned for a crime one did not commit, is intuitively apparent. Research and anecdotal evidence shows that a high proportion of wrongfully convicted prisoners suffer severe psychological consequences, including posttraumatic stress disorder and anxiety disorders, which is not typical among actually guilty prisoners in the absence of life-threatening experiences in prison. This complicates the ability of exonerated prisoners to return to a normal life after release.

More than half the states do not legally authorize financial compensation for persons who were victimized by the criminal justice system in this way, although the number of states with compensation laws has grown in recent years. Moreover, exonerated prisoners do not receive the services provided to prisoners released on parole. Newer compensation laws provide for health and restorative services, as well as financial compensation, to help exonerated prisoners. A person who has been exonerated does not have automatic grounds to sue and recover money damages against police or prosecutors. A number of such cases have been successful in recent years, but they are infrequent and successful only when specific wrongdoing by criminal justice agencies can be proven and immunity defenses overcome. The paper outlines the standpoint of a victim due to wrongful conviction and inadequacy of criminal justice system to deliver the justice appropriately. Moreover, the paper also focuses on the analysis of criminal justice system and its lacunae. Lastly, this paper is an attempt to unearth the hardships faced by the victim of wrongful conviction during and after the final acquittal.

MISCARRIAGE OF JUSTICE IN PERSPECTIVE OF WRONGFULLY CONVICTED

A miscarriage of justice primarily is the conviction and punishment of a person for a crime they did not commit. The term can also apply to errors in the other direction—"errors of impunity", and to civil cases. Most criminal justice systems have some means to overturn, or "quash", a wrongful conviction, but this is often difficult to achieve. In some instances a wrongful conviction is not overturned for several years, or until after the innocent person has been executed, released from custody, or has died.

"Miscarriage of justice" is sometimes synonymous with wrongful conviction, referring to a conviction reached in an unfair or disputed trial. Wrongful convictions are frequently cited by death penalty opponents as cause to eliminate death penalties to avoid executing innocent persons. In recent years, DNA evidence has been used to clear many people falsely convicted. While a miscarriage of justice is a Type I error for falsely identifying culpability, an error of impunity would be a Type II error of failing to find a culpable person guilty. However, the term "miscarriage of justice" is often used to describe the latter type as well.

The Scandinavian languages (viz. Danish, Norwegian and Swedish) have a word, the Swedish variant of which is 'justitiemord', which literally translates as "justice murder." The term exists in several languages and was originally used for cases where the accused was convicted, executed, and later cleared after death. With capital punishment decreasing, the expression has acquired an extended meaning, namely any conviction for a crime not committed by the convicted. The retention of the term "murder" represents both universal abhorrence

against wrongful convictions and awareness of how destructive wrongful convictions are. Some Slavic languages have also the word (justičná vražda in Slovak, justiční vražda in Czech) which literally translates as "justice murder", but it is used for Judicial murder, while miscarriage of justice is "justiční omyl" in Czech, implying an error of the justice system, not a deliberate manipulation.

Also, the term 'travesty of justice' is sometimes used for a gross, deliberate miscarriage of justice. The usage of the term in a specific case is, however, inherently biased due to different opinions about the case. Show trials (not in the sense of high publicity, but in the sense of lack of regard to the actual legal procedure and fairness), due to their character, often lead to such travesties. The concept of 'miscarriage of justice' has important implications for standard of review, in that an appellate court will often only exercise its discretion to correct plain error when a miscarriage of justice (or "manifest injustice") would otherwise occur.

SIZE AND SCOPE OF THE WRONGFUL CONVICTION PROBLEM

If wrongful convictions were rare, they could be downplayed as inevitable failings of a complex human system. If they are frequent and are linked to systemic problems, then they pose a challenge to the fairness and accuracy of the justice system that calls for a public response. The issue is controversial. Some prosecutors and judges believe the number of wrongful convictions to be vanishingly small and have offered an estimate of approximately 260 a year or an error rate of 0.027% (or 0.00027). This figure is a mistaken interpretation of a study conducted by Professor Samuel Gross and colleagues that counted 340 known exonerations between 1989 and 2003 .Critics fail to note that exoneration is not the same as a wrongful conviction (although the terms are loosely used as equivalents). Gross et al. (2005) defined an exoneration as an official act declaring a previously convicted defendant not guilty, by means of (a) a governor's pardon on the basis of evidence of innocence; (b) a court dismissing criminal charges on the basis of new evidence of innocence (e.g., DNA); (c) a defendant being acquitted on retrial after an appeal, on evidence of factual innocence; or (d) a state's posthumous acknowledgment that a defendant who had died in prison was innocent. The study, however, demonstrated that the 340 exonerations it catalogued were the tip of an iceberg, with the number of wrongful convictions probably reaching into the thousands.

Most known exonerations have occurred in murder and rape cases rather than more numerous crimes, such as robbery, for which unreliable eyewitness identification is the only evidence. This is so partly because DNA evidence is available in most rape cases (although 60% of known exonerations were revealed by means other than DNA testing). High-stakes capital cases also generate greater assistance to avoid executions. It is likely that more errors occur in assault, robbery, and burglary convictions based on erroneous eyewitness identification and circumstantial evidence. Studies of wrongful convictions in death penalty cases since 1973 (when the modern era of capital punishment began), as to which careful statistics are kept by the government, have estimated "wrong person" wrongful convictions at 1% to 3.5%. In Illinois, of the 289 persons sentenced to death between 1973 and 2003, 17 (or 5.9%) were exonerated and released.

Surveys of State judges, prosecutors, defense lawyers, and police officials have provided an alternate estimate of wrongful convictions—of about 1%. Although police and prosecutors give lower estimates than judges and defense lawyers, in light of what is now known about wrongful convictions a 1% felony error rate is plausible. On the basis of slightly more than 1 million state court adult felony convictions in 2004, and prison and jail rates of 40% and 30%, respectively, this rate translates to an estimated 10,790 adults wrongly convicted, of whom 4,316 were sent to prison and 3,237 wrongly jailed in 2004.

The number of wrongly convicted persons cannot be known with certainty, because no federal or state agency keeps track of exonerations, let alone wrongful convictions. Many news stories, reports, and books fairly describe wrongful convictions in detail, although not all of these wrongful convictions resulted in formal exonerations. In some of these cases, prosecutors insisted that the original verdict was accurate despite strong new evidence of factual innocence, further clouding an understanding of wrongful convictions.

CONCEPT OF RIGHT TO FAIR TRIAL IN INTERNATIONAL LAWS

1. Netherlands

The Schiedammer park murder case, as well as the similarly overturned case of the Putten murder, led to the installation of the "Posthumus I committee", which analyzed what had gone wrong in the Schiedammerpark Murder case, and came to the conclusion that confirmation bias led the police to ignore and misinterpret scientific evidence (DNA). Subsequently, the so-called Posthumus II committee investigated whether other such cases might have occurred. The committee received 25 applications from concerned and involved scientists, and decided to consider three of them further: the Lucia de Berk case, the Ina Post case, and the Enschede incest case. In these three cases, independent researchers (Professors Wagenaar, Van Koppen, Israëls, Crombag, and Derksen) claim confirmation bias and misuse of complex scientific evidence led to miscarriages of justice.

2. Norway

Norwegian police, courts, and prison authorities have been criticized and convicted on several occasions by the European Court of Human Rights for breaking the principle of innocent until proven guilty.However, the maximum penalty in Norway is normally no longer than 21 years. Thereby, most of the victims have been acquitted after their release from prison.

3. Spain

The Constitution of Spain guarantees compensation in cases of miscarriage of justice.

4. United Kingdom

In the United Kingdom, a jailed person whose conviction is quashed may be paid compensation for the time they were incarcerated. This is currently limited by statute to a maximum sum of £500,000. See also Overturned convictions in the United Kingdom.

5. England, Wales and Northern Ireland

Until 2005, the parole system assumed all convicted persons were guilty, and poorly handled those who were not. To be paroled, a convicted person had to sign a document in which, among other things, they confessed to the crime for which they were convicted. Someone who refused to sign this declaration spent longer in jail than someone who signed it. Some wrongly convicted people, such as the Birmingham Six, were refused parole for this reason. In 2005 the system changed, and began to parole prisoners who never admitted guilt.

English law has no official means of correcting a "perverse" verdict (conviction of a defendant on the basis of insufficient evidence). Appeals are based exclusively on new evidence or errors by the judge or prosecution (but not the defense), or jury irregularities. A reversal occurred, however, in the 1930s when William Herbert Wallace was exonerated of the murder of his wife. There is no right to a trial without jury (except during the troubles in Northern Ireland or in the case where there is a significant risk of jury-tampering, such as organized crime cases, when a judge or judges presided without a jury).

During the early 1990s, a series of high-profile cases turned out to be miscarriages of justice. Many resulted from police fabricating evidence to convict people they thought were guilty, or simply to get a high conviction rate. The West Midlands Serious Crime Squad became notorious for such practices, and was disbanded in 1989. In 1997 the Criminal Cases Review Commission was established specifically to examine possible miscarriages of justice. However, it still requires either strong new evidence of innocence, or new proof of a legal error by the judge or prosecution. For example, merely insisting you are innocent and the jury made an error, or stating there was not enough evidence to prove guilt, is not enough. It is not possible to question the jury's decision or query on what matters it was based. The waiting list for cases to be considered for review is at least two years on average.In 2002, the NI Court of Appeal made an exception to who could avail of the right to a fair trial in R v Walsh:

"... if a defendant has been denied a fair trial it will almost be inevitable that the conviction will be regarded unsafe, the present case in our view constitutes an exception to the general rule. ... the conviction is to be regarded as safe, even if a breach of Article 6(1) were held to have occurred in the present case."

6. Scotland

The Criminal Appeal (Scotland) Act 1927 increased the jurisdiction of the Scottish Court of Criminal Appeal following the miscarriage of justice

surrounding the Trial of Oscar Slater.Reflecting Scotland's own legal system, which differs from that of the rest of the United Kingdom, the Scottish Criminal Cases Review Commission (SCCRC) was established in April 1999. All cases accepted by the SCCRC are subjected to a robust and thoroughly impartial review before a decision on whether or not to refer to the High Court of Justiciary is taken.

7. United States

For a list of exonerations after death sentences, see List of exonerated death row inmates. Further, in June 2012, the National Registry of Exonerations, a joint project of the University of Michigan Law School and Northwestern University Law School, initially reported 873 individual exonerations in the U.S. from January 1989 through February 2012; the report called this number "tiny" in a country with 2.3 million people in prisons and jails, but asserted that there are far more false convictions than exonerations.

In the case of Joseph Roger O'Dell III, executed in Virginia in 1997 for a rape and murder, a prosecuting attorney bluntly argued in court in 1998 that if posthumous DNA results exonerated O'Dell, "it would be shouted from the rooftops that ... Virginia executed an innocent man." The state prevailed, and the evidence was destroyed.

8. Canada

In 1959, 14-year-old Steven Truscott was convicted of raping and murdering a 12-year-old girl. Originally sentenced to death by hanging, his sentence was commuted to life imprisonment. He was released on parole in 1969, and was freed from his parole restrictions in 1974. In 2007, the Ontario Court of Appeal overturned Truscott's conviction, based on a reexamination of forensic evidence.

In 1992, Guy Paul Morin was convicted of the 1984 rape and murder of an 8-year-old girl and was sentenced to life imprisonment (the death penalty had been abolished in Canada by this time). In 1995, new testing of DNA evidence showed Morin could not have been the murderer, and the Ontario Court of Appeal overturned his conviction.

9. Italy

Enzo Tortora, a TV host on national RAI television, was accused of being a member of the Camorra and drug trafficking. He was arrested in 1983, and sentenced to ten years in jail in 1985, but acquitted of all charges on appeal in 1986.

Perspective of Victims of Wrongful Conviction with reference to Cases under Indian Criminal Justice System

In our country, there is barely any definition prevailing for the 'victim' under criminal justice system. It is required to assert and establish the criterion for the victims who undergo the atrocities due to State excesses which proliferate amidst the inadequacy of prompt criminal proceedings.

- In *Akshardham Temple* case of the year 2002, main suspect was released as an innocent after eleven years. This case is not less than a blot on our existing criminal justice system that needs an analysis and introspection. Also, hundreds of under-trials too trying to way laid their acquittal from the complex procedure of our legislation.

CULTURAL CONSEQUENCES

Wrongful convictions appear at first to be "rightful" arrests and subsequent convictions, and also include a public statement about a particular crime having occurred, as well as a particular individual or individuals having committed that crime. If the conviction turns out to be a miscarriage of justice, then one or both of these statements is ultimately deemed to be false. During this time between the miscarriage of justice and its correction, the public holds false beliefs about the occurrence of a crime, the perpetrator of a crime, or both. While the public audience of a miscarriage of justice certainly varies, they may in some cases be as large as an entire nation or multitude of nations.

In cases where a large-scale audience is unknowingly witness to a miscarriage of justice, the news-consuming public may develop false beliefs about the nature of crime itself. It may also cause the public to falsely believe that certain types of crime exist, or that certain types of people tend to commit these crimes, or that certain crimes are more commonly prevalent than they actually are. Thus, wrongful convictions can ultimately mould a society's popular beliefs about crime. Because our understanding of crime is socially constructed, it has been shaped by many factors other than its actual occurrence.

Mass media may also be blamed for distorting the public perception of crime by over-representing certain races and genders as criminals and victims, and for highlighting more sensational and invigorating types of crimes as being more newsworthy. The way a media presents crime-related issues may have an influence not only on a society's fear of crime but also on its beliefs about the causes of criminal behavior and desirability of one or another approach to crime control. Ultimately, this may have a significant impact on critical public beliefs about emerging forms of crime such as cyber-crime, global crime, and terrorism.

It has been shown that there are unfavorable psychological effects, even in the absence of any public knowledge. In an experiment, participants significantly reduced their pro-social behavior after being wrongfully sanctioned. As a consequence there were negative effects for the entire group. The extent of wrongful sanctions varies between societies.

THE RISE OF THE INNOCENCE MOVEMENT

Prior to 1990, wrongful convictions generated only slight interest. The famous writer of the "Perry Mason" legal thrillers, Erle Stanley Gardner, created an informal "court of last resort" in the 1950s to investigate and correct miscarriages of justice. For the most part, however, the public, as well as most judges and criminal lawyers, was convinced that very few innocent people were ever convicted. When the Supreme Court expanded defendants' trial rights in the 1960s, for example, the reason given was not to make the criminal justice system more accurate in determining guilt and innocence but to prevent government oppression.

Some pre-1990 scholarship did raise issues of trial accuracy. First, a group of cognitive psychologists began to conduct eyewitness identification experiments in the 1970s. By 1990, they had amassed a wealth of information showing that eyewitnesses were often mistaken and that lineup and identification procedures could significantly increase or decrease eyewitness accuracy. Next, a survey of criminal justice officials by criminologists C. Ronald Huff, Arye Rattner, and Edward Sagarin in the 1980s estimated that thousands of wrongful convictions occurred every year (Huff, Rattner, & Sagarin, 1996). Finally, philosopher Hugo Adam Bedau and sociologist Michael Radelet published a survey in a prestigious law journal in 1988 asserting that 350 innocent persons were convicted of capital and potentially capital crimes in the 20th century and that 23 were executed. Although a handful of these 350 might have been factually guilty, the study's overall correctness raised awareness in the legal community that an innocent person could be executed. This scholarship did not, despite occasional news stories about wrongful convictions, create widespread concern about miscarriages of justice.

It was DNA testing which used to prove guilt with near certainty to absolutely exclude suspects or defendants that caused a sea change in attitudes about wrongful convictions. Previously, blood testing based on group types and other blood factors could not exclude suspects whose blood factors matched the crime sample; even though a large percentage of the population also shared those factors, prosecutors placed these "matches" in evidence. In forensic DNA testing, 13 loci (sites) in a suspect's DNA strand that vary among people are analyzed to create a distinct DNA profile (or DNA fingerprint). The profile is compared with that of the same 13 loci in the biological sample linked to the crime (e.g., semen or blood deposited during a rape or assault). If the profiles match, based on population genetics studies, the probability that the suspect was the source of the crime scene DNA is astronomically high. If only 1 of the loci does not match, the suspect is absolutely excluded.

The first DNA exoneration in the United States occurred in 1989 and showed how DNA transformed a confusing tale of innocence or guilt into one of absolute clarity. Gary Dotson was convicted of rape in Illinois on a teenage girl's eyewitness identification. In fact, she made up the rape story to cover her fear and shame after consensual sex with a boyfriend. Six years later she was married, got religion, and recanted her story. The police and a judge refused to believe that the recantation was true, despite her pastor supporting her truthful state of mind and the former boyfriend admitting to the consensual sex. Dotson was released on parole by the governor of Illinois in 1985, who inconsistently said that he did not believe the

recantation. Dotson was reimprisoned for a parole violation in 1987. Finally, with the support of journalists and a determined defense lawyer, a DNA test was performed on the semen in the rape kit. Dotson was absolutely cleared and formally exonerated. His case became a template for tens and then hundreds of thousands of police rape investigations, which exonerated suspects in the early stages of crime investigations. By the early 1990s, the FBI laboratory reported that one quarter of all rape kit samples from police around the country were exclusions. This meant that in thousands of cases, accusations based on eyewitness identifications were wrong.

Soon, prisoners who knew they were innocent and serving time or sitting on death row for crimes that did not happen or were committed by someone else began to petition for DNA testing. Most were denied testing because of prosecutors' resistance based on legal technicalities. However, a sufficient number of exonerations occurred by the mid-1990s to generate significant happenings. Newspapers prominently reported DNA exonerations. In New York, two enterprising law school clinical professors, Barry Scheck and Peter Neufeld, started the first law school innocence project at Cardozo Law School to pursue cases of inmates claiming innocence. Janet Reno, then attorney general of the United States, commissioned a report highlighting the weakness of eyewitness identification. The report raised the profile of the wrongful convictions issue in criminal justice and legal circles. By the late 1990s, several powerful documentaries, such as Errol Morris's Thin Blue Line, brought the issue to moviegoers and television audiences.

In 2001, Scheck and Neufeld, together with reporter Jim Dwyer, published Actual Innocence, recounting several of their exoneration cases in gripping detail. Each case listed a specific way in which the criminal justice system had failed. This list, along with previous studies, created catalogues of what are considered causes of wrongful convictions. Although the book was well received, the major event in 2000 that did more to put wrongful convictions on the map was Illinois Governor George Ryan's moratorium on executions. Between 1990 and 2000, Illinois had executed 12 prisoners while 13 on death row had been exonerated and freed. This so shocked Ryan, that he halted all executions and set up a commission to review capital punishment in Illinois. The commission recommended many reforms, and several were enacted. Ryan's continuing concern with unreliable death sentences led him to commute the sentences of all 167 death row prisoners and pardon 4 on the grounds of actual innocence before he left office in 2003. This led other states to impose moratoria or to end the death penalty. Exonerations have weakened support for capital punishment and raised general public awareness about wrongful convictions. There is no foolproof mechanism for their social inclusion to meet the conditions for rehabilitation, compensation and resilience against taboo that sticks to their identity due to wrongful conviction.

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Environmental Policies: Laws and Legislations

Dr. Sandhya Dixit*

ABSTRACT

Environmental concern spans a range of interlocking issues from the local to the global. It challenges our thinking on fundamental concerning human beings and natural world. The concept of sustainable development is fundamental because it embodies a range of ideal and principles whose realization is necessary to a green future. So far as Environmental Polices Laws and Legislation are concerned, in Indian scenario, Discussion will go under two heads:

1. *Constitutional*
2. *Legislative – IPC, Environmental (Protection) Law 1986*

Keywords: *Sustainability, Aesthetic, Sacramental, Strict Liability, Res Ipsa Loquitur*

INTRODUCTION

Environmental concern spans a range of interlocking issues from the local to the global. It challenges our thinking on fundamental questions concerning human beings and the natural world. It challenges us to engage in acts of collective sacrifice and to cooperate in ways which have never previously been achieved.

Interpreted more rigorously it implies that virtually all of our activities in the present should be subject to the closest possible scrutiny to ascertain their full environmental effects, and that many of them might fail the simple test of long term sustainability. Even though it has been misused, we believe that it remains an important concept. The concept of sustainable development is fundamental because it embodies a range of ideals and principles whose realization is necessary to a green future.

Holmes Rolston suggests that there are at least ten different areas of value associated with nature. They are worth consideration as they extend our classification into a spectrum of value allowing for a subtle appreciation of a wide range of human and non-human activities.[1]

Aspects of environmental value[2]

1. Economic - Provider of resources for human.
2. Life support - sustains and enhances life.
3. Recreational
4. Scientific
5. Aesthetic Diversity and unity
6. Sacramental

Our environment is simple as well as complex. It is simple so long as it remains clean. It gets complex when industrial activities grow. To comprehend this complex nature of environment, we need knowledge of all disciplines of chemical, physical and biological science. To devise control measures we need knowledge of engineering and technology. The main task to keep the environment clean is to measure that damage caused to it by pollution. Such cleaning involves devising suitable control measures. Now these suitable control measures can be meticulously planned, provided we know what

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the level of pollution is? Hence to understand the level of pollution, we undertake analysis or environment of pollution. This analysis is termed as Environmental Pollution Analysis.

Environment - Environment is an aggregate of all external conditions and influences affecting the life and development of organism.[3]

Pollution - Presence of any solid, liquid or gasses substances in such concentration as may be or tend to be injurious to environment.

Classification of pollution - Environmental pollution is classified into various groups - Air Pollution, Water Pollution, Waste pollution, Marine pollution, noise pollution and Nuclear pollution.

Environmental policies, and Laws and Legislation- So far as environmental policies, laws and legislation are concerned, in Indian scenario, we will discuss those under two heads:

1. **Constitutional**
2. **Legislative provision.**

CONSTITUTIONAL - UNDER FOLLOWING HEADS SOLUTION OF PROBLEM MAY BE SOUGHT OUT

Legislative Measures - Provisions of Indian Penal Code like S. 268 - 270, 277, 278, 284 - 287, 290, 291 under the head Public Nuisance.

Legislative measures

a. Public Nuisance under section 268 of IPC.
b. Negligent Act likely to spread infection of disease dangerous to life - S269.
c. Malignant acts likely to spread infection of disease dangerous to life. S 270.
d. Fouling water of public spring or reservoir. S. 277.
e. Making atmosphere noxious to health -S 278.
f. Negligent conduct with respect to poisonous substance. 284.
g. Negligent conduct with respect to fire or combustible matter - 285.
h. Negligent conduct with respect to explosive substance - 286.
I. Negligent conduct with respect to machinery - 287.
j. Punishment for public nuisance in cases not otherwise provided for - 290.
k. Continuance of nuisance after injection to discontinue. -291.

Nuisance is also discussed under Civil Procedure Code and Criminal Procedure Code. Under Law of Torts –Negligence, Res Ipsa Loquitar, Nuisance and Strict liability with example of Ryland V/s Flectcher.

Although there are existing laws dealing directly or indirectly with several environmental matters like -

1. The Boiler's Act 1929
2. The Factories Act 1948
3. The Industries (Development and Regulation Act, 1951)
4. Mines and Minerals (Regulation and Development act 1957.
5. The Air (Prevention and Control of Pollution) act 1981.
6. The Rivers Boards act 1956.
7. Water (Prevention and control of pollution) Act 1974.
8. Merchant shipping (Amendment) Act 1979
9. The motor vehicle Act 1988.

All these above mentioned Laws generally focus on specific types of pollution. In view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection.

The Environmental (Protection) Act 1986 - It has important constitutional implications with an international background. The act clearly drew its inspiration from the proclamation adapted by the United Nations conference on the Human Environment, took place at Stockholm from 5th to 16th June 1972, in which the Indian delegation led by the then Prime Minister of India took a leading role.

In exercise of the powers conferred by the Environment Protection Act 1986, the central government hereby makes the following Rules-

1. The Hazardous waste (Management and Handling) Rules 1989.
2. The Manufacture Storage and Import of Hazardous Chemical Rules 1989.
3. The rules for the manufacture, use import, and storage of hazardous micro-Organism/ Genetically Engineered Organism or Cells 1989.

4. The Chemical Accidents (Emergency Planning, Preparedness and Responses) Rules 1996.
5. The Biomedical Waste (Management and Handling Rules) 1998.
6. Recycled Plastics Manufacture and Usages Rules 1999.
7. The Municipal Solid Waste (Management and Handling) Rules 2000.
8. The National Environmental Tribunal Act 1995.
9. The National Environmental Appellate Authority Act 1997.
10. Public Liability Insurance Act 1991.
11. The E-waste (Management and Handling) Rules, 2011.
12. Nuclear liability Act 2010.
13. Green Tribunal Act 2010 - 26 years after the world's worst industrial disaster in Bhopal, India has a new National Green Tribunal Act, for effective and expeditious disposal of cases relating to environment protection and giving relief and compensation for damage. The country already has a National Environment Tribunal Act 1995 and The National Environment Appellate Authority Act 1997.

The Green Tribunal Act may, by an order provide -

a. Relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the schedule 1.
b. For restitution of property damaged.
c. For restitution of the environment for such area or areas.

The Act provides access for all aggrieved parties to approach the Tribunal to seek relief or compensation or settlement of environmental disputes.

In the present Act, section 18, indirectly ruled cut that the jurisdiction of the self motivated individuals or non-governmental organizations, independently to present an application before the tribunal for the settlement of environmental disputes and for claiming relief and compensation and restitution of property and environmental areas without representing the aggrieved person.

Uttar Pradesh Plastic and other Non-Bio-degradable (Regulation of Use and Disposal) Ordinance, 2000.

Judicial Measures- Some important cases in relation to Environmental protection are -

1. Ratlam case –Municipal Council Ratlam v/s Vardhichand,AIR,19880 SC 1622
2. Shri Ram Gas leak case- MC Mehta v/s Union of India AIR, 1987,SC 965
3. Ganga Pollution (Tanneries) case- MC MEHTA V/S Union of India AIR,1988 SC 1037
4. Bhopal Gas leak case -Union Carbide Corporation v/s Union of India AIR 1990 SC 273
5. Taj Mahal Case -MC Mehta v/s Union of India,AIR,1997SC,734
6. Vellore Tanneries case- Vellore citizens welfare Forum v/sUnion of India,J.T 1996
7. Nainital case-Ajay Singh Rawat v/s Union of India 1995 scc 266
8. Gomti Case-U.P Pollution Board v/s Mohan Meakins LTD.20000 SCC 745
9. Sardar Sarovar Project case. – Narmada Bachao Aandolan v/s Union of India AIR,20000 SC 375.

Some International Organizations and seminars[4]

United nations Environment programme (UNEP) WHO, UNESCO, such organizations are involved in protection of environment.

While there are some seminars held to protect the environment like -

1. Human environment conference 1972 (Stockholm)
2. Cocoyoc declaration 1974
3. Earth summit 1992
4. Helensiki Declaration 1989.
5. Montreal Protocol 1987
6. Kyoto Summit 1997
7. International Regulation of Hazardous waste, Copenhagen Meet 2009.

Some National and International NGOS involved5

1. RSPB - Royal society for protection of Birds.
2. FOE - Friends of the earth.
3. WWF - The world wide fund for nature.
4. DOE - Department of environment (USA)
5. MAFF - Ministry of Agriculture, Fisheries and food.
6. RHA - Road Houloge association.
7. CLA - The country landowner's association.
8. CPRE - The council for the Protection of Rural England.
9. SMMT - The society of motor manufacturers and traders.

Chipko Aandolan, Ganga Mukti Aandolan, Subem Rekha Aandolan, Narmada Bachao Aandolan.

International Laws in Protection of environment[6]

1. Clean water Act 1972
2. Safe drinking water Act 1974
3. Clean Air Act 1963
4. Ocean Dumping Act 1988.
5. Medical waste Tracking Act 1988.
6. Plastic Pollution Control Act 1988.
7. Nuclear waste Policy Act 1982
8. Superfund Act 1970
9. Solid waste Disposal Act 1965
10. Hazardous and Solid waste Amendment of 1984
11. Toxic Substance Control Act 1976
12. Oil Pollution Act 1990
13. The Basel Convention 1989

In this way we have seen that many efforts are made to protect the environment on national and international level. In India in 1985 Ganga Action Plan was started to Varanasi to clean Ganga. Still the process to clean Ganga is going on. Namami- Gange is going on in Varanasi to clean Ganga and Tributaries. Very recently, We have seen the position of Delhi's pollution. Due to pollution, temperature is also increasing. Many issues were raised in UN summit held in Paris in context of climate change. But the main task is to enforce the existing laws and educate the people for the protection of environment.

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Plea Bargaining: A Recent Trend to Compensate Victim by Means of Speedy Justice

Dr. Pooja Singh*
Madhulika Singh**

ABSTRACT

The age old dictum that, 'Justice delayed is justice denied' is very appropriate when comes the question of compensation to victims and justice to both parties. During the pendency of the case the victim, his/her family and the dependents of the offenders too suffer a lot. On the other counterpart, the delay made in the decision of cases at all stages which inevitably leads to accumulation of arrears and dissatisfaction in the public mind about the effectiveness of court process for ventilating their grievances. To curb this menace on the both side on the recommendations of Malimath Committee and Law Commission of India Report 142 and 154 ,the Criminal Law Amendment Act 2005 has inserted Chapter xxi-A , that has been inspired by the successful experiments of plea- bargaining in USA.

The Supreme Court of India in State of Uttar Pradesh v. Chandrika, 2000 , has also previously against the concept of plea-bargaining and stated , "it is settled law that on the basis of plea bargaining Court cannot dispose of the criminal cases. The court has to decide it on the merits. If the accused confesses its guilt, appropriate sentence is required to be implemented." In this paper the provisions of plea bargaining have been discussed and it is an attempt to analyze the implementation and success rate of plea bargaining concept throughout a decade. It is also an attempt to see how far this concept is helpful to compensate a victim by providing speedy redressal mechanism."

So this paper will cover the conceptual and comparative analysis of the concept of plea bargaining in India.

Keywords: *Bargaining, Victims' Rights, Criminal Laws Reforms, Speedy Justice*

INTRODUCTION

"If I asked to mention the greatest drawback of our administration of justice in India today, I would say that is delay. The law may or may not be ass, but in India, it is certainly a snail and our cases proceed at a pace which would be regarded as unduly slow in the community of snails. Justice has to be blind but I see no reason why it should be lame. Here it just hobbles along, barely able to walk."[1]

The concept of plea bargaining was discussed thoroughly in the *142nd report of The Law Commission on 'Concessional treatment of offenders', for those offenders* who choose to plead guilty on their own initiative, is indeed a great step to provide speedy justice and to provide a real compensation to the victims through the process of easy disposal of the cases. The criminal legal system of India was not acquainted with the concept of plea bargaining as such, but prior to the insertion of Chapter XXI A in Code of Criminal Procedure in 2005 similar concept of leniency in sentencing was present in section 206(1) and section 206(3) of Code of criminal procedure and Section 208(1) of Motor Vehicles Act,

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1988. The huge backlog of pending cases piling up the pressure on the judiciary of the country has necessitated growth of this concept in India; it is these arrears of criminal cases that the plea bargaining targets to curb through speedy disposal of cases. The Hon'ble Supreme Court has observed; It is sad reflection on the legal and judicial system that the trial of an accused should not even commence for a long number of years. Even a delay of one year in the commencement of trial is bad enough; how much worse could it be when the delay is as long as 3 or 5 or 7 or even 10 years. Speedy trial is of the essence of criminal justice and there can be no doubt that in trial by itself constitutes denial of justice."[2]

The Indian concept and practice of plea bargaining differs essentially on the point that in India plea bargaining cannot be resorted to in serious cases, i.e. cases which involve punishment for more than 7 years, also offences affecting socio-economic of this country are excluded from its purview, and lastly offences committed against women and children below the age of 14 years. Regardless of exclusion of such huge category of cases, piling up and pendency of numerous cases may be resolved, if plea bargaining is resorted to and suffering of millions languishing in jail may be resolved.

CONCEPTUAL ANALYSIS OF PLEA BARGAINING

The concept of Plea bargaining has been evolved by the American Judiciary in the early nineteenth century. Whereas The Indian concept and practice of plea bargaining differs essentially on the point that in India plea bargaining cannot be resorted to in serious cases, i.e. cases which involve punishment for more than 7 years, also offences affecting socio-economic environment of this country are excluded from its purview, and lastly offences committed against women and children below the age of 14 years. Regardless of exclusion of such huge category of cases, piling up and pendency of numerous cases may be resolved, if plea bargaining is resorted to and suffering of millions languishing in jail may be resolved.

According to Webster's New World Dictionary,[3] "Plea bargaining is a negotiation between prosecutor and defendant in a criminal case in an attempt to reach a mutually satisfactory middle ground and, therefore, obviate the need for a trial. Usually it consists of the defendants pleading guilty to lesser charge in exchange for a lesser sentence than he might receive had he been convicted on the original charge(s)."

In other words, plea bargaining means the accused's plea of guilty has been bargained for and some considerations has been received for it.[4] There is no perfect or simple definition of plea bargaining. It involves an active negotiation process whereby the offender is allowed to confess his guilt in the Court if he so desires in exchange of lighter punishment that would have been fixed for such offence.[5]

Justice Potter Stewart, observed in Blackedge vs. Allison[6] that the heart and soul of plea bargaining is in the benefit, it entails to all concerned criminal cases. The primary object of the plea bargaining to reduce risk of undesirable orders for either side and other to reduce the pendency of criminal cases in courts which are unable to dispose of the cases on merits. While commenting on plea bargaining the Supreme Court commented in the case State of Punjab v. Prem Sagar[7] that "the doctrine of plea-bargaining is introduced in the Code of Criminal Procedure in the certain types of offences."

The Indian legislature has taken sufficient safeguard to ensure effective exercise of this concept of plea bargaining. The code of criminal procedure lays down a procedure of allowing an accused to file an application for plea bargaining in the court during the trial is pending under section 265B of Cr. P.C., 1973. To ensure that the accused has agreed for submission of his guilt voluntarily, examination of the accused is done in camera. Thereafter public prosecutor and the accused work out a mutually satisfactory arrangement of the case. Another distinctive feature of Indian model of plea bargaining is compensation to the victim of crime. The suffering of victim is often forgotten by the criminal justice system, plea bargaining helps to even out the interest of both the victim and the accused. Negotiation of such a mutually suitable settlement is left to the free will of the prosecution, including the victim and the accused. Further the other methods of settlement are that the court may release the accused on probation depending upon the circumstances of the case and as per the requirements of justice, in offences where minimum punishment is prescribed, the court may order the accused to undergo half of such minimum period.

PLEA BARGAINING IN UNITED STATES OF AMERICA

Plea bargaining in the USA evolved not as a legislation, but as a practice, which neither had judicial recognition. Prosecutor always had a vital role to play in the American Legal System; also the prosecutor could negotiate a bargain with the accused in a particular case. Wherein the prosecutor may offer the accused that he may plead guilty to certain or all charges that were framed against him and in return he will advocate for a lenient or relaxed sentence, or drop off certain charges framed against the accused. With the advent of time the judges noticed such practices of bargain and negotiations which helped in fetching convictions and prompt and timely disposal of cases.

Gradually various States in US began formalized practice of this concept by passing legislations adapting plea bargaining. The practice of plea bargaining was held to be constitutional by the United States Supreme Court in the landmark judgment Brady v. United States[8] , wherein the Court held that defendants who had pleaded guilty will receive relaxed sentence than those who didn't and that the practice of plea bargaining is very constructive in releasing the overburdened judiciary. Presently the practice of plea bargaining has gained so much of significance in the criminal justice system of the United that presently as much as roughly 90% of criminal cases are settled by plea bargain rather than by a jury trial.

PLEA BARGAINING IN INDIA

Prior to the amendment of 2005 which legally established the concept of plea bargaining in India, the Supreme Court had an undivided outlook that plea bargaining is an objectionable practice, and further is not accepted in the legal framework of our country. This attitude of Indian judiciary towards this concept was apparent in its various decisions, including the very first case of *Madanlal Ram Chandra Daga* v. *State of Maharashtra*[9] , wherein the Apex Court scrutinized that the High Court was incorrect in permitting a transaction of justice where the complainant received monetary compensation from the accused and this was regarded as a ground for compassion in sentencing.

The defensive stand taken by the Apex Court towards plea bargaining collapsed under the provisions of the Criminal Law (Amendment) Act, 2005, which officially initiated the concept of plea bargaining in India by the insertion of Section 265-A to 265-L into the Code of Criminal Procedure, by a separate chapter, Chapter XXI-A titled Plea Bargaining. These provisions specify the procedure to be followed for plea bargaining in India. Taking into account the present realistic profile of pendency and postponement in clearance in administration of justice the model of plea bargaining has been incorporated. The very idea of this concept is to present simple, economical and speedy justice by resolution of disputes, including the trial of criminal cases.

POINTS OF SIMILARITY IN INDO-US CONCEPT OF PLEA BARGAINING

In both the countries plea bargaining is perceived as a suitable practice, and hailed as an appreciated apparatus to decrease legal overburden and also to accelerate the dispensing of criminal cases. Plea bargaining provisions in both the countries require that accused should enter for plea bargaining voluntarily. Next, it is required in both India and in America that the accused knows and identifies completely the nature of his act and penalty recommended for the offense that he is accused of. Further in both the countries legal provision provide that the statements deposed by the accused of admission of his guilt during the plea bargaining proceeding cannot be used in any other proceeding.

POINTS OF DIFFERENCES BETWEEN INDO-US CONCEPT OF PLEA BARGAINING

Plea bargaining in the Indian legal system is distinctive in its principle and features. The need to lessen the pendency of criminal cases provoked the Indian legislation to try its hand at this concept. The distinctive feature of Indian concept of plea bargaining is the award of compensation to the victim of the crime by the wrong doer. It is anticipated that around 50 thousands out of 28.3 million criminal cases pending trial are resolved by the process of plea bargaining. In contrast to the American framework, plea bargaining can't be applied to settle all types of offences in India. The Code of Criminal Procedure only provides for sentence bargaining. The alternative option of plea bargaining in India does not cover all offences, it

provision of Chapter 21 A does not allow bargain on offences related to socio economic condition of the country, and for offences which have a punishment greater than 7 years provided for them, or for offences against women or children below the age of fourteen. This is in sharp contrast to America where plea bargaining is accessible for all offenses.

SUMMATION AND SUGGESTIONS

Undoubtedly it has opened a new vistas in the criminal justice system Plea bargaining system as introduced in India is very helpful for the easy disposal of cases. It is not only very much helpful to the accused to bargain their term of punishment but it also provides quick remedy to the victims also. But it gives space to the discretionary power to the judges there is no clear guidelines for the approval of the concept so it requires a serious interpretation to provide justice to both the parties. It requires the careful and vigilant discretionary power to give the permission of plea bargaining to the accused *otherwise it can do great injustice to the victim. In Kachhia Patel Santilal koderlal* v. *State of Gujarat*[10]the Apex court held it unconstitutional and stressed that it will pollute the criminal justice system. It is the method to bypass the judicial process. In the country like India this concept is helpful to the poor accused and victims too as it is the tool for the speedy justice.

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[10] *(1980) 3 SCC 120*

Curbing Corruption: Indian Scenario

Rahul Mishra*

ABSTRACT

In an expanding economy on account of rapid industrialization and growth of an acquisitive society, a conflict of values inevitably occurs. The age old values of judging people by what they are rather then what they have crumbles and people easily succumb to corruption. . For a commoner, it means to give or accept some kind of compensation in the form of money, office or position for a service rendered in an illegal form or by overstepping one's legal authority. It may manifest in various forms. Others reasons may be excessive consumerism and desire for a lifestyle and evil social practices like dowry and pressure for payment for education. The author zeros in on all aspects concerned in this article thereby providing some solutions to get rid of the same.

Keywords: *Corruption, Act, Punishment, Facets, Globalization.*

INTRODUCTION

As far as corruption [1] is concerned, it has been there in the society since time immemorial. However, in the modern world corruption is also seen to have associated with public office. For a commoner, it means to give or accept some kind of compensation in the form of money, office or position for a service rendered in an illegal form or by overstepping one's legal authority. It may manifest in various forms. It also violates human rights as well. It distorts the developmental process. It does violate the human rights of the people in a big way thereby hindering the process of fulfilling the civil, political, economic, social and cultural rights.

The World Bank defines corruption as the abuse of public office for private gain. Corruption as dealt with by the council of Europe's multi-disciplinary Group of ministers is bribery and can be said to constitute the combined effect of monopoly of power plus discretion in decision making in the absence of accountability.

VARIOUS FACETS

Amongst the various causes behind corruption, the important ones are: greed, circumstances, opportunities and other temptations[2] that include party funds, money for patronage, apprehension of loss of office, need for extra money to maintain standards etc.

In an expanding economy on account of rapid industrialization and growth of an acquisitive society, a conflict of values inevitably occurs. The age old values of judging people by what they are rather then what they have crumbles and people easily succumb to corruption. This apart, the rising cost of living and the wide gap between real wages

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and the opportunities to make quick money encourages corrupt practices amongst public servants and businessmen. Besides, Indian society tolerates amassing of wealth and it is seen as a symbol of competence. Others reasons may be excessive consumerism and desire for a lifestyle and evil social practices like dowry and pressure for payment for education.

PROCEDURAL CAUSES

The *Santhanam Committee*[3] constituted by the central government has identified certain procedural causes of corruption. These can be:Red tape and administrative delay, unnecessary regulations, Scope of personal discretion, cumbersome procedures, Scarcity of goods and services, Lack of transparency.

IT PERCOLATES EVERYWHERE[4]

It may be seen at various levels. It may be present at political levels, in the corporate sector and amongst the bureaucracy and may also be responsible for criminalization of politics[5]. For most of the political parties, winning the election becomes a sole obsession and increasing election expenses are often stated as a major cause for political corruption. In addition, an expensive and lavish lifestyle is the product of a consumerist culture and politicians also form a part of it.in the last few years, the press has been full of reports with scams and scandals .

There is a wide spread perception that corruption in contracts, commodity imports, international financial transactions and violation of the Foreign exchange regulation act and the Income Tax Act have also increased. In many countries of sizable proportion of high level of civil servants is believed to be either corrupt on their own or act as accomplices, conduits or agents for corrupt ministers.

LEGAL FRAME WORK TO CURB THIS MENACE

Amongst Indian legislations, the Prevention of Corruption Act, 1988 has been enacted to consolidate the law relating to the prevention of corruption. In addition to this, various governmental institutions have also been established to deal with this matter.

THE SALIENT FEATURES OF THE PREVENTION OF CORRUPTION ACT 1988 ARE AS FOLLOWS[6]:

a) The term 'Public Servant' is defined in the Act. The definition of 'public servant' has been enlarged so as to include the office bearers of the registered co-operative societies receiving any financial aid from the Government, or from a Government Corporation/Company, the employees of universities, Public Service Commissions, and Banks etc.

b) A new concept – 'Public Duty' is introduced in the Act. "Public Duty" means a duty in the discharge of which the State, the public or the community at large has an interest.

c) Offences relating to corruption in the IPC have been brought in the Act, and they have been deleted from the Indian Penal Code.

d) All cases under the Act are to be tried only by Special Judges.

e) Proceedings of the court have to be held on a day-to-day basis.

f) Penalties prescribed for various offences are enhanced.

g) Criminal Procedure Code to provide for expeditious trial.

PREVENTION OF MONEY LAUNDERING ACT, 2002[7]

To curb this growing menace of money laundering in India, the Indian Parliament in 2002 enacted Prevention of Money laundering Act to prevent money-laundering as well as to provide for confiscation of property either derived from or involved in, money-laundering. This Act was further amended in the years 2005, 2009 and 2012. The act prescribes that any person found guilty of money-laundering shall be punishable with rigorous imprisonment from three years to seven years. He could also be liable to a fine of up to 5, 00,000. However, vide amendment of PMLA, 2002 in 2012; the upper ceiling on the quantum of fine has been done away with. The appropriate authorities, appointed by the Government of India, can

provisionally attach the property which is believed to be proceeds of the crime. The Act has provisions of Adjudicating Authority and the Appellate Tribunal. However, the burden of proof lies with the person who is accused of having committed the offence of money laundering, whereby s/he has to prove that alleged proceeds of crime are in fact lawful property.

RIGHT TO INFORMATION ACT, 2005 [8]

Following a nationwide campaign led by grassroots and civil society organizations, the Indian Parliament passed the Right to Information Act in 2005. Since then, social activists, civil society organizations, and ordinary citizens have effectively used the Act to tackle corruption and bring greater transparency and accountability in the government. The Right to Information Act, 2005 and its conformity Acts in the States require government officials and other public authorities to provide information requested by citizens within stipulated time or face punitive actions. India's RTI Act is generally claimed as one of the world's best law with very good 14 implementation track record. It is one of the most empowering and most progressive legislations passed in post Independent India. It is however also true that lack of adequate public awareness, especially in rural areas, lack of proper system to store and disseminate information, lack of capacity of the public information officers (PIOs) to deal with the requests, bureaucratic mind-set and attitude etc. are still considered as major obstacles in implementation of the law. There are many instances when whistle-blowers used this law to expose corruption but were also harassed (in some cases even killed) by the corrupt officials and/or system.

COMPANIES ACT, 2013[9]

It is an Act of the Parliament of India which regulates incorporation of a company, responsibilities of a company, directors, and dissolution of a company. The new act would seek to usher in more transparency and governance in the corporate bodies besides creating the necessary environment for growth in the present global structure. The new law mandates every listed company and such other companies as would be prescribed (such as deposit taking companies and public interest entities) to establish a whistle-blowing policy, with direct access to audit committee chairman in certain cases. Further, independent directors would also be obligated to ensure that the company has an adequate and functional vigil mechanism and to ensure that there is no victimization of the whistle-blower. The 2013 Act for the first time defines 'insider trading and price-sensitive information and prohibits any person including the director or key managerial person from entering into insider trading (section 195 of 2013 Act). Further, the Act also prohibits directors and key managerial personnel from forward dealings in the company or its holding, subsidiary or associate company (section 194 of 2013 Act). [10]

CENTRAL BUREAU OF INVESTIGATION [11]

The Central Bureau of Investigation (CBI) is the Government of India's foremost investigating police agency. The CBI is involved in major criminal probes, and is the Interpol agency in India. It plays an important role in public life and ensuring the health of the national economy. The CBI was established in 1941 as the Special Police Establishment, tasked with domestic security. It was renamed the Central Bureau of Investigation on 1 April 1963. It is overseen by the Department of Personnel and Training of the Ministry of Personnel, Public Grievances and Pensions of the Union Government, headed by a Union Minister who reports directly to the Prime Minister. Beside Union Government, the High Court and the Supreme Court have the jurisdiction to order a CBI investigation into an offense alleged to have been committed in a state without the state's consent, according to a five judge constitutional bench of the Supreme Court (in Civil Appeals 6249 and 6250 of 2001) on 17 Feb 2010. The CBI has high credibility in unearthing crimes and corruption though it has also been blamed 18 repeatedly to serve political interests of ruling class.

CONCLUSION

Citizen's obligation in the democracy is not discharged by the exercise of franchise once in five years and thereafter retiring in passivity and not taking any interest in the working of the government. An alert and active and educated citizenry is essential to meet the challenges of democracy[12] and to ensure its successful functioning. Accountability is a sine-qua-non of democracy because as Benjamin Disraeli rightly reminds us *"all power is a trust-which we are accountable for its exercise that, from the people and for the people, all springs, and all*

must exist". There is a need to establish constitutional governance in India, as it is an important dimension of the rule of law frame work. If this frame work has to work in the context of various social, economic and political transitions that occur in India, the anti-corruption initiatives should be integrated with the human rights discourse and collaborations should be undertaken with countries that have successfully managed to curb the menace of corruption to a great extent.

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Adoption in Islam: The Changed Scenario

Hadiya Khan*

ABSTRACT

In absence of a uniform law on adoption in India, there tends to be discrimination between various religious communities. Besides this, the jurists and authors of Muslim laws hold diverse views about the permissibility of adoption under the Muslim Law. On the one hand, some of them hold that, in case of a custom allowing Adoption, as in Punjab, Oudh etc. if the custom is proved, the customary law of adoption shall prevail over the Muslim personal Law. However, on the other hand, authors like Amir Ali Wilson, Abdur Rahman, are of the view that the Holy Quran prohibits Adoption as a mode of filiation. Various High Courts have upheld Adoptions on the basis of valid customs prevalent among a given Muslim community and protected the interest of the adopted children. There, however, is a severe need of statutory intervention to remedy t and improve the position of adopted child.

This Article aims to discuss the provisions regarding the Adoption under the Holy Quran , its textual interpretation and legal implications, The Muslim Personal Law (Shariat) Application Act, 1937, Custom of adoption vis-a-vis Muslim personal law, the concept of Fosterage as a mode of filiation, the need for a Uniform Civil Code, provisions under Juvenile Justice (Care and Protection of Children) Act 2000. The Article further aims to trace the changing scenario in laws governing adoptions among Muslims in India, through the concerted efforts of the Apex Court through its liberal interpretation and bringing all the religious communities including the Muslims under the ambit of the enabling statute i.e. Juvenile Justice (Care and Protection of Children) Act 2000, for the purpose of adoption.

Keywords: *The Holy Quran, The Muslim Personal Law (Shariat) Application Act, 1937, Custom of Adoption, Fosterage, Uniform Civil Code, Juvenile Justice (Care and Protection of Children) Act 2000.*

INTRODUCTION

Till recently, the right to adopt a child was restricted only to the Hindus, Buddhists and Jains. It however now extends also to Muslims, Christians, Jews, Parsis and all other communities. The landmark judgment, pronounced by the Supreme Court in the Shabnam Hashmi case, paved a way for these communities enabling them to adopt, who till now were excluded from the ambit of adoption except under exception of customary law. The Supreme Court had ruled that any person can adopt a child under the Juvenile Justice (Care and Protection of Children) Act 2000 irrespective of religion he or she follows and even if the personal laws of the particular religion does not permit it. An apex court bench headed by Chief Justice of India, P Sathasivam said the rules framed under the Juvenile Justice Law were an enabling provision which is applicable to all religions and communities and the same could not be frustrated by personal religious beliefs. However this feat was not an easy one as the provisions under the personal Laws.

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Adoption under Islam and The Holy Quran

There is no doubt that the Custom of adoption had prevailed in Pre-Islamic Arabia and to an extent it seemed to have received some recognition by the adoption of Zaid, the son of Haris, when the Prophet Mohammad himself took Zaid, in adoption1. Mohammad's Wife Khadijah gave to him a slave named Zaid, Prophet Mohammad freed him and brought him up as his own.

However, in Islamic culture the most famous orphan is, without doubt, the Prophet Muhammad, peace be upon him. His father had died before his birth and by the time he was eight he had lost both his mother and the grandfather who named him and thereafter, was subsequently raised by his Uncle Abu Talib. The importance of taking homeless children to care for them is well-established in Islam.

Though the custom of adoption remained prevalent amongst Muslim in this era, however, on the basis of a verse laid down in Holy Quran, it has been held by the various jurists and authors that the Prophet Mohammad himself had disapproved of the custom of adoption.

The relevant verse of Quran is contained in S.33, A. 4-6 reads as under, "Allah has not made for any man two hearts in his breast nor has he made your wives whom ye divorce by Zihar your mothers nor has he made your adopted sons your sons, such is (only) your (manner of) speech by your mouths. But Allah tells (you) the truth and he shows the (right) way, call them by names after their fathers: that is just in the sight of Allah but if ye know nor their father's names (then they are) your brother's in faith, or your friends but there is no blame on you if ye make a mistake therein: (what counts is) the intention of your hearts: and Allah is oft-forgiving, most merciful. The prophet is closer to the Believers than their own selves and his wives are their mother's Blood relations among each other have closer personalities, in the Book of Allah than (the Brother hood of) believers and Muhajirs [2].

It is evident from the foregoing passage of the Quran that adoption, in its technical sense, is not allowed under the Muslim law. However, the Prophet has not prohibited adoption in its absolute terms. What is, however, prohibited is extinguishment of the line of descent of the adopted child to the detriment or loss of true bloods relation and its introduction by a legal fiction in the line of descent of the adoptive Family by creation of new relationship. It is unlawful is to attribute one's adopted child to oneself, as if there is a biological relationship. This is because Islam seeks to safeguard biological lineage and not confuse lineage. Where the identity of the adopted child's parents is not known, then the he should be given a general attribution and may be a brother in faith or a Ward.

So far as taking the poor and the orphan under one's wings and helping them is concerned, Islam not only readily agrees to it but also recommends it. The orphan and the poor are mentioned as the prime eligible recipients for such help amongst all types of charities. And with respect to protection of the rights accorded to the orphan children, Allâh is very severe; for example, He says-

"Those who `swallow' the property of the orphans unjustly, are actually devouring fire into their bellies and they shall enter the burning fire." (4:10)

LEGAL IMPLICATIONS OF ADOPTIONS UNDER THE ISLAM

It is noteworthy that under the Islamic Law, the line of descent of the adopted children remains separate and they retain their own family identity and do not assume that of their guardians. As a consequence, they may even marry from the families of their guardians. This is because the biological children of the guardians are not, in Islamic Law, the adopted child's brothers and sisters, though they may have a close friendly relationship with each other. Such a child will always remain a ghair-mahram for his adoptive relatives and shall also be subject to the rules of Hijab in case the adoptive child is a girl. Similarly, the adopted children do not automatically inherit from their guardians who adopted them.

Because the adopted child does not receive a fixed portion of the guardians' estate, the child's guardians should make a bequest to their adopted ward. A person can bequeath up to one-third of the total estate to non-inheritors. Indeed, this means that, in many cases, an adopted child can receive more of the estate through a bequest than the biological children receive through their fixed and unalterable share of the inheritance.

What this implies is that adoption does not change the relationship of a person: adoption does not end the blood relationship between the child and his real parents and siblings, nor does it create a real relationship between him and his adoptive parents and their children.

FOSTER RELATIONSHIP OR FOSTERAGE

Though the system of Adoption does not create *mahramiyat* amongst the adopted child and the adoptive Family a sort of semi-familial relationship and *mahramiyyat* is created between the adopted child and the adoptive family in case of Fosterage, that is when the adopted child who is below two years of age and is breast-fed directly by the adoptive mother for at least a day and a night. In such a case the foster child is treated as a Mahram to new Family and there is no requirement for hijâb. Also the child cannot marry the real children of the adoptive parents. There is a notable feature however, that in case of inheritance, even a foster child has not right in the estate of the adoptive parents. But as mentioned above, the adoptive parents can write up to one-third of their estate for their adopted child.

ADOPTION UNDER THE CUSTOMARY LAW

The custom of adoption is valid amongst Muslims, and Shariat law does not prohibit such custom of adoption. If the above verse, contained in S.33, A. 4-6, is interpreted to mean that the prophet has prohibited adoption; it cannot be assumed that what is prohibited by the Holy Quran can be permissible by custom and usage. The conclusion therefore, is that the Holy Quran no where prohibits adoption.

It is notable that the adoption as a custom prevails amongst many classes of Muslims in India. It has been recognized and prevalent in Ajmer[3], Kashmir[4], Sindh[5], Punjab[6], Bombay[7], and in Rajasthan[8]. It is worth mentioning that the custom of adoption amongst Mahavatan community of Muslims in Rajasthan is quite similar to that of amongst Hindus.
The foregoing paragraphs clearly indicate that the Prophet seemed to have recognized the custom of adoption at the time when he adopted Zaid, son of Haris.

The Rajasthan High Court has considered the matter in detail and has come to the following findings:

I Adoption is, as a rule, not unknown to Muslim Law.
ii By Virtue of Custom, Mohammedans many also have the system of adoption.

iii. A Muslim who alleges that by custom he is subject of adoption must prove it[9].

Thus, there are many decisions to support the contention that Muslim Law recognizes adoption by custom.

THE MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT, 1937 AND ITS EFFECT ON ADOPTION

The above Act was passed to make the Shariat law applicable to the all Muslims communities and the Act of 1937 extends to the whole of India except the State of Jammu and Kashmir.
Section 2 of this Act clearly lays down that Notwithstanding any Customs of usage to the contrary in all questions (save question relating to agricultural Land) regarding intestate succession, special property of females, including personal properly inherited or obtained under contract or gift or any other provision of personal Law, marriage, dissolution of marriage, including Talaq, Ila Zihar, lien, khula and Mubarat, maintenance, dower, guardian ship, gifts, trusts and trust properties and wakfs (other than Charities and Charitable institutions and Charitable and religions endowments) the rule of decision in cases when the parties are Muslim shall be the Muslim personal Law (Shariat).

It is worth mentioning that matters listed under the foregoing section nowhere includes Adoption. This section has been interpreted by the Division Bench of Madras High Court in judgments pronounced in the cases Puttiya Purahil Aburrahimian karnaven V.
Thayath Kancheentavida Avoomma10 and Maulvi Mohd. V. Mahbooba Begam11, where it has been held that the that exclusion and non-mention of other subjects such as adoption in respect of which a Valid Custom could govern and be binding on the parties does not mean that it is not permissible for the parties to rely on such a valid custom if there is

one. Any attempt to give up such a custom would be held invalid. Considering the above authorities it can be sufficiently concluded that Islamic law recognizes adoption and therefore, a uniform law governing adoption cannot be declared unconstitutional.

THE CHANGED SCENARIO: JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT 2000

The historic ruling in Shabnam Hashmi vs Union of India12 by the Supreme Court in the writ petition filed by the social activist Shabnam Hashmi has settled the controversy once and for all. The judges called the decision to allow the petitioner, Shabnam Hashmi to adopt a child after an eight-year court battle, "a high watermark in the development of the law relating to adoption."

The Court Ruling will pave way for the formation of a Uniform civil law and allow lakhs of orphans children to find stable homes, irrespective of the adoptive parent's religion.
Shabnam Hashmi, the petitioner had moved the apex court in 2005 after she was told that she only had guardianship rights over a one-year-old girl she had brought home from an adoption home. She learnt that Muslims cannot adopt or be adopted and if they want to do so it can only be done by virtue of The Guardians and Wards Act, 1890, which doesn't give a legal status of biological parents nor does adoptee have any rights of inheritance. She filed a Writ Petition in the Supreme Court in 2005 to give the Muslim parents the same status as that of a biological parent and to recognize adoption as a fundamental right under Article 21.

In this landmark judgment, the Supreme Court ruled that any person can adopt a child under the Juvenile Justice (Care and Protection of Children) Act 2000, irrespective of the religion he or she follows and even if the personal laws of the particular religion does not permit it.

"The JJ Act 2000 is a secular law enabling any person, irrespective of the religion he professes, to take a child in adoption. It is akin to the Special Marriage Act 1954, which enables any person living in India to get married under that Act, irrespective of the religion he follows. Personal beliefs and faiths, though must be honoured, cannot dictate the operation of the provisions of an enabling statute," ruled a bench headed by Chief Justice P. Sathasivam. The court, however, turned down the plea for declaring the right of a child to be adopted and right of a parent to adopt a fundamental right under the Constitution saying that such order cannot be passed at this stage in view of conflicting practices and beliefs.

CONCLUSION

The Article 44 of the Indian Constitution mandates the State to strive to bring in place a Uniform Civil Code. Though it is not binding but it imposes an obligation on the State. While this has been an agenda in the manifesto of various political parties but political motives of various parties and their affiliation and commitment to different sects is, without any doubt, a main reason behind the non-implementation of Uniform Civil Code. Besides, the courts have also seemed to be rather reluctant in giving a clear stance over the matter and till date no specific guidelines have been laid down. Hence a uniform law for adoption will eliminate the unequal status of a child adopted by a Hindu and a child adopted by a non-Hindu. There is indeed a severe need for a uniform law on adoption in India to avoid discrimination between various religious communities. The Shabnam Hashmi case brought to the fore the judicial discrepancies surrounding the adoption of non-Muslims by Muslim parents and the lack of legal rights thereof. At this juncture, it is imperative for the best interests of the child to be identified and conscious efforts to be made by the law-makers to reconcile the existing differences.

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World Trade Organization as an International Legal Institution for Trade Liberalization: Some Perspectives

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ABSTRACT

In the contemporary period, the World Trade Organization (WTO) has become a highly significant global body, acting as a permanent forum for liberalization of trade in goods and services, and for the management of global investment and intellectual property rights. The rules and practices of the WTO affect nearly all the international trade conducted today. In principle the WTO is dedicated to global trade liberalization. The object of this paper is to present different perspectives with respect to the World Trade Organization to consider its significance as an International Legal Institution for Liberalization of Trade.

The International Monetary Fund (IMF), World Bank, and International Trade Organization (ITO) arose out of the 1944 Bretton Woods Agreement. The World Trade Organization (WTO) is an intergovernmental organization which regulates international trade. International law, unlike domestic legal systems is decentralized in that it has no central legislator creating its rules. The WTO Agreements establish a formal international organization, whereas its predecessor, the GATT, did not establish an international organization and was designed only to be a provisional agreement with no enforcement remedies for member countries suffering violations.

WTO has two major functions namely, legislative and judicial. The legislative function refers to the role of the WTO as a forum in which to reach trade agreements. The WTO oversees the implementation, administration and operation of the covered agreements and provides a forum for negotiations and for settling the disputes. The WTO dispute settlement procedure is the most significant place for establishing global legal norms for international economic relations. Even in the presence of great surge in the number of bilateral and multilateral treaties for trade, the interest of nations in the WTO has not diminished and more and more nations are becoming the members of the organization. Purpose of the Institution to reduce the barriers to the trade between the nations is accomplishing.

Keywords: *World Trade Organization (WTO), liberalization of trade, International Legal Institution, WTO dispute settlement procedure.*

INTRODUCTION

Economic interests of the big or small nations are secured by the trade system they have. If such interests are affected due to different trade rules/perspectives of the other nations and there is no negotiating forum a battle ground for the war is generally prepared. In this respect in the contemporary period, the World Trade Organization (WTO) has become a highly significant global body, acting as a permanent forum for liberalization of trade in goods and services, and for

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the management of global investment and intellectual property rights[1].

The rules and practices of the WTO affect nearly all the international trade conducted today. In principle the WTO is dedicated to global trade liberalization[2]. It is held as the latest international legal institution to work out the modalities of globalization, a phrase describing the present day conditions of international economic relations and the law[3]. The degree of rule orientation is the most remarkable reason because of which WTO is often described as the most powerful international juridical institution in the world today[4]. It is viewed that the WTO is the forum chosen by governments for the negotiation of the rules relating to economic globalization and it is not responsible for globalization[5]. The WTO presides over a rule-based trading system based on norms that are almost universally accepted and respected by its 164 members. [6]The object of this paper is to present different perspectives with respect to the World Trade Organization to consider its significance as an International Legal Institution for Liberalization of Trade.

WTO AS CONSTITUENT OF INTERNATIONAL LAW

The World Trade Organization (WTO) is an intergovernmental organization which regulates international trade. International law, unlike domestic legal systems is decentralized in that it has no central legislator creating its rules. The creators of international law are at the same time the main subjects of international law, namely states[7]. States as subjects of international law, unlike individuals in domestic law, do not elect an international legislator which is then mandated to make law on their behalf[8]. The parties themselves have the power to identify the law that an adjudicator whom they appoint will apply to their relationship. With the exception of jus cogens – from which no deviation is allowed, states have complete contractual autonomy to determine the law that will regulate their relations[9].

As an international legal institution entrusted with the purpose of trade liberalization WTO deals with the regulation of trade between participating countries by providing a framework for negotiating trade agreements and dispute resolution process aimed at enforcing participant's adherence to WTO agreements signed by representatives of member governments and ratified by their respective parliaments[10]. At present the WTO oversees about 60 different agreements which have the status of international legal texts. Member countries are required to sign and ratify all WTO agreements on accession[11].

EVOLUTION AS AN INTERNATIONAL TRADE REGIME

With the U.S. and Britain emerging from the Second World War as the two great economic superpowers, the two countries felt the need to engineer a plan for a more cooperative and open international system. The International Monetary Fund (IMF), World Bank, and International Trade Organization (ITO) arose out of the 1944 Bretton Woods Agreement. While the IMF and World Bank would play pivotal roles in the new international framework, the ITO failed to materialize, and its plan to oversee the development of a non-preferential multilateral trading order would be taken up by the GATT, established in 1947[12].

The WTO was agreed to in 1994, at the end of the Uruguay Round of multilateral trade negotiations, and established only at the beginning of 1995. But it directly descended from the General Agreement on Tariffs and Trade (GATT)[13]. On September 20, 1986, the contracting parties to the General Agreement on Tariffs and Trade of 1947 agreed to launch an eighth round of multilateral trade negotiations known as the Uruguay Round. More than seven years later they concluded the round, not with an amended version of the GATT 1947, but with an entirely new treaty, the Agreement Establishing the World Trade Organization[14]. The GATT was originally the commercial chapter of the Havana Charter, agreed in 1947, which was intended to establish an International Trade Organization (ITO)[15]. But the ITO was still-born. When it became evident that the charter would not be ratified by the US senate, the Truman administration withdrew it from consideration.

The GATT was applied, provisionally, for 48 years. Finally, in ratifying the WTO, the world created a formal institution to govern international trade, though one different from the ITO in important respects.[16] In the negotiations over the transformation of GATT into the WTO only corporate access to government delegations was

allowed.[17] The WTO Agreements establish a formal international organization, whereas its predecessor, the GATT, did not establish an international organization and was designed only to be a provisional agreement with no enforcement remedies for member countries suffering violations. The objective of the WTO was to address protectionist pressures by providing a forum for Member States to involve in intensive negotiations to reduce barriers to trade and allow countries to exploit their comparative advantage.

FUNCTIONS OF WTO

With the advancement of globalization there is a great necessity of an International Organization to manage the trading systems comprising different trading rules of every nation. The WTO serves as the mediator between the nations when problems like that of protectionism, trade barriers, subsidies, violation of intellectual property arise as a consequence of differences in rules of trading.

In the above respect, therefore, WTO has two major functions namely, legislative and judicial. The legislative function refers to the role of the WTO as a forum in which to reach trade agreements. The WTO establishes a framework for trade polices without defining or specifying the outcomes. Five fundamental principles of the trading system namely, Non –Discrimination, Reciprocity, Binding and Enforceable Commitments, Transparency and Safety Valves, guide the international trade relations.

Whereas the judicial function is performed by the dispute settlement system. The WTO oversees the implementation, administration and operation of the covered agreements and provides a forum for negotiations and for settling the disputes. In the WTO formally all member states have equal power over decision making. The highest decision making body of the WTO is the Ministerial Conference, which usually meets every two years. It brings together all members of the WTO, all of which are countries or custom unions. The Ministerial Conference can take decisions on all matters under any of the multilateral trade agreements.[19]

DISPUTE SETTLEMENT SYSTEM

The WTO dispute settlement procedure is the most significant place for establishing global legal norms for international economic relations. At Marrakesh a long list of about 60 agreements, annexes, decisions and understandings was adopted and these agreements fall into a structure with six main parts which included Understanding on Rules and Procedures Governing the Settlement of Dispute Settlement. The WTO's DSB (Dispute Settlement Body) acts to enforce the rule of law over power politics. Under the WTO, a report of the panel of the Appellate Body is adopted automatically unless WTO members, including the prevailing member, decide by consensus to block it, which is referred to as negative consensus.[20]

With the formation of the WTO, dispute settlement procedures have become more transparent and they have acquired more legitimacy, whereas under the GATT dispute settlement system, there was a small group of very well informed individuals and thus no transparency or political legitimacy was associated with it.[21] The GATT dispute settlement system was initially more akin to a mediation mechanism than an adjudicatory mechanisms and it was observed that the system relied heavily on the ability of the contracting parities to reach political solutions to particular problems.[22] On the other hand, the WTO's dispute settlement system set up after the Uruguay Round marks a significant step toward a full judicial model. A two tier system was introduced which included ad hoc panelists operating as first level review panels, whose findings can be subject to further review by a permanent group of Appellate Body Members. Further, the WTO system broadened the rules and subjects covered by the dispute settlement system, made those rules binding under a single undertaking, and gave the WTO dispute settlement system exclusive and compulsory jurisdiction over government-to-government disputes under the WTO rule.

The WTO's dispute settlement system even though largely admired from a procedural point of view, the reports given by its proceedings are often controversial. The impact of the reports transcends beyond the foundational interests of the WTO. Issues like development, environment, security, labour standards are directly affected by the reports. Nonetheless, the Dispute settlement system is regarded as the central pillar of the multilateral trading system and considered as the unique contribution to the stability of the global economy.

The WTO members agree to resort to its help instead of taking unilateral action in case they find fellow-members violating trade rules.

DEVELOPED AND DEVELOPING NATIONS

The WTO's secretariat organizes regular meetings with civil society groups, and resources are spent on facilitating transparency, including putting a vast amount of official documentation online.[23] In the WTO there is no definition of what comprises a developing country. Characterization is up to a point dependent upon self-selection. The WTO, however, recognizes the categories of "developing" and "least-developed countries" as being those which have been so designated by the United Nations.[24]

It is observed that developed countries have more ability to deal with lengthy processes with high direct costs and coordination costs than most developing countries.[25] However, developing countries are generally prejudiced by the lack of capacity to enforce WTO rulings and high indirect costs of initiating WTO disputes. The notion of providing special and differential treatment to developing countries has a long history in the WTO, despite it being viewed with doubt as to its rationale and practical effectiveness in supporting development and integration into the multilateral trading system.[26] WTO's present negotiations referred to as Doha Development Round initiated in 2001 has an explicit focus on developing countries. The conflict between free trade on industrial goods and services but retention of protectionism on farm subsidies to domestic agricultural sector as requested by the developed countries and the substantiation of fair trade on agricultural products as requested by developing countries remain major impediments in this round of negotiation not complete yet.[27] The WTO assist developing, least – developed and low –income countries in transition on priority basis to adjust to WTO rules and disciplines through technical cooperation and training.

India, being the founder member of the WTO, has been following the WTO decisions. However, it is observed that the compliance of WTO decisions has been detrimental to its economy which has started showing its adverse effect now.[28]

MEMBERS: RIGHTS & OBLIGATIONS

The WTO is an organization based upon an international contract among sovereign states and customs territories. WTO members are bound in their behavior not only by WTO law, but also by a host of other customary and conventional international law, which is not necessarily symmetric for all of them.[29]

The WTO rules do not prevent countries from entering into Regional Trade Agreements (RTAs).[30] Such agreements benefit the multilateral process by exerting leverage for openness and competitive liberalization in international trade relations. However, WTO members, when entering into regional arrangements, must comply with specific conditions spelled out in various Articles of GATT[31]. The World Trade Organization has fundamentally changed the realm and structures of many of the trade rules that evolved under the auspices of the GATT. International trade law now covers all aspects of trade ranging from agricultural products and information technology products to financial services and even trade related intellectual property protection.[32] Besides, the rights and obligations of the WTO members have been clarified by more than 300 panel and Appellate Body rulings. The WTO jurisprudence is the most active and extensively growing body of public international law.[33]

WTO AND ITS RELATION WITH IMF AND WORLD BANK

The need for a co-operative approach to the interface of trade and financial issues, that would be governed by the separate regimes and organizations, has long been recognized as essential and inevitable for maintaining a balanced world economic system.[34] With a view to achieving greater coherence in global economic policy making, the WTO is mandated to cooperate closely, as appropriate, with the other two components of the Bretton Woods system namely, the international Monetary Fund (IMF) and the World Bank.[35]

In the Marrakesh Declaration of April 15, 1994, which announced the completion of the Uruguay Round negotiation, ministers of contracting parties agreed to confirm their resolution to strive for greater global coherence of policies in the fields of trade, money and finance, including cooperation

between the WTO, the IMF and the World Bank for the purpose. The WTO was established to provide an institution to administer the General Agreement on Tariffs and Trade (GATT) and other Uruguay Round agreements as well as to provide a more effective dispute resolution mechanism than existed under GATT.[36]

The relationship between the International Monetary Fund and World Trade Organization is a continuation of the long standing relationship between the IMF and the Contracting Parties to the General Agreement on Tariffs and Trade (GATT), as modified by new developments associated with the establishment of the WTO.[37] The two organizations generally act in a complementary and cooperative manner.

CONCLUSION

Foregoing analysis of the different perspectives on the World Trade Organization amply show its significance as the Trade Liberalization International Legal Institution. Even in the presence of great surge in the number of bilateral and multilateral treaties for trade, the interest of nations in the WTO has not diminished and more and more nations are becoming the members of the organization. Purpose of the Institution to reduce the barriers to the trade between the nations is accomplishing. Of course the responsibility of the Institution has increased to resolve disputes of nations going beyond the issues of simple trade. Further, the undue advantage to the Developed nations because of the resources available to them can be reduced by the Institution by making available its services to the Developing nations at feasible terms. Economic interests have always been the reasons behind the wars and if trade issues are resolved through negotiations by a legal institute of international level having faith of all the members the chances of unilateral actions by the nations would be greatly reduced.

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"भारत में कानूनी शिक्षा पर अंतर्राष्ट्रीय राजनीति का प्रभाव" पर आलेख

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सह लेखक – दिग्विजय धामा
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विषयसूची

परिचय

कानून का उद्देश्य दो गुणा है, अर्थात् मुख्य रूप से, यह हितों की रक्षा और गारंटी देने और लोगों के कल्याण को बढ़ावा देना चाहता है और दूसरा, यह कानून द्वारा स्थापित कानून या प्रक्रिया के अनुसार न्याय का संचालन करना चाहता है। मनाया गया कानूनी बयान – रोमन वकील सिसरो का ष्पीपुल्स शुभ सर्वश्रेष्ठ कानून हैष् सबसे अच्छा पहला उद्देश्य दर्शाता है
भारत का कानून आयोग कानूनी शिक्षा को ऐसे विज्ञान के रूप में परिभाषित करता है जो छात्रों को कानूनी सिद्धांतों में प्रवेश करने के लिए कुछ सिद्धांतों और कानून के प्रावधानों के ज्ञान प्रदान करता है। कानूनी शिक्षा प्रक्रिया है जो भावी वकील, न्यायाधीश, प्रशासक, सलाहकार और कानूनी वैज्ञानिकों को यह जानने के लिए तैयार करती है कि सरकार के कार्यकारी, न्यायिक अंग, डिजाइन किए गए हैं और वे कैसे कार्य करते हैं। विवादों और संघर्षों के निपटने के तर्कसंगत, व्यवस्थित और अहिंसक विवाद के लिए कानूनी शिक्षा एक तकनीक, क्षेत्र और मंच है।

भविष्य के वकील को और अधिक जागरूक होना चाहिए कि कानून अमूर्त तर्क की एक प्रणाली नहीं है, बल्कि व्यवस्था की व्यवस्था है, जो कि इतिहास में निहित है, बल्कि उम्मीदों में भी है, ताकि राष्ट्र के संसाधनों और प्रतिभाओं का पूरा उपयोग बढ़े।ष
हम वैश्वीकरण को एक सतत प्रक्रिया के रूप में समझते हैं जो राष्ट्रीय सीमाओं में पूंजी, श्रमिक, माल और सेवाओं के मुक्त आवाजाही पर जोर देता है। हालांकि, आर्थिक वैश्वीकरण के इन मापदंडों को अन्य पहलुओं से अलगाव में नहीं देखा जा सकता है जैसे विचारों और प्रथाओं का स्वतंत्र आदान–प्रदान। इस परिप्रेक्ष्य से, संस्थागत डिजाइन और मूल कानूनों के विकास के संदर्भ में विभिन्न देशों में कानूनी प्रणाली एक–दूसरे से सीखने में बहुत अधिक है।

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***Asst. Prof.CTE, IPEM Ghaziabad*

सीमाओं में बढ़ते व्यापार और निवेश के साथ, हम सभी को अंतरराष्ट्रीय संस्थानों के कामकाज को समझने के लिए अनिवार्य आवश्यकता है। उसी समय, हमारी राष्ट्रीय कानूनी प्रणाली को तेजी से बदलते सामाजिक–आर्थिक वास्तविकताओं के लिए संतुलित प्रतिक्रिया प्रदान करनी चाहिए। हमें यह भी ध्यान में रखना चाहिए कि इंटरनेट के इस युग में और अक्सर अंतरराष्ट्रीय यात्रा, जजों, वकीलों, शिक्षाविदों और यहां तक कि विभिन्न देशों के कानून छात्रों में भी इंटरैक्ट करने, सहयोग करने और एक–दूसरे के अनुभवों से सीखने के कई अवसर हैं। सूचना और संचार प्रौद्योगिकी के विकास के कारण विदेशी कानूनी सामग्री तक पहुंच आसान हो गई है। कुछ साल पहले तक, विदेशी कानून रिपोर्टों और कानून की समीक्षाओं की सदस्यता काफी महंगा थी और इसलिए अधिकांश जजों, चिकित्सकों और शैक्षिक संस्थानों की पहुंच से परे। हालांकि, इंटरनेट और वैश्वीकरण की वृद्धि ने तस्वीर को बदल दिया है। अधिकांश संवैधानिक न्यायालयों के फैसले को आसानी से सुलभ वेबसाइटों पर अपलोड किया जाता है।

इसके अलावा, प्रमुख प्रकाशन गृहों द्वारा संचालित इलेक्ट्रॉनिक डाटाबेस ने यह सुनिश्चित किया है कि पूरे विश्व में न्यायाधीशों, चिकित्सकों और कानून छात्रों को आसानी से कई न्यायालयों से सामग्री के माध्यम से ब्राउज कर सकते हैं। अंतरराष्ट्रीय और तुलनात्मक सामग्रियों तक इस तरह की आसान पहुंच भी अंतरराष्ट्रीय स्तर पर प्रतिस्पर्धी वाणिज्यिक कानून फर्मों और भारत में कानूनी प्रक्रिया आउटसोर्सिंग (एलपीओ) के संचालन के उद्भव के पीछे महत्वपूर्ण कारक रही है।

वर्तमान कानून को विभिन्न परिमाणों और कानून के एक छात्र की समस्याओं से निपटना होगा और वैश्वीकरण की चुनौतियों और कानून के सार्वभौमिकरण को पूरा करने के लिए एक एडवोकेट को व्यावसायिक कौशल में प्रशिक्षित करना होगा। भारत में कहीं और के रूप में बहुराष्ट्रीय कंपनियों के आगमन के साथ, वकील का कार्य अत्यधिक तकनीकी होगा और आवश्यक वकीलों की योग्यता की आवश्यकता होगी जो कानूनी शिक्षा की सही संस्कृति में प्रशिक्षित होंगे। यह कानूनी शिक्षा में सुधार लाने के लिए एक ठोस मामला बना देता है। वैधानिक ज्ञान अर्थव्यवस्था में काम करने की नई चुनौतियों का सामना करने के लिए कानूनी शिक्षा भी वकीलों को तैयार करनी चाहिए, जिसमें कानून और कानूनी प्रथा की प्रकृति और संगठन एक आदर्श बदलाव के दौर से गुजर रहे हैं। एक अच्छी तरह से प्रशासित और सामाजिक रूप से प्रासंगिक कानूनी शिक्षा न्याय की उचित अनुदान के लिए एक साइन नहीं है। कानूनी शिक्षा देते हुए एक मानवीय चेहरे सुसंस्कृत कानून बनाते हैं, जो नागरिकों के पालन–पोषण कर रहे हैं जो व्यवसायी के तौर पर काम करने में सक्षम हैं, न केवल व्यापारिक पुरुषों के रूप में। शिक्षा या कानूनों के बारे में जागरूकता, वकील को श्सामाजिक इंजीनियरश के रूप में चिह्नित करते हैं।

विगत और वर्तमान विजन और कानूनी शिक्षा के लक्ष्य

1857 से 1 9 57 तक लगभग एक सदी के लिए एक व्याख्यान विधि के तहत अनिवार्य विषयों को अनिवार्य शिक्षण की व्यवस्था और दो साल के पाठ्यक्रम ने जारी रखा। कानूनी शिक्षा के उन्नयन की आवश्यकता लंबे समय तक महसूस की गई है। कानूनी शिक्षा में सुधारों पर विचार करने और प्रस्तावित करने के लिए समय–समय पर कई समितियां स्थापित की गईं। । 1 9 51 में अखिल भारतीय बार समिति ने कुछ सिफारिशें कीं। 1 9 54 में, सेटलवाड आयोग ने कानूनी शिक्षा की स्थिति पर चर्चा की और कानूनी शिक्षा व्यवस्था में सुधार की आवश्यकता को स्वीकार किया। यह कानूनी शिक्षा का एक बहुत निराशाजनक तस्वीर दर्शाया गया है। यह केवल 1 9 58 से ही था कि कई विश्वविद्यालय तीन साल के कानून की डिग्री पाठ्यक्रमों में बदल गए थे। यह केवल 1 9 67 में था, यह तीन साल के कानून कॉलेजों के लिए उनके कानून स्कूल के पाठ्यक्रम में प्रक्रियात्मक विषयों को शामिल करने के लिए एक कठिन कार्य बन गया।

अनुशासन के रूप में कानूनी शिक्षा पांच वर्ष के कानून पाठ्यक्रम की शुरूआत से पहले भारत में छात्रों के लिए एक लोकप्रिय पसंद नहीं थी और जो छात्र इंटरमीडिएट शिक्षा में अच्छा प्रदर्शन करते थे, वे दवा, इंजीनियरिंग, कंप्यूटर, व्यवसाय प्रबंधन और लेखा का अध्ययन करने के लिए उत्सुक थे। भारत के विपरीत, इंग्लैंड, अमेरिका और कई अन्य विकसित देशों में प्रचलित परिस्थितियां, विश्वास से अलग हैं। विश्व के इन हिस्सों में कानून स्कूलों के प्रवेश अत्यधिक प्रतिस्पर्धी हैं। इस में सूचना पूंजीवाद, आर्थिक उदारीकरण, भारत में कानूनी पेशे के लिए कानूनी उपभोक्ता ध ग्राहक अर्थात विदेशी कंपनियों या सहयोग के नए ब्रांड की जरूरतों को पूरा करना है। कानून स्कूलों का लक्ष्य होना चाहिएरू

• अन्य सामाजिक विज्ञान के साथ कानून के एक अंतर अनुशासनिक दृष्टिकोण को बढ़ावा देना। कानून का अध्ययन करने वाले व्यक्ति के पास देश के इतिहास, राजनीतिक सिद्धांत, अर्थशास्त्र और दर्शन में कुछ प्रवीणता होनी चाहिए, ताकि उन्हें संस्थागत परिवर्तनों में भाग लेने वाले एजेंट बनने में सक्षम हो सकें।

• भाषाओं में प्रवीणता को प्रोत्साहित करेंरू बोलने वाली और लिखित भाषा पर कमान, प्रभावी मौखिक कौशल, शब्दावली और व्यापक रीडिंग।

पेशेवर नैतिकता के उच्चतम मानकों और सार्वजनिक सेवा की भावना का पालन करने की आवश्यकता को बढावा देना।

• कानूनी वकीलों और संस्कृतियों से निपटने में जो आरामदायक और कुशल हैं, वकीलों को तैयार करें, जो कि हमारे वैश्विक समुदाय को बनाते हैं, जबकि स्वयं की राष्ट्रीय कानूनी प्रणाली में मजबूत रहते हैं।

इन लक्ष्यों को प्राप्त करने के लिए, कानूनी शिक्षा को व्यापक आधार पर, बहु–अनुशासनात्मक, बहु–कार्यात्मक और प्रासंगिक होना चाहिए। भूमंडलीकरण की घटना के संबंध में एक महत्वपूर्ण संदर्भ प्रदान करता है जिसके लिए कानूनी शिक्षा के दृष्टिकोण और लक्ष्यों को कंक्रीट बनाना पड़ता है। नए विकास के एजेंडे को अंतरराष्ट्रीय प्रथाओं के ज्ञान की आवश्यकता है और स्थापित दृष्टिकोण से परे है कि कानूनी शिक्षा का उद्देश्य केवल अभ्यास वकीलों को उत्पन्न करना है।

भारत में विकास की आवश्यकतारू कानूनी शिक्षा का नतीजा

वैश्वीकरण ने संपूर्ण राजनीति और समाज की गतिशीलता को बदल दिया है वर्तमान में पूरी दुनिया ज्ञान अर्थव्यवस्था के महत्व को स्वीकार कर रही है ज्ञान अर्थव्यवस्था के विकास के बाद से, वैश्विक उत्कृष्टता के शैक्षिक संस्थानों की स्थापना के साथ–साथ वैश्विक स्तर के नए पाठ्यक्रम को बदलकर भारत जैसे विकासशील देशों की प्राथमिकता बननी चाहिए। कानूनी पेशे के वैश्वीकरण ने भारत में कानून शिक्षण और कानूनी पेशे के पूरे कपड़े में समुद्र में परिवर्तन शुरू किया है। इसलिए, कुछ समय की जरूरत है–

पूरे देश में निरंतर शैक्षणिक गुणवत्ता सुनिश्चित करने के लिए एक तंत्र के रूप में शिक्षण देने वाले सभी संस्थानों के मानक का आकलन करने के लिए सहमत मानदंडों के एक सेट के आधार पर स्वतंत्र रेटिंग प्रणाली विकसित करने की आवश्यकता है। ऐसी रेटिंग्स के आधार पर मान्यता को या तो प्रदान किया जा सकता है या वापस ले लिया जा सकता है। रेटिंग के परिणाम की वार्षिक समीक्षा की जानी चाहिए, नियमित रूप से अद्यतन, मॉनिटर और सार्वजनिक डोमेन में उपलब्ध कराया जाएगा।

अन्य विषय के साथ पाठ्यक्रम विकास में वैकल्पिक पाठ्यक्रमों के डोमेन का विस्तार करने, व्यक्तिगत पाठ्यक्रमों के पाठ्यक्रम को पुनर्विचार करने और नवीन शैक्षणिक विधियों के विकास की आवश्यकता पर विचार करते हुए कोर ६ अनिवार्य और वैकल्पिक पाठ्यक्रमों के बीच भेद की समीक्षा करना शामिल है। भविष्य के लिए कानून के पाठ्यक्रम में जैव विविधता, जैव प्रौद्योगिकी, सूचना का एक एकीकृत ज्ञान प्रदान करना होगा और प्रौद्योगिकी, पर्यावरण विज्ञान, समुद्र और समुद्री विज्ञान, सार्वजनिक स्वास्थ्य और अन्य संबंधित विषयों। तब अकेले, समाज के विभिन्न वर्गों और वैश्वीकरण के प्रभावों की अनग्या कानूनी जरूरतों को संबोधित किया जा सकता है और छात्रों को उनके अल्मा माटर के पोर्टल छोड़ने पर समाज में योगदान करने के लिए तैयार किया जाएगा। ऐसा करने के लिए, इस विषय को चुनने में संस्थानों को मुफ्त हाथ दिया जाना चाहिए ताकि छात्र अपने संबंधित क्षेत्रों में अनुसंधान कार्य कर सकें। समकालीन दुनिया के संबंधित मुद्दों के साथ कानून का अंतर यह कानून कानून की डिग्री के लिए बहुत अधिक मूल्य जोड़ देगा।

मौजूदा परीक्षा प्रणालियों को संशोधित किया जा सकता है और मूल्यांकन विधियों को विकसित किया जा सकता है जो आवश्यक विश्लेषणात्मक, लेखन और संचार कौशल को प्रोत्साहित करके परीक्षण को गंभीर तर्क देता है। परीक्षा में समस्या–उन्मुख होना चाहिए, केवल टेस्ट मेमोरी के बजाय सैद्धांतिक और समस्या उन्मुख दृष्टिकोणों का संयोजन करना चाहिए। प्रोजेक्ट पेपर, प्रोजेक्ट और विषय शैक्षणिक, गुणवत्ता के सुधार के लिए परीक्षा के साथ–साथ शैक्षणिक विधियों के रूप में माना जाने वाला परीक्षा।

वैश्विक अर्थव्यवस्था में एक वकील बनने के लिए विदेशी भाषा का ज्ञान महत्वपूर्ण है कानून छात्रों को अपनी पसंद की एक विदेशी भाषा सीखने का अवसर प्रदान किया जाना चाहिए। कानून छात्रों को इसलिए प्रासंगिक प्रक्रिया को अप्रासंगिक, स्क्रीन सबूत में अंतर करने की अपनी क्षमता विकसित करने और जांच के तहत स्थिति को कानून लागू करने की आवश्यकता है। लंबे अक्षरों, यात्रा और तनाव से निपटने के लिए उन्हें चरित्र की पूर्ण अखंडता बनाए रखने और मानसिक और शारीरिक सहनशक्ति की आवश्यकता होती है।

प्रतिभाशाली संकाय को आकर्षित करने और बनाए रखने के लिए, पारिश्रमिक और सेवा की स्थिति में सुधार सहित बेहतर प्रोत्साहन, प्रस्तुत किए जा सकते हैं। गुणवत्ता को बढ़ावा देने और बेहतर प्रोत्साहन बनाने के लिए, कानूनी अभ्यास में अवसरों (जैसे कंसल्टेंसी असाइनमेंट और न्यायालयों में कानूनी प्रथाओं) से संबंधित फैकल्टी पर बैरी हटाने की भी आवश्यकता है। एक और प्रोत्साहन के रूप में, राष्ट्रीय कानूनी शिक्षा नीति को आकार देने में शिक्षा की सक्रिय भागीदारी के लिए बेहतर अवसर बनाना आवश्यक है। संकाय के लिए अन्य प्रोत्साहनों में पूरी तरह से सब्बाटिकल शामिल हैंय राष्ट्रीय और संस्थागत स्तरों पर प्रतिष्ठित शिक्षकों और शोधकर्ताओं को सम्मानित करने के लिए पुरस्कार प्रदान करनाय

एलएलएम डिग्री के बिना कानून शिक्षकों को नियुक्त करने के लिए लचीलापन यदि व्यक्ति ने शैक्षणिक या व्यावसायिक प्रमाण साबित किया हैय विदेश में अग्रणी विश्वविद्यालयों के साथ संकाय विनिमय कार्यक्रम और मौजूदा बुनियादी ढांचे का उन्नयन

एक महत्वपूर्ण दृष्टिकोण का विकासरू कानून शिक्षकों को श्अध्यापन की तुलनात्मक पद्धतिश के रूप में क्या कहा जाता है पर स्विच करना चाहिए। कानून के छात्रों को मौजूदा या संभावित कठोर कानूनों का मूल्यांकन करने के लिए जुटाए जाने चाहिए, नवीनतम घटनाओं और आवश्यक संशोधनों पर चर्चा में भाग लेना।

नैदानिक प्रशिक्षण को प्रोत्साहित करेंरू कानून के पाठ्यक्रम के लिए श्न्यायश केंद्रीय बनना चाहिए और समुदाय आधारित शिक्षा को वकील बनाने में वांछित मूल्य उन्मुखीकरण देना होगा। कानूनी शिक्षा के क्षेत्र में न्याय शिक्षा की यह अवधारणा है कि कानून विद्यालय के पाठ्यक्रम में लोक अदालतों, कानूनी सहायता और कानूनी साक्षरता, पैरा–कानूनी प्रशिक्षण, नकली परीक्षण और मौट अदालत प्रतियोगिताओं जैसे कुछ कार्यक्रमों को शामिल करना चाहिए।

कानूनों और विश्वविद्यालयों में शोध की परंपरा बनाना अनिवार्य है अगर भारत को अपने नए कानूनी ज्ञान और विचारों की दुनिया में प्रमुख उत्पादक होने के लिए उपलब्ध कानूनी ज्ञान का उपभोक्ता होने से खुद को बदलना है। अनुसंधान की ऐसी एक गंभीर संस्कृति को विकसित करने के लिए निम्नलिखित उपायों की आवश्यकता हैरू एलएलएल कार्यक्रम के अभिन्न पहलुओं के रूप में विश्लेषणात्मक लेखन कौशल और शोध पद्धति पर बल देनाय उत्कृष्ट बुनियादी ढांचे (अनुसंधान अनुकूल पुस्तकालय सुविधाएं, कंप्यूटर और इंटरनेट की उपलब्धता, केस कानून का डिजिटलीकरण, दुनिया भर में उपलब्ध नवीनतम पत्रिकाओं और कानूनी डेटाबेस तक पहुंच सहित) बनानाय शिक्षकों के सदस्यों को अनुसंधान के लिए पर्याप्त समय छोड़ने के लिए शिक्षण भार को तर्कसंगत बनानाय अनुसंधान करने के लिए संकाय को छोड़कर छुट्टी छोड़नाय अगर सहकर्मी की समीक्षा की गई प्रकाशनों में अनुसंधान के परिणाम, या तो अतिरिक्त वेतन वृद्धि (यूजीसी योजना से परे) या किसी अन्य उचित तरीके से प्रोत्साहन परिणाम बनाते हैंय आवधिक संकाय सेमिनारों को संस्थागत बनानाय गुणवत्ता समेकित जर्नलों की स्थापनाय पदोन्नति के लिए मानदंडों में से एक के रूप में अनुसंधान उत्पादन निर्धारित करनाय सबसे उद्धृत और प्रभावशाली लेखन की पहचान करने के साथ ही पदोन्नति के उद्देश्यों के लिए इस तरह के डेटा पर विचार करने के लिए उद्धरणों का एक डेटाबेस बनानाय एलएलएम कार्यक्रम में एक अनिवार्य निबंध, एक पूर्व पंजीकरण प्रस्तुति और एम। फिल और पीएचडी कार्यक्रमों के लिए क्रमशः पाठ्यक्रमों की आवश्यकता के रूप में आवश्यक शर्तें स्थापित करना।

यह कानून विद्यालयों और विश्वविद्यालयों के लिए है फीस के स्तर पर निर्णय लेने के लिए, लेकिन एक आदर्श के रूप में, विश्वविद्यालयों में फीस का कुल व्यय का कम से कम 20 प्रतिशत होना चाहिए। यह दो शर्तों के अधीन होना चाहिएरू पहले, जरूरतमंद छात्रों को उनकी लागतों को पूरा करने के लिए शुल्क माफी और छात्रवृत्ति प्रदान की जानी चाहिएय दूसरा, विश्वविद्यालयों को उच्च अनुदान से जुड़ी संसाधनों के लिए यूजीसी द्वारा अनुदान सहायता से मिलान कटौती के माध्यम से दंडित नहीं किया जाना चाहिए। केंद्रीय और राज्य मंत्रालयों को कानून की विशेष शाखाओं पर कुर्सियों को जारी रखने के लिए भी आग्रह किया जा सकता है। राज्य के वित्तपोषण को निजी क्षेत्र से बन्दोबस्ती के साथ पूरक किया जा सकता है, जिसमें उचित सार्वजनिक निजी भागीदारी जैसे सहक्रियात्मक व्यवस्थाएं शामिल हैं। कॉरपोरेट क्षेत्र द्वारा उच्च न्यूनतम सीमा के ऊपर दान के लिए कर की छुट्टियां जैसे प्रोत्साहनों पर विचार किया जा सकता है। बुनियादी ढांचे और संसाधन उपयोग को अधिकतम करने के लिए संस्थानों को वित्तपोषण के अपने नए तरीके विकसित करने के लिए स्वायत्तता दी जानी चाहिए।

विश्व स्तर के कानून विद्यालयों का निर्माण आजकल कानूनी शिक्षा और कानूनी पेशे के बढ़ते अंतरराष्ट्रीय आयामों पर रचनात्मक रूप से जवाब देने की आवश्यकता होगी, जहां घरेलू कानूनों की आवश्यक समझ के साथ–साथ यह अंतरराष्ट्रीय और तुलनात्मक दृष्टिकोण को शामिल करने के लिए जरूरी हो रहा है। ऐसे अंतरराष्ट्रीय दृष्टिकोणों को बढ़ावा देने के लिए सुझाव पहल में संयुक्त ध दोहरी डिग्री के पुरस्कार के लिए विख्यात विदेशी विश्वविद्यालयों के साथ सहयोग और साझेदारी का निर्माण शामिल हैय वीडियो कॉन्फ्रेंसिंग और इंटरनेट मोड के माध्यम से एक वैश्विक संकाय द्वारा संयुक्त रूप से पढ़ाए जाने वाले अंतर्राष्ट्रीय पाठ्यक्रम विकसित करने के तरीकों को खोजनाय साथ ही छात्रों के बीच अंतर्राष्ट्रीय संकाय, अंतर्राष्ट्रीय पाठ्यक्रम और अंतरराष्ट्रीय विनिमय अवसरों का निर्माण करना।
कानूनी ज्ञान के अधिकतम प्रसार, भारतीय कानून संस्थान (ष्आईएलआईष), सुप्रीम कोर्ट लाइब्रेरी, इंटरनेशनल लॉ के लिए भारतीय सोसायटी (ष्आईएसआईएलष) के साथ–साथ सभी कानून विद्यालयों, विश्वविद्यालयों और सार्वजनिक संस्थानों में उपलब्ध सभी सूचनाओं के लिए देश, नेटवर्क और डिजीटल हो। ऐसे नेटवर्किंग, पर्याप्त बुनियादी ढांचा जैसे कंप्यूटर, कानून पत्रिकाओं, कानूनी डेटाबेस और शिक्षण कानूनों में उत्कृष्ट पुस्तकालयों की आवश्यकता के अतिरिक्त है।

कानूनी शिक्षा और भारत में इसकी प्रगति के लिए संवैधानिक मान्यता

भारत के संविधान ने मूल रूप से शिक्षा से संबंधित मामले डालकर राज्यों पर शिक्षा प्रदान करने का कर्तव्य रखा है। लेकिन यह अब सूची प्प् का हिस्सा है जिसमें संघ और राज्यों को समवर्ती विधायी शक्तियां दी गई हैं। चिकित्सा और अन्य व्यवसायों के साथ कानूनी पेशा भी सूची III (प्रवेश 26) के अंतर्गत आता है। हालांकि, यूनियन को उच्च शिक्षा या अनुसंधान और वैज्ञानिक और तकनीकी संस्थानों के संस्थानों में राष्ट्रीय स्तर के पेशेवर, व्यावसायिक, तकनीकी या तकनीकी प्रशिक्षण और पदोन्नति के बारे में अनन्य शक्ति, अन्य बातों के अलावा, समन्वय और निर्धारित करने का अधिकार है। विशेष अध्ययन या शोध

कानूनी पेशे के संबंध में संविधान के अधिकार के लिए संसद ने अधिवक्ता अधिनियम, 1961 अधिनियमित किया, जिसमें वकीलों के रूप में कानूनी चिकित्सकों की व्यवस्था में एकरूपता लाई गई और भारत में बार परिषद और राज्य बार परिषदों की स्थापना के लिए प्रदान की गई। राज्य। भारत की बार कौंसिल में पूर्व–शर्त के रूप में न्यूनतम शैक्षणिक मानक तय करने की शक्ति है
कानून में पढ़ाई शुरू करने के लिए बार काउंसिल ऑफ इंडिया को भी ष्उन विश्वविद्यालयों को मान्यता देने के लिए सशक्त किया जाता है, जिनकी डिग्री कानून में एक वकील के रूप में नामांकन के लिए योग्यता के रूप में और विश्वविद्यालयों की यात्रा और उस प्रयोजन के लिए योग्यता के रूप में लिया जाएगाष्। इस अधिनियम ने बार कौंसिल की शक्तियों पर कानूनी शिक्षा के मानकों को निर्धारित करने और अधिवक्ताओं के रूप में व्यक्तियों के नामांकन के लिए कानून की डिग्री की मान्यता देने का प्रावधान किया है।

वैश्वीकरण के कारण कानूनी पेशे का परिदृश्य बदल गया

लगभग पचास साल पहले यह अवधारणा थी कि कानून विद्यालयों के लिए स्नातक तैयार करने का मतलब होता है जो ज्यादातर बार आते थे, जबकि कुछ कानून शिक्षण में जा सकते थे। अधिवक्ता अधिनियम, 1961 को उपरोक्त के अनुसार, श्अदालतों मेंश पेशेवर अभ्यास में प्रवेश के लिए न्यूनतम मानदंडों को निर्धारित करने के लिए कहा हुआ वस्तु प्राप्त करने के लिए अधिनियमित किया गया था। लेकिन इस अवधि के दौरान और विशेष रूप से वर्ष 1991 में उदारीकरण के बाद, कानूनी शिक्षा की पूरी अवधारणा बदल गई है।

आज, कानूनी शिक्षा को केवल बार की आवश्यकताओं और व्यापार, वाणिज्य और उद्योग की नई जरूरतों को पूरा करना है, लेकिन वैश्वीकरण की आवश्यकताओं को भी पूरा करना है। अंतरराष्ट्रीय आयाम वाले नए विषय कानूनी शिक्षा में आ गए हैं। बढ़ती अर्थव्यवस्थाओं में बहु–अरब डॉलर के निवेश के साथ, व्यापार गतिविधियों में कई गुना बढ़ गया है। इसके बदले में सामान्य तौर पर वकीलों के लिए अधिक अवसर पैदा हुए हैं।

बदलते परिदृश्य में, अतिरिक्त भूमिकाओं पर विचार किया गया है कि नीति नियोजक, व्यापार सलाहकार, रुचि समूहों के बीच वार्ताकार, अभिव्यक्ति के विशेषज्ञ और विचारों के संचार, मध्यस्थ, लॉबीस्ट, कानून सुधारक आदि। ये भूमिका विशेष ज्ञान और कौशल प्रदान करते हैं, जो आम तौर पर उपलब्ध नहीं हैं मौजूदा पेशे में 1 9 80 में शीत युद्ध के अंत से पहले और बाजार उन्मुख वैश्वीकरण के आने से पहले कानूनी चुनौतियों का पांच साल का एकीकृत कार्यक्रम इन चुनौतियों का मामूली प्रतिक्रिया है। कल के वकील दूसरे व्यवसायों के साथ एक समान स्तर पर बातचीत करने और वैज्ञानिक और तकनीकी ज्ञान का उपभोग करने में सक्षम होना चाहिए। दूसरे शब्दों में, सामाजिक विज्ञान विषयों के साथ, भविष्य के लिए कानून के पाठ्यक्रम को पूरी तरह से भौतिक और प्राकृतिक विज्ञान विषयों के एकीकृत ज्ञान प्रदान करना चाहिए, जिस पर अब कानूनी नीतियां तैयार की जा रही हैं।

समाज में एक वकील की छवि और साथ ही पेशे की स्वयं की छवि यह नहीं है कि इसके बाद के संस्करण में निर्धारित विविध भूमिकाएं दी जानी चाहिए। यह यहां है कि कानूनी शिक्षा को इसके अलावा मूल्य में भी जोड़ना होगा। न्याय कानून पाठ्यक्रम के लिए केंद्रीय बनना चाहिए और समुदाय–आधारित शिक्षा को एक वकील बनाने में वांछित मूल्य उन्मुखीकरण देना होगा। हाल ही में एक उदाहरण देने के लिए, कोई यह कह सकता है कि युवा कानून के छात्र जो गुजरात के प्रभावित जिलों में पीड़ितों को कानूनी सेवाएं देने की मांग करते थे, उन्हें छापों और अनुभवों के साथ वापस आना पड़ा, जो उनके व्यावसायिक जीवन को प्रभावित नहीं करेंगे और न ही उनके दृष्टिकोण को आकार देंगे। न्याय। यहां पर विचार किया जा रहा है कि पेशेवर शिक्षा को समाज सेवा की भावना से प्रेरित किया जाना चाहिए और न्याय के लिए रोने वाले वास्तविक जीवन के अनुभवों को कानून का अध्ययन करते हुए उन्हें बेनकाब करने के अलावा इसे आगे बढ़ाने का कोई बेहतर तरीका नहीं है। कानूनी शिक्षा की राजनीति और कानूनी अभ्यास के अर्थशास्त्र को शैक्षिक जांच के अधीन होना चाहिए, अगर पेशे को खुद चिकित्सकों से बचाया जाना चाहिए!

लक्ष्य की पूर्ति नहीं

यह देखा गया है कि पिछले पंद्रह वर्षों में, जब से एनएलएसयू स्थापित हो चुके हैं, एनएलएसयू और कुछ अन्य कानून विद्यालयों में से योग्य छात्रों ने कानून फर्मों और कॉरपोरेट घरानों में बारह और अधीनस्थ न्यायपालिका के लिए चुनाव करने वालों की तुलना में अधिक संख्या में शामिल हो रहे हैं। । एनएलएसयू की स्थापना की वस्तुओं में से एक को बार की गुणवत्ता और अधीनस्थ न्यायपालिका में सुधार करना था। हालांकि यह विवाद नहीं लगाया जा सकता है कि वैश्वीकरण की चुनौतियों का सामना करने के लिए अग्रणी कानून फर्मों और कॉरपोरेट घरों के लिए इस तरह के शानदार विद्यार्थी आवश्यक हैं, हमें यह नहीं भूलना चाहिए कि जब तक इन छात्रों को बार, अधीनस्थ न्यायपालिका और शिक्षा के लिए आकर्षित नहीं किया जाता है, कानूनी सेवाओं की गुणवत्ता सुधरने के लिये।

घरेलू जरूरतों और वैश्वीकरण की आवश्यकताएंः एक वैश्विक दृष्टि के साथ एक नया 'नियामक' की आवश्यकता है

इसकी रिपोर्ट में लॉ कमीशन ने बताया है कि क्रांतिकारी परिवर्तन हैं जो सूचना, संचार, परिवहन प्रौद्योगिकी, बौद्धिक संपदा, कॉर्पोरेट कानून, साइबर कानून, मानव अधिकार, एडीआर, अंतर्राष्ट्रीय व्यापार, तुलनात्मक में विकास के कारण कानूनी शिक्षा में आए हैं। कराधान कानून, अंतरिक्ष कानून, पर्यावरणीय कानून आदि। और 'कानून, कानूनी संस्थाओं और कानून प्रथा की प्रकृति एक आदर्श बदलाव के बीच में' है। वैश्वीकरण का अर्थ केवल ऊपर वर्णित पाठ्यक्रम में नए विषयों को जोड़ना या शामिल करना शामिल नहीं है। हालांकि, इसमें कोई संदेह नहीं है, एक महत्वपूर्ण मामला है, व्यापक मुद्दा वैश्वीकरण की चुनौतियों का सामना करने के लिए कानूनी पेशे तैयार करना है। ष्कानूनी सेवाओं के संदर्भ में, परिवर्तनों ने एक मानक प्रथा विकसित की है जो वकील महत्वपूर्ण व्यवसायिक ग्राहकों की जरूरतों से निपटने में उपयोग करते हैं जिनके संचालन में अंतरराष्ट्रीय दायरे हैं क्या एक वकील हांगकांग, फ्रैंकफर्ट, लंदन, ब्यूनस आयर्स, या न्यूयॉर्क में बहुराष्ट्रीय ग्राहकों के लिए काम कर रहा है, प्रथाओं का सेट काफी हद तक समान है यह एक कुशल वकील को दुनिया भर में सहजता से स्थानांतरित करने में सक्षम बनाता है पिछले पचास वर्षों में परिवर्तित परिदृश्य के प्रकाश में, 1 99 1 के बाद वैश्वीकरण की जरूरत है, और मौजूदा प्रणाली में अंतराल और कमियां जो उपर्युक्त के रूप में उल्लिखित हैं । यह स्पष्ट है कि बीसीआई के पास अधिवक्ताओं अधिनियम, 1 9 61 के तहत शक्ति नहीं है और न ही घरेलू और अंतरराष्ट्रीय स्तर पर नई चुनौतियों का सामना करने के लिए विशेषज्ञता है। इसलिए, कानूनी शिक्षा के सभी पहलुओं से निपटने के लिए और वर्तमान और भविष्य की जरूरतों को पूरा करने के लिए, सामाजिक और अंतर्राष्ट्रीय लक्ष्यों के दोनों दृष्टिकोणों के साथ एक नए नियामक तंत्र का गठन करना आवश्यक है। कानूनी तंत्र के सभी पहलुओं से निपटने के लिए इस तरह के तंत्र को शक्तियों के साथ निहित होना होगा।

वैश्वीकरण के युग में, विचारों के उत्पादन ने एक महत्वपूर्ण भूमिका निभाई है – दोनों सामाजिक न्याय के लिए और आर्थिक और तकनीकी उन्नति के लिए। कानून के क्षेत्र में यह सच है चल रही उदारीकरण प्रक्रिया जनसंख्या के सभी वर्गों के विकास को सुनिश्चित करने के लिए आवश्यक कानूनी सुधारों की प्रकृति से संबंधित जटिल मुद्दों को जन्म देती है। अन्य कानूनी परंपराओं और संस्कृतियों को समझने की आवश्यकता के लिए भी ध्यान की आवश्यकता होती है अगर भारत को वैश्विक शक्ति बनने का अपना वादा पूरा करना है तो यह महत्वपूर्ण है कि हम ज्ञान के उत्पादन और प्रसार में निवेश करें और साथ ही इसमें शामिल सभी मुद्दों और सवालों के समाधान के लिए पर्याप्त शोध के लिए प्रावधान करें।

निष्कर्ष

कानूनी शिक्षा और पेशे को ष्अदृश्य आदमीष् की देखभाल करना है। 21 वीं सदी में समाज की जरूरतों को पूरा करने और उनकी सेवा करने के लिए वकील को सामाजिक रूप से अधिक प्रासंगिक और तकनीकी रूप से बहुत ही सुदृढ़ होना चाहिए।

हाल ही में, भारत के सर्वोच्च न्यायालय ने अखिल भारतीय न्यायाधीश एसोसिएशन बनाम यूनियन ऑफ इंडिया में देखा है कि राज्यों में भर्ती नियमों को कानून विद्यालयों के कच्चे स्नातकों को अधीनस्थ न्यायपालिका में प्रवेश करने की अनुमति देने के लिए संशोधित किया जाना चाहिए। जाहिर है, इस के लिए छात्रों को जो कानून स्कूलों से गुजारें से उच्च दक्षता की आवश्यकता होती है। वर्तमान आयु में आवश्यक सभी मानकों को सभी कानून स्कूलों के मानकों में सुधार लाने का हमारा उद्देश्य होना चाहिए। वास्तव में, कई कानून विद्यालयों में कानूनी शिक्षा की गुणवत्ता की एक नई जांच के लिए एक तत्काल आवश्यकता है और यदि यह पता चला है कि मानदंड खराब हैं, तो ऐसे कानून स्कूलों को बंद करने की आवश्यकता हो सकती है।

कानून विद्यालयों में दी गई कानूनी शिक्षा परंपरागत से कानूनी पेशे की समकालीन आवश्यकताओं तक सुव्यवस्थित होनी चाहिए। कानूनी शिक्षा की गुणवत्ता कानूनी पेशे की प्रतिष्ठा पर एक सीधा प्रभाव है इसलिए, हमें डिफॉल्ट के क्षेत्रों की पहचान करना चाहिए और क्षति की मरम्मत के लिए सुधारात्मक कार्य शुरू करना चाहिए। जब तक समय के बिना व्यावहारिक कदम

उठाए जाते हैं, कानूनी शिक्षा प्रभावित होती है और इसके परिणामस्वरूप देश के न्याय वितरण प्रणाली पतला खड़े होंगे कानूनी शिक्षा के बिगड़ती मानक को सुधारने के लिए बार, बैंच और कानून शिक्षकों के एक ठोस कार्रवाई के लिए कहा जाता है। हमें अपने आप को बेहतर ढंग से तैयार करना होगा ताकि हम वर्तमान विकास के साथ ही न चलें बल्कि भविष्य की मांगों को भी पूरा कर सकें।

न्यायमूर्ति ए। एम अहमदी ने कहा था, '... । हमने इस देश की कानूनी शिक्षा प्रणाली में दरारों की मरम्मत के लिए काफी इंतजार किया है और यह उच्च समय है कि हम हाथ–कुर्सियों से बढ़ते हैं और सही काम में मरम्मत कार्य शुरू करते हैं '।

भारत एक सामान्य कानून देश होने के कारण कानूनी व्यवस्था रखने का एक फायदा है जो दुनिया के अन्य देशों के समान है। नतीजतन, अन्य देशों के फर्म प्रतिभाओं का इस्तेमाल करने के लिए शीर्ष कानून स्कूलों में जाते हैं। कानूनी शिक्षा एक निवेश है, जो बुद्धिमानी से बनाया गया है, वह देश के लिए सबसे अधिक लाभकारी परिणाम पैदा करेगी और विकास की गति को गति देगा। कानूनी शिक्षा अनिवार्य रूप से एक बहु–अनुशासित, बहुउद्देश्यीय शिक्षा है जो कानूनी प्रणाली को मजबूत करने के लिए मानव संसाधन और आदर्शवाद को विकसित कर सकती है ... .एक वकील, इस तरह के शिक्षा का एक उत्पाद राष्ट्रीय विकास और सामाजिक परिवर्तन में योगदान करने में सक्षम होगा।

Catalyzing a Pathway to Women Empowerment

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ABSTRACT

In the present context, importance of gender mainstreaming cannot be overemphasised. Gender mainstreaming is a continuous, dynamic process of integrating a gender perspective into each stage of the development process, with a view to enabling equality and equity between men and women. This research paper is a effort to identify those loopholes or limitations which are observing the realization of empowerment of women

Key words : *Catalyzing, Empowerment, Domains, Education*

Introduction

It is well recognised that societies which discriminate by gender tend to experience less rapid economic growth and poverty reduction than societies which treat men and women more equally. Ending of gender based inequities, discrimination and all forms of violence against girls and women has been accorded primary priority for catalysing women empowerment for an equalitarian society. This is fundamental to enabling women to participate fully in development processes and in fulfilling their economic, social, civil and political rights, for more inclusive growth.

Objectives of the Study

1. To understand -What is gender equality & Domains of gender equality.
2. To understand -Gender Equality & empowerment.
3. To assess the status Women Empowerment in India.
4. To analyze the Factors influencing the Empowerment of Women.
5. To offer useful Suggestions
6. Conclusion

What is gender equality

Like race and ethnicity, gender is a social construct. Gender defines and differentiates the roles, rights, responsibilities, and obligations of women and men. The innate biological differences between females and males form the basis of social norms that define appropriate behaviors for women and men and determine the differential social, economic, and political power between the sexes.

Although the specific nature and degree of these differing norms vary to society to society and across time, Reflecting into the " Vedas Purana" of Indian culture, women is being worshiped such as LAXMI MAA, goddess of wealth; SARSWATI MAA, for wisdom; DURGA MAA for power. At the beginning of the twenty-first century they typically favoured male giving them more access than female to the capabilities, resources, and opportunities that are important for the enjoyment of social, economic, and political power and well-being.

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The question now is: how can we catalyze transformative change that can empower women and girls effectively and sustainably? Fundamental to creating this change is empowering women in three key domains:

Gender Equality & empowerment

The concept of empowerment is related to gender equality but distinct from it. The core of empowerment lies in the ability of a woman to control her own destiny (Malhotra, Schuler, and Boender 2002; Kabeer 1999). This implies that to be empowered women must not only have equal capabilities (such as education and health) and equal access to resources and opportunities (such as land and employment), but they must also have the agency to use those rights, capabilities, resources, and opportunities to make strategic choices and decisions (such as is provided through leadership opportunities and participation in political institutions). And for them to exercise agency, they must live without the fear of coercion and violence. Because of the historical legacy of disadvantage women have faced, they are still all too often referred to as a vulnerable minority. In most countries, however, women are a majority, with the potential to catalyze enormous power and progress. While it is identified that the constraints that women face, it also emphasizes their resilience and the contributions they make to their families, communities, and economies despite those constraints—contributions that could be multiplied if those constraints were removed.

Status of Women Empowerment

Today we have noticed different Acts and Schemes of the central Government as well as state Government to empower the women of India. But in India women are discriminated and marginalized at every level of the society whether it is social participation, political participation, economic participation, access to education, and also reproductive healthcare. Women are found to be economically very poor all over the India. A few women are engaged in services and other activities. So, they need economic power to stand on their own legs on per with men. Other hand, it has been observed that women are found to be less literate than men. It has also noticed that some of women are too weak to work. They consume less food but work more. Therefore, from the health point of view, women folk who are to be weaker are to be made stronger. Another problem is that workplace harassment of women. There are so many cases of rape, kidnapping of girl, dowry harassment, and so on. For these reasons, they require empowerment of all kinds in order to protect themselves and to secure their purity and dignity.

Where does India stand? In India Gender gap stands at 68 per cent across the four pillars that WEF measures — economy, education, health and political representation.

India is ranked 87 out of 144, improving from its 108 position in 2015. It has closed its gender gap by 2% in a year: its gap now stands at 68% across the four pillars of economy, education, health and political representation.

In the economic sphere, much work remains to be done. Overall, it ranks 136 in this pillar out of 144 countries, coming in at 135th for labour force participation and 137 for estimated earned income.

India is also among a group of countries that have made key investments in women's education but have generally not removed barriers to women's participation in the workforce and are thus not seeing returns on their investments in terms of development of one half of their nation's human capital..

Population and Vital Statistics

1. As per Census 2011, the final population of India is 1210.57 million (excluding the estimated population of 3 sub-divisions of Senapati district of Manipur) comprising 587.45 million (48.5%) females and 623.12 million (51.5%) males.
2. The sex ratio (number of females per 1000 males) at the national level is 943. Rural sex ratio is 949 and the urban is 929. Among the States, Kerala at 1084 has the highest sex ratio followed by Puducherry at 1037. Daman and Diu has the lowest sex ratio of 618 in the country.

Participation in Economy-

As per Census 2011, the workforce participation rate for females at the national level stands at 25.51% compared with 53.26% for males. In the rural sector, females have a workforce participation rate of 30.02% compared with 53.03% for males. In the urban sector, it is 15.44% for females and 53.76% for males.

Health and Well-Being-

The female Infant Mortality Rate (IMR) was 46 compared with the male IMR of 43 and the overall IMR of 44 in 2011. Among the major States, the highest overall IMR of 59 was observed in Madhya Pradesh and the lowest of 12 in Kerala in 2011.

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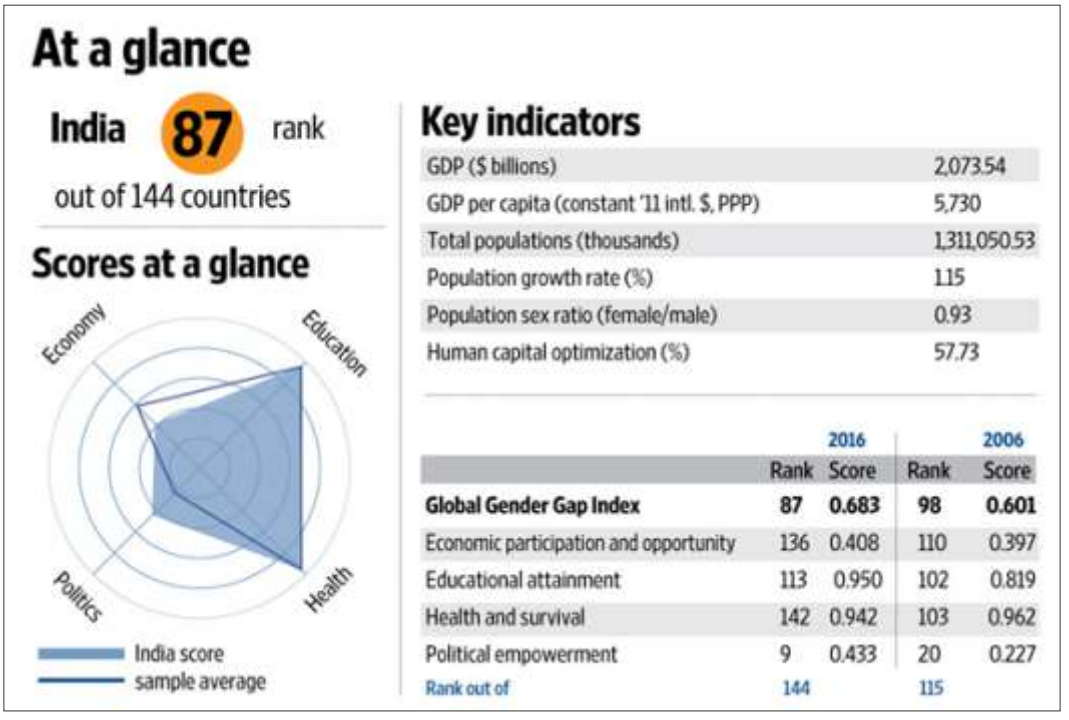
Literacy and Education

As per Census 2011, 73.0% of the population is literate comprising 64.6% females and 80.9% males. The incremental increase over Census 2001 of 10.5% for females is higher than 5.0% for males.

WEF- 2016 The report shows that there remain huge differences in the opportunities for women in the best and worst performing countries around the world.

Table-1- world Economic Forum's (WEF) Global Gender Gap Report 2016,



At a glance

India 87 rank

out of 144 countries

Scores at a glance

Key indicators

GDP ($ billions)	2,073.54
GDP per capita (constant '11 intl. $, PPP)	5,730
Total populations (thousands)	1,311,050.53
Population growth rate (%)	1.15
Population sex ratio (female/male)	0.93
Human capital optimization (%)	57.73

	2016		2006	
	Rank	Score	Rank	Score
Global Gender Gap Index	**87**	**0.683**	**98**	**0.601**
Economic participation and opportunity	136	0.408	110	0.397
Educational attainment	113	0.950	102	0.819
Health and survival	142	0.942	103	0.962
Political empowerment	9	0.433	20	0.227
Rank out of	144		115	

Challenges- Hindrances in the Path of Women Empowerment.

There are several constraints that check the process of women empowerment in India. Social norms and family structure in developing countries like India, manifests and perpetuate the subordinate status of women.

One of the norms is the continuing preference for a son over the birth of a girl child which in present in

almost all societies and communities. The society is more biased in favor of male child in respect of education, nutrition and other opportunities. The root cause of this type of attitude lies in the belief that male child inherits the clan in India with an exception of Meghalaya. Women often internalize the traditional concept of their role as natural thus inflicting an injustice upon them.

Poverty is the reality of life for the vast majority women in India. It is the another factor that poses challenge in realizing women's empowerment. There are several challenges that are plaguing the issues of women's right in India. Targeting these issues will directly benefit the empowerment of women in India Education: While the country has grown from leaps and bounds since independence where education is concerned. the gap between women and men is severe. While 82.14% of adult men are educated, only 65.46% of adult women are known to be literate in India.

Health and Safety: The health and safety concerns of women are paramount for the wellbeing of a country and is an important factor in gauging the empowerment of women in a country. However there are alarming concerns where maternal healthcare is concerned.

Professional Inequality: This inequality is practiced in employment sand promotions. Women face countless handicaps in male customized and dominated environs in Government Offices and Private enterprises.

Morality and Inequality: Due to gender bias in health and nutrition there is unusually high morality rate in women reducing their population further especially in Asia, Africa and china.

Household Inequality: Household relations show gender bias in infinitesimally small but significant manners all across the globe, more so, in India e.g. sharing burden of housework, childcare and menial works by so called division of work.

"Behind this decline are a number of factors. One is salary, with women around the world on average earning just over half of what men earn despite, on average, working longer hours taking paid and unpaid work into account," WEF said.

Another challenge is stagnant labour force participation, with the global average for women at 54 per cent compared with 81 per cent for men. Moreover, the number of women in senior positions also remains stubbornly low, with only four countries in the world having equal numbers of male and female legislators, senior officials and managers.

Recommendations:

1. The first and foremost priority should be given to the education of women, which is the grassroots problem. Hence, education for women has to be paid special attention.
2. Awareness programmes need to be organized for creating awareness among women especially belonging to weaker sections about their rights.
3. Women should be allowed to work and should be provided enough safety and support to work. They should be provided with proper wages and work at par with men so that their status can be elevated in the society.
4. Strict implementation of Programmes and Acts should be there to curb the mal-practices prevalent in the society.

Conclusion

Thus, the attainment in the field of income / employment and in educational front, the scenario of women empowerment seems to be comparatively poor. The need of the hour is to identify those loopholes or limitations which are observing the realization of empowerment of women and this initiative must be started from the women folk itself as well as more importantly policy initiative taken by the state and society. But the Development Goal on gender equality and women's empowerment can be realised in India only when all will take the oath that we want an egalitarian society where everybody whether men or women get the equal opportunity to express and uplift one's well being and well being of the society as whole. Women represent half the world's population and gender inequality exists in

every nation on the planet. Until women are given the same opportunities that men are, entire societies will be destined to perform below their true potentials. The greatest need of the hour is change of social attitude to women. The Empowerment of Women has become one of the most important concerns of 21st century not only at national level but also at the international level. Government initiatives alone would not be sufficient to achieve this goal. Society must take initiative to create a climate in which there is no gender discrimination and women have full opportunities of self decision making and participating in social, political and economic life of the country with a sense of equality.

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Role of Women in Management of Water Resources: An Analysis

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ABSTRACT

Women and water are inseparable. In most developing countries, water is "women's business." Women and girls fetch, carry, store, and manage household water. They have intimate knowledge of water sources, water quality, and daily household water requirements. Hence, women have a major stake in water matters and must be part of any decision about water issues. The first part of the paper reviews the concept of gender. The second part of the paper deals the various factors affecting the rights of women relating to water. The third part of the paper is dwelled on the protection of women at International forum relating to water. Further this paper investigates whether rights of women relating to water are protected.

Key Words: *Fresh Water, Women Issues, Protection of Rights of Women, Gender*

Introduction

Water is the most vital natural resource. The bonds between people and water are primal. These have a long history that spans both ancient and contemporary cultures. Bonds with water reflect the cultural values and social differences embedded in societies, including gender differences. There are significant gender differences in use, access and management of water. It helps to explain why some cultures, societies or communities are more successful than others to manage water. But access to potable water is becoming increasingly difficult when availability of water is limited. When water is scarce, polluted, or unaffordable, women suffer most acutely. As economic providers, caregivers and household managers, women are responsible for ensuring that their families have water for daily living.

In many cases, gender discrimination can limit the women's and men's chances to access vital water resources, by placing restriction in their autonomy. Attitudes such as, "Women should-or should not-do this and that" or "Men are supposed to do this-but not that," may prevent either women or men action regarding water use, access or management. Addressing gender and water together acknowledges these imbalances and seeks to ensure that the contribution of both men and women are recognized. To manage water effectively and sustainably, it is important to understand the different roles of men and women and to target action appropriately.

The Concept of Gender

Gender refers to the different roles, rights, and responsibilities of men and women and the relations between them. Gender does not simply refer to women or men, but to the way their qualities, behaviours, and identities are determined through

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the process of socialization. Gender is generally associated with unequal power and access to choices and resources. The different positions of women and men are influenced by historical, social, religious, economic and cultural realities. These relations and responsibilities can and do change over time. The use of the term gender also recognizes the intersection of women's experience of discrimination and violation of human rights not only on the basis of their gender but also from other power relations that result from race, ethnicity, caste, class, age, ability/disability, religion, and a multiplicity of other factors.[1]

Women and men are defined in different ways in different societies; the relations they share constitute what is known as gender relations. However, there is no known society where men and women have equal power relations. Gender relations constitute and are constructed by a range of institutions such as the family, legal systems, or the market. Gender relations are hierarchical relations of power between women and men and always tend to disadvantage women. These hierarchies are often accepted as 'natural' but are socially determined relations, culturally biased, and subject to change over time. Gender relations are dynamic, characterized by both conflict and co-operation, and mediated by other points of stratification, including caste, class, age and marital status or position in the family. Sex differences such as the ability to give birth are biologically determined and are different from socially prescribed gender roles.[2]

Recognizing this, a gender analysis refers to a systematic way of looking at the different impacts of development on women and men. Gender analysis requires separating data by sex and understanding how labour is divided and valued. Gender analysis must be done at all stages of the development process; one must always ask how a particular activity, decision, or plan will affect women differently from men. Given that women tend to be the most vulnerable and the most marginalized, if the analysis is about poverty eradication, for example, increasing the empowerment of the poor also would increase the empowerment of women.

Water affect Women

In the changing world, gender issue is a very sensitive question because it is directly related to power and dominance. The term gender points out the relation between men and women as a social construction through which all human beings organize their work, rights, responsibilities and relationships – in short their culture and their civilization. The gender issue affects not only the inner person in his or her self-representation, but also his or her outer expression in the exercise of the power allowed by and within the group. According to UNESCO Programme for Gender Equality, 'Gender equality means: giving women and men, girls and boys, the same opportunities to participate fully in the development of their societies and achieve self-fulfillment. Gender equality is an essential component of human rights, and it is a key of development.'

The right and access to clean water is intrinsically linked to gender equality. Women and girls are responsible for collecting water for cooking, cleaning, drinking, health and hygiene, and growing food. However, the decisions made about water and sanitation services continue to neglect gendered needs and concerns largely because women are regularly left out those policy-making spheres. Women and girls spend an estimated 152–200 million hours a day collecting water, yet they are frequently shut out of decisions relating to water. In Asia, women and children walk an average of 6 kilometers for water. Women often have to travel long distances to collect water for their communities carrying 20 litres of water per day over 6 km for 4-5 or more hours. Girls are often kept out to school-perpetuating a cycle of poverty and illiteracy and increasing the gender gap. Additionally, carrying water over long distances through isolated areas puts women and girls at risk of sexual violence and physical attacks. Surveys from 45 developing countries show that women and children bear the primary responsibility for water collection in most households (76%).

[1]This section is adapted from Resource Guide: Gender in Water Management. Version 2.3 March 2009. UNDP and GWA. The Gender and Water Alliance, www.gwa.org, is the leading coalition of gender and water scholars and practitioners, although there are other member groups such as the Gender and Water Network, and other regional networks in Africa, Europe, Central Asia and Asia. However the GWA has worked most closely with institutions such as the GEF and the UNDP in developing training materials.
[2]Ibid

In some places, women can spend up to 5 hours a day collecting fuel for energy and water, and up to 4 hours preparing food. The resulting time poverty can deprive them of an income-generating job, the ability to care for family members, or time to attend school. The economic cost of women's unpaid work as water collectors is enormous, with the figure for India alone equivalent to a national loss of income of about $160 million.

Women are the primary promoters of home and community-based sanitation. They influence decisions in the home, manage household budgets to accommodate sanitation needs and educate the community on the value of proper sanitation and yet they are inadequately represented in high-level planning and decision making about sanitation. Unsafe drinking water and sanitation facilities undermine the rights to life, health, education and adequate standard of living people, and given women and girls disproportionate burden in the household, the impact on women and girls is increased. Women care for the sick, which often have illnesses that could be prevented with access to clean water. Even when women have knowledge of what's necessary to maintain a hygienic environment, they lack the means and access to make it happen.

Water is a critical resource for meeting daily household needs and is a key input for agriculture, livestock production and various types of small businesses. Violent conflict can have adverse impacts on both water quality and availability if accessibility is limited by active fighting or the presence of landmines, or water sources and infrastructure are damaged. These impacts are particularly acute in cases where violence results in increased population density and unsustainable pressure on water resources, as seen in Yemen, Sudan and the Gaza Strip in Palestine, for example. According to a UNEP assessment conducted in the Gaza Strip in 2009, the protracted conflict has led to dramatic over-consumption of water, causing irreversible damage to the underlying aquifer and increasing the threat of scarcity in an already arid region. In such contexts, women and men are often forced to adopt new water use and management strategies. In most rural communities, water use is typically divided by gender. Responsibility for supplying water for domestic use and for the irrigation of subsistence crops generally falls to women and girls, while men tend to use water primarily for commercial and incomegeneration purposes, including for direct sale as water vendors or for livestock. These gendered roles and uses create expectations for women and men that influence cultural norms and can serve to exacerbate gender inequities, creating barriers for social change. Likewise, women farmers and cultivators need to be involved in irrigation decision making, especially with the increasing out-migration of males and the resulting feminization of agriculture. Women are often left out of key irrigation management decisions since they are not landowners—a prerequisite for membership of irrigation water user groups.

Socio-economic status is also a determining factor for access to water, both in peace building and development contexts. For instance, women and girls from poorer marginalized communities, who often do not have secure land rights, are generally more dependent upon open water sources. In turn, reliance on open sources can lead to less secure water access, as well as higher exposure to disease and increased rates of competition. Within these contexts, such as in the case of Uganda, research shows that women can face direct competition with men for communal water resources during droughts. This may be further exacerbated in areas where freshwater resources are in decline due to environmental degradation and poor water resource management.

Conflict can also undermine equitable water distribution. Damage to or lack of investment in water infrastructure resulting from conflict can significantly increase the cost of potable water, which in turn can challenge livelihoods and heighten the risk of disease by requiring reliance on

[3]Ibid
[4]Gender Equality and Equity A Summary Review of UNESCO's accomplishments since the Fourth World Conference on Women, Beijing 1995.
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[6]World Health Organization and United Nations Children's Fund (WHO & UNICEF) Joint Monitoring Programme (JMP) for Water Supply and Sanitation. 2010. Progress on Sanitation and Drinking-Water, 2010 Update. Geneva: WHO & UNICEF; G. Hutton and L. Haller. 2004. Evaluation of the Costs and Benefits of Water and Sanitation Improvements at the Global Level. Geneva: WHO; Water.org. Water Facts: Women. http://water.org/water-crisis/water-facts/women/
[7]Water for the Ages. 10 Facts on Women and Water. http://waterfortheages.org/2009/12/02/10-facts-on-women-and-water/
[8]Ibid
[9]Network "GWANET – Gender and Water in Central Asia." Facts about Women and Water. http://www.gender.cawater-info.net/what_is/facts_e.htm
[10]WHO/UNICEF (JMP). 2010. Progress on Sanitation and Drinking-Water
[11]Ibid

sub-standard sanitation and water facilities. In these contexts, including women in the design and implementation of new water infrastructure can yield improved results in effectiveness and use. Research shows that in cases where women and men are equally consulted in terms of location and placement of water and sanitation infrastructure, the installations are more frequented, better maintained and technically appropriate.

Climate change and biodiversity loss have caused changes in the water resources with increased droughts and floods, reduced water access and quality, and increased the threat of vectorborne, foodborne and water diseases- further exacerbating women's burden. Climate change is bringing new weather patterns, affecting the distribution and quality of rainfall. In many countries and regions, women rely on rainfall to provide drinking water. Further women are responsible for household food production across the world, often relying on rainfed agriculture to feed their families. Therefore, changes in water resources patterns would force these women to adapt and mitigate food production and water management.

The very distinction between water for household use and water for irrigation builds upon and further strengthens the categorical thinking typical of methodological individualism, with the discursive construction of women's water needs as confined to the "private, domestic" sphere, and those of men occurring in the "public, productive" sphere. The tendency to clearly delineate separate women's and men's water domains obstructs rather than helps a good understanding of the many connections between men and women and between the varied uses and users of water. The framing of water policy needs to be changed and an enabling environment created and sustained purposefully to allow better recognition of the importance of a gender perspective for the water sector. Considering water as an inherent social right of all human beings and understanding water within larger political and economic contexts of production and consumption behind which lie powerful economic and political interests are two important steps in the right direction.

The biased ways in which women are represented in water policies tie in with the ways in which gender roles are molded and perceived in professional water cultures. Both the domestic and the irrigation water professions share a strong, technical engineering heritage, and both have typically attracted higher numbers of men than women among their professional ranks. The health and basic needs approach of the domestic water world tends to cherish a professional culture of "help." Those who need help, those deprived of water, depend upon the goodwill and technical expertise of the benevolent water professional to improve their position. It is not difficult to see how a picture of poor victimized women who need help provides the perfect mirror to strong protectionist men providing this help. In a highly diluted form, as in a watermark on expensive writing paper, the picture of the benevolent male helper can indeed be seen to color today's water policy deliberations and practices. It works as an almost invisible barrier against approaching and recognizing women as active and knowledgeable actors capable of articulating their own water wishes and demands. The professional culture in the irrigation world can likewise be seen to appeal to very gender specific ideals of expertise in which women figure as "the other," lending professionals their virile distinction.

Making the water world more habitable for women requires changes at many different levels and in many different arenas. It requires changing divisions of labor that allocate water responsibilities to women without granting them the associated rights, and it requires changing existing routines of public decision making to allow women to participate. It requires changes in laws, infrastructure, and organizations. It also requires changing the terms of water policy discussions, because reducing the gender gap in control over water is not just a direct struggle over the resource water but is also and importantly a struggle over the ways in which water needs is defined. In both the domestic water and irrigation water sectors, albeit in

[12]WHO. (2003). Bulletin of the World Health Organization. Vol. 81(9), pp. 665-670. World Health Organization: Geneva.
[13]UNEP. (2009). Environmental Assessment of the Gaza Strip following the Escalation of Hostilities in December 2008-January 2009. United Nations Environment Programme: Geneva.
[14]Ireland Progressio. (2013). Women and water week: women and water management in rural Uganda. Available from:http://www.progressio.ie/2013/03/women-and-water-week-women-and-water-management-in-rural-uganda/
[15]F. Sugden, Feminization of Agriculture, Out-Migration and New Gender Roles: An Imperative to Change Conventional Engagements with Women Water Users. Presentation for Asian Development Bank (ADB) and International Water Management Institute (IWMI) workshop, From the Shallows to the Deep: Who is Taking the Lead? Women, Water and Leadership: A Workshop for Asia and the Pacific. Manila. 13–14 February.2014
[16]IFAD. (2007). Gender and water. International Fund for Agricultural Development: Rome.

very different ways, creating legitimate discursive, legal, and organizational spaces for women to articulate and defend their water interests means that deeply embedded cultural and normative associations between water and masculinity need to be challenged. This is necessarily a long and often a difficult process and it may be one that is painful and risky. However, the attempts are not well come at an even higher price: that of human misery, deprivation, and poverty as a result of ineffective, inefficient, and inequitable water management.

Protection for Women relating to Water at International Forum

The recognition of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the World was proclaims as early as 1948 in the Universal Declaration of Human Rights. Although the fifty-eight Member States which formed the Unite Nations at that time very much varies in their ideologies, political systems, religious and cultural background, and patterns of socio-economic development, this Magna Carta for all humanity paved the way for a common set of normative values concerning human will and action.

The first statement of the Right to Water was underlined at the International Conference organized in Mar del Plata, in 1977. It affirmed that: 'All people have the right to have access to drinking water'. Then the Dublin and Rio Conferences in 1992 linked water with a cause and effect process to sustainable development, the conditions of women in developing countries, poverty and human rights. Water as a basic need to life is an ethical issue and thus a priority of development commitments. The importance of women for water and water for women was formally recognized in the Dublin Conference. One of the four principles of efficient and effective water provision incorporated into the Dublin Declaration claimed for the full involvement of women in the planning and implementation of all scheme and initiatives for drinking water and sanitation. In international policy statements and initiatives, a focus on women has been seen as critical to improving the management or gov¬ernance of water within an overall context of poverty alleviation. At the Second World Water Forum in The Hague, 2000 it was recognized that, in addition to being prime users of "domestic water", women used water in their key role in food produc¬tion and that women and children are most vulnerable to water-related disasters. The forum concluded that women's involvement would improve governance. Since women bear the brunt of the burden of poor manage¬ment, they could be empowered through greater and more effective participation.

At the International Conference on Freshwater in Bonn in 2001, the policy statement emphasized the need for a gendered approach involving both men and women, while also suggest¬ing that in order to achieve this, women's roles in water-related areas needed strengthening. Further emphasis on equality including gender equality was given in the statement of the Third World Water Forum in Kyoto in 2003. In the quest for safe, clean water for all, many governments face a crisis of governance and need an integrated water resources man¬agement approach with transparent and participatory approaches that address ecological and human needs. The Ministerial Declaration stated, "In managing water we should ensure good governance with a stronger focus on household and neighbourhood community-based approaches by addressing equity in sharing benefits, with due regard to pro-poor and gender perspectives in water policies. We should further promote the participa¬tion of all stakeholders and ensure transparency and accountability in all actions."

Other international meetings and policy statements, concerned with a broad spectrum of goals from poverty eradication to environmental sustain¬ability, have been concerned with both water and gender equality. The Millennium Development Goals adopted at the Millennium Summit at the United Nations in New York in 2000 included goals to "Promote gender equality and empower women" and to "Ensure environmental sustainability". One of the targets for the goal on ensuring envi¬ronmental sustainability is to "Halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation."

[17]IFAD. (2001). Rural Poverty Report. International Fund for Agricultural Development: Rome.
[18]Ireland Progression. (2013). Women and water week: women and water management in rural Uganda. Available from:http://www.progressio.ie/2013/03/women-and-water-week-women-and-water-management-in-rural-uganda/
[19]NICEF/WHO. (2012). Progress on Drinking Water and Sanitation: 2012 update. United Nations Fund for Children and the World Health Organization: New York and Geneva.
[20]De Albuquerque, C. (2012). On the Right Track: Good practices in realizing the rights to water and sanitation. United Nations Special Rapporteur: New York.

At the World Summit on Sustainable Development in Johannesburg, 2002 commitments were made to promote women's empowerment and eman¬cipation and incorporate gender equality in all the activities specified in Agenda 21, the Millennium Development Goals and the Plan of Implementation of the Summit.

It has become increasingly accepted that women should play an important role in water management. This role could be enhanced through the strategy of gender mainstreaming. Gender mainstreaming is "the process of assessing the implications for women and men of any planned action, including legislation, policies or pro¬grammes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experi¬ences an integral dimension of the design, implementation, monitoring and evaluation of policies and pro¬grammes in all spheres so that women and men benefit equally."11

In water policy, gender mainstreaming is justified for reasons of efficiency and effectiveness; a gender-sensitive approach helps to ensure that supplies are provided and managed more sustainably. It is also argued that gender mainstreaming helps to empower women and so furthers broader goals of equality within society, contributing to poverty alleviation and social inclusion.

Conclusion:

Water is for all life, including for human life. Since water and women are both considered to be the source of life by most civilizations throughout history, so gender and water issues need to be not solved, whereas they are so specifically interlinked. Women, the half of humanity, have a greater responsibility and suffer more than men from water scarcity and pollution, particularly in developing countries.

Every day, many women and girls walk or travel long distances to bring water to their families, often at the expense of education, income generating activities, cultural and political involvement, and rest and recreation. Despite this, women's central role in water resources management is often ignored. Important gender divisions that allocate many water responsibilities to women but vest most powers and rights in men characterize most water worlds. The precise nature and form of these divisions is markedly different between the domestic water sector and irrigation. Wherever domestic water cannot be obtained by simply opening a tap, women's responsibilities involve much time, energy, and money. Women's primary role is seldom accompanied by a parallel high presence in water-related decision making, to the detriment of both efficiency and equity. Gendered ideologies often denominate irrigation as a male domain. Though irrigation water demands are often not neatly gender specific, women seldom actively participate in water-users' organizations. Female farmers often succeed in physically accessing water when they need it, for instance by making use of the rights of their male family members. Their weaker formal rights to water, however, lead to greater reliance on less formal and therefore less protected forms of access. The fact that women, just as men, have clear ideas, wishes, and demands about infrastructural and operational irrigation matters underscores the importance of gender analysis for irrigation planning.

The right to water refers to personal and domestic uses, which include drinking, cooking, hygiene and subsistence food production/agriculture. Water worlds are not just gendered at the level of users. Even where most water policies no longer assume gender neutrality of users, water users typically continue to be conceptualized as atomic individuals. Though such methodological individualism allows seeing men and women as distinct social categories, it does not allow the much-needed understanding of gender as social relations. Such understanding involves approaching women not only as individuals and as a social category whose problems appear to be somehow connected to characteristics of this category but also as parties to sets of social relations involving resources, rights, responsibilities, and meanings with men and other women through which what it is to be a woman, in that time and social place, is defined and experienced.

[21]Report of the United Nations Water Conference, Mar del Plata, 14-25 March, 1977, United Nations, Newyork, 1977.
[22]http://www.wmo.int/pages/prog/hwrp/documents/english/icwedece.html
[23](ACC/ISGWR, 1992),David Molden https://books.google.co.in/books?isbn=113654853X2013 - Law

Women have an important role to play in promoting a new attitude towards the use of water resources, based not only on technical knowledge, but also on cultural and ethical values. This new attitude would contribute to build a more just and peaceful world, provided it includes mutual exchange of gender specific knowledge, skills and sharing of opportunities to improve and manage our future limited freshwater resources.

The gender approach to freshwater related issues means that all decisions regarding the design, localization, management and use of fresh water resources must take into account the needs of both men and women through an equitable approach.

It means that both men and women be allowed to influence, participate in and benefit from development. Women have an important role to play in promoting a new attitude towards the use of water resources, based not only on technical knowledge, but also on cultural and ethical values. This new attitude would contribute to build a more just and peaceful world, provided it includes mutual exchange of gender specific knowledge, skills and sharing of opportunities to improve and manage our future limited freshwater resources.

Suggestion:

1. There is urgent need to do the analysis of water and environmental laws and policies are necessary to assess their benefits and impacts on women and men.
2. Enable women as well as marginalized groups, the right to access environmental goods and services including water rights. The mechanisms should be developed to protect those rights and assure easy access to justice in case of dispute.
3. The participation of women in addressing issues relevant to water resources and its conservation at community and international level.
4. Businesses should engage in public-private partnerships to address issue of water. More actors in the private should commit to investing in social development.
5. Governments should provide affordable, sustainable, safe access to water for everyone and women should not be a deprived factor to it.

[24]http://www.worldwatercouncil.org/forum/the-hague-2000/
[25]For additional information, please see "Making risky environments safer: Women building sustainable and disaster-resilient communities", Women2000 and Beyond (New York, Division for the Advancement of Women, Department of Economic and Social Affairs, United Nations, 2004), available online from: http://www.un.org/womenwatch/daw/public/w2000-natdisasters-e.pdf
[26]International Conference on Freshwater (Bonn, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), GmbH, 2001). A report is available online from: http://www.water-2001.de/ConferenceReport.pdf
[27]The Third World Water Forum, the Final Report (Kyoto, Shiga and Osaka, Japan, Third World Water Forum, World Water Council, 16-23 March 2003), p. 110. Available online from: http://www.world.water-forum3.com/en/finalreport_pdf/FinalReport.pdf
[28]http://www.developmentgoals.org
[29]http://www.johannesburgsummit.org
[30]Terence Jackson, The Management of People across Cultures: Valuing People Differently, Human Resource Management Volume 41, Issue 4, pages 455–475, winter 2002.

Autonomy is the Pathway Towards Women Empowerment

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ABSTRACT

An attempt is made in this paper to analyses the "autonomy" towards women empowerment. For the status of women, autonomy in every field is absolutely necessary such as territorial, social, political, financial and even family autonomy. The status of women are the major political, social, and economic issues among the developing countries of the world today. The insecurity and lack of status of women who are the actual tillers can not have a disastrous effect of the whole system of Governance and it is not wonder that it has been the root of all social, political and economic problems of the present society.

The primary purpose of autonomy in the context of the women empowerment is to ensure all around development of the status of women who are the actual tillers of the soil. Our constitution needs to be more viable to establish good governance, responsible Government and vigilant society to uplift the status of women. The constitution guarantees some articles specially for women but it is not sufficient to meet the challenges. For the development of society full participation of all sections of people including women are absolutely necessary. The empowerment of women has become one of the most important factors in 21st century. Women empowerment is the process of up-liftment in social, political and economic status of women in the society. .

The present study explores to discuss the historical and sociological dimensions of the issues of women empowerment, to know the role of education in women empowerment, need for women empowerment in modern context, measures for ensuing women empowerment and to know about the challenges in achieving women empowerment.

Key words: *Autonomy, empowerment, women, challenges, Education.*

Introduction

This paper analyses the word "autonomy" in India has not been given proper definition as result it is misused by the people of the country. This is continuing from the time immemorial though varied in its nature and dimension in every field of the society. The idealistic approach of the status of women under the constitution under went a remarkable change and some specific provisions relating to women autonomy had been incorporated in the constitution. This has been done by taking into consideration that the prevailing situation of the country which has given practical shape to the women.

A comprehensive study of women autonomy is a major political, economic and social issues among the developing countries of the world today. the insecurity and lake of status of women who are the actual tiller cannot have a disastrous effect on the whole system of administration and it is no wonder

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that it has been the root of all social and political problems of present society.

The independent status of women are not simply an indicator of social, political and economic development of women but it is a matter of their security along with human dignity. A secure status provides them freedom to exercise their right and use the land to the best use of their upliftment. The primary purpose of economic growth in the context of women autonomy is to ensure the improvement in the status of economic, social and political conditions of the majority of women who are the actual tillers of the soil.

The scheme of women autonomy as we understand is one whereby each women will possess independent authority to establish herself by developing her inherent capabilities for their peace and security along with the society in particular and nation in general. If we see the past history of Indian constitution then we find that in two highest law making bodies i.e. parliament and state legislatures, the participation of women are very less. The Government of India Act-1919 had restricted women from becoming legislatures. The first justice party government in Madras presidency reversed this policy by moving a resolution in the council on 1st April,1921. The qualification becoming a member of the council were made gender neutral. The resolution gave a passport to Dr. Muthulakshmi Reddi's nomination to the council in 1926. She become the first women to be a member of any legislature in India. The total scene changed in 1950 when universal suffrage was granted to all adult Indian citizens by our constitution. In last 2014 parliamentary election 63% compared to 67% turnout for men. Out of 29 states, 16 states more women were casting their votes. If we assess the participation of women from 1st general election 1951-52 to last election 2014 then we came to know about the development of women status and empowerment. In first Lok Sabha in 1951-52 had 22 women M.P.s but in last Lok Sabha 2014 are 66 women M.P.s but it must be admitted that its grow is slow.

Significance of the study: women can play an important role in the developmental process of the country but they need to be strengthened to create more wonders in every field. The active participation of women in every sector be recognized but generally women are facing more restrictions in the society. Since independence many attempt have been taken by the government of India foe establishing women status and women empowerment by way of reservation for women in various sectors.

Women empowerment is absolutely necessary in order to protect themselves and to secure their life, purity and dignity. It could not be possible unless women come with and help to self empower themselves. There is need to reduce poverty, promoting women education, prevention and elimination of violence against women. Our first prime minister Pandit Jawaharlal Nehru remarked that "To awaken the people first women must be awaken, once she is on the move, the family moves, the village moves and the nation moves. So it is important t o bring women into the mainstream development of the country.

Objective of the study

The present study has the following objectives:

(a) To study the historical, sociological, economical and political dimensions of the issues relating to the status of women.
(b) To study the hurdles in women empowerment.
(c) To study the role of education in women empowerment.
(d) To find out the challenges of women empowerment.
(e) To study the way of overcoming the barriers of women empowerment.

Research Methodology

This paper is basically descriptive nature and an attempt has been made to establish the status of women in North- east India. The data used in it is purely from secondary sources like research journals, books, website and various Government organizations according to need of the study.

Historical background of the status of women: In ancient times women possess same status as men. In early Vedic period women were considered as "Sakti". So in any idol of God there must be Goddess was considered as his "Sakti", and women enjoyed equal status with men. In Rig Veda and Upanishads

it was mentioned that several names of women sages and seers such as Gargi, Maitrey and Anusaya got the respectful status in the society. Manu said which family is a good family where women members are getting honour. However in later state the status of women begin to deteriorated during Mughals invasion and subsequently by European in venders. Some reformatory movements started by Guru Nanak dev, Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar etc. the Britishers also did something for the establishment of the status of women in the society. Some laws were enacted for safeguarding the status of women such as "Abolition of Sati" Widow remarriage act, 1856, Women right to property act 1937,etc. The real change came after independence, it is also believed that women is the architect of her own destiny. Some feminist activities groups and NGOs were taking initiative for women empowerment. We are so proud that Indian women got voting right much before USA and some other European countries.

Social Empowerment of Women: Social status of women means an equitable empowerment in society because the primary responsibility of the society is to ensure equal human dignity to all members. Now a decline of women ratio in proportion to man have been seen in many countries of the world. Mostly people think that to spend money on daughters would go in vain. Sons are getting preference to daughters in study, health care, nutrition, food allocation etc .Vivekananda said-" To educate your women first and leave them to themselves, they will tell you what reforms are necessary". According to the census of 2011 the low proportion of girls in the states of Haryana, Punjab, Gujarat, Rajasthan & Uttar Pradesh and comparatively higher in the state of North-East. Now we see the change in people's mentality that they are worried about the future of their daughters in the family but in rural areas this type of changes are negligible, even if the changes in people's mind is a good sign towards women empowerment.

A higher literacy rate among women improves the quality of life inside and outside the home. By encouraging and promoting education among the girls child are the true empowerment, which can be gained by the help of proper education because it gives the knowledge of right and wrong, truth and lie etc. Education is considered as main source of development and social change in any society of any country. It is also considered as potential instrument through which the process of modernization and social change come into existence. It exposes women into new thought and ideas which develop the skills of women. It creates ability to control one's life and claiming their rights in all level of society. If we educate a male then one person will be educated but if we educate a women then one family will be educated.

National policy on Education,1986 has been implemented to promote women empowerment in the society and it is considered a landmark step towards women education. The National Literacy Mission is another step for eradication of illiteracy among the age group of 15-35 years implemented in the year1983, the implementation policy towards elementary education, enrolment and retention of girls in schools, colleges, hostels and establishment of women polytechnics, women's college, women university and girl's schools, adult education for women, open schools, open universities and distance education programs were some of the steps taken for the women empowerment.

The Eleventh- Five year plan (2007-2012)was a vision towards every women and girl child for development of their full potential which empowers them and make them fit in their own development. When women participated in decision making which it to be started from family then they would be in a position to take decision for improving the poor socioeconomic status of women in the society. If women participation increased in decision making then they can lead to their development and empowerment, whether that participation enables them to achieve greater interest in factors of production, access to resources and distribution of benefits.

Economic Empowerment of Women: Women were economically more disadvantage then man so their participation are critical for the economic development of the nation. Economic empowerment is a process by which financial autonomy to be given to women by removing the difference between man and women for gaining their rightful share in every spheres of life. The women in rural areas are less capable to generate stable income. The house hold income is too poor for

women welfare because the distribution of income may quite unequal. There is a less interest taken in the area of nutrition, medical care, education and inheritance of property against the women.

All categories of women need economic empowerment because without financial status women cannot be able to exercise their rights and claim their security. Without collective and individual voice women can not establish their financial stability in the society. For this purpose some policy makers and various agencies adopt a participatory group in empowering the women. The active participation of women in vibrant group like self help group (SHG &NHG) can establish them in the field of economic empowerment.

Political Empowerment of Women: Political empowerment is a process that enables women to increase their ability and develop their self confidence. They establish their public presence and participate in decision making in an expanding frame work of awareness. Political equality not only include equal rights to franchise but also the right to exercise the institutional power. Participation of women in Panchayati Raj and Municipality has been recognized a step ahead towards their empowerment.

Political empowerment of women means women's participation in political life. It includes right to vote, right to contest, right to file candidature and their role as a campaigners, members and involvement in decision making process and appointment of women in all Government offices.

The constitution of India not only grants equality to women but also empowers the state to adopt some measures for neutralizing the socio-economic, education and political disadvantages faced by them. The 73rd and 74th amendment act 1992 ensures the reservation of one third of total seats for women in local bodies as Panchayat and municipalities. Reserving seats for women in political institution will provide them an opportunity to put forth their grievances and other personal and social problems in formal manner. The participation of women in electoral process in an indication for political consciousness among the women and their enhancement of status. Now large number of women have started to take part in the political process at grass root level. A number of panchayats have women Sarpanch and other office bearers. Chhavi Rajawat is the first women sarpanch in India with a MBA degree. She declined a well paying corporate job with one of India's biggest telecom firm to become a sarpanch of soda, 60 K.M. from Jaipur, Rajastan. She has been working for the people of the village and successfully implemented many projects as rain water harvesting, preserving and using ,toilet facilities, eradication of poverty, illiteracy etc.

In order to enhance the women empowerment the reservation policy for women is absolutely necessary in parliament and state legislatures but there is a great dilemma. The Women Reservation Bill or the constitution 108th Amendment Bill, 2008 is a lapsed bill in parliament. The proposed bill reserve 33%of seats in Lok Sabha and all state legislative Assemblies for women. This bill 1st introduced in Lok Sabha on September-12,1996.by the United Front Government led by Shri H.D.Deve Gowda. But failed to get the approval. In 1988 NDA government led by Shri Atal Bihari Vajpayee reintroduced the bill in Lok Sabha but unfortunately Rashtriya Janata Dal (RJD) M.P. snatched away it form the speaker and tore into pieces. In 2008 the UPA Government led byDr.Monmohan Singh introduced the bill in Rajya Sabha but one of the UPA partner RJD opposed the bill along with Janata Dal (United) and Samajwadi Party(SP). However the bill stands lapsed after the dissolution of 15th Lok Sabha in 2014.

Some of the Random Thoughts about Women Empowerment:

1. Changes in women's mobility and social interaction.
2. Changes in women's labour patterns.
3. Changes in women's control over decision making.
4. Changes in women's access to and control over resources.
5. Providing free education.
6. Providing minimum needs like Nutrition, Health , Sanitation ,Housing
7. Providing self employment.
8. Taking help from Self Help Group.(SHG).
9. Change the mentality of the society towards women.

10. Encouraging women to develop their inherent capacity by suitable means and make their carrier by choice.

The Challenges behind the Women Empowerment: there is several constraints check the process of women empowerment. Mostly all societies and communities male child will be preferred than female child. The society is given preference to a son than a daughter in respect of education, nutrition, and other opportunities. There are so many challenges for women empowerment but I will focus on some limited area such as education, poverty, health and safety, morality & inequality.

Education: The gender bias in higher education is also prevailing in these areas. So women are less educated, less employed, and less in attaining top leadership in any field.

Poverty: Poverty is considered as greatest threat to this area. As eradication of poverty is a national goal but there is a less implication in these areas so eradication of illiteracy is not achieved. Due to this, women in these areas are exploited.

Health & safety: The health and safety of women are paramount for the wellbeing of the society and is an important factor in women empowerment. The women members in the family are suffering from disease due to lack of nutrition.

Morality and Inequality: The social discrimination has its roots. Boys are considered as assets for the family and girls are liabilities. All the sacrifices are done by the women only because of patriarchal society.

Suggestions: In view of the problems cited above it is realized to adopt appropriate measures for women empowerment. Some of the suggestions are essential for the same.

1. The first and foremost priority should be given to women education. As it is a grass root problem so it needs special attention.
2. Awareness programmes need to be organized for creating awareness among women specially belonging to weaker sections of the society.
3. Government must give emphasis on expansion of training facilities for women. The training programmes should give emphasis on finance generation, management procedure, innovative production and marketing.
4. The financial institution like commercial banks can play an important role by giving financial help to women to encourage them to innovative production and marketing.
5. Women can be given social security by imparting physical education like judo, karate, boxing in school and college level for their self defense.
6. Women should be allowed to work and should be provided enough safety and support to work and equal pay for equal work.
7. The changes in law can be made relating to ownership and inheritance of property.
8. Moral support from the family members is very important to achieve the goal.
9. Networking, media campaign should be done in highlight the issues of women.

Conclusion

The women empowerment has become one of the most important concerns of 21st century. The empowerment of women is fully depend upon her autonomy in every field. Higher Education is one of the main factor for women empowerment. It is also play an important role in releasing their energy, creativity and enabling them to meet complex challenges of the present world. It helps them to improve their status in the family and society and minimizing the inequalities among the men. The higher education increases the women to take independent decision, to reduce violence, create women's ability to claim their rights, participation in civic society, economic independence and many more. To empower women in all spheres, efforts have to be taken to change the old mythology about women's helplessness and enthusiasm. The change of mindset both for male and female is absolutely necessary.

Government initiatives would not be sufficient to achieve the goal. Society must take the initiative to create an environment for women to have full opportunities of decision making and participating in social, political and economic life with a sense of equality. Common men should also understand the need of it. The collective support will facilitate the progress and growth of women empowerment. The popular UNESCO slogan should be considered as an

ideal for empowerment of women, i.e " educate a man, you educate an individual but educate a woman, you educate a family."

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Perspective of Women Empowerment in India- A False Truth

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Bunny Suri**

ABSTRACT

The idea of the study is to search the shortcomings in the efforts to prevent crime against women along with changes needed in the women welfare practices. The Constitution of India grants women equal rights as given to men, but strong patriarchal traditions persist in many spheres of social life, with women's life shaped by customs that are centuries old. In this scenario, daughters are often regarded as a liability and conditioned to believe that they are subordinate to men, whereas sons might be idolized and celebrated. Our Indian society is still someway partial in terms of treatment of both genders. It is observed that that adoption of the unequal gender norms in the society is still prevailing and also being promoted. Discrimination against women starts even before birth, as infanticide, as a child, after marriage or as a widow. Some issues are still can be found such as, Selective abortions; Murder of female babies; Abandonment of female babies; Honor Killing; and Different treatment in terms of nutrition and health care. It is a harsh reality of our social system that there is so much negligence towards women security and despite of so much of legal measures, all efforts are going into vein. Present paper attempts to analyze the status of women empowerment in India and test the conditions and hurdles in the way. In 21st century, upliftment of the social status of women is an important concern but in reality it is still an illusion.

Keywords: *Women Empowerment, Crimes against women.*

Introduction

Over the last several decades, issue of women empowerment has attained increased prominence in the debate over from the civil society. Women empowerment is the most important issue all over the world today. While Fight for empowering women continuous on every front, women are being flagrantly discriminated against men in the patriarchal society. Women are discriminated in every sphere of public and private life by men. Women in India have always been considered subdued to men. India is a highly patriarchal society and gender discrimination is evident across all levels. Women are vulnerable in every sector in Indians society; traditionally the role of women has been that of daughter, wife and mother. Their activities in the socio-cultural of India are primarily domestic in nature confined to the four walls of home. Women constitute almost half of the world's population, however considering the number of poor people in the world; women are major then men with a number of 70 percent of the total poor. Women are powerless and disadvantaged and they are socially and educationally backward and they have little or no access on property. From last centuries, there had been massive attempts to ensure the power of women specifically in developing world. Women empowerment and development is a multi-dimensional approach. Inequalities between men and women; and discrimination against women have been a sensitive issue all over the world. Women in India are living in quite an inferior life standard as compared to that of the other South

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Asian countries. Gender equality and women's empowerment is one of the eight United Nations Millennium Developments Goals (UN,2008) and development of women is an essential pre condition for the elimination of world poverty and upholding human rights. Their desire is only a dignified life with freedom from fear, oppression, and inequality. Women are not being treated equally as men are treated and this problem is not limited to India only but women are struggling with such status in many parts of the world.

Crime against women is a dynamic issue which is regarded as a transgression and in South Asian countries; it is an increasing trend which require special attention. India is also not its exception. Violence against women is considered as a trend which is highly related with and deeply rooted in the oppressive structures of the patriarchal values in the Indian society where cruelty towards women has increased in recent years. Domestic Violence is the most common form of violence which is used to be attempted against women in society. Being in a male dominating society, lack of ability and social vulnerability is associated with females' lives where they are being controlled and subjugated by the opposite sex. The society, being male dominating, has given priority to men and social practices there are some way bringing limitations to the Human Rights of women also. Scars on the body are the physical proof of Domestic Violence but this inflicts even deeper wounds on mental health. India is a developing society and like any other developing country it is still moving on with traditional beliefs and preset social practices which are some way restricting the abolition of old practices and adoption of practical trends. In all developing and developed societies women's and girls are victim to physical, sexual and psychological abuse at a greater or lesser degree whether they belongs to upper class middle class or any lower class. Traditional culture and belief has given superior power to men and they can be considered as a pillar to any family. Old family system, vulnerability, inhibitions, subordination, cultural, Religious and social-economic reasons are interlay giving scope for violence against women. It is well known that in the ancient civilization female divinities ruled the universe and were worshipped. But gradually patriarchal cultures with their male gods took over and reigned supreme ideology for over 5000 years. Hence all religions that were come into existence after about 3000 B.C preach and uphold patriarchal values. Mary Daly in 1973, asserts that "God began to be represented as man and soon man began to think of himself as god." In India, gender discrimination exists from the childhood itself. Women are considered to be in the secondary position and they are put to barbarity in their whole life. From several years violence against women has emerged as the most burning and intractable social problem across regional, social and cultural boundaries. Being in patriarchal society, powerlessness and vulnerability is associated with women's live where they are dominated and subjugated by men. In south Asian regions, Violence against women started before they born and continuous throughout their life. In the region, females face restrictions to move freely in society, they have less to eat than their male counterparts, are denied proper education and health care, are often forced into early arranged marriages or forced marriages, they have few chances of employment and are underrepresented in the governments. Women are frequently targets of extreme forms of aggression such as incest, rape, public humiliation, trafficking, acid attacks, dowry death and stalking. Subordinate position of women allows men to controlled or dominate their families as well as to controlled women lives. The alarming fact is that incidents of violence against women in India have been rising sharply.

Statistical Overview of Crime against Women

Most crime against women goes unreported due to attached social stigma, distrust in legal mechanism, and fear of retaliation and so on. It is assumed that 35 percent of females throughout the world have experienced either physical and sexual violence by an intimate partner or sexual violence by a non-partner at some point. However, some national level studies explore that upto 70 percent of females have experienced physical and sexual violence from an intimate partner in their lifetime. A report on the crime against women by the national crime records bureau comes up with alarming statics that crime against women is rising day by day. It can be

observed from the Table-1 that total of 3,27,394 cases of crime against women (both under various sections of IPC and SLL) were reported in the country during the year 2015 as compared to 3,37,922 in the year 2014, thus showing a decline of 3.1% during the year 2015. These crimes have continuously increased during 2011 - 2014 with 2,28,650 cases in 2011, which further increased to 2,44,270 cases 2012 and 3,09,546 cases in 2013, to 3,37,922 cases in 2014. It declined to 3,27,394 in 2015.

Table-1: Crime Head-wise Cases Registered under Crime against Women during 2011 - 2015 and Percentage Variation in 2015 over 2014

Sl.No.	Crime head	Percentage					Percentage variation in 2015 over 2014
		2011	2012	2013	2014	2015	
1	Rape#	24,206	24,923	33,707	36,735	34,651	-5.7
2	Attempt to Commit Rape*	-	-	-	4,232	4,434	4.8
3	Kidnapping & Abduction of Women	35,565	38,262	51,881	57,311	59,277	3.4
4	Dowry Deaths	8,618	8,233	8,083	8,455	7,634	-9.7
5	Assault on Women with Intent to Outrage her/their Modesty	42,968	45,351	70,739	82,235	82,422	0.2
6	Insult to the Modesty of Women	8,570	9,173	12,589	9,735	8,685	-10.8
7	Cruelty by Husband or His Relatives	99,135	1,06,527	1,18,866	1,22,877	1,13,403	-7.7
8	Importation of Girl from Foreign Country	80	59	31	13	6	-53.8
9	Abetment of Suicide of Women	-	-	-	3,734	4,060	8.7
A.	**Total IPC Crime against Women**	**2,19,142**	**2,32,528**	**2,95,896**	**3,25,327**	**3,14,575**	**-3.3**
10	Commission of Sati Prevention Act	0	0	0	0	0	0
11	Indecent Representation of Women (P) Act	453	141	362	47	40	-14.9
12	The Dowry Prohibition Act	6,619	9,038	10,709	10,050	9,894	-1.5
13	Protection of Women from Domestic Violence Act	-	-	-	426	461	8.2
14	Immoral Traffic (Prevention) Act	2,436	2,563	2,579	2,070#	2,424	17.1
B.	**Total SLL Crime against Women**	**9,508**	**11,742**	**13,650**	**12,593**	**12,819**	**1.8**
Total(A+B)	**2,28,650**	**2,44,270**	**3,09,546**	**3,37,922**	**3,27,394**	**-3.1**	**Total(A+B)**

Source: crime in India 2015, statistics, National Crime Record Bureau Ministry of Home Affairs

Above table shows the frequency of crime against women in country and it is reflected by this very clearly that women in India are facing mass threats to their dignity and security in everyday life.

Position of Women in India

The latest disturbing news items regarding violence committed against women reveal that women's position has worsened. Tulsidas' verse from Ramayana 'Dhor, janwar, shudra, pashu, nari ye sub tadenkeadhikari' although it was written in different context, highlights the discrimination and deep-rooted gender bias tendency which still exists in almost every sphere of society on the basis of gender, caste, religious affiliation and class. Politicians, intellectuals, and academicians etc., have exasperated the situation. Males from all sections of society want the reservation and other positive preferences but when it comes to the reservation and preferential treatments to women, they come together in preventing these benefits from being available to women.

The Constitution of India provides equality to females in every field of life,but it is still found on papers only. Yet mass of women community is either ill-equipped or they are not in a position to bring themselves out of their unsatisfactory and unequal traditional socio-economic conditions. They are still poor, illiterate and insufficiently trained. They are most often trapped in the struggle to maintain the family physically and emotionally and as a canon are discouraged from taking decisions in affairs outside home and in family matters. Oppression and atrocities on women are still rampant. Patriarchy continues to be integrated with the social system in all parts of the country, denying the choice to decide on how they live for a majority of women. The dominant magnitude of community in a patriarchal sense ensures that females rarely have an independent opinion even in the matters of community.

Female infanticide continues to be very regular and common practice. Statistics show that there is still an intense preference to a male child in several states in India like UP, MP, Punjab, Haryana and Jammu and Kashmir. The gap between male to female ratio is very high in these regions. Domestic violence is a constant practice and is also associated with the practice of dowry. Leaving a meager number of urban and suburban women, Indian women are still cribbing for social justice. When it comes to empowering women through reservation and quotas, all the male groups unite in denying this to women. Even groups like SC, ST, OBC, Muslim etc., who have been enjoying quotas since independence, and even on no merit basis in certain cases, oppose vociferously when quotas and place security measures are planned for women.

What national policies for growth of women must now propose is, therefore, comprehensive and inclusive rather than exclusive or one sided initiatives. That would still require considerable affirmative actions and specified concern to the special needs of girls and women, without contradicting the fundamental base of equality in development and thus in motivation for growth. Nor does it ignore the special challenges brought by culture, religion, and the allocation of duties and activities to one of the other sex.

A review of government's various projects for women empowerment such as Swashakti, Swayam sidha, Stree shakti, Balika Samridhi Yojana and other two thousand projects explore that a little is done or achieved through these programmes. Most of the schemes are executed in files only and money is syphoned by corrupt individuals or groups. In the name of women's empowerment, a large number of N.G.O.s and activist can be seen but all are making immediate money and doing very less. The discrepancy in the ideology and practice of the women empowerment policies in India constitutes its unrestrained social, economic and social backwardness.

Women empowerment is a myth in India, where a woman is considered of lesser value than the dowry she brings in marriage. We are a country where they are forced to dowry deaths and decrease in the population of women. Mass of the females in India especially those living in rural areas are uneducated and it is hard to expect from them to succeed or even attain power when they are not even considered equal?

Women Empowerment- A Myth

The roles a woman holds at various stages of her life are many, at home, on job, in society, as mothers, wives, sisters, daughters, learners, workers, citizens, leaders. But are they being treated fairly and equally or in a way they are supposed to be? Are they empowered enough by the society and receiving the respect they are entitled for?

Nineteenth century witnessed reform movement for women, with various issues like sati practice, violence, child marriage, and employment being addressed. With the introduction of the National Policy for Empowerment of Women, the Government of India had declared year 2001 as Women's Empowerment Year. It was said, "Our vision in the new century of a nation where women are equal partners with men". Many new projects were launched like Swashakti and Stree Shakti for women's empowerment; Swayam Sidha to benefit 100,000 women through micro-credit programs, Balika Samrudhi Yojana for the girl child and many more.

If you think a lot has been done for woman empowerment, then you must think again. Cases of female-infanticides are kept on increasing (both reported and un-reported). Certain section of the society does not send girls to schools once she attains puberty. Some are not sent to schools ever in their life. Numbers of pre-age marriages are also significant. Dowry related harassment and deaths are still in the media and the conditions are aggravated. Sexual or otherwise but harassment at work place, though mainly unreported, is still significant. Sati is still being practiced in many of the villages of the country. The legislative strength of women is still less than 10%. The crimes against women are rising on everyday basis. Widows are still looked down by many and the gender disparity is at all-time high.

Few, a significant 'Few', take women as sex object, lewd comments, indecent expressions… The list is long. But such attitude and gender partiality is eating away a talent pool. The respect has been replaced with discrimination on the basis of gender.
In its first ever gender gap study covering 58 nations, the World Economic Forum has placed India on 53rd position. The report titled 'The Women's Empowerment: Measuring the Global Gender Gap' measures the gap between women and men in five critical areas like economic participation, economic opportunity, political empowerment, access to education and access to reproductive health care. The report is based on United Nations Development Fund for Women's findings on global patterns of inequality between men and women. The low ranking reflects the massive disparity between males and females in all five areas of the index.

Women are almost half of the total population. Women make up around 49% of our country's total population. Hence there can be no progress unless their needs and interests are entertained or met completely. If half of the total population is kept backwards country or society cannot grow. Empowerment would not carry any meaning unless and until they (women) are made strong, alert and aware of their equal status and right in the society. Policies should be framed with a focus to bring them into the mainstream of society. It is important to educate the women of today. The need of the hour is to improve female literacy as education holds the key to development.

Roadblocks to Women Empowerment

Extremely low rate of women literacy is the major curse and roadblock to women empowerment in the country. India has shown growth in many sectors but still there is a major gap between men and women when it comes to education. 82.14% males in India are literate whereas these figures reduce to 65.46% when it comes to women.

Along with this the denial of women's participation in the family decisions work as a hurdle in women empowerment movement in India. Women are being made dependable by their families only and are being forced to a second grade status in society. Her importance in the decision making process has been denied by the society always and this trend is still emphasized.

Poverty in India is plaguing many issues and performing the greatest threat. Condition of poor

women is far vulnerable than their middle class or rich counterparts as far as women empowerment is concerned. Massive poverty leads to the exploitation of females in several ways in family or in the society. Sex slaves, selling girls and women, forced marriages and a number of crimes of such kinds are directly aggravated with poverty.

Another considerable factor is health and wellbeing of females in India which is proved a barrier in the path of women empowerment. In the new born deaths, contribution of India is more than a quarter of world total.

Steps taken in India for Women Empowerment

Women are an integral part of the process of social development and national progress. Development of women and strengthening of her position is needed for a strong society. Her status must come at par with the other gender. To promote gender equality and to empower women in India, the United Nations Development Programme created Millennium Development Goals (MDG). Out of eight goals in total, third was constituted for India. Target was to achieve gender equality in education but India failed to aim at. Another target to be achieved was the elimination of gender disparity in education in India. Along with this, certain changes have also been made in the Constitution India. Women have been given the right to divorce under certain circumstances in the modified Hindu Marriage Act. Daughter of the family has been provided with the right in the property of parents under the Hindu Succession Act. In 1985, government of India took a step for the complete development of women and children by creating the department of the Ministry of Women and Child Development under the MHRD. In 2006, this department was upgraded to a ministry. The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 was initiated by the ministry. It brought in a unique law- the Protection of Children from Sexual Offences Act, 2012. Several schemes are also launched by this ministry aiming at the welfare of women and children such as Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG), Indira Gandhi Matritva Sahyog Yojana (IGMSY) and the integrated Child Development Services (ICDS) Schemes etc.

A department named National Commission for Women is also set up within the ministry of women and child development and the objective of this department was made to help women through the Constitution of India.

Suggestions

Though government is talking all the necessary steps to empower women but something is still lacking and creating a gap between the constitutional position and the reality. Because of this gap it can be said that the concept of women empowerment in India seems more of hype and less of substantial reality. An Indian woman is yet to be provided with her rights and to be carried forward. In addition to this, there is a demographic difference. Most of the aroma of women liberation is enjoyed by the urban women but not by those in rural areas. Rural women and even some of the urban women population are living a miserable life, entangled in poverty, superstitions and slavery. Still there is a huge distance to be covered between the laws made and their enforcement.

For the empowerment, women must be made socially strong and economically independent as well. Without such independence all the laws, schemes and policies for the welfare of women would merely rest as written literature only. Mindset of the people especially male towards women is also a challenge and it needs a massive transformation to avoid transgressions against women. At the same time value and behavior system of the society should certainly undergo transformation to incorporate new thinking. Above all, women must empower themselves to actually change their status in the society then only women empowerment will become a reality and not an illusion or some myth.

Conclusion

Empowerment would become more relevant if women are educated, better informed, and skilled

and can take rational decisions for their life as well as in family and in social affairs. It is also necessary to sensitize the other sex towards needs of women. It is required to usher in changes in societal attitudes and perceptions with regard to the role of women in society and in different spheres of life. Adjustments have to be made in traditional gender norms and gender specific performance of tasks. A woman needs to be physically healthy and mentally strengthen so that she is able to take challenges of equality. But it is sad reality that it is lacking in a majority of women especially in the rural areas.

We call ourselves the next super-power, comparing us with some other nations. But tell me, can we be acknowledged as a super-power or as a matter of fact, a developed nation, when there is such discrimination in the society? No. A lot is still to be done, miles to go….

I still keep asking myself the same question, and so do many of us: Are women getting their due share in the society?

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-Rephrased from the words of **Hon'ble Dr. Zakir Husain, former President of India**

Moot Court helps in learning what we learn in real courts although in restricted conditions. A Moot Court Competition simulates a court hearing (usually an appeal against a final decision), in which participants analyse a problem, research the relevant law, prepare written submissions, and present oral arguments. Moot court involves appellate cases as opposed to those at the trial level, which are often called "mock trials"; Judges are usually Law Professors, Advocates from the Community, and even members of the Judiciary.

The Legal Aid Clinic at IPEM Law Academy offers Students the opportunity to fine-tune their advocacy skills in a fast-paced, live-client setting by representing low-income clients under the careful guidance and thoughtful teaching of supervising Faculties and Advocates. The Legal Aid Clinic has been working to secure "Justice for and to Protect the Rights of the Needy". The Legal Aid Clinic faculty strives to select and assign cases that offer the greatest opportunity for impact and growth. Legal Aid Clinics are intended to provide Legal Relief which can be easily accessed by the 'indigent' and 'backward sections' of our society.

IPEM Law Academy employs highly interactive methodologies to teach students which include various Lecture Methodologies including, but not limited to, Lecture Method, Case Method, Problem Method, Discussion Method, Simulation and Role Play, Collaborative Teaching and Seminar Method. The plan on Teaching Methodologies also covers Lectures, Tutorial and Presentations.