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# The Anthropos

(A Journal of Human Spectrum)

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July-December 2012



**All Indian Rights Organization (AIRO)**  
(A Chapter of Naina-Dayal Foundation)

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## From the Editor

Drops for making ocean ..... The Anthropos for Anthropos

Life was witnessed on this blue planet millions of years back, but an ultimate creature human being came after a better settlement of earth. It was very beautiful event when 37 million years back in Serengeti forest in Tanzania (a volcanic area) when foot print of anthropos proved his presence on this earth. Time was fleeting but that foot prints were also making a celestial story of biological evolution which associated with cultural evolution in recent years. Culture became an artificial nature to protect man only. Culture as a repulsive device from the nature created a complete world of needs which was supported by communication and language to put ideas before a group which was entirely different from other cultural groups. It created the problems of ethnocentrism and after having same genus and species man continues with same hatred attitude as other creatures, monkey apes have till date when other same creature comes in its periphery. So it was not a good sign to sketch man as an ultimate creature other than other creatures Culture was also making an imbalance between natural resources and population growth which converted into human rights violation and discussed in late 60's of 20<sup>th</sup> century. In between inception of Nation state and paucity of natural resources generated a coping management too among human being which made an environment of co-existence and induced different cultural groups to know each other for their smooth survival (it is studied under the process of globalization presently). This endeavour made a space of adjustment for other cultural group members to accommodate themselves in an entirely different group and we led a co-existence based life. But it is necessary to follow cultural relativism to make a better understanding of human kind across the globe and it may come with the efforts of experts of different culture which has been exhibited in different mode of subjects as Anthropology, sociology, political science, Law, Economics, Hindi, English, History, etc. When we define any subject, actually we define human behaviour who acts in different way for his smooth survival. So it is not a matter of confusion that any subject is isolated from human being and all subjects basically define the life style of mankind in different ways which is nothing but a model developed by a specific form to ensure his right to life under coping management. So it is obvious to understand an academician as human right educator who facilitates better understanding about man across the globe.

Every expert want to make his/subject as a peculiar subject instead of finding out a common point of all subjects which could make a common consensus to understand the behaviour of man in better way. No one will deny that all subjects talk about style of food, living, shelter in a cultural manner which come in different mode when we analyse them in the frame of Nation- State and we may say these conventional or cultural factors in another mode like right to life, right to shelter, right to food, right to health etc. so any subject is nothing but a process of human behaviour which is when discussed under rights

and duties in the Nation- state frame becomes the matter of Human rights concern .

So, if any subject expert or scholar is trying to put any idea, fact of any person, group, it may be seen as human rights, if we could make any inference of deficiency in normal life. We can say that any study may come under the ambit of human rights after its content analysis.

The Anthropos (A Journal of Human Spectrum) is the most awaited endeavour of Naina-Dayal Foundation, which could see the light with the efforts of its chapter All Indian Rights Organization (AIRO). In its inaugural issue it has tried to define its role in the academics. This journal is an effort to make a better understanding of mankind which exhibits their life style and is codified as a specific subject. Various subject experts from humanities and literature have contributed their research papers with their empirical data or content analysis, which aim to make this journal for anthropos as THE ANTHROPOS...

With Warm Wishes  
Yours  
Alok Chantia  
**(Editor)**

# THE ANTHROPOS

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A Report

# **Role of Public, Media and NGOs in Implementing Right To Information Act – 2005**

**Alok Chantia**

## **Introduction**

Recently the Health Board had carried out a scheme for immunizing children in Parvati's district. Parvati and others of her district heard about the scheme on the radio. However no children were inquired in the district for immunization. When they asked the health officers for details about the scheme, they were refused the details saying that the Health Board was under no duty to tell anybody anything.

In another example, a journalist saw news items which read that in a particular village several children had died of diarrhoea, he went to the village to investigate the matter in order to bring out a detailed report. When he visited the homes of the children who had died he came to know that children had died due to starvation when he asked the health authorities to give details of the deaths and diseases of which the children had died they refused to give her the details saying that this was a confidential matter.

In another example the people of a locality had been going to the local ration shop for two weeks to get their share of the sugar and rice. Every time they were told that the rice had not come and the sugar had been distributed. After several such responses, people asked for the register of the supply and distribution of the rations. The person at the shop said he was under no obligation to maintain or show them any register.

Laxmi and Sumbul had given their names in the employment exchange five years ago, every time they asked the officers about their position they were not given any clear reply, than they came to know that Pallavi who had the same qualifications but had registered after them had been given a job they demanded that they should be shown the rolls. The employment exchange refused saying that this way an official information and could not be shared.

Many Senior Government Officers and politicians had been staying in government houses long after their terms were over, even without paying rent. A parliamentary committee was formed to look into the matter when some journalists asked for the list of names of the persons in illegal occupation of the houses the committee replied, "This is confidential information no one is supposed to know this. However what most people don't know is that we have a right to know about all the above mentioned examples and most of the things about the functioning of the government and other public bodies. We have a right to know about the work of public authorities and how it is being undertaken by these bodies and how much money is being spent and on what. This is called the right to information which can be accessed under the provisions of Right to Information Act, 2005.

Culture and Red tapism are two borders in between an individual is living in India. Culture encompasses many taboos which restrict liberty of an individual to know everything and Red tapism creates obstacles before an individual to decipher every fact. In spite of constitutional right of right to know, it has been a hard task to know the proceeding of any office or for an individual to demand any paper from his/her superior. The freedom of expression and right to information are two important pillars of modern democracy. These are also recognized as fundamental human rights, which uphold the dignity of all human beings. The beginning of 21<sup>st</sup> century is marked with the developments made in the field of information and technology. Information is a buzz word today. Information has an unlimited potential. It is at heart of all process of governance and indispensable for the functioning of democracy as well as for our society. In a democratic society, it is the right of people to know what the government and its functionaries are doing. In fact without this accountability no democratic government can survive. This type of open and transparent government ensures reduction in number of administrative faults and the misuse of power by it.

We need information when we buy some product from the market. It may pertain to quality, quantity, purity, standard and prices of product or service that are needed to make an informed choice or decision. The primary role of information is to equip the consumer to make informed choices. Similarly, as a citizen of democratic country, a person has a right to know about the policies, laws and other information that may affect one directly or indirectly. The right to information also co-exist with our right to vote. A citizen is not only entitled to select the government by exercising his/her franchise but he or she is also expected to know how the selected candidate is performing. In a democracy a citizen is authorised to make informed choices.

Corruption, red-tapism, bureaucratic hurdles all create hurdles for common person and affect the developmental process. Rampant corruption has also been reported in poverty alleviation schemes and in various employment schemes of the government. Therefore, there was felt a need to have a legal right to have access to government held information which strengthens democracy by ensuring transparency and accountability in the actions of public bodies. It enhances the quality of citizen's participation in governance from mere vote casting to involvement in decision making that affects people's life.

It is also felt that opaqueness in the government policies should be stopped and openness should be preferred over and people should have access to information. No democratic government can survive without transparency and accountability and the basic need for result oriented functioning of the democracy is that people should have information about each and every act of the Government. To make democracy meaningful and successful access of information to the citizen is a must. It is the only source to promote openness and transparency in a democracy.

In several states in the 1990's movements developed to monitor government development projects in order to root out corruption and promote transparency. Public spirited persons like Anna Hazare and H.D. Shourie of Hindustani Movement have been fighting with corruption. In this list names of Mr. Aruna Roy, Mr. Shankar Singh and Mr. Nikhil Dey can be added. In Rajasthan the Mazdoor Kisan Shakti Sangthan (MKSS) emerged as a powerful source in checking bureaucratic corruption in the critical area of

development projects. Demanding access to muster rolls, vouchers and records of bill payments, the MKSS succeeded in exposing official corruption in government project by Panchayat or village authorities in several districts and placing pressure on officials to take corrective action through highly innovative tactics, particularly public hearings in which evidence of wrong doing was presented to the community at large. As a result of the efforts of the MKSS, The Rajasthan government agreed to make public all documents relating to development works at the Panchayat level allowed citizens to make photocopies of them, and investigate and punish those responsible for corruption. After a protracted struggle of MKSS, the Rajasthan legislature enacted the Rajasthan Right to Information Act, 2000. Tamil Nadu and Goa were the first two states to enact legislation on the Right to Information in 1997. It was MKSS who paved the way for the present parliamentary legislation in 2005. 12 October 2005 was a red letter day in the history of India when Right to Information Act was passed by the Parliament as a central legislation. (herein after referred as RTI).

It is not an easy task for such country where more than 70% population is living in rural areas and their education level is not so good. They may be literate but not educated. Information or Suchana is purely a new word for them which is not used very often in their daily routine life. Indirectly they get much information from different sources as many times they ask about place, road, district office, shop, etc but they don't feel it as information. Apart from such information, definition of information under Right to Information Act, 2005 is slight different. It requires that information should be in electronic form. Information means any material in any form, including records, documents, memos, emails, opinion, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.<sup>1</sup>

At the time of the inception of the Act, it was clear that majority of people of India are not aware of writing letter in required manner. Therefore present Act provides space to accommodate every citizen of India by simplifying manner of writing an application seeking information. Section 6(1) explains the mode of writing of an application for seeking information which should be in elicited manner.

To accelerate public participation in democracy, an effort has been made in the form of RTI but India is a culture specific and hierarchical country. Here it is very difficult to ask from his/her Superior cause and effect of any work. At micro level, in an Indian family, no one can dare ask any question to the head of the family. It is assumed unethical and ill mannered. In the same way, if an individual asks any question or wants any information from bureaucrats or public authorities, he/she is considered as rebellion and many a times he/she suffers. To avoid this situation, RTI Act gives armour to those people who are interested in asking information from public authorities. This Act provides restrictions before public information officer that they don't try crack down identity of applicant. Only a name and address is required by which, any information may be sought by an individual. The particular individual is not required to disclose his identity<sup>2</sup> thus an effort has been made to make a fearless atmosphere where the public can seek any kind of information.

After Independence people of India were in pathetic conditions and they were trying to live with minimal standard of life which is required for any individual. They were not educated to decipher technicality of life and it this idea which is supported by the fact that India was and is an agricultural country. It was not easy for Indians to know hierarchy of bureaucrats, diplomats etc. Even today many of us don't know hierarchy in district administration, educational institutions and in army, so we find ourselves helpless when time comes to approach to them for information. RTI could get struck in the same crisis and it might have been useless for people. To overcome this problem present Act has enacted the provision that if any individual wants any information from a particular authority or office and if he/she sends his/her application other than in required office, it is the duty of that official authority that after getting such application, he/she will send that application to correct office within five days after getting such application.<sup>3</sup> It is a landmark provision of this Act which generates accountability of public authority and confirms to get information.

After the independence, democracy couldn't get its real and abstract shape because of bifurcation between public and bureaucrats. Reflection of colonial image is still persisting in the society. Red tapism does not take public and its complaint seriously that is why public doesn't think about complaining if any problem comes or happens because in their opinion it takes years and years for getting relief. Justice delayed is justice denied, this well known parlance proves public pain. To remove such pain right to information put public at prime level and provides time limit of getting information from a public authority, this time limit is 30 days after receiving the application.<sup>4</sup> If information is not provided in stipulated time under section 7(1), it seems to refusal of application under section 7(2) but to avoid any arbitrary action by public authority, a duty has been entrusted on the public authority to give the reason of refusal and give the name and address of appellate authority.<sup>5</sup> To create accountability of public authority section 7(6) announces to provide copy of every document without taking any charge if public authority fails to provide all information which are sought under section 7(1) of the RTI.

Section 18 provides that the aggrieved party may go directly to State or Central Information Commission, when section 7(1) is not followed by public authority. If public authority is not appointed as public information officer, in that situation section 18 may be availed. To make individual powerful in India is not an easy task when conventionally a hierarchy based society is preferred here. The dictum of the people, by the people for the people is not fit for Indian society frame. Vote and voting are only tools of democracy here. Public is still subordinated factor in India by bureaucrats and politicians, so to sketch and realize a real picture of democracy, main power should be confined in the hands of public.

### **Role of Public**

Even after six decades of independence, the promise of equality, liberty and to live with dignity to the people of India have remained only on papers. India is suffering from under nutrition, illiteracy, hunger, starvation etc. Several enactments for their welfare are coming into existence and a number of policies, programmes, schemes and developmental projects have been launched for their upliftment. Indira Awas Yojna, Kanshi Ram Yojna for providing homes to under privileged sections of the society,

Antyodaya Ann Yojna for providing food grains at highly subsidized rates, mid day meal schemes, anganwadis, balwadis, day care centre aim to provide for the welfare of the children and women. Billions of money is spent on these schemes by the government but still results are not satisfactory. The benefits of the schemes are not reaching to the targeted sections of the society. The right to information is an important powerful and effective tool to inquire about the impact of various schemes of the government on the health, education and welfare of the people. Right to information affirms the faith of Indians in their democratic system. In a democracy, people are the real sovereign. They appoint Governments as well as dismiss them. They approve policies and disapprove them. People must therefore be well informed. One of the important aspect of democracy is people's participation in the government and the people cannot participate unless they have information as to what is going on in the country. A modern democratic state being answerable to the people, the people are entitled to know what policies and programmes are being followed by the government. People have to pass verdicts every five years on the performance of the government and decide whether it should stay in office or not. People cannot exercise their choice intelligently unless they are given free access to the information about functioning of the government.<sup>6</sup> Every citizen has right to know about its governors, judges, legislators and other functionaries of the state power. The citizens have a right to decide by whom and by what rules they shall be governed and they are entitled to call on those who govern on their behalf to account for their conduct. Informed citizenry keep all kinds of checks on the maladministration.<sup>7</sup> Freedom of information is the touchstone of all other freedoms. Since power tends to corrupt and absolute power tends to corrupt absolutely, there is an inherent danger that the vast powers available to the executive may be used not for public good but for private gain or for corrupt motive. Selfish and corrupt politicians can always benefit from uninformed people because they can use populism, fundamentalism, communalism or racism to misguide them. It is therefore essential that the people have as much information about the government functions as possible because they are the real masters of the democracy. If people are well informed they will be more vigilant and hence democracy would become more vibrant. In *State of U.P. v. Raj Narain* justice Mathew remarked that "the people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing."<sup>8</sup>

Good governance is another aspect of democratic government which lays emphasis on transparency, accountability and check on corruption. Transparent governance implies the state's obligation to disclose and people's right to make informed choices. It is an aspect of the larger struggle for participatory democracy. Transparency opens the doors of progress and empowers the people on just basis. Transparency is a means of eradicating corruption. Corruption flourishes on secrecy and confidentiality. Where transactions are like open books, the private appropriation of public resources is that much harder.<sup>9</sup> The right to transparent governance can become a reality with informed citizenry and right to information.

We have a number of examples where by using right to information people have set government machinery on right track. For the first time in *Union of India v. Association for Democratic Reforms*<sup>10</sup> the right to know about the candidate standing for election was brought within the sweep of Art. 19 (1) (a) to improve and refine the political process of

election. The Supreme Court upheld the freedom of right of the voter to know antecedents including criminal past of his candidate contesting election and in particular to bring transparency in the process of election. It was the first case where through judiciary people tried to erase the evil of corruption wedded in the mechanism of elections. The court said since the future of the country depends upon the power of the ballot, the voter must be given an opportunity for making an informed decision. It is very common trend that Public Information Officers (PIO) don't come in person before the commission and send their juniors for hearing in commission, which creates hopelessness among people who want adequate information. Commission took such matter seriously and put a fine on such Public Information Officers. Commission made the presence of PIO mandatory during hearing. "The commission in its recent judgment laid down that PIOs will be granted permission to stay away from hearings only under special conditions. The commission will have to be informed about the conditions in writing by Senior Officials of the department, if a PIO does not turn up for hearing without meeting the above mentioned requirements, State Information Commission will take a strong note of it"<sup>11</sup> The RTI Act is proving to be of great help to aggrieved customers, now we have expiry date on the packing of bread also<sup>12</sup>. Adivasi (Tribes) got information about their reservation quota and how many seats are vacant so far in various departments of the government through RTI only.<sup>13</sup> RTI Act has also revealed financed discrepancy where some people were taking double payments in the University of Lucknow.<sup>14</sup> All these anomalies have come to light only through the active role of public through RTI. Right to information (RTI) is a growing area of concern in the field of human rights. In western countries, it was primarily raised as an issue in the context of media news paper, radio TV, Internet etc. India however has developed a new way for enforcing the RTI by linking it with the survival right guaranteed by the constitution. Ordinary people are now taking the 'right to information' route to get basic amenities like health, education<sup>15</sup>, stalling road signals, repairing of roads, admissions in school, colleges etc. There are many who have got their appointment<sup>16</sup>, passports, pensions<sup>17</sup>, ration cards, income tax refunds, drainage system<sup>18</sup> GPF through right to information only.<sup>19</sup>

RTI thus is no longer a privilege of an elite group or the media. Despite heavy investment and promises, it is commonly known that the basic needs of the people have not yet been met, it is also not enough to say that the benefits of developments did not trickle down to the lowest rung of the people. The RTI movement also aims to tell people that they have a right to know what is theirs and for the poor, unprivileged, marginalized and discriminated knowing one's own rights is a good source of empowering them to get the policies implemented faithfully. Once the people are empowered with information and knowledge, the middlemen will be removed. As James Madison, one of the architects of the US constitution had said: "*people who mean to be their own governors must arm themselves with the power which knowledge gives*". As early as 1947, the UN General Assembly's Resolution (59-1) had proclaimed; Freedom of information is fundamental human rights..... the touch one of all freedoms which the United Nations is consecrated.

### **Role of Media**

Media is defined as fourth state and it makes any idea, plan, even global by its propaganda feature. When an individual or NGO seeks any information and gets it, it

confines only to seeker. But in this situation media can play a vital role by spreading awareness about any information or event. It is media which popularizes and tells us everything happening across the country or world.

The citizens right to know the true facts about the administration of the country is one of the pillars of democracy. The right to information has been recognized by the Supreme Court as fundamental right implicit in Art. 19(1) of the Indian Constitution which includes freedom of press also.<sup>20</sup> The role of media is very significant in achieving the free, fair and real democracy as it puts an additional check on the three official branches – the executive, the legislature and the judiciary.<sup>21</sup> Media provides a forum for free political discussions for the proper functioning of the processes of a popular government and helps in building a strong viable society. Media also influences public opinion and strengthens principles of democracy. The media has now assumed the role of public educator making formal and non-formal education possible in a large scale particularly in a developing country like India. In *Hamdard Dawakhana v. Union of India*<sup>22</sup> the Supreme Court maintained that the freedom of speech involves the right to impart and acquire information. In *Sakal News Papers*<sup>23</sup> the Supreme Court admitted that restriction on circulation of news papers amounts to denial of right to information.

Media was always aware about right to information, as in *Bennet Coleman & Co Vs Union of India*<sup>24</sup>, a leading news papers publisher challenged the governments Policy of restricting the availability of news prints. In its decision favouring the petitioner, the Supreme Court declared that freedom of speech includes within its compass the right of all citizens to read and be informed. A dissenting opinion in the same case noted that "the fundamental principal involved here is the people's right to know".

In *Printers (Mysore) Ltd. v. Assistant CTO*<sup>25</sup> the Supreme Court held that the freedom of press has always been a cherished right in all democratic countries, the court further observed that freedom of the press is not so much for the benefit of the press as for the benefit of the general community because the community has a right to be supplied with information.

People find confusion in seeking information, media can explain it very well and can expand the essence of RTI Act to normal public "the act should be used in its right format by sincerely paying attention to its section like 2(f) which assures only that information which is available in some or the other form but sometimes seeker does not take it seriously as RTI activist "If RTI activists and users keep attacking information commissioners and the functioning of the commission, the Act will receive a beating.<sup>26</sup> It is very common thinking in Indian mind set that alike other Acts RTI is also puppet in the name of democracy, because when they seek any information either it is not given in stipulated time or refused. But the credit goes to the media in popularizing the fact that "if an applicant seeks same information over and over again through separate applications, public information officers have all the right to refuse information again but not without stating that when and through what document they had provided the information to the applicant earlier.<sup>27</sup> Such news items in media accelerates inclination of people towards RTI. It is well known now that RTI has given real power in the hands of Indians after the independence. Today RTI is a weapon to realize the dreams of democracy in India. In order to expand and popularize RTI among all Indian, recently RTI Awards have been

launched by the Public Cause Research Foundation (PCRF) with the Hindustan Times as Media Partner for those who have displayed exemplary commitment to RTI.<sup>28</sup>

## **Role of NGOs**

To enact bare Act on a specific issue is not sufficient, if proper awareness programmes is not taken to popularize it. The Right to Information Act 2005, also makes provision for organizing some awareness programmes for its popularity under section 26 of this act. Many NGO are working since its inception Akhil Bhartiya Chiatra Sangthan, Naina Dayal Foundation, Akhil Bhartiya Adhikar Sangthan, Public Cause Research Foundation (PCRF) etc. are working for peoples right at state and national level. Akhil Bhartiya Adhikar Sangthan is highlighting many burning social issues under this act as irregularity of academic sessions in different universities, rules for passengers in an auto bus and its implementations.

All India Rights Organization (AIRO) is working since 12 Nov. 2008 in Uttar Pradesh in the field of RTI. AIRO is trying to restructure the society and government policies on different issues. Recently AIRO has filed a case against Lucknow Development Authority (LDA) in State Information Commission. LDA announced a housing scheme for Economically Weaker Sections (EWS) (one room house, area 34 square meter) the cost of which was Rs.2,41,000 (2 Lac forty one thousand). At the time of registration, Rs. 12,100, 5% of the total amount was to be paid, at the time of allotment Rs. 48200, 20% of the remaining amount was to be paid. After that an individual could pay all remaining 75% amount in 120 instalments with 10% simple interest. Rs. 2388 was calculated monthly EMI for an individual. The main remarkable clause of this scheme concerned with the eligibility and criteria for applying EWS house, was that only that person was authorized to apply under the EWS scheme whose monthly income was not more than Rs. 3000 or Rs. 36000 yearly. An affidavit was mandatory for such declaration.

This whole scheme seems to be real farce and a clear violation of human rights. In this era it is very hard to imagine a smooth, dignified life merely in an income of Rs. 3000 per month. Within the scheme all the requirements of life are expected to be fulfilled within Rs. 600 per month after deducting Rs. 2388 as EMI for EWS scheme. House tax, tap, water tax, light, transportation, health, education, personal expenses on marriage and other functions, routine food supplement, etc was expected to be met with mere Rs. 600 in a month by LDA. AIRO has filed an application to Public Information Officer of LDA under RTI Act, mentioning all above mentioned questions. The matter is still pending in State Commission.

AIRO is also fighting against pathetic condition of crèches in Lucknow district of Uttar Pradesh under RTI Act. AIRO organizes its meeting on every third Sunday of the month for spreading awareness regarding RTI amongst the people.

Naina Dayal Foundation Lucknow is also working positively to make people aware of their right to information. As already mentioned Public Cause Research Foundation (PCRF), Ghaziabad has announced many awards like best information commissioner, best PIO and best RTI citizen making social impact. Though all are working but much more is awaited under section 26 of RTI Act for awareness.

The case of DISHA a grassroots group from Gujarat illustrates some of the mechanics of using information in order to audit public expenditure ordinarily, one does not get any access to information on state finances whether at the local level or at the top level of the state. What DISHA (an NGO) did was to persuade an elected representative to ask for the amount spent by the state on tribal welfare. Now this state is bound by law to disclose the information which, they could decipher with the help of a benevolent bureaucrat.

The movement for right to information has spread to several state by significant role of NGO's, for example, representation of about forty NGO's assembled in April 1999 in Bihar for a workshop on the subject as a Prelude to a full fledged campaign for information rights in the state.

## Conclusion

The passage of Right to Information Act, 2005 and its enthusiastic use by the public, media and NGOs have set the government machinery on right track. H.N. Nagamohan Das, the High Court Judge has said, “...*Arming people with information is paramount for democracy to survive and to improve, ...strengthening of democracy has begun with the Union Government bringing in the Right to Information Act.*” The right to information has proved very effective in controlling corruption, making government accountable and in curbing arbitrary use of power. It has empowered citizens to question government decisions and made it mandatory for the government to disclose all informations pertaining to those decisions. The right to information has a larger purpose than merely seeking information from the government. It is people's movement to empower the people to help the people to help themselves. Today our dreams and wishes of an empowered, democratic and corruption free India are almost coming true with the active role of public, media and NGOs in actualizing Right to Information Act, 2005.

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## Notes

<sup>1</sup>Section 2 f, Right to Information Act 2005

<sup>2</sup>Section 6(2) Right to Information Act, 2005

<sup>3</sup>Section 6(3) Right to Information Act, 2005

<sup>4</sup>Section 7(2) Right to Information Act, 2005

<sup>5</sup>Section 7(8) Right to Information Act, 2005

<sup>6</sup>E.S. Venkataramaiah, Freedom of the Press, Some Recent Trends, 92 (1987)

<sup>7</sup>SP Sathe, The Right to Know, I (1991)

<sup>8</sup>(1975) 4 SCC 428

<sup>9</sup>Arun Roy, Jean Dreze and Nikhil Dey, The Right to Transparent Governance, Combat Law, vol.6, Issue 2, March-April 2007, pp 27-30

<sup>10</sup>(2002) 5 SCC 294; People's Union for Civil Liberties (PUCL) v. Union of India (2003) 4 SCC 399

<sup>11</sup>The Times of India, 3 June 2009, p.3; 18 June 2009, p.1

<sup>12</sup>Dainik Jagran, Hindi, 20 June 2009, p. 14

<sup>13</sup>Dainik Jagran, Hindi, 7 June 2009, p. 7

<sup>14</sup>Amar Ujala, Hindi, 10 June 2009, p. 5

<sup>15</sup>The Hindustan Times, Lucknow, 2 June 2009, p.10

<sup>16</sup>The Hindustan Times, Lucknow, 15 June 2009, p.6

- <sup>17</sup>The Hindustan Times, Lucknow, 14 June 2009, p.3; The Times of India, Lucknow, 15 June 2009, p. 3
- <sup>18</sup>Dainik Jagran, Hindi, 19 June 2009, p.18
- <sup>19</sup>Sunday Times of India, New Delhi, 14 Jan. 2007, p.9
- <sup>20</sup>See State of UP v. Raj Narain, AIR 1975 SC 865; SP Gupta v. Union of India, AIR 1982 SC 149
- <sup>21</sup>New York Times Co. v. United States, 403 Us 713 (1971) known as Pentagon Paper Case; New York Times Co. v. Sullivan, 376 US 255 (1964)
- <sup>22</sup>AIR 1960 SC 554
- <sup>23</sup>AIR 1962 SC 305
- <sup>24</sup>(1972) 2 SCC 788
- <sup>25</sup>(1994) 2 SCC 434
- <sup>26</sup>The Times of India, Lucknow, 12 April 2009, p. 3
- <sup>27</sup>The Times of India, Lucknow, 31 May 2009, p. 5
- <sup>28</sup>Dainik Jagran, Hindi, 01 June 2009, p.3 ; The Hindustan Times, Lucknow, 01 June 2009, p. 11

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# **Violence against Women and Dispensation of Justice: A Critical Evaluation**

**Preeti Misra**

**“When women thrive, all of society benefits, and succeeding generations are given a better start in life.”**

**-- Kofi Annan**

## **Introduction**

Violence against women is the most pervasive human rights violation in the world. Male violence against women is a worldwide phenomenon. Although not every woman has experienced it, and many expect not to, fear of violence is an important factor in the lives of most women. It determines what they do, when they do it, where they do it, and with whom. Fear of violence is a cause of women's lack of participation in activities beyond the home, as well as inside it. Within the home, women and girls may be subjected to physical and sexual abuse as punishment or as culturally justified assaults. These acts shape their attitude to life, and their expectations of themselves.

Human rights of women are violated not only by unjust acts but also by unjust national and international structures. Violations of human rights are not simple individual acts of violence. Such violations are generated by developmental models whether capitalist or socialist, which are weighted in favour of the state, or those in power and are against poor, the marginalized, minorities, and women.

Against this backdrop, with all areas of human rights, whether civil, political, economic or social, human rights violations against women take specific forms. Entrenched structures and practice such as caste, customary laws, the family, religion, etc., continue to discriminate against women. Economic institutions which are exploitative of women, social institutions which oppress them or legal institutions which pride themselves on equal justice are gender biased and clearly distort gender natural notions of law.

We envision human rights for women as the “collective rights of a woman to be seen and accepted as a person with the capacity to decide or act on her own behalf and to have equal access to resources and equitable social, economic and political support to develop her full potential”, exercised her right as a full human being and to support the development of others.

Indian society has been a tradition bound society in which the traditionalists would present an idealized picture of women substantiating their claims on the basis of certain references from the vedic and classical literature.<sup>1</sup> In the vedic period women participated in all the fields like men and took active part in every sphere of human life. During the

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period, women enjoyed a fair amount of freedom and equality with men. The position of women declined steadily from the later vedic period onwards.

In Mughal period the position of women in general was subordinate to men.<sup>2</sup> The functions and the position of a woman were distinctly subordinate and in the long run came to be understood as the service of the male and dependence upon him in every stage of life<sup>3</sup>. The Muslims also showed great respect to their mothers.<sup>4</sup> The position of Women was not satisfactory in the early period of British Rule.<sup>5</sup>

The movement of social reform began during the British rule though with a slow pace when a few educated Indians Ishwar Chand Vidya Sagar, Mahatma Gandhi, Raja Ram Mohan Roy, Tilak and other prominent figures laid emphasis on the education of the Hindu Female, abolition of child marriage, lifting of Purdah System, removal of dowry evil and Sati Pratha.<sup>6</sup>

Independence led to the enactment of some legislations like Act of Woman's Legal Rights, 1952; the Suppression of Immoral Traffic in Women and Children Act, 1954; the Special Marriage Act, 1954; the Hindu Marriage and Divorce Act, 1956; the Hindu Minority and Guardianship Act, 1956; Intestate Succession Act, 1956; the Orphanages and Widow Home Act {The Orphanages and other Charitable Homes (Supervision and Control) Act, 1960}; and the Dowry Prohibition Act, 1961, to cite a few.<sup>7</sup>

After Independence, the Legislature took a more positive attitude in the matter of law reform and undertook to enact some of the measures which the British administrators were hesitant to undertake. Though 21st Century saw tremendous changes and various laws were passed for the betterment and amelioration of women, the new found opportunities melted away like thin ice before the subtle and camouflaged onslaught of the male chauvinism.<sup>8</sup>

### **Violence against Women in India**

Violence is violent victimization of women includes physical violence, coercion, threats, intimidation, isolation and emotional, sexual or economic abuse<sup>9</sup>. Narrowly, the term 'violence' has been applied to “physically striking an individual<sup>10</sup> and causing injury”<sup>11</sup>, to “the act of striking a person with the intent of causing harm or injury but not actually causing it”<sup>12</sup>, to “acts where there is the high potential of causing injury”<sup>13</sup>, and to “acts which may not involve actual hitting, but may involve verbal abuse or psychological stress and suffering”. Megargee has defined violence as the “overtly threatened or overtly accomplished application of force which results in the injury or destruction of persons or their reputation”.<sup>14</sup>

The foeticide, infanticide, incest, wife battering, dowry deaths murder and abuse of elder women are pure forms of violence against women. Dowry has been referred to as a social cancer, a cruel custom and an insult to the dignity of women. It has been crystallized in our society and despite legislation, cases of dowry harassment and dowry deaths are increasing every year.<sup>15</sup> *Shyam Sunder v. Shantamani*<sup>16</sup>, *Kundula Bala Subramanyam v. State of Andhra Pradesh*<sup>17</sup>, *Alamuri Lalitha Devi v. State of Andhra Pradesh*<sup>18</sup>, *Arvind*

Singh v. State of Bihar<sup>19</sup>, Alamgir v. State of Assam<sup>20</sup>, Surender v. State of Hariyana<sup>21</sup> are some important cases on dowry.

Cruelty is a substantive offence punishable under section 498–A of the Indian Penal Code. It is also an essential ingredient of the offence of dowry death punishable under Section 304–B of the Indian Penal Code and of the presumptive Sections 113–A and 113–B of the Evidence Act.<sup>22</sup>

The starting point of the definition of cruelty is the following passage in *Russel v. Russel*<sup>23</sup> 'conduct of such a character as to have caused danger to life limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such danger'. In *Shobha Rani v. Madhukar Reddy*<sup>24</sup> the Supreme Court held that the demand of dowry is prohibited under the law and is itself illegal and therefore, amounts to cruelty, though it may not have had an injurious effect on the wife.

Most of these women are harassed for a long time before they are murdered or driven to suicide and for every woman who dies in her home, there must be a million more who are beaten and harassed, economically deprived and mentally humiliated<sup>25</sup>.

The marginalisation of widows in India is consistent with the traditional perception of Hindu widows as inauspicious and guilty women who, ideally, should lead a life of austerity devoted to the memory of their husband. This ideological influence, however, may be less crucial than the simple fact that widows are often seen as an economic burden. The most effective way of ensuring the social protection of Indian widows is perhaps to help them to be recognized as persons who have something important to contribute to the household economy.<sup>26</sup>

<b>Crime against Women</b>			
<b>INCIDENCE</b>		<b>RATE</b>	
Year	No. of Crimes	Year	%
2009	2,03,804	2009	17.4
2010	2,13,585	2010	18.0

- ↪ Andhra Pradesh reported 12.8% of total such cases in the country (27,244 out of 2,13,585). Tripura reported the highest crime rate (46.5) as compared to the National average rate of 18.0.
- ↪ The proportion of IPC crimes committed against women towards total IPC crimes has increased during last 5 years from 8.2% in 2006 to 9.6% during 2010.
- ↪ Madhya Pradesh has reported the highest number of Rape cases (3,135) & Molestation (6,646) accounting for 14.1% & 16.4% respectively of total such cases reported in the country.
- ↪ Andhra Pradesh has reported 45.8% (4,562) of Sexual Harassment cases.

- ↪ 25% decrease was observed under Importation of Girls cases.
- ↪ Cases under Immoral Traffic (Prevention) Act increased by 1.0% (from 2,474 in 2009 to 2,499 in 2010).
- ↪ Tamil Nadu reported 22.7% of cases under Immoral Traffic (Prevention) Act (567 out of 2,499).
- ↪ Highest cases of Kidnapping & Abduction 18.4% (5,468) & Dowry Deaths 26.4% (2,217) were reported in Uttar Pradesh.
- ↪ No case under Sati Prevention Act was reported across the country during the year 2010.
- ↪ Offenders were known to the victims in 97.3% of Rape cases (21,566 out of 22,172).
- ↪ A total of 24,335 cases of crime against women were reported from 35 mega cities out of 2,13,585 cases reported in country during 2010 which is 1.5% increase over 2009. And rate of crime in these cities at 22.6 was comparatively higher as compared to national rate at 18.0.
- ↪ The female criminality in the total IPC crimes accounted for 6.2% only. The percentage share of female arrestees was higher in cases of cruelty by husband & relatives (22.8%).
- ↪ Among 35 cities, Delhi accounted for 16.0% (3,886) of total crimes followed by Hyderabad 8.1% (1,964).

**\*Table given above shows the number of crimes committed against women in India in 2009 and 2010 and their percentage of increase over the respective years, whereas Box shows percentage and rate of crime against women in different states.**

### Legal Provisions Protecting the Rights of Women

The Indian Constitution came into force in 1950 guaranteeing Indian citizens and non-citizens certain basic human rights called as fundamental rights. The rights guaranteed to the women are on par with the rights of men and in some cases the women have been allowed to enjoy the benefit of certain special provisions<sup>27</sup>.

In *Yousuf Abdul Aziz v. State of Bombay*<sup>28</sup>, *Sowmitri Vishnu v. Union of India*<sup>29</sup>, *Revathi v. Union of India*<sup>30</sup>, *Air India v. Nargesh Mirza*<sup>31</sup>, *Govt. of A.P v. P.B. Vijay Kumar*<sup>32</sup> the court secured the life and dignity of women by providing protection against discrimination and thus ensured the human rights of women. Resorting to judicial activism, the Supreme Court has expanded the scope of 'right to life' to new horizons by reading many more rights into it as integral and essential part thereof. Thus, women also have fundamental right to human dignity<sup>33</sup>, to privacy<sup>34</sup>, to healthy environment<sup>35</sup>, to primary education<sup>36</sup>, to free legal aid<sup>37</sup>, to speedy trial<sup>38</sup> as adjuncts to right to life.

The 73rd and 74th Amendments to the Indian Constitution effected in 1992 provide for reservation of seats to the women in Elections to the Panchayat and the Municipalities ensuring political justice to women—a facet of human rights.

Hindu Marriage Act, 1955 ;Dissolution of Muslim Marriages Act 1939 ; Parsi Marriages and Divorce Act 1939 ; Special Marriage Act 1954 As Amended by Amendment Act 2001 ; Hindu Adoption and Maintenance Act, 1956 ; Muslim Women (Protection on Divorce) Act, 1986 ; Indian Divorce Act, 1869 Protect human rights of women relating to marriage, maintenance, adoption etc.

To meet the challenges of increasing violence Criminal Acts were amended in 1983 and 1986 to create special categories of affairs like realty to women dowry harassment and dowry death. In order to combat the increasing incidents of torture of women by their husbands and his relatives, the legislature enacted S 498A<sup>39</sup> of the IPC and S 113A<sup>40</sup> of the Indian Evidence Act. In order to convict a person for a crime under Section 498A IPC, the prosecution has to prove that the accused committed acts of harassment or cruelty as contemplated by the section and that the harassment of cruelty was the cause of the suicide<sup>41</sup>. As the earlier law was not sufficient to check dowry death, the legislature introduced stringent provisions under the Section 304B, IPC and Section 113B Evidence Act in 1986<sup>42</sup>.

Some special laws for example Dowry Prohibition Act, 1961, Sati Prevention Act, 1987 and Protection of Women Against Domestic Violence Act, 2005 have been enacted, but laws to prevent violence against women have proved inadequate which point out that totally new approach is needed to deal with the situation.

At least four world conferences have been held with regard to protection of rights of women, but nothing concrete has happened. At the international level, prohibition against sex discrimination was first articulated in the *United Nations Charter of 1945* and later reiterated in the *Universal Declaration of Human Rights of 1948*. The movement from the *First UN World Conference on Women held in Mexico in 1975* to the *Fourth World Conference on Women held at Beijing in 1995*, has been a journey in search of equality, development and grant of rightful place to women throughout the world. The two human rights covenants of 1966 - the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, reinforce the quality concept and forbid discrimination on account of sex (Art. 3 of the covenants).

The other conventions of special importance to women, are the Convention on the Political Rights Of Women, 1952 and the Convention on the Nationality of Married Women, 1957 adopted by the United Nations General Assembly. In 1960, the General Assembly adopted the Convention against Discrimination in Education which prohibits “any distinction, exclusion, limitation or preference” on account of sex and affecting thereby the equality of treatment in education (Art. 1). In pursuance to Article 16 of the Universal Declaration of Human Rights, the General Assembly, in 1962 adopted the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. The Convention strives to ensure “equal rights” of “women and men as to marriage, during marriage, and at its dissolution” by virtue of the “principle of free consent to marriage” and prohibits child marriages. The Convention is further strengthened and supplemented by a General Assembly recommendation on the same subject in November 1965, which specifies the minimum age of marriage not to be lower

than "15 years of age".<sup>43</sup> India, which is a party to all the above mentioned Conventions, including the two Covenants, is not a signatory to this convention, where a lot is desired to be done at the national level.

However, it is the Convention on the Elimination of All Forms of Discrimination Against Women (Discrimination against Women Convention), adopted by the General Assembly in 1979, which is the most comprehensive instrument on the human rights of the women and contains more concrete provisions aimed at the real implementation of the rights already recognized. India has ratified the Convention on 9th July 1993.<sup>44</sup>

### **Dispensation of Justice and Violence against Women**

The judicial authorities are also not very sensitive to gender issues; they often dismiss violence against women as a private matter. With the rise of crimes against women being on the increase, it should have followed that judges trying the cases would display not only a greater sense of responsibility but also be more sensitive while dealing with cases of violence against women. But this has not always happened not only in the lower courts but even in some of the high courts and unfortunately even in the Supreme Court.<sup>45</sup>

Mostly, judicial decisions are weighted against women and give the benefit of doubt to men due to this built-in prejudice in favour of men which operates against women".<sup>46</sup>

*Sakshi v. Union of India*<sup>47</sup>, drew attention to the fact that the sections dealing with sexual abuse and sexual abuse of children were being given interpretations which were not in tune with the current state of affairs existing in the society. *Daldar Singh Vs. State of Punjab*<sup>48</sup> *Omkar Prasad Verms Vs. State of M.P.*<sup>49</sup> *State of Himanchal Pradesh Vs. Asha Ram*<sup>50</sup> *State of Rajasthan Vs Madan Singh*<sup>51</sup> *Abdul Wahid Bahadur Ali Shaikh V. State of Maharashtra*<sup>52</sup>, *Satish Mehra V. Delhi Administration & another*<sup>53</sup> are some illustrative cases where courts have taken a positive role towards victims of sexual abuse specially against girl child. In the case of *Centre for Inquiry into Health & Allied Themes (CEHAT) v. Union of India*<sup>54</sup>, the Supreme Court passed a stringent order commanding the Central and State Governments to implement the PNDT Act, 1994 and the rules framed in 1996.

In *State of Karnataka v. M.V. Manjunathgowda*<sup>55</sup>, commenting upon the objects of Dowry Prohibition Act and role of the judiciary, the Supreme Court observed that : "The practice of giving and demanding dowry is a social evil having deleterious effect on the entire civilized society and has to be condemned by the strong hands of the judiciary.

In the case of *L.V. Jadhav*<sup>56</sup> *Samunder Singh v. State of Rajasthan*<sup>57</sup> *Baby v. State*<sup>58</sup> *Shobha Rani*<sup>59</sup> *Puran Chand Vs. State of Haryana*<sup>60</sup> *Amar Singh Vs. State of Rajasthan*<sup>61</sup> *Sudhir Kumar Vs. State of Punjab*<sup>62</sup> the court has taken some positive stand towards the victim of dowry violence. In *Pawan Kumar v. State of Haryana*<sup>63</sup>, it was observed that "for more than a century, in spite of tall words of respect for women, there has been an onslaught on their liberties through 'bride-burning' and 'dowry deaths'.

## Recent Judgments Securing the Rights of Women

In *S.R. Batra and another Vs. Smt. Taruna Batra case*<sup>64</sup> woman's right to give birth has been recognized. In *U. Suvetta Vs State*<sup>65</sup> a husband was living (live in relationship) with another woman besides his wife, whether the same would amount to cruelty within the meaning of section 498-A. SC stated that if such other woman was not connected to the husband by blood or marriage, the same would not attract the provisions of section 498-A IPC, although it could be an act of cruelty for the purpose of judicial separation or dissolution of marriage under the marriage laws. The SC held that neither a girlfriend nor a concubine is a relative of the husband within the meaning of section 498-A IPC, since they were not connected by blood or marriage to the husband.

In *Sunita Jha Vs. State of Jharkhand*<sup>66</sup> and another appellant was living (live in relationship) with accused husband of complainant, allegedly as his wife. She was not a relative of husband of complainant. SC held that only the husband or his relative could be proceeded against under the said section for subjecting the wife to cruelty, which has been specifically defined in the said section.

## Conclusion

It is concluded that the condition of Indian woman is very much shocking. Woman is still regarded second rate citizen. She is subjected to all kinds of humiliations, discrimination and violence. She is also denied opportunities in life. Even at the threshold of the 21st Century, having so many legal and constitutional rights, a woman has not been given her due place in society.

The life of woman in India is still surrounded by violence, neglect and exploitation. Violence against women is increasing at an alarming rate in day-today life. No doubt, the law has tried to check the violence against women, which is evident from the very Acts passed by the legislature and the amendments made in the provisions of the existing law from time-to- time, but it has failed to evoke the desired initiative from the victim on account of slow, inappropriate ineffective implementation of laws.

Despite so much of legal protection and liabilities on the part of government human rights of women appear to be a myth in India. Women are still the sufferer of gender discrimination both in private as well in as public life. They suffer discrimination, deprivation and exploitation for being women. Because of gender discrimination they are the poorest, illiterate, and most miserable section of all castes as well as communities suffering a number of atrocities like sex selective abortions, female foeticide, child marriage, domestic violence, widow abuse, sati, dowry deaths, criminalities like rape, sexual harassment physical and mental torture etc. which are on an increase, despite the high place given to 'Gender Justice' in Indian Constitution. There is no dearth of laws in this regard; even then Indian women are discriminated socially, economically politically culturally and religiously.<sup>67</sup>

The security of human rights for women requires some attitudinal changes on the part of both men and women. But this would happen only when the relationship between the sexes is seen as essentially complementary and non competitive. The social, structural

and prevalent patriarchal ideology is anti women and it needs to be changed at every level. The status of women in society and equality of sexes in every sphere of life is essential to bring about changes in the status of women. The situation of all women in public at the general societal level needs to be improved so that some women do not become victims of violence at an individual level. Moreover, we need to question anti-women concept of patriarchy like chastity of women, submission, docility and obedience in marriage, etc. In the words of *Charlotte Bunch* it can be concluded that–

**“Sexual, racial, gender violence and other forms of discrimination and violence in a culture cannot be eliminated without changing culture.”**

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### Notes

- <sup>1</sup> Sood Sushma, *Violence Against Women*, (1990) p.xi.
- <sup>2</sup> K.M. Ashraf: *Life and conditions of the people of Hindustan*, p. 192. See also S.C. Raychoudhary: *History of Muslim India*, Ed. 1986, pp. 252-53.
- <sup>3</sup> Abul Fazal: *Akbarnama*, Vol. III. Trans. By Henry Beveridge, 1904, p.372. See also Neelam Upadhyay & Rekha Pandey: "Women in India: Past and Present, First published, 1990, p.18.
- <sup>4</sup> Shakuntala Rao Shastri: *Woman in the Sacred Laws* (Bombay: Bhartiya Vidya Bhavan, 1959), p. 171.
- <sup>5</sup> See B.N. Pandey, *The Break up of British India* (London : Macmillan, 1969); N.V. Sovani, "British Impact in India", in G.S. Metraux and F. Crouzet (eds.), *The New Asia* (New York: Metor Books, 1965); Spear, *A History of India* (London; Penguin Books, 1965), Vol. II.
- <sup>6</sup> Jawahar Lal Nehru, *The Discovery of India*, (New York, 1946).
- <sup>7</sup> Neelam Upadhyaya & Rekha Pandey: "Women in India – Past and Present", p. 41. First published, 1990.
- <sup>8</sup> Neelam Upadhyay and Rekha Pandey: "Women in India: Post & Present," First published, 1990, p.23. See also Ghosh, S.K., *Indian Women Through the Ages*, (1989), p.19.
- <sup>9</sup> Sinha, Niroj, *Women and Violence*, 1989, p. 32.
- <sup>10</sup> Kempe, et. al., "The Battered Child Syndrome", quoted by Rechar Gelles in Wolfgang and weiner, "Criminal Violence", 1982, p. 201
- <sup>11</sup> Gill, D, "Violence Against Children", 1970.
- <sup>12</sup> Gelles and Straus, "Determinations of violence in the Family : Towards a Theoretical Integration", in Burr, Hill, Nye and Reiss (Eds), "Contemporary Theories about the Family", 1979.
- <sup>13</sup> Straus, et. al., "Behind Closed Doors : Violence in the American Family", 1980.
- <sup>14</sup> Edwin Magargee in Wolfgang's & Weiner (Eds), "Criminal Violence", 1982 P. 85.
- <sup>15</sup> *The Statesman*, December 16, 2001, p. 8.
- <sup>16</sup> AIR, 1962 Oudh 50.
- <sup>17</sup> 1993 Cr. LJ 1635.
- <sup>18</sup> 1995 Cr. LJ 2127.
- <sup>19</sup> (2001) 6 SCC 407.
- <sup>20</sup> AIR 2003 SCW 111.
- <sup>21</sup> (2006) 12 SCC 375
- <sup>22</sup> Under the Hindu Marriage Act, 1955; Special Marriage Act, 1954; Indian Divorcer Act 1869; The Parsi Marriage and Divorce (Amendment) Act 1988; The Dissolution of Muslim Marriage Act 1939.
- <sup>23</sup> (1897) A.C. 393.
- <sup>24</sup> AIR 1988 S.C. 121.
- <sup>25</sup> Ghadially, R., *Women in Indian Society*, 1988, p.151–152.
- <sup>26</sup> Chen Marty and Dreze, Jean, *Widows and Health in Rural North India*, EPW, Oct.24–31, 1992, ws–90.
- <sup>27</sup> Reddy, G.B., *Women and the Law*, 2001, p. 2.

<sup>28</sup> AIR 1954 SC 321.

<sup>29</sup> AIR 1985 SC 1648.

<sup>30</sup> AIR, 1988 SC 835.

<sup>31</sup> AIR, 1981 SC 1829.

<sup>32</sup> AIR 1995 SC 1648.

<sup>33</sup> Francis Coralie v. Union Territory of Delhi, AIR, 1981 SC 746; Menka Gandhi v. UOI, 1981 SC 746.

<sup>34</sup> People's Union for Civil Liberties v. Union of India, AIR, 1997 SC 568.

<sup>35</sup> Indian Council for Enviro–Legal Action v. Union of India (1996) 3, SCC, 212; State of Maharashtra v. Madhukar Narain, AIR 1991 SC 207.

<sup>36</sup> J.P. Unnikrishnan v. State of Andhra Pradesh, AIR, 1973, SC 2178.

<sup>37</sup> Kadra Pahadia v. State of Bihar, AIR 1981 SC 939.

<sup>38</sup> Ibid.

<sup>39</sup> Inserted by criminal law (2<sup>nd</sup> Amendment) Act 1983. Act 46 of 1983. The section came into effect on 25<sup>th</sup> December 1983. Section 498–A reads as under :

498A Husband or relative of husband subjecting her to cruelty – Whoever being the husband or the relative of the husband of a woman, subjects such a woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation : For the purpose of this section, 'cruelty' means –

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause injury or danger to life and limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where harassment is with the view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to meet such a demand.

<sup>40</sup> Section 113A reads as under :

113A Presumption as to abetment of suicide by a married woman – when the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband has subjected her to cruelty the court will presume having regard to all the circumstances of the case, that such a suicide had been abetted by her husband or by such relative or her husband.

Explanation : For the purposes of this section, 'cruelty' shall have the same meaning as in S 498A IPC (45 of 1860). The term cruelty in this section has to be construed taking into account the definition of cruelty in S 498A of the IPC – Smt Shanti v. State of Haryana, AIR 1991 SC 1226.

<sup>41</sup> State of Maharashtra v. Ashok Chotelal Shukla (1997) 11 SCC 26.

<sup>42</sup> Section 304B of the IPC reads as under :

(1) 304B Dowry Death – where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of marriage and it is shown that soon before the death, she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called 'dowry death' and such husband or relative shall be deemed to have caused her death.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Section 113B of the Evidence Act reads as under :

113B Presumption as to dowry death – when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty, harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.

Explanation : for the purposes of this section, 'dowry death' shall have the same meaning as in S 304B of the Indian Penal Code (45 of 1860).

<sup>43</sup> See I. Ottonelli, "Human Rights Violations: Sexual Discrimination" in Thessaloniki, The Evolution of International Law since the Foundation of the UN, XVI (1990), p. 793 at 797.

<sup>44</sup> See UN Doe. ST1LEGISER.AJ57 (1994), p. 444.

<sup>45</sup> Annual Survey of Indian Law, Vol. XXXVI, 2000, p.521.

- <sup>46</sup> Diwan, Paras, 'Law Relating to Dowry Deaths...and Relates Offences', IInd ed. 2002, p. 1.
- <sup>47</sup> 1996 (6) SCC 591.
- <sup>48</sup> AIR 2006 (SC) 3084.
- <sup>49</sup> 4 SCC (2007) 323.
- <sup>50</sup> (2005) 13 SCC 766
- <sup>51</sup> (2008) 5 SCC P. 147
- <sup>52</sup> 1993 Cr.LJ 977.
- <sup>53</sup> 1996 SCC (Cr.) 1104, AIR 1996 SC5.
- <sup>54</sup> (2001) 5 SCC 577.
- <sup>55</sup> (2003), 2 SCC 188.
- <sup>56</sup> L. V. Jadhav v. Shankarao Abasahed 1983(4) SCC, 231.
- <sup>57</sup> (1987) 1 SCC 466 : 1987 SCC (Cri) 189 : AIR 1987 SC 737.
- <sup>58</sup> (1984) Cr LJ 1684.
- <sup>59</sup> Shobha Rani v. Madhukar Reddy, AIR 1988 SC 121.
- <sup>60</sup> (2010) 6 SCC P.566
- <sup>61</sup> (2010) 9 SCC P.64
- <sup>62</sup> (2010) 3SCC P.239
- <sup>63</sup> 1998 Cr. LJ 1144 (SC)
- <sup>64</sup> (2007) 3 SCC 169
- <sup>65</sup> (2009) 6SCC P.759
- <sup>66</sup> (2010) 10 SCC P. 190
- <sup>67</sup> Skinnider, Eileen, Violence Against Children : International Criminal Justice Norms and Strategies in Gaur, K.D. (ed.) Criminal Law and Criminology, 2002, p. 740.

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# Global or Universal? Cultural Conflicts in Conceptualizing Children's Rights to Education

Diane M. Hoffman

## Introduction

Since the Universal Declaration of Human Rights recognized the right to education as a basic human right (article #26, 1948), nations and societies around the world have debated the implications of this statement. As commentators such as Piaget (1951) pointed out, if education is a natural right, it becomes an imperative upon a social community, and cannot be conceived as a charitable function or a generous gift.

But, as anthropologists know, the question of education is always complicated by culture, because education exists within culture, is shaped by it, and is always to a great extent a primary cultural force for production, reproduction, as well as change. So the “right to education” raises many questions from a multicultural perspective. Since cultures define what is a “good education” differently, should considerations of quality be a part of the “right to an education?” Or should issues of social class be considered? Or if a culture deems education of a certain type should be reserved for only a few, and others should receive education of another type, then what? Or what if a culture views education in sacred rituals to be an essential part of its cultural survival, but those secrets cannot be revealed to the majority without the culture itself being destroyed? Or what of a system that structures itself so that a large proportion of its students drop out of its schools before finishing, while it ostensibly has a “free public education” system open to all? Does that system satisfy the “right to education?” Or the system where almost no schools are public, and parents sacrifice children to domestic slavery in the hope that perhaps they might have a chance to go to school, and such children suffer abuse for years and never go to school, and still, their only goal, years later, is to go to school....

To say that education is a human right, against such a diversity of cultural practices and values, is really to say very little. I know this sounds cynical, but what I wish to emphasize in this paper is that the power of culture in shaping the diversity of lived experiences as well as how experiences are perceived is often underestimated in discourses of international human rights. At the international level, “global” and “universal” are confused in discussions of culture (a problem which I will turn to shortly) but even that is not the biggest difficulty.

International human rights discourses as helpful as they are always abstractions and they thus bring cultural actors, researchers, educators, nations, etc. into an international arena where the terms of discourse are necessarily internationalized. Multiculturalism and “multicultural society” are also conceptual abstractions, obviously very useful ones at that. However, they are useful in some contexts, and not so much in others. They can, like many other grand concepts and ideas, in fact prevent us from seeing things when used in particular cultural context simply because they are either at the wrong level of abstraction

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or they are conceptually inappropriate.

An example in looking at the human rights issue in education might be what is sometimes called the tacit individualism of the rights framework. Does the right to an education presume that this is an individual right? Does it presume that the benefit shall be to the individual? Or, how do individual benefits in fact relate to community benefits? What are the assumptions being made with regard to the fundamental relationship between norms of personhood and education? As Scheper-Hughes and Sargent (1998) write,

The rights rhetoric could serve as a screen for the transfer of Western values and economic practices dependent on a neoliberal conception of independent and rights-bearing 'individuals' as opposed to ideas of social personhood embedded in, and subordinate to, larger social units, including extended families, lineages, clans, and village (or ethnic communities. These more 'traditional' social formations have alternative, and sometimes competing, definitions of the person, his or her 'rights,' and the notions of 'the good society.' (p. 7)

Education most certainly can promote individualistic values and practices, or it can promote more sociocentric social orientations; it is a key social practice in the transmission of cultural values and practices related to norms of social personhood. If we wish to have a "universal right to education" then, we must somehow come to terms with the issues that frame the place of education in the development of individual personhood as well as in communal notions of self and belonging.

The questions of cultural diversity in educational values and practices are also increasingly significant for human rights discourses because in the current era the processes, actors, ideals, practices, and resources involved in shaping education have taken on a transnational or global character. In fact, it is becoming increasingly rare for education itself to be a monocultural phenomenon anywhere: even in an isolated classroom or a dirt floored hut or a clearing under a tree, someone is doing something to connect with an idea that may have been born thousands of miles away, or thousands of years ago. The values that shape current practice in early childhood education around the world, for example, are increasingly shaped by an ideology of Western-based individualism and child-centeredness whose cultural presuppositions are only beginning to be challenged as hegemonic (Bloch, 2001; Cannella, 2007; Johnson & Gaiyabu, 2001; Hoffman, 2003; Hoffman & Zhao, 2008; Popkewitz, 2000; Viruru, 2002). Popkewitz (2000) argues that local adaptations of globally circulating educational ideas quickly become naturalized and used for political purposes; they reflect cultural, economic, and political contexts that construct idealized visions of the good society and the good citizen.

### **The case of Haiti: The Invisible Child, the Invisible School**

Imagine now a nation in the Caribbean sea, less than 2-hour flight from Miami Florida in the U.S., where 80% of the population lives on less than \$2 US per day. With a literacy rate of about 52%, a primary school enrollment rate of 55% (UNICEF, 2005) and a system where only 10% of schools are public, access is severely limited for the majority of the population, most of whom have no means to pay for the costs of schooling. In Haiti, among the most disenfranchised and marginalized are children known as *restavek* (a

Creole term meaning “stay with”). These are children who are sent by relatives to live with other relatives or unrelated families to perform unpaid domestic service. Although a parent commonly believes that a child will be better off in the new family and receive a chance to go to school, it is far more likely that he or she will be denied an education and be harshly mistreated, as is poignantly illustrated in the autobiographical memoir of a former *restavek*, Jean Robert Cadet (1998).

The practice of sending children into domestic service is a long tradition in Haiti, and was noted by Herskovitz in his fieldwork in the 1930s (1964[1937]). Though Haitian law prohibits child labor under the age of 12 and specifies adequate care and provision for children from 12 to 15 who are working in domestic service, as Lubin (2002) points out, these legal guarantees have meant very little in reality. The few academic reports that exist (FAFO, 2002; USAID, 2004) have been shaped by the inherent difficulties of doing research on a hidden and stigmatized practice.

Another factor that has become increasingly significant in research on this question concerns the national and international debates that surround issues regarding children's human rights, domestic labor, and human trafficking which have become very prominent in international media coverage of the Haitian situation (Chin, 2003; Skinner, 2008). There is an interesting dilemma, however, in this process. As international attention has been focused on Haiti as one among a number of nations that promotes “child slavery,” and some have tried to use the cause of the *restavek* to align Haiti with international and transnational human rights movements, there is also the risk of further alienation from within, from those sectors of the Haitian population that, arguably, need most to hear a discourse that is *not* internationalized but localized and personalized. There is also another argument at play which that Haiti is *already* the most globalized and postmodern place on the globe anyway, given that the entire economy is supported through overseas cash transfers and that without foreign aid workers, doctors, charity missions, etc. the country would collapse. So in reality a “global” culture can occur at both ends of the power/resource spectrum: the truly wealthy and the truly desperate. And it may well be that the intense desire for education, because it is seen as the sole route out of poverty, the sole route to a better life, is a function of that globalized desperation. So it is also a factor in the lives of *restavek* children.

Does conceptualizing education as a right help us to solve the problems of *restavek* children? Insofar as it mobilizes international attention, interest, and aid, perhaps. Less so as it creates ambiguities for Haiti politically. But when it comes to doing fieldwork, probably very little, because it does not help us to see the tremendous cultural, social, and economic factors that entwine in children's lives to sustain 300,000 (about one in ten) children in this situation in Haiti today. What is needed, I argue, is attention to the daily lived experiences of *restavek* children across a variety of life situations, both urban and rural, so that we can begin to know how to address the problems of education that are so severe for this group. My research will focus on the ethnographic study of informal peer networks and support among rural *restavek* children. I hope to understand better the lives of these children and how informal learning might be used as an alternative to formal school based learning, since schooling is so problematic for this group.

An ability to see is always important in ethnographic fieldwork, particularly among a

hidden and marginalized group, and even more so in a culture that is itself structured on a constant tension between what is hidden and what is revealed. In my preliminary field visits I have learned that learning itself is slow, that a lot is hidden from view, and that important connections and realizations will often reveal themselves symbolically or through dreams, often sometime after the fact. On a number of occasions I experienced strikingly accurate intuitions and situations where I felt strangers had literally “read my mind.”

### **China: The “Too Visible” Child, the Too Visible School?**

As a major instrument of social change, education is frequently a primary arena in which societies engaged in social transition “re-create individuals and reintegrate them into the state and the people-nation” (Carnoy, 1990, p. 63). A similar argument is made by Kaplan (2006), whose ethnographic study of Turkish education illustrates the ways in which a “politics of pedagogy” works to shape an “ideal citizenry” that legitimates a particular social and political order (p. 19). In the case of China, too, the transition to a market economy has occasioned massive educational reform that has prioritized cultivation of a new type of person with the abilities and skills necessary for the new socioeconomic order. In the *Outline for Curriculum Reform for Compulsory Education* (China Education Commission, 2001), for example, profound ideological changes are recommended that target a whole range of values and practices associated broadly with notions of individualism, such as teaching to the developmental characteristics of children, enhancing individual abilities and individual differences, emphasizing active learning, and integration of notions of multiple intelligences. As a result of current changes in China, schools are becoming more diverse; it is plurality that defines the emerging social-educational complex. School quality issues have been at the heart of this evolving diversity, and though the Ministry of Education has responded with concern over the rise of elite private schools and in some cases with imposition of discriminatory measures, Ross (2000) notes that private schools vary tremendously in quality and intent; what is most characteristic of the contemporary educational sector is the replacement of a socialist narrative of the public good with a market narrative of private interest and initiative.

### **Comparisons**

With all this cultivation of persons going on via educational systems, in the Chinese case positively, and in the Haitian case, negatively (via the absence of any system per se and in the power of a shadow 'system of desire') one wonders whether in the end children have any rights at all to be freely educated, or whether educational systems in fact necessarily imposing their visions of what kind of persons children ought to become and so are never truly educated to be free. Particularly in a global society, does the right to education mean that one can contest any form of education which has as its basis enculturative or socializing dimensions? Is it possible to conceptualize such an education?

I would probably have to answer negatively, at least at this point in time, for all education has a cultural dimension, and cultures still do need to survive that is, they need to “recruit” and “maintain” themselves through processes of enculturation. However, just what qualifies as personhood and enculturation are notions that are currently in need of re-

evaluation. At a minimum, I would suggest that perhaps a more critical interpretation of education as a human right in the context of cultural diversity ought to highlight the distinction between a global and a universalistic perspective on culture. A good example might be the recent emphasis on social and emotional learning in American schools which is, in fact, rapidly spreading around the world and is even, I understand, of interest to educators in China. Despite the fact that it is well known that cultures have different expectations for the expression of emotion, there is much emphasis in social emotional practices on the verbalization of emotions and “talking about emotions” in the U.S. practices, justified by reference to psychological research that supposedly shows the close links between language processing and emotions (research, no doubt, done by Americans on American subjects; it ignores much of the anthropological research on cognition that demonstrates the exact opposite how little of cognitive function in fact is language dependent; e.g. Bloch, 2006). In this case, what is good for Americans is assumed to be good for everyone else too: this is the primary fallacy of universalism. Universalism occurs when an idea or principle is discovered or promulgated within one cultural context and is then considered to represent the best thinking or knowledge applicable to all cultures or societies everywhere. What often happens in this process is that nations feel status pressures to buy into dominant “universal” ideologies because they have powerful knowledge networks behind them.

A global perspective on culture makes far fewer demands on ideological positioning and is, in the long run, a fairer and more just approach to conceptualizing human rights questions to education. Globality recognizes the competing universe of discourse in which educational values and practices exist and is grounded in an openness to consideration of alternatives from the less powerful. A global view of a right to education would demand a much more open vision of what that education could consist of than a “universal” perspective, which in my view presumes a more reductive and culturally singular model.

For children in China, one might say that a global vision is necessary because it can open up the discourse on the new personhood so that the problems attendant on “competency-based” education and the new elitism, so entwined with new ideas on individualism, can be addressed.

For children in Haiti, what is needed is most definitely a global vision of education that is open to alternatives, for the existing system has utterly failed, and there are in effect no human rights to education. This vision would allow even demand rethinking alternatives to education and personhood that can respect the lives of children who are currently being sacrificed to a dream that never comes true.

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## References

Bloch, Maurice. (2006). *Language, Anthropology, and Cognitive Science*. In H. L. Moore & T. Sanders (Eds.), *Anthropology in Theory: Issues in Epistemology* (pp. 288-298). Malden, MA: Blackwell Publishing.

- Cadet, Jean Robert (1998) *Restavec: From Haitian Slave Child to Middle Class American*. Austin: University of Texas Press.
- Canella, G. S. (1997). *Deconstructing Early Childhood Education: Social Justice and Revolution*. New York: Peter Lang.
- Carnoy, M. (1990). Education and the transition state. In M. Carnoy & J. Samoff (Eds), *Education and social transition in the Third World*. (pp. 63-96). Princeton, NJ: Princeton University Press.
- Chin, Elizabeth. (2003). Children out of bounds in globalizing times. *Postcolonial Studies* 6 (3), 309-325.
- Herskovits, Melville J. 1964 [1937]. *Life in a Haitian valley*. New York: Octagon Books Inc.
- Hoffman, Diane M., and Guoping Zhao (2008). Global Convergence and Divergence in Childhood Ideologies and the Marginalization of Children. In J. Zajda, K. Biraimah & W. Gaudelli (Eds.), *Education and Social Inequality in the Global Structure*. Dordrecht: Springer.
- Hoffman, Diane M. (2003) Childhood Ideology in the United States: A Comparative Cultural View. *International Review of Education* 49 (1-2), 191-211.
- Johnson, R. T. & Gaiyabu, M. (2001). Resisting normative representations in the Pacific islands: Domestic enemies meet over coffee. In J. Jipson & R. T. Johnson (Eds.) *Resistance and Representation: Rethinking Childhood Education*. New York: Peter Lang.
- Kaplan, S. (2006). *The pedagogical state: Education and the politics of national culture*. Stanford, CA: Stanford University Press.
- Lubin, Irdèle. (2002). Un regard sur la domesticité juvénile en Haïti. *Refuge* 20(2): 45-51.
- Popkewitz, T. S. (2000). Globalization/Regionalization, Knowledge, and Educational Practices: Some Notes on Comparative Strategies for Educational Research. In T. Popkewitz (Ed.), *Educational Knowledge: Changing Relationships Between the State, Civil Society, and the Educational Community*. Albany, NY: State University of New York.
- Ross, H. (2000). In the moment discourses of power, narratives of relationship. In J. Liu, H. A. Ross, & D. P. Kelly (Eds.) *The ethnographic eye: Interpretive studies of education in China* (pp. 123-152). New York: Falmer Press.
- Scheper-Hughes, N. & Sargent, C. (1998). Introduction: the cultural politics of childhood. In N Scheper-Hughes & C. Sargent (Eds.) *Small wars: the cultural politics of childhood* (pp. 1-33). Berkeley: University of California.
- Skinner, B. (2008) *A Crime so monstrous: face to face with modern day slavery*. New York: Free Press.
- Sommerfelt, Tone (ed.) (2002). *Child domestic labor in Haiti: Characteristics, contexts, and organization of children's residence, relocation and work*. FAFO Institute for Applied Social Science. Oslo. <http://www.fafo.no/engelsk/>
- Smucker, Glenn R. & Murray, Gerald F. (2004). *The uses of children: A study of trafficking in Haitian children*. USAID, Port-au-Prince, Haiti.

UNICEF. (2005) *The State of the World's Children, 2006*. New York, NY: United Nations Children's Fund.

Viruru, R. (2002). Postcolonial Ethnography: An Indian Perspective on Voice and Young Children. In G. S. Cannella & J. L. Kincheloe, (Eds.), *Kidworld: Childhood Studies, Global Perspectives, and Education* (pp. 151-160). New York: Peter Lang.

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# Right to livelihood and Handicraft in India: An Observation

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Human right is not only the area of law and legislature, it is also an observation that state is playing its role to maintain its infrastructure in the country that is why it is trying to increase its export by different types of material in which handicraft is also one of them. Culture and its product is not only the affair of a specific community but also it protects and produces ways in nation building. This approach is mutual flow of state's role for the people and community's endeavor to protect its people's right by promoting material culture as a means of livelihood in the era of globalization. This flow of culture as production of material is nothing but the protection of right to life indirectly and in this proposed paper an effort has been made to put facts of export in Handicraft sector as a means of not only livelihood but it also analyses the role of state to protect its people's right to life.

The term 'handicraft' encompasses a wide range of artifacts. The informal sector, which includes handicrafts, has been described by the International Labour Organization (ILO) as a part of economic activity characterized by certain features like reliance on local available resources and skills, family ownership, small scale operations, labour intensity, traditional technology, skills generally acquired outside the formal school system, unregulated and competitive markets.

One of the best definitions of handicrafts is that adopted by UNESCO-UNCTAD/WTO (ITC) at Manila, 6-8 October 1997 during a symposium on crafts, which is: “Artisanal products are those produced by artisans, either completely by hand, or with the help of hand tools or even mechanical means, as long as the direct manual contribution of the artisan remains the most substantial component of the finished product. The special nature of artisanal products derives from their distinctive features, which can be utilitarian, aesthetic, creative, culturally attached, decorative, functional, traditional, religiously and socially symbolic and significant.”

A simple nomenclature for handicrafts was given by Development Commissioner (Handicrafts) in 1989: “... items made by hand, often with the use of simple tools, and generally artistic and/or traditional in nature. They include objects of utility and objects of decoration.”

A World Bank report classifies products as crafts on consideration of:

- ↳ Manual labour with minimal or no input from machines.
- ↳ A substantial level of skill or expertise.

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↪ A significant element of tradition.

An invaluable, and integral, part of the nation's heritage, handicrafts command an importance, both cultural and economic. The sector yields a number of economic, social and cultural benefits such as:

- ↪ Highly dispersed and centralised; spread all over the country, in rural and urban areas.
- ↪ Highly labour-intensive, especially helping weaker sections of society.
- ↪ High employment potential in relation to capital employed.
- ↪ High output to investment ratio.
- ↪ Generation of subsidiary off-season employment.
- ↪ Generation of foreign exchange from exports.
- ↪ High ratio of value addition.
- ↪ Large-scale involvement of women, weaker sections and minorities.

Handicrafts is one of the key export segments of Indian trade with significant contributions coming from Uttar Pradesh. However, the handicrafts sector of Uttar Pradesh is faced with several problems such as unorganized marketing and inadequate market information; inadequate support mechanism for product development; power interruptions and other infrastructural deficiencies; inadequacy of raw material at appropriate prices; lack of mechanism for dispersal of technology for enhancing productivity; final finishing and lack of investment for fulfilling international requirements and a general poor image of the country as a supplier of quality goods with consistency.

### **The Indian Scene**

The development of handicrafts in the country has been increasingly export-driven. India's principal export sectors are indicated below. Although the share of handicrafts and hand-knotted carpets is just about 2.5 per cent of overall exports from the country, these sectors account for very high employment potential, perhaps the highest among all product sectors, and also value-added component as much as the net foreign exchange earnings.

The total handicrafts exports from India amounted to Rs.5835.97 crore in 1997-98, which increased to Rs.9270.56 crore in 2000-01, registering an annual growth rate of 14.71 per cent in rupee terms and 7.64 per cent in USD terms.

The prominent craft centres of the country, particularly in the context of exports, included the following:

### Box 1

<b>Prominent Craft Centres of the Country</b>	
<b>Region</b>	<b>Prominent Crafts</b>
Bhadohi-Mirzapur	Hand-knotted carpets
Moradabad	Art metalware
Saharanpur	Woodware
Jodhpur	Iron/wood crafts
Jaipur	Textiles
Narsapur	Lace/crocheted goods

The Sub-group for Handicrafts for the Tenth Five Year Plan estimates the total employment in unregistered manufacturing sector in the industry to be about 34 million at the end of the Ninth Plan. The handicrafts sector accounts for around 17-18 per cent of the total employment in the unregistered manufacturing sector. If employment level includes both full-time and part-time artisans in the handicrafts sector, their number has been estimated by the Working Group as follows:

<i>At-end</i>	<i>No. Lakhs</i>
Plan V	18.90
Plan VI	27.40
Plan VII	42.15
Plan VIII	52.92
Plan IX	58.41

The NCAER (National Council of Applied Economic Research) finished in 1999 results of a census carried out in 1995-96: total handcraft units in production in 24 states in the country aggregated 1.266 million, The number of artisans working on these units numbered 4.822 million.

According to a World Bank Report, there are 9-10 million craft workers in India including part-timers. The crafts account for 15-20 per cent of the country's manufacturing workforce, and contribute 8 per cent of GDP in manufacturing. According to the Sub-group for Handicrafts: Tenth \ Plan, handicrafts GDP contributed about 25 per cent of the GDP of unregistered manufacturing sector in the country, and about 7.5 per cent of the total manufacturing sector GDP.

The size of the market for handicrafts in India in 1994-95 was about \$4.6 billion, of which exports constituted about 18 per cent. The annual growth of market in real terms (1989-95) aggregated 1.6 per cent (domestic) and 6 per cent (exports).



**Source:** EPCH (Export Promotion Council for Handicrafts).

Major handicrafts, which registered export growth during; the Ninth Plan, included the following:

Hand-knotted carpets are among veritable pieces of art. The Indian-knotted carpet industry is rural-based among cottage industry, estimated to employ about 15 lakh weavers. Almost 75 per cent of the weavers are in Uttar Pradesh, primarily concentrated in rural areas in six eastern Uttar Pradesh districts, namely, Mirzapur, Bhadohi, Sonbhadra, Varanasi, Jaunpur and Allahabad.

**Table 1**  
**Export of Handicrafts (Rs. Crore)**

	1995-96	1996-97	1997-98	1998-99	1999-2000	2000-01
Art Metalware	1042 (311)	1084 (305)	1292 (348)	1324 (315)	1497 (346)	1778 (393)
Woodware	154 (46)	219 (62)	279 (75)	286 (68)	349 (81)	434 (96)
Hand-printed Textiles	403 (121)	419 (118)	490 (132)	1034 (246)	1158 (267)	1277 (282)
Embroidered Goods	813 (242)	1037 (292)	1307 (352)	1209 (276)	1584 (366)	1965 (435)
Shawls	14 (4)	18 (5)	20 (5)	18 (4)	22 (5)	27 (6)
Zari/Zari Goods	42 (13)	52 (15)	72 (19)	75 (18)	84 (19)	142 (31)
Imitation Jewellery	30 (9)	43 (12)	68 (18)	104 (25)	114 (26)	122 (27)
Misc.	492 (147)	636 (179)	646 (174)	1058 (251)	1116 (258)	1210 (268)
<b>Total</b>	<b>2990 (894)</b>	<b>3507 (988)</b>	<b>4174 (1123)</b>	<b>5058 (1202)</b>	<b>5924 (1367)</b>	<b>6955 (1538)</b>

Source: Export Promotion Council for Handicrafts and Council of Handicraft Corporations and Development Commissioner (Government of India).

Note: Values in parentheses are in US \$ Million.

About 90 per cent carpets produced in the country are exported. Exports to USA and Germany amount to 40 per cent and 30 per cent respectively of the total carpet exports

from the country.

**Table 2**  
**Export Performance of Carpets and Other Floor Covering (Rs. Crore)**

	Woollen	Silk	Silk Synthetic	Total
1993-94	922.56 (294.00)	49.60 (15.81)	19.84 (6.32)	992.00 (316.13)
1994-95	1020.22 (324.70)	55.15 (17.55)	27.57 (8.77)	1102.94 (351.02)
1995-96	1286.97 (384.77)	56.64 (16.93)	21.31 (16.93)	1364.92 (408.07)
1996-97	1499.06 (422.27)	68.27 (19.23)	17.46 (4.91)	1584.79 (446.41)
1997-98	1495.32 (402.34)	109.62 (29.49)	56.64 (15.24)	1661.58 (447.07)
1998-99	1783.33 (423.87)	136.45 (32.43)	94.16 (22.38)	2013.94 (478.68)
1999-00	1888.45 (435.80)	153.93 (35.52)	93.65 (21.61)	2136.03 (492.93)
2000-01 (Prov.)	2045.96 (452.50)	167.03 (36.97)	102.16 (22.59)	2315.15 (512.03)

Source: Export Promotion Council for Handicrafts and Council of Handicraft Corporations and Development Commissioner (Government of India).

Note: Values in parentheses are in US \$ Million.

There are six leading carpet suppliers in the world market viz., Iran, China, India, Pakistan, Nepal, Turkey, Iran ranks at the top, followed by China. India ranks third in terms of value and on top in terms of volume. India faces stiff competition from China on quality and value. Nepal and Turkey have emerged as big competitors. The world market of handmade carpets and other floor coverings is reported to be as under:

**Table 3**  
**World Market of Handmade Carpets (US\$ Million)**

Country	1995	1996	1997	1998	1999
World	2181.11 (100)	2169 (100)	2164.76 (100)	2028 (100)	1926.96 (100)
Iran	599.80 (27)	582.32 (26.9)	577.10 (26.6)	547.66 (26.99)	520.27 (27.00)
China	412.23 (18.9)	400.48 (18.5)	399.19 (18.4)	365.11 (18.00)	345.89 (18.45)
India	4.5.69 (18.6)	389.65 (18)	381.73 (17.59)	378.09 (18.64)	340.87 (17.69)
Pakistan	150.50	147.20	141.02	125.70	121.70
Nepal	239.92 (11)	233.79 (10.8)	227.80 (10.5)	202.54 (10.00)	121.70 (10.00)
Turkey	130.87 (6)	109.58 (5.05)	108.98 (5.02)	101.19 (4.99)	96.73 (5.02)

Source: Export Promotion Council for Handicrafts and Council of Handicraft Corporations and Development Commissioner (Government of India).

Note: Values in parentheses showing percentage share.

Germany has been the world's biggest market for knotted carpets. The major suppliers of hand knotted carpets to Germany are:

**Table 4**  
**Major Suppliers of Hand-knotted Carpets to Germany**

Country	Volume (%)	Value (%)	Average Price: DM/Sq. m.
India	38.80	21.12	58.67
Iran	23	40	188.95
Nepal	20.26	15.81	84.19
China	4.50	7.10	170.04
Morocco	4.88	2.34	51.76
Pakistan	3.01	2.09	96.28
Turkey	2.12	5.08	294
Afghanistan	1.15	0.58	60.9

Source: Export Promotion Council for Handicrafts and Council of Handicraft Corporations and Development Commissioner(Government of India).

**Table 5**  
**Major Destinations of India's Hand-made Carpets (Value: Rs. Crore)**

Country	1999-2000	2000-01 (P)
USA	847.79	1008.47
Germany	619.45	568.01
UK	79.03	106.82
France	63.44	68.85
Japan	41.87	62.44
Sweden	40.37	47.02
Canada	34.17	41.29
Australia	26.70	34.97
Italy	44.43	34.88
Spain	26.70	33.75
Netherlands	30.55	30.00
Austria	26.70	34.97
Denmark	27.98	20.28
Switzerland	24.35	20.20
Belgium	27.77	20.14
Finland	19.01	18.11

Source: Export Promotion Council for Handicrafts and Council of Handicraft Corporations and Development Commissioner (Government of India).  
P: Provisional.

The share of Indian carpet exports to Europe is 43.07 per cent (Germany accounts for 24.53 per cent, Scandinavia 4 per cent and rest of Europe 14.59 per cent). The Bhadohi-Mirzapur belt is the main supply area of woollen carpets and floor coverings to Germany and other European countries.

The share of India in terms of volume for carpets less than 350 knots is around 49 per cent, whereas the share in value is only 33 per cent. The German market for medium and low knottage carpets (less than 350 knots) is dominated by Nepal and India. Carpets above 350 knots are supplied mainly by Iran and India. India has 38 per cent share in volume and only 21 per cent in value; Iran has 22 per cent shares in volume but 40 per cent share in value.

The German market for silk carpets is dominated by India and China. China has 52 per cent share in volume and 42 per cent share in value; India has 34 per cent share in volume but only 19 per cent share in value.

The share of exports to USA and Canada is 45 per cent (USA accounts for 43 per cent and Canada about 2 per cent). USA consumes around 28 per cent of the world import of carpets and floor coverings. The major imports are of knotted carpets accounting for 38 per cent and tufted carpets accounting for 27 per cent. India's major competitor is China followed by Pakistan, Nepal and Turkey. Canada is relatively a small market for carpets and floor coverings. Iran dominates the market, particularly because of embargo in USA.

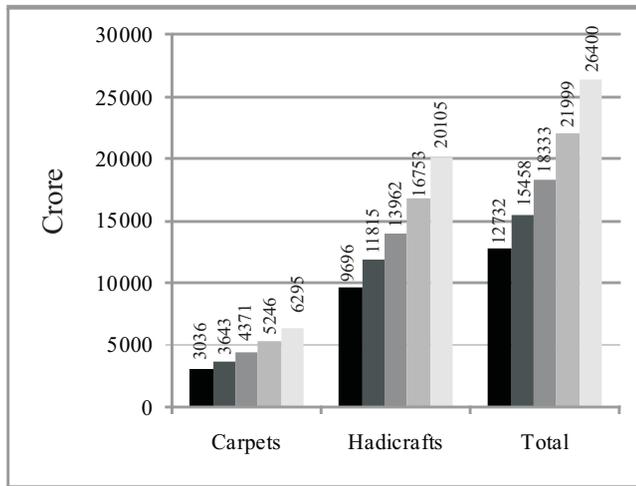
The actual export level in the composite handicraft sector have been shown as below:

**Table 6**  
**Actual Export Level in the Composite Handicraft Sector**

	Handicrafts		Carpets		Total	
	Rs.	US\$	Rs.	US\$	Rs.	US\$
	Crore	Million	Crore	Million	Crore	Million
1995-96	2990	894	1365	408	4355	1302
1996-97	3507	988	1585	446	5092	1434
1997-98	4174	1123	1662	447	5836	1570
1998-99	5058	1202	2014	479	7072	1681
1999-00	5924	1367	2136	493	8060	1860
2000-01 (P)	6955	1538	2315	512	9271	2050
2001-02 (Target)						2525

Source: Export Promotion Council for Handicrafts and Council of Handicraft Corporations and Development Commissioner (Government of India).  
P: Provisional.

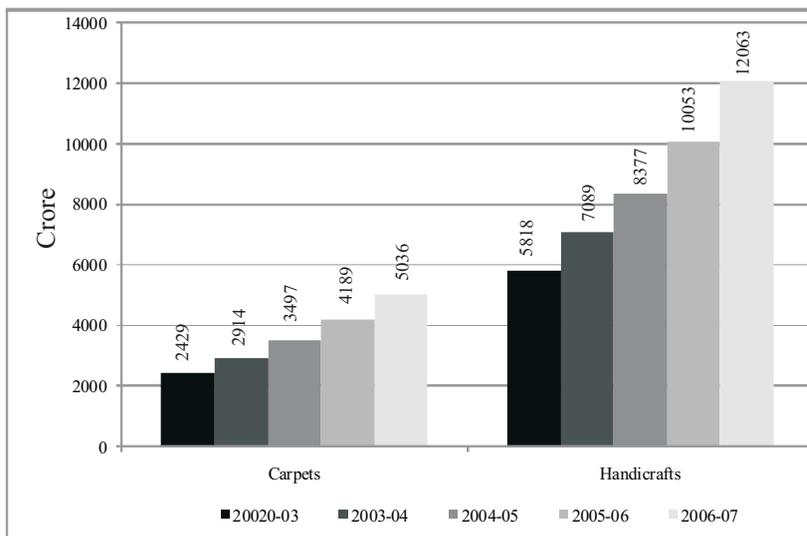
The Tenth Five-Year Plan Working Group for Handicrafts has estimated the following export projections during the Plan period:



Source: Tenth Five Year Plan Working Group Estimates.

The export growth of the country's carpets and handicrafts is projected at 21.47 per cent during the Tenth Five Year Plan period. If the share of Uttar Pradesh is maintained at 60 per cent for handicrafts and 80 per cent for carpets, broadly as at present, the export turnover from Uttar Pradesh is estimated to be as follows:

**Figure 3**  
**Estimated Exports Turnover during Tenth FYP (Values in Rs. Crore)**



Source: Tenth Five Year Plan Working Group Estimates.

## **Conclusion**

This paper shows that every material culture is ultimately associated with man and every man depends on infrastructure and resources which may be generated with an effort of marketing of cultural characteristics in the market. Man was not wearing clothes millions of years back, but after making culture he became an armoured human being culturally which enabled him to develop marketing. All this led to an imbalance between natural resources and population. To remove this imbalance the handicrafts and its artifacts also became a source of marketing and livelihood. It can be concluded that cultural handicraft artifacts also became a means to right to life and livelihood and to secure the objective of human rights in the era of globalization.

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## **References**

Export Promotion Council for Handicrafts (EPCH).

Government of India, Planning Commission, Plan Documents. New Delhi

ICRIER (Indian Council for Research in International Economic Relations) study (1993), New Delhi

Report of the Development Commissioner (Handicrafts) in 1989, New Delhi

UNESCO-UNCTAD/WTO (ITC) at Manila: 6-8 October 1997

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# **A Study of Technology Induced Changed in Life Style An Analysis of Urban Population of Sambalpur**

**Purusottam Nayak**

The impact of technology on culture and society is probably much greater than it is imagined. From cave to cyber cafe the unbelievable journey of homosapiens (individuals) more than explains the trajectory of change, let none its magnitude and direction. Perhaps the dimension of social change cannot be understood without understanding the contribution of technology. Technology refers to that innovative creativity embodied in human intelligence, which not only understands the natural order but to a grater extent humanize the natural phenomena for a greater and better purpose of society. Flying without wings, hunting without fins, climbing without nails, braving snowfall without fur has created a heritage of growth, ever known to lives that existed in this planet.

Perhaps technology is the prime mover or the autonomous agent of social change, to which others follow from the invention of fire to the invention of radio, electricity, telephone, camera, printing machine, aircraft, ship, cell phone and computer, in subsequent periods has greatly changed the pattern of culture and social mores. All these new inventions have transformed the condition of human existence. With advent of computer and Internet the world has been reduced a 'global village' it has added favour to withered lives. Technology has become so much a part and parcel to human life; it is unthinkable to live without them. Getting delivery by pushing a button has been possible with the technology, without the legendary Allhadin's Lamp!

The realm of technology is production. Be it food grains or arms and ammuniton. Two important theories of technology must be highlighted to know its impact for Marx the capitalist production must constantly change the technology (as a part of bourgeois production function) to maintain hegemony in the market. Appropriation of surplus value (profit) is expected to increase with new technology. Apart from Marxist view, the scientific inventions are largely out of curiosity and for improvement of life.

Providing comfort and adding spices to life, technology has probably done a great job. J.A. Schunpeter finds technology as a by-product of innovative actions of entrepreneurs. In the process of creations of new things (innovations) technology get manifested. A vast majority of individuals and domestic goods are available due to innovation. Once the technology become popular, society adjusts to it. Automobile, trains. TV, cell phones, computers etc. are all has got settled. Now society gets transformed to the technology.

Arts, literature, culture all get transformed with new technology sooner or later. Automobiles have reduced the distance electricity has increased the working hours, cell phones have increased communication facilities, computer have changed the entire gamut of production. Use of technology adds advantage to the life. Thus life style change

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takes place owing to the availability advanced technology. Urban population is always fortunate to have a greater share of advantages of technology than their rural counterparts. Sometimes the idea of 'urban bias' or 'migration' theory to 'urban centers' of M.P. Todaro highlights this conception of technology in urban area. Thus exodus making beeline for an urban foothold. Rural people also get their share of technology

Change of life style is just obvious due to impact of technology it should be remembered that change occurs in life style when a new technology replaced the old. Imagine a distance of 50 km. It is pretty difficult for pedestrian, but say will take 5 hours for a cyclist with bi-cycle technology one has to devote 5 hours to make journey from A to B with advent of automobiles ( say Bus/Car) it will take an hour. It is a great change in time factor. Hence there will be a necessity of rescheduling life style after availability of a new technology. Extra 4 hours available for use which will enforce some life style change. Similarly traditional working was taking say 2 hours with cooking gas and pressure cooker its takes one hour, then it will be acceptable and will induce some change in life style. But cost and other factors also to be considered for acceptance.

Sambalpur town is the district headquarters town of Sambalpur district and a leading district of Orissa. It is well connected with other parts of the country by roads and rail. It has medical and engineering college within a distance of 15 km. Sambalpur is a zonal revenue division and police division. Hirakud Dam, a great multipurpose Hydel project is within 10 k.m. from Sambalpur town. Population of Sambalpur is within 2 lakhs. If satellite town of Burla and Hirakud are taken it will be much large. Hence the urban population of Sambalpur presents very interesting insights to their profile of adjustment in life style due to availability of new technology.

200 samples were taken for analysis and to know the exact effect of technology on the population 40 professional people, 40 big and small traders, 40 house wives and 40 mixed up group from different strata were examined. Each participant not only positively admitted the role of technology but expressed some new hope by it.

Professional people admitted role of computer as their official chore. Banks and other offices are using computers as a part and parcel of their work. 60% of professional directly and 80% of them indirectly use computer.

It has reduced the depressing condition of office and saves a lot of time they admitted. Cell phone and motorbikes are other two important technologies that have influenced the category of professional under study.

For the category of students 80% possess cell phones, 20 % motorbikes these group shows greater interest in technology. Technical students of (engineering, MBA etc) exhibited greater influence of computer and Internet. Most of them were accustomed to new technology like cell phones etc. some students (20%) admitted playing computer games which appears to distraction from study, but it is considered entertaining.

Traders responded brilliantly expressing role of computer in business and using cell phones for communications 95% of them have cell phones and 75% of them use computers. Computers make the work easy and mobile phones help them in acquiring

information without delay.

Group of house wives admitted role of Micro-wave-oven (20%) which make their work easy. It saves time and gives leisure times of other works. House wives give much importance to TV they watch programs and admitted being educated and entertained by TV. There only complain (30%) small children sit glued to the TV and becoming wayward for TV.

Modern transport has created conditions of going to college/ workplace from their home. Workers commute from Sambalpur to Jharsuguda (55Km) to Bargarh (50Km) to Hirakud (10 Km) to Burla (15Km) to Rairakhol (160Km) this is possible due to railways and bus. Some retired person admitted role of TV in learning yoga and other educative programs. A rickshaw puller admitted how he could learn use of cell phone from his son with excitement.

With modern technology it was found people are enjoying life. Cooking being easy and transport time being reduced, people have more time for hobby and other works entertainment has significantly increased. Instead of getting greetings cards now they are getting SMS.

Availability of modern technology has affected almost everybody. Change in life style adjustment such as changing sleeping time, food habit, source of entertainment or ways of communication are rearranged for suitability of the individuals. New technology has provided great opportunity to harness latent potentiality. Hence changes in lifestyle are voluntary and mostly for better. Specimen of Sambalpur presents a nice picture of life style changed and adjustment.

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### References

Capital Vol-I K Marx

Economic Development, J.A. Schumpeter OUP (1926)

Employment, Technology and Development Amrtya Sen OUP (1975)

On Theory of Social Change, Everett. E. Hagen (1962) A.N. Oza

Integrated Entrepreneurship development programme, EPW, May 28 (1988)

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# **Transnational Marriages in the Baltic States. Mapping of the situation: case of Lithuania.**

**Alina Zvinkliene**

The main idea of the paper is to explore a phenomenon of transnational marriages in the modern Baltic States. The transnational marriage is understood as a marriage where the spouses usually are of the different ethnic origin (nationality), and have a different citizenship at least before their marriage.

Transnational marriages are linked with migration and challenge the homogeneity of ethnic communities and nation-states. It makes transnational and/or inter-ethnic marriages vulnerable to political manipulations.

In the former USSR studies on inter-ethnic marriages were sparse in spite of the fact that the All-Union census data begun to register the national structure of the families but without mentioning nationality of the spouses since 1959<sup>1</sup>. Analysis of primary data and conclusions about inter-ethnic marriages in the former USSR shows that they often contradict each other to a significant degree. The first reason for this is the theoretical approach of gathering of behavioural and attitudinal data. Second, studies of inter-ethnic marriage often pursue rather political interests, using the data of inter-ethnic marriage and divorce rates as a dimension of the quality of inter-ethnic relations.

In the Baltic States transnational marriages like inter-ethnic marriages during Soviet times are rather in the focus of attention of mass media and political rhetoric than in the focus of academic studies.

Therefore the first aim of the paper is to analyse available data of transnational marriage and divorce rates, i.e. to map a situation.

Transnational marriages are created by the common rules of marriage creation in the modern societies, i.e. they are largely based on an individual choice of the future spouse.

The free choice of a spouse belongs to the human rights. At present only states have the institutional means to enforce these rights. Therefore human rights related to citizenship.

In general terms, citizenship could be defined as a set of practices (political, legal, social and cultural) which constitute competent citizens and vouch for their equal entitlements and opportunities. Citizenship is confined to the nation-state. Every state assumes the right to treat citizens and non-citizens differently. Formally speaking, citizenship implies juridical subordination to a state. Globalisation has reconfigured but not reduced the hierarchies of states. The states that are on the top of hierarchies usually differ in restrictive citizenship laws and immigration laws.

Despite the liberalization of individual life organization marriage remains generally privileged over other forms of partnership through which citizenship can be achieved or restricted. Recent discussions on transnational marriages shows that “as it appears in Europe, the most transgressive character of intermarriage no longer lies in interethnic or interreligious relations, but in the crossing of European territorial (state) borders, where binational marriages are suspected of subverting restrictive immigration laws” (Waldis & Byron 2006: 10).

Therefore the second aim of the paper is to explore reasons excluding a member of the transnational marriage from rights connected to partnership, such as the right to residency and the right to legally take up a job, i.e. to map a situation of marriages of convenience (fake marriage).

### **Some notes about the Baltic States**

The Baltics were actually united in one geopolitical region since the eighteenth century: incorporation into the Russian Empire and foundation of the nation-states in 1918, incorporation into the Soviet Union in 1940 and restoration of the nation-states in the 1990s, and joining the European Union in 2004. In spite of a region's common historical destiny there is a significant difference between these three countries. It is possible to determine the following phenomena by selecting only some elements of the social structure.

In 2006, the total number of inhabitants was 1.32 million in Estonia, 2.29 million in Latvia, and, 3.39 million in Lithuania. In all three countries about 70% of inhabitants are urban dwellers. Ethnic Estonians constitute 68% of the entire population in Estonia; Latvians constitute 59.0% of the entire population in Latvia; Lithuanians constitute 84.6% (2007) of the entire population in Lithuania. Therefore, ethnically speaking Lithuania is the most homogeneous among the Baltic States.

At present religion is no longer regarded as an obsolete cultural tradition but as a primordial component of a country's value system and social structure. The most considerable religious groups in terms of numbers are Evangelical Lutherans, Estonian Orthodox, and Baptists in Estonia. The majority of Latvians belong to the Evangelical Lutheran Church; a sizable minority is Russian Orthodox, and Eastern Latvia is predominantly Roman Catholic. In Lithuania however, where the Reformation did not thrive, over 80% of the population consider themselves Roman Catholic.

Estonian is a Finno-Ugric language, while Latvian and Lithuanian belong to the Baltic branch of the Indo-European language family. Although all three Baltic countries use the Roman alphabet exclusively, communication among the three language communities is very complex because of major grammatical, syntactical, and vocabulary differences among the three languages.

In the 1990s Estonia and Latvia refused to adopt the so-called option zero in the citizenship laws and a “new” citizenship was automatically acquired only by those who held Estonian and Latvian citizenship until June 16-17, 1940 and their descendants. Lithuania however adopted the option zero: all persons who were permanent residents of

Lithuania in November 1989 (in December 1991 the date was extended to July 1991), have a right to choose whether to become Lithuanian citizens or not. In Estonia and Latvia, citizenship became legally ethnicized. The data of the Population and Housing Census shows that Estonia and Latvia joined the EU with a high percentage of non-citizens in the total number of their population. Thus, 20.1% of the population in Estonia and 25.5% in Latvia were non-citizens in 2000 (in Lithuania 98.9% of population had Lithuanian citizenship in 2001). Most of the non-citizens are a Russian-speaking population, though deeply rooted in the Baltic States.

### **Data on Transnational Marriages**

Restoration of the independence and incorporation in the EU liberalised international mobility of the citizens of the Baltic States. The new opportunities to cross borders for tourism, visits, temporary or permanent migration for work and other socio-economic needs contributed to broadening of the area of marital choice and, consequently affected the rate of transnational marriages.

Publishing of the official statistics on both inter-ethnic and transnational marriages could be considered as an indicator of state's openness to inter-ethnic issues within the nation-state.

In population data the rate of marriages and divorces is not calculated by both ethnicity and citizenship of the spouses in Estonia, whereas in Latvia only the data on inter-ethnic marriages are published. It was already noted that only Lithuania is the most homogeneous in terms of ethnicity and citizenship among the Baltic States. This homogeneity could be a main reason to display data on inter-ethnic and transnational marriages and divorces for public use and academic analyse. The data on transnational marriages are included in the *Statistical Yearbook of Lithuania* since 1995 and data on transnational divorces, accordingly, since 2001. At the same time the data on inter-ethnic marriages and divorces are excluded from the *Statistical Yearbook of Lithuania* since 2004; the year of entry to the EU.

**Table 1**

#### **Rate of transnational marriages in Lithuania**

Years	<b>1995</b>	<b>2001</b>	<b>2006</b>
Total	22150	15764	21246
Per cent	<b>4.0</b>	<b>11.8</b>	<b>12.1</b>

Source: Statistical Yearbooks of Lithuania. Calculated by Alina Zvinkliene

The data presented in the table 1 shows a clear increase of transnational marriages in Lithuania. The proportion of transnational marriages is still insignificant in the total number of marriages contracted in Lithuania however it has increased in three times for

last decade.

**Table 2**

**Rate of transnational marriages contracted by Lithuanian citizens in Lithuania**

Years	<b>1995</b>	<b>2001</b>	<b>2006</b>
Males, total	21542	14277	19342
Per cent	<b>1.4</b>	<b>2.6</b>	<b>3.5</b>
Females, total	21800	15370	20544
Per cent	<b>2.6</b>	<b>9.5</b>	<b>9.2</b>

Source: Statistical Yearbooks of Lithuania. Calculated by Alina Zvinkliene

The data presented in the table 2 shows significant gender differences in transnational marriages creation. Women of Lithuania are actually three times more active than men of Lithuania in transnational marriage creation.

In 2006 the most popular grooms of Lithuanian women were men with citizenship of EU- 27 (mainly Germany and Hungary), USA and Russian Federation, whereas the most popular brides of Lithuanian men were women with citizenship of Germany, Russian Federation and Ukraine. Despite the quite modest economic situation in Lithuania, it would be oversimplification to label these marriages as “economic” marriages where men from richer nations looking for wives in poorer ones. For instance, Lithuanian citizens, who married foreigner and emigrated from Lithuania prefer to call themselves as “love emigrant”.

Striving for homogeneity as an effective way for the support of internal stability is not only a peculiarity of the nation-state building. Marital choice also often is determined by some homogeneous social characteristics of the spouses. Available statistical data allow to say that the greater number of transnational marriages are contracted between representatives of so-called European culture based on Christian tradition and within the same (whether new or ex-) political union.

At present marriages between Lithuanian citizens and representatives of such “new” for Lithuania countries as Albania, Afghanistan, Pakistan, etc. provokes a scientific and political interest. It should be noted that marriages between Lithuanian citizens, mainly women, and citizens of Pakistan, Afghanistan, Lebanon, etc. are few in numbers, but not marriages between Lithuanian and Albanian citizens. Thus, 76 Lithuanian women and 100 Lithuanian men contracted marriage with Albanian citizens in 2006. Noteworthy, Lithuanian citizens (39 men and 43 women) do not avoid to contract marriages with stateless persons.

From a sociological point of view, transnational marriages could be considered as an indicator of loyalty to the state and, therefore as a factor of integration into host society.

In historical opinion, Lithuania remains as a religious tolerant multiethnic state. In pre-Soviet Lithuania marriages were contracted according to the religious canons adopted in every community. All restrictions in relation to ethno-religious intermarriage were possible to avoid in case of adaptation of the dominant religion before the marriage contract. Rather regulation of ethno-religious intermarriages was a way of every religious community to preserve and to increase their memberships. In this case 'national policy' could be considered as a policy of recognition of cultural rights of every community living on the territory of Lithuania and striving for homogenization of the population first through Christianisation, second through domination of state religion Catholicism in case of Grand Duchy of Lithuania and bourgeois Lithuania, or Orthodox in the case of Russian Empire. The Soviet rule had annulled the legal abolition of all religious and class restrictions regarding marital partner choice. The right and duty of parents was to bring up their children to be honest individuals and loyal citizens of the state. Present-day Lithuania continues this tradition (Zvinkliene 1996: 121-122).

Therefore a problem to contract transnational marriage does not exist in Lithuania if spouses are of full age and single. The real story begins when spouses of transnational marriage have to prove to migration authorities that they are the family.

### **Marriages of Convenience and Transnational Divorces**

Lithuania was often considered as a kind of “waiting room” for hundreds of foreign citizens on the way to their final destination - the EU countries. At present Lithuania becomes more attractive to immigration due to entry into the EU. Marriage (or establishment of the enterprise) with a Lithuanian citizen is the easiest way legally to settle down in Lithuania.

Transnational marriages, especially between spouses with significant differences in age, social status etc, are in the focus of attention of the Department of Migration. Actually authorities decide: Who is a legal partner of a Lithuanian citizen and worth to obtain a residence permit. Law on the Legal status of Aliens (2004) allows to refuse the right to residency on the basis of suspicions. Thus, according to Art.35 of the Law “ 1. The alien shall be refused the issue or renewal of a residence permit if: 4) there is a serious ground to believe that a marriage of convenience has been concluded; 10) the alien and his family member who has come to the Republic of Lithuania for family reunification no longer live in a real marital or family relationship”.

According to information from the Department of Migration 2495 foreigners have applied to a residence permit in Lithuania on the basis of the marriage in 2007. During 2006-2007, only 25 foreigners did not obtained a residence permit under suspicion of the marriage of convenience Applicants have been failed the interview on really very simple questions about a spouse, family members etc. and were not able to demonstrate their living together with a spouse.

Indeed, a marriage of convenience is difficult to prove and it could be repealed only

by the application of a spouse to civil court.

Stability of transnational or inter-ethnic marriages (the rate of divorces) is frequently used as an index for the advisability of such marriages.

At the same time, the development of personal relations in “inter” marriages occurs in the general channel of tendencies in the development of the contemporary family. In other words there is just a problem of “gender struggle”, the problem of impact of social acceptance of the “alien” spouse and personal attitude to the permissibility of divorce.

Various investigations show that attitudes toward divorce are quite liberal in Lithuania. The total divorce rate calculated taking into account duration of the previous marriage allows making an assumption that about a half of each 100 couples will most probably divorce.

**Table 3**

**Rate of transnational divorces contracted in Lithuania**

Years	<b>2001</b>	<b>2006</b>
Total	11024	11202
Per cent	<b>8.5</b>	<b>5.8</b>

Source: Statistical Yearbooks of Lithuania. Calculated by Alina Zvinkliene

**Table 4**

**Rate of transnational divorces contracted by Lithuanian citizens in Lithuania**

	<b>2001</b>		<b>2006</b>	
	Females	Males	Females	Males
Total	10769	10079	10967	10739
Per cent	<b>6.4</b>	<b>2.2</b>	<b>4.0</b>	<b>1.9</b>

Source: Statistical Yearbooks of Lithuania. Calculated by Alina Zvinkliene

The data presented in the tables 3 and 4 allow to speak about relative increase of stability of transnational marriages in Lithuania. Lithuanian women are more active than Lithuanian men in transnational marriage creation and, simultaneously, in transnational divorce.

## Last Notes

Incorporation in the EU causes the new waves of transnational migration in/from the Baltic States that favour the increase of transnational marriages.

At the same time the 'critical mass' of the newcomers will constitute the 'new' parallel societies. It seems that alongside the 'foreign' Russian-speaking space the Baltic States will be compelled to integrate at least an English-speaking space whose ethno-cultural structure will be significantly distinct from the traditional Baltic ethno-national cultures. How will transnational marriages play up in this practice of integration?

## Notes

<sup>1</sup>It must be noted that transnational marriages were extremely rare in the former USSR.

## References

*Law On the Legal status of Aliens* (2004)

[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_1?p\\_id=307827](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_1?p_id=307827)

*Statistical Yearbook of Lithuania* .(1995, 2001, 2006). Vilnius: Department of Statistics.

Waldis, Barbara and Reginald Byron (eds.). 2006. *Migration and Marriage. Heterogamy and Homogamy in a Changing World*. Berlin: Lit-Verlag.

Zvinkliene, Alina.1996. "The Creation of a National State: the Case of Inter-Ethnic Marriage in Lithuania", *Anthropological Journal on European Cultures*, vol.5, 2: 111-134.

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# **Rights of Women in Islam Women, Culture and Human Rights**

**Faatin Haque**

The subject of women's rights has pertained universally to all religions, cultures, nations and societies. Encompassing half of the world's population, civilizations throughout time have had their own specific accord as to the establishment of a women's place in society. These official and social laws have sought to position women to a lower status to that of their counterparts. Illustrating from Roman Law, a woman was described as a “babe, a minor, a ward, a person incapable of doing or acting anything according to her own individual taste, who was the purchased property of her husband, and like a slave acquired only for his benefit”. Astonishingly enough, as late as the end of the 17<sup>th</sup> century, English Common Law stated that all property which a wife held at the time of marriage became the possession of her husband, who had complete power regarding matters of expenditure from the derived finances. In a time when societies placed women's status a little above the status of slaves with no rights and Lawson the treatment of women, with the revelation of the Holy Qur'an and Islam, Islam sought to revolutionize the ill practices and violence against women.

In the present global context, with the combination of politics, religious fundamentalism, and economic and cultural globalization have consequently brought about scrutiny towards Islam, especially concerning that of women's rights. While present non-Muslim societies have yet to fulfill the rights of women by law, contrary to the belief that Islam subjugates women and infringes on their rights, in reality, Islam gave rights to women more than 1400 years ago on issues regarding their rights to education, the right to work, the rights to independent property, the rights to suffrage, rights for marriage and divorce.

## **Position of Women before the Advent of Islam**

Islam was born in the Arabia Peninsula, now Saudi Arabia, in the seventh century AD. The pre-Islamic era dates back to more than 1400 years ago. Many cultures, nations and countries, other than Arabia, existed during that time. In that era, in the tribal culture of Arabs, women were not equal to men with respect to many social and personal conditions and systems, such as marriage, inheritance or education, among other areas. Women did not have businesses, own property, or have independent legal rights. Even though we read about Khadijeh (who later became a wife of the Prophet (SAW) , and the first Muslim woman) who owned her own business, which is an indication that there are always exceptions in any recorded history. In pre-Islamic era, in the Arab societies, the women were deprived of the most basic human rights that are required for human existence. The practice of female infanticide was widely practiced among some Arab tribes. The first and foremost contribution that Islam made to elevate the social status of the Arab women was to give them the right to live. Islam forbade this inhuman practice and was highly critical of the attitudes allowing parents to reject their female children. Islam viewed the

practice as a crime and murder. The practice of polygamy was also very common. The position of women, in countries other than Arabia, in the 7th century, was not much different. In Europe, it was not until the turn of the century (13 centuries later) that French women became legally able to sell property without the permission of their husbands. In many nations, sons would inherit the name, wealth and position of the family and daughters were hoped to marry rich. In many western or eastern countries, women could not choose their husbands, and, widows were expected to mourn for their husbands until the end of their lives (still practiced in some countries).

### **Standards Set By Islam**

One cannot emphasize enough the influence of the teachings of the Prophet (SAW) and the verses of the Qur'an upon the advancement of civilization. In the history of humankind, none worked so much to protect human rights, especially women's, with such integrity, strength, strategic genius, beauty and divinity, or to honor humanity, by freeing it from the chains of prejudice, manipulations, personal and social injustice. His teachings regarding education, social and political rights, property rights, and ultimately human rights, are among the most valuable chapter in the book of civilization. Education: "The pursuit of knowledge is a duty of every Muslim, man and woman", said the Prophet (SAW). With this instruction it became a religious duty of Muslims to educate themselves, their families, and their societies. Education and learning became a religious duty; no Muslim could prevent another human being from the pursuit of knowledge. Gender or race, culture or tradition could not become the cause for prohibiting a person from educating one's self. Pursuit of knowledge became a religious law, therefore necessary to attain. With such instruction, the Prophet (SAW) created an equal right to education and the importance of knowledge.

### **Social and Political Rights**

"Paradise lies under the feet of mothers", announced the Prophet (SAW). With this instruction, a Divine law, it became a religious responsibility, a praiseworthy act, to respect and honor women. "Men are support for women," "Among the praiseworthy acts to Allah is to treat your mother with honor and respect," "Be just among your children, daughters and sons, provide them good education and proper upbringing." Narrated from the Prophet (SAW). With these Divine laws, it became religious duty for every Muslim, male or female, to honor women, treat sons and daughters justly, and for male to provide support, not obstacles, for women and their achievements.

There are many recorded historical references that at the beginning of Islam, at the time of the Prophet (SAW), Muslim men or women chose to join the Prophet (SAW)'s army to fight against his enemies, leading wars after his passing. There are also recorded in the history of Islam that men and women, equally, would take bayat (agreement) with the Prophet (SAW), voting and choosing him as a political leader. Such positions, rights and equality among all were the result of the support and the teachings of the Prophet (SAW). Women could take part in social, political, and military affairs. The result of his teachings was not only promoted human rights but also encouraged individuals to stand for their own rights.

Fatima, daughter of the Prophet (SAW), was well educated and highly respected. It is said that whenever Fatima entered the room, the Prophet (SAW) would stand and give his seat to her. Her sacrifices to protect and support human rights were among the most praiseworthy acts.

### **Property Rights**

Under the laws of Islam, women have obtained the right to sell and buy properties, own business, take legal actions, vote, and participate in political affairs. Inheritance law was/is also among the most important rights. According to Islam, a woman inherits half the share of her brother. At the same time a daughter, can chose but has no the obligation to support her parents or children, while her brother does. A man, a brother, has the obligation, by the rules of Islam, to support his mother, wife, children, sisters, and the children of his sisters if necessary. If a woman, a mother, a sister did not have the wealth or the desire to support her children; it would become the duty of her brother to support them. The Prophet (SAW) has introduced the rules and the laws for humanity, some honor the rules and some chose not to. Under Islamic law, women also have control not only over their property but also dowry claims. Once she is married, she may demand her dowry from her husband at any time, and in the case of divorce, she would receive her share of the property.

### **Marriage and the Right to Divorce**

According to the laws of Islam a man and a woman have the right to choose their partner and they should not be forced into marriage. Fatima, the Prophet (SAW)'s daughter was educated, beautiful and respectful. It is narrated that when Amir al momeinin Ali asked for Fatima's hand in marriage Prophet (SAW) did not respond to Ali until he asked Fatima for her decision. Divorce is permitted in Islam under specific terms and conditions. According to the laws of Islam one may end a marriage by divorce if there is a definite cause for such an action.

Polygamy is a tradition practiced in many cultures, yet Islam restricted it by setting regulations. These regulations are very severe, and a very few can practice it. Holy Qur'an (IV:3) reads: "If you feel that you will be able to deal justly with orphans, marry the women of your choice one, two, three, or four. But if you fear that you shall not be able to deal justly with them, and then marry only one." The verse emphasize being just not only to the women but also to their children, who would, otherwise, remain fatherless after their mothers became widowed -- a frequent occurrence during the early centuries of Islam, when men were often killed in wars. "Deal justly" refers to equal treatment, not only emotionally but also financially. The particular historical context of polygamy in Islam followed one of the harshest wars, where many men were killed, leaving a multitude of women widowed, fatherless, and without support. Also a Muslim man cannot marry a second wife without the permission of the first wife. With all these restricted regulations, according to the Islamic law, polygamy is possible but rare in practice.

The equality of men and women is recognized by Islam in marriage. The Qur'an views the marriage of a man and woman as a sharing of the two halves of society. The objective of

marriage, aside from human reproduction, is love, mercy, mutual subject, the Qur'an Sura 30, Verse 21 states; "Among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your hearts: Verily in that are Signs for those who reflect."

The Qur'an also strongly emphasizes regulations governing behaviour, conduct and human relation, for the purpose of preserving the family. The issue of the four marriages that is a topic of great controversy must be clarified. Although the Qur'an allows a man to marry up to four women, it also sets conditions to this rule, that is, the husband must treat his wives with equality and justice in every aspect, that is love, maintenance and so on. Moreover, in the verse 129 that the Qur'an states that a man is never capable of treating all his wives equally and justly in every aspect of life. Thus in truth, Islam encourages marriage with only one woman.

In pre-Islamic Arab societies, women were bought and sold as commodity. Islam by giving women the right to decide whom to marry, and have a part in the marriage contract, elevated her status from that of a commodity to that of an equal partner in the marriage institution.

Women have also been given the right to own her own mahr. The mahr is a payment that the husband makes to the wife, and is an important part of marriage contract. It provides a woman with some kind of economic means in case of divorce and it also gives the woman the means of controlling the man's power of divorce (Esposito 1982: 17, 24-26).

Islam also recognizes the rights of women concerning divorce. Women have the same rights as those of men. However, due to the importance of family placed in Islam, for its protection and maintenance, both men and women must follow certain procedures. For example, after the divorce both a man and woman must wait a period of three months, called *iddah*. During this period of time the husband is responsible for the wife's maintenance. This waiting period has two functions: (1) to clarify whether the woman is pregnant or not. If she is pregnant, the husband is responsible for the wife's maintenance until the child is born. Furthermore, if the woman who is divorced has a young child, she can nurse the child for up to two years and the father must maintain both the woman and the child. (2) *Iddah* also functions as a cooling-off period during which the relatives and the community will try and help reconcile the couple.

### **Women's Rights in Islam Regarding Education**

The Holy Qur'an and Hadiths of the Prophet (SAW) both obligate Muslim men and women to acquire knowledge and education. It is the duty of every Muslim. For example, concerning knowledge and education the Qur'an Sura 35 Verse 28 states: "Those truly fear Allah, among His Servants, who have knowledge.

The Prophet (SAW)'s Hadiths repeatedly emphasizes the acquirement of education and knowledge for every Muslim male and female. For example, one Hadith states that "seeking knowledge is a duty of every Muslim, man or woman" (Ayisha Lemu 1978:25). Another Hadith states that "The Father, if he educates his daughter well, will enter Paradise." (The World Bank Report July 9, 1993:25). Yet another Hadith states that "A

mother is a school. If she is educated, then a whole people are educated” (1993:25).

In early Islamic history there were many women scholars who had very significant role in the Islamic world. For example Ayisha, the Prophet (SAW) (Saw)'s wife was one of the most famous Muslim scholars and was considered one of the most important sources of Hadith. It has been stated in some Islamic reports that the Prophet (SAW) told the Muslims to go to Ayisha for guidance and learning of religious duties. The Prophet (SAW) also told the Muslims to trust Ayisha's teachings and guidance.

In the Islamic world, at the beginning of Islam, there were no restrictions or prohibitions toward women to seek knowledge and education. There were many women scholars in the fields of religion, literature, music, education, and medicine. For example, a woman named Nafisa who was related to Ali, the fourth Khalif, had a vast knowledge of and was an expert on the Hadiths of the Prophet (SAW) and many would participate in her scholarly discourse and learn from her.

Islam brought radical changes regarding women and society, despite the deeply entrenched patriarchy of seventh-century Arabia. The Qur'an provides women with explicit rights to inheritance, independent property, divorce and the right to testify in a court of law. It prohibits wanton violence towards women and girls and is against duress in marriage and community affairs. Women and men equally are required to fulfill all religious duties, and are equally eligible for punishment for misdemeanors. Finally, women are offered the ultimate boon: paradise and proximity to Allah: 'Whoever does an atom's weight of good, whether male or female, and is a believer, all such shall enter into Paradise' (Q 40:40).

In the period immediately following the death of the Prophet (SAW), women were active participants at all levels of community affairs religious, political, social, educational, intellectual. They played key roles in preserving traditions, disseminating knowledge and challenging authority when it went against their understanding of the Qur'an or the Prophet (SAW)'s legacy.

The Prophet (SAW)'s favorite wife A'ishah, from whom the Prophet (SAW) said we should learn 'half our religion', was sought after as an advisor to the early jurists. In the famous 'Battle of the Camel' she was an army general. The Prophet (SAW) even received revelation while resting his head on her lap. Unfortunately, this period passed before it could establish a pattern sustainable as historical precedent. And the name of A'ishahs cannot erase what was to happen to the status of women in the following thousand years.

Conclusion

During the Abbasid period, when Islam's foundations were developed, leading scholars and thinkers were exclusively male. They had no experience with revelation first hand, had not known the Prophet (SAW) directly and were sometimes influenced by intellectual and moral cultures antithetical to Islam.

In particular, they moved away from the Holy Qur'an's ethical codes for female autonomy to advocate instead women's subservience, silence and seclusion. If women's agency was taken into consideration it was with regard to service to men, family and community.

Women came to be discussed in law in the same terms as material objects and possessions. Not until the post-colonial 20th century would Muslim women re-emerge as active participants in all areas of Islamic public, political, economic, intellectual, social, cultural and spiritual affairs. In the Islamic history there were no restrictions in women's full participation in the economic, political and social spheres of their society. In the early Islamic history, women not only participated in various aspects of their society's public sphere, they also had the right to be elected to political offices.

As discussed, Islam gives women the rights to inheritance. In regards to what has been stated thus far, Islam does give equal rights to both men and women. However in practice, and with time, they have been often violated and the position of Muslim women has undergone dramatic changes since the early Islamic era.

Therefore it is imperative that the teachings of Prophet Muhammad (SAW) that had revolutionized pre-Arabian societies be reinstated in its original course. Despite the popular images of Islam portrayed in the media as a religion that oppresses and subjugates women, the laws stated in the Holy Qur'an and implemented by Prophet (SAW) are ones that give women equal rights and justice. This moral agency is a mandate of the Qur'an and cannot be restricted by any amount of historical precedent, social custom or patriarchal aspiration. The long-term success of this project lies in the fact that it is all happening within Islam. And the rationale for change comes from the most trustworthy and reliable source of Islam itself the Holy Qur'an.

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# Right To Live And Adequate Housing In India: A Critical Analysis With Human Rights Perspective

Pradeep Kumar Pandey

*Shelter for a human being is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. It, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads, etc.*

-Supreme Court of India

## Introduction

In the era of so-called developed and progressive societies, where we declare to achieve a lot of things for our sustenance and survival, the basic requirements to live a life like a human being is far from reality. Among others, the basic needs like *roti, kapda, makan* are not available to all human beings. This situation is not in any one or two countries rather it has been spreaded all over the world. Right to adequate housing is a recognized human rights at the international and regional level in various instruments like UDHR, ICESCR, CEDAW, CRC, CERD etc. which are very much relevant for India. In India, a lot of rights are guaranteed under Constitution of India as well as in other laws but nowhere right to adequate housing is mentioned specifically, though India has signed and ratified many international instruments which talk about this right. In this respect, what the achievement is, that is only due to Judiciary but the role of Judiciary in this respect is always changing. Even for some time Indian Judiciary ruled that right to adequate housing is essential part of Fundamental Rights guaranteed under Part-III specifically Article 21 and 19(1)(e) but in some case the Judiciary has also disappointed to people who need housing right. In the light of abovementioned facts, the paper discusses the existing norms and parameters available at the national and international level in respect of right to adequate housing. Further, it gives some sensible suggestions to strengthen this right.

## Concept of Adequate Housing

The term 'house' is so vital for all that without it no one can think to live like a human being as "Home is ... a space for sharing, debating, confronting, forgiving and reconciling".<sup>1</sup> [House] is not just four walls or a temporary situation – but also a feeling, which incorporates our past. Most importantly, the right to security of person is essential to almost everyone's idea of home. Home is an essential need and a human right.<sup>2</sup> Home is a sense of loss, belonging, control and ownership; a sense of security and joy, happiness and love for everyone in the family.<sup>3</sup>

The term 'adequate housing' has not been defined in any law or code. At the international

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level, *The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action, 1996*<sup>4</sup> mentions that-

*Adequate shelter means more than a roof over one's head. It also means adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities: all of which should be available at an affordable cost. Adequacy should be determined together with the people concerned, bearing in mind the prospect for gradual development. Adequacy often varies from country to country, since it depends on specific cultural, social, environmental and economic factors. Gender-specific and age-specific factors, such as the exposure of children and women to toxic substances, should be considered in this context.*<sup>5</sup>

*The UN Special Rapporteur on adequate housing has defined the human right to adequate housing as 'the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.'*<sup>6</sup>

*The United Nations Committee on Economic, Social and Cultural Rights (CESCR) in General comment 4 mentions<sup>7</sup> 'the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather, it should be seen as the right to live somewhere in security, peace and dignity'<sup>8</sup>. Further, it indicates that the following seven components<sup>9</sup> form the core contents of the human right to adequate housing: (a) legal security of tenure<sup>10</sup>; (b) availability of services, materials, facilities and infrastructure<sup>11</sup>; (c) affordable<sup>12</sup>; (d) habitable<sup>13</sup>; (e) accessibility<sup>14</sup>; (f) location<sup>15</sup>; and (g) culturally adequate<sup>16</sup>. '[T]he right to adequate housing covers measures that are needed to prevent homelessness, prohibit forced evictions, address discrimination, focus on the most vulnerable and marginalized groups, ensure security of tenure to all, and guarantee that everyone's housing is adequate.'*<sup>17</sup>

*The Habitat International Coalition, a network of NGOs working on this issue, has identified 14 constituent elements of the human right to housing, derived from international treaty obligations and other commonly accepted norms as-security of tenure; public goods and services; environmental goods and services (water, considered an essential prerequisite to the right to housing); affordability; habitability; accessibility; location; cultural appropriateness; freedom from dispossession; information, capacity and capacity-building; participation and self-expression; resettlement; safe environment; security and privacy.*<sup>18</sup>

The right to adequate housing contains<sup>19</sup>-

#### **Freedoms**

↳ Protection against forced evictions and the arbitrary destruction and demolition of one's home;

- ↪ The right to be free from arbitrary interference with one's home, privacy and family; and
- ↪ The right to choose one's residence, to determine where to live and to freedom of movement.

### **Entitlements**

- ↪ Security of tenure;
- ↪ Housing, land and property restitution;
- ↪ Equal and non-discriminatory access to adequate housing;
- ↪ Participation in housing-related decision-making at the national and community levels.

However, the much broader notion of a human right to adequate housing will include all of the corresponding rights and duties inherent within the legal provisions enshrining this right under international law.<sup>20</sup>

The right to adequate housing encompasses the provision of basic shelter and the right to live in security, dignity and peace.<sup>21</sup> It is important to recognize that the human right to adequate housing is not limited exclusively to a physical structure, a house. It is conceived in a much broader sense that integrates housing, shelter and habitat environment as a whole. This includes the cultural, historic, social, economic, political, and legal environment as well as physical and territorial dimensions.<sup>22</sup> In general terms, the right to adequate housing means to have minimum all facilities with security to live like a human being where the individual has opportunity to develop mentally, intellectually, physically etc.

### **Is right to adequate housing a human right?**

Yes. Right to adequate housing is universally accepted as one of the most basic human rights because the importance of a safe place to live with human dignity, physical and mental health and overall quality of life, begins with a house.

### **International Perspective**

International human rights law recognizes everyone's right to an adequate standard of living, including adequate housing. Despite the central place of this right within the global legal system, well over a billion people are not adequately housed. Millions around the world live in life- or health threatening conditions, in overcrowded slums and informal settlements, or in other conditions which do not uphold their human rights and their dignity. Further, millions are forcibly evicted, or threatened with forced eviction, from their homes every year.<sup>23</sup> At the international level, in several instruments, right to adequate housing is accepted 'as part of the right to an adequate standard of living'.<sup>24</sup> There are three instruments, *The Universal Declaration of Human Rights (1948)*; *The International Covenant on Economic, Social and Cultural Rights (1966)*; *The International Covenant on Civil and Political Rights (1966)*, which are jointly called International Bill of Rights which mention the basic right of adequate housing to all without any discrimination. Universal Declaration of Human Rights states<sup>25</sup> that-

*Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*

*International Covenant on Economic, Social and Cultural Rights*<sup>26</sup> mentions<sup>27</sup> this right as-

*The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.*

*International Covenant on Civil and Political Rights*<sup>28</sup> states<sup>29</sup> as-

*No one shall be subjected to arbitrary or unlawful interference with his privacy, family, or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.*

*Convention relating to the Status of Refugees, 1951*<sup>30</sup> provides<sup>31</sup> that

*As regards housing, the Contracting States, insofar as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.*

*Convention on the Elimination of All Forms of Racial Discrimination, 1965*<sup>32</sup> provides<sup>33</sup> that-

*To prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of ... (e) ... (iii) the right to housing.*

*The Vancouver Declaration on Human Settlements, 1976*<sup>34</sup> provides that-

*Adequate shelter and services are a basic human right which places an obligation on Governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action. Governments should endeavour to remove all impediments hindering attainments of these goals. Of special importance is the elimination of social and racial segregation, inter alia, through the creation of better balanced communities, which blend different social groups, occupation, housing and*

amenities<sup>35</sup>.

*International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 1990<sup>36</sup> mentions<sup>37</sup> this right as-

*Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to ... (d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents.*

*The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action*, 1996<sup>38</sup> lays down that-

*We reaffirm our commitment to the full and progressive realization of the right to adequate housing, as provided for in international instruments. In this context, we recognize an obligation by Governments to enable people to obtain shelter and to protect and improve dwellings and neighbourhoods. We commit ourselves to the goal of improving living and working conditions on an equitable and sustainable basis, so that everyone will have adequate shelter that is healthy, safe, secure, accessible and affordable and that includes basic services, facilities and amenities, and will enjoy freedom from discrimination in housing and legal security of tenure. We shall implement and promote this objective in a manner fully consistent with human rights standards.*<sup>39</sup>

Within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realization of the right to adequate housing. These actions include, but are not limited to:

- (a) Providing, in the matter of housing, that the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- (b) Providing legal security of tenure and equal access to land for all, including women and those living in poverty, as well as effective protection from forced evictions that are contrary to the law, taking human rights into consideration and bearing in mind that homeless people should not be penalized for their status;
- (c) Adopting policies aimed at making housing habitable, affordable and accessible, including for those who are unable to secure adequate housing through their own means, by, *inter alia*:
  - (i) Expanding the supply of affordable housing through appropriate regulatory measures and market incentives;
  - (ii) Increasing affordability through the provision of subsidies and rental and other forms of housing assistance to people living in poverty;
  - (iii) Supporting community-based, cooperative and non-profit rental and owner-

- occupied housing programmes;
- (iv) Promoting supporting services for the homeless and other vulnerable groups;
  - (v) Mobilizing innovative financial and other resources - public and private - for housing and community development;
  - (vi) Creating and promoting market-based incentives to encourage the private sector to meet the need for affordable rental and owner-occupied housing;
  - (vii) Promoting sustainable spatial development patterns and transportation systems that improve accessibility of goods, services, amenities and work;
- (d) Effective monitoring and evaluation of housing conditions, including the extent of homelessness and inadequate housing, and, in consultation with the affected population, formulating and adopting appropriate housing policies and implementing effective strategies and plans to address those problems.

*The Istanbul Declaration on Human Settlements, 1996*<sup>40</sup> reiterates that-

*We reaffirm our commitment to the full and progressive realization of the right to adequate housing as provided for in international instruments. To that end, we shall seek the active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families.*

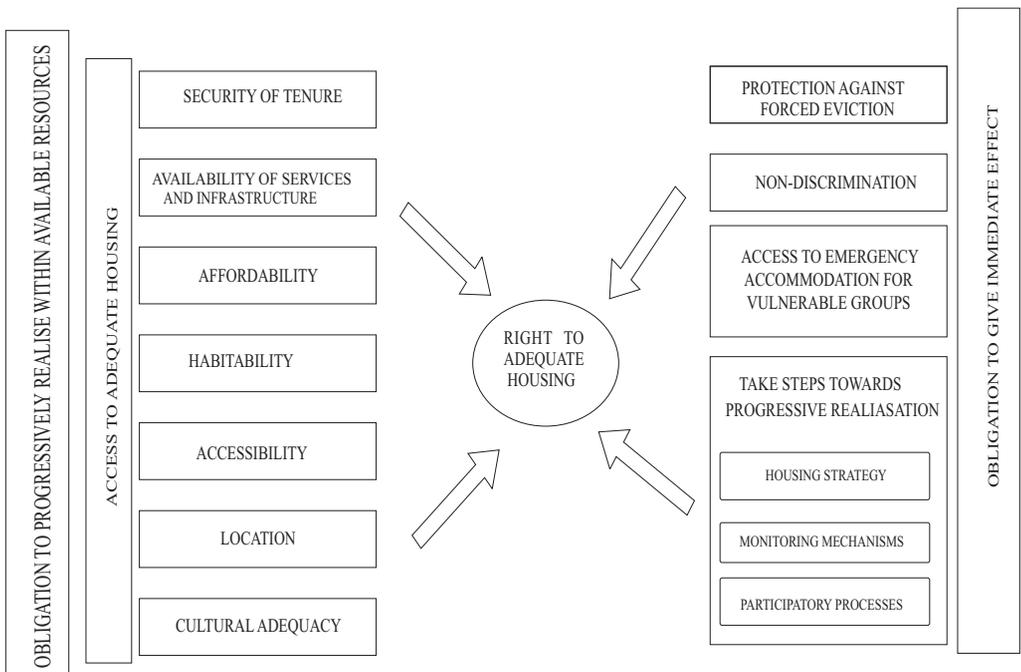
*Declaration on Cities and Other Human Settlements in the New Millennium*<sup>41</sup> reaffirmed that the *Istanbul Declaration and the Habitat Agenda* will remain the basic framework for sustainable human settlements development in the years to come.

*The United Nations Committee on Economic, Social and Cultural Rights (CESCR) in General comment 4* mentions<sup>42</sup> that '[t]he right to adequate housing applies to everyone. While the reference to "himself and his family" reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of "family" must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must not be subject to any form of discrimination.'<sup>43</sup>

Considering that adequate housing is essential to freedom, dignity, equality and security for everyone, *the UN Special Rapporteur on Housing Rights* prepared a draft on *International Convention on Housing Rights* which deals right to adequate housing in detail. It mentions that 'all children, women and men have an enforceable right to adequate housing which is affordable, accessible and self-determined, and includes a right of access to a safe, affordable and secure place to live in peace and dignity'.<sup>44</sup> The

right to adequate housing shall be exercised in an environment free from any form of discrimination.<sup>45</sup> The housing rights of women and men shall, in every respect, be equal in law and in practice.<sup>46</sup>

The UN General Assembly in resolutions 41/146<sup>47</sup> and 42/146<sup>48</sup> has specifically mentioned the right to adequate housing. *Commission on Human Settlements* in its resolution 14/6 mentioned that 'The Commission on Human Settlements urges all States to cease any practices which could or do result in the infringements of the human right to adequate housing, in particular the practice of forced, mass evictions and any form of racial or other discrimination in the housing sphere; invites all States to repeal, reform or amend any existing legislation, policies, programmes or projects which in any manner negatively affect the realization of the right to adequate housing; urges all States to comply with existing international agreements concerning the right to adequate housing, and to this end, to establish . . . appropriate monitoring mechanisms to provide, for national and international consideration, accurate data and indicators on the extent of homelessness, inadequate housing conditions, persons without security of tenure, and other issues arising from the right to adequate housing and providing insights into policy, structural and other impediments to the efficient operation of the shelter sector'.<sup>49</sup>



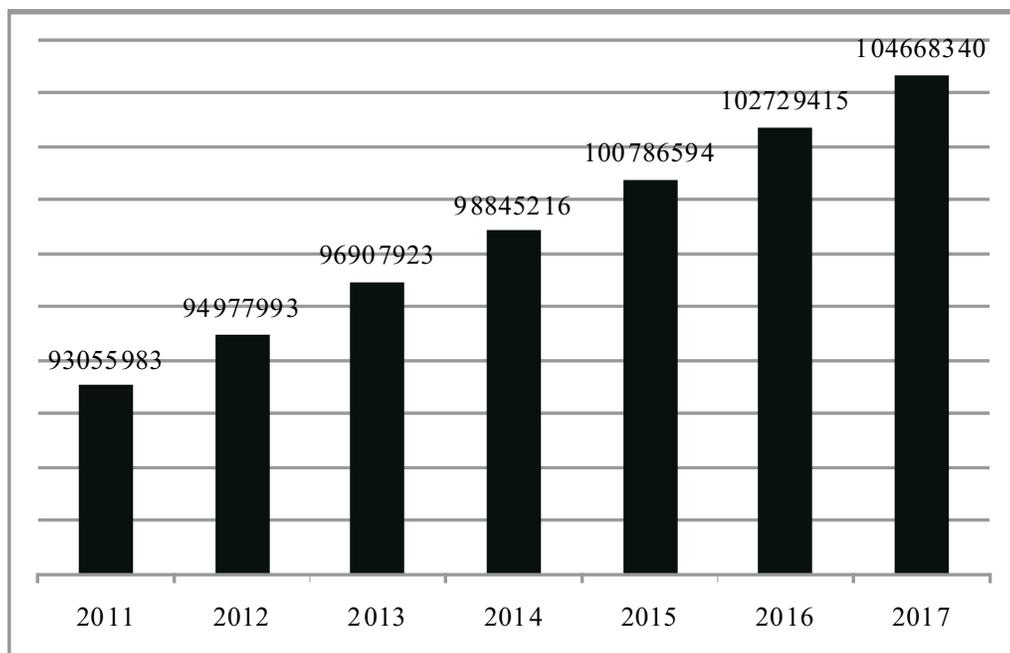
**Source:** Protecting the Right to Adequate Housing in the Act<sup>50</sup>

In Constitutions of many countries, the right to adequate housing is also accepted as a matter of right.<sup>51</sup> The right to adequate housing is relevant to all States, as they have all ratified at least one international treaty referring to adequate housing and committed themselves to protecting the right to adequate housing through international declarations, plans of action or conference outcome documents. Several constitutions protect the right to adequate housing or outline the State's general responsibility to ensure adequate

housing and living conditions for all. Courts from various legal systems have also adjudicated cases related to its enjoyment, covering, for instance, forced evictions, tenant protection, discrimination in the housing sphere or access to basic housing-related services.<sup>52</sup> At the international level, there are numerous instruments which can be adopted by Indian Legislature as '[t]he incorporation in domestic laws of international instruments recognizing the right to adequate housing can significantly broaden and improve remedial measures'.<sup>53</sup>

## Indian Perspective

India, the country of taking care of vulnerable communities, is facing many problems. On one hand, the country is fighting with terroristic activities and on other hand, the nation, after many years of independence, could not avail minimum requirements to citizens for living a life like a human being. Till date, many people are unable to get *roti, kapda* and *makan*. *Report of the Committee on Slum Statistics/Census 2011*<sup>54</sup> projects slum population from the year 2011-2017 as follows which indicates the seriousness of the housing problem in India-



In principle, in India, the right to adequate housing is an integral part of our legal system but in any codified law this right has not been specifically mentioned. The Constitution of India provides many rights in which right to life and personal liberty<sup>55</sup> and the right of every citizen to reside and settle in any part of the country<sup>56</sup> are very important for the purpose of right to adequate housing. The Indian Judiciary, the guardian of Constitution, has enlarged, through judicial creativity, the scope of Art. 21 and included right to adequate housing. But, all the time, the Judiciary's role could not favour this right and the aggrieved person, generally, failed to get relief. Though, this right has got place in many international and regional instruments but, in India, after independence housing got low

priority at national development programmes. With the development of welfare state, the state has to play a vital role in every aspect of life for development and progress of common people but there are some areas where state has to take proactive steps to facilitate to live a dignified life.

The Constitution of India under Article 38 provides that:

*State to secure a social order for the promotion of welfare of the people.—*

- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- (2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Under this Article, the State is under positive duty to maintain a social order where everyone can taste the fruit of justice. Further, Article 39 mentions that:

*Certain principles of policy to be followed by the State.—*The State shall, in particular, direct its policy towards securing—

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

Elaborating Art. 21, the Honourable Supreme Court of India in *Francis Coralie v. The Union Territory of Delhi*<sup>57</sup> held that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings.

In *P.G. Gupta v. State of Gujarat and others*<sup>58</sup>, the Supreme Court ruled that the right to shelter in Article 19(1) (g) read with Articles 19(1) (e) and 21 included the right to residence and settlement. Protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter to enjoy the meaningful right to life.

In *Sudama Singh & others v. Government of Delhi & another*<sup>59</sup>, the petitions were filed to rehabilitate and relocate the petitioners who were residing at various slum clusters in the Capital city to a suitable place and providing them alternative land with ownership rights pursuant to demolition of their “*jhuggies*” (hutments). Describing the importance of various international instruments and Special Rapporteur's report, Delhi High Court allowed the petition. The observation of the UN Committee on Economic, Social and

Cultural Rights was quoted by High Court as:

*The State party take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and / or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its General Comment No. 7 on forced evictions (1997). The Committee also recommends that, prior to implementing development and urban renewal projects, sporting events and other similar activities, the State party should undertake open, participatory and meaningful consultations with affected residents and communities. In this connection, the Committee draws the attention of the State party to its General Comment No. 4 on the right to adequate housing (1991) and further requests the State party to provide information in its next periodic report on progress achieved in this regard, including disaggregated statistics relating to forced evictions.*

The Government of India has attempted to avail this right to poorer family but there are many hurdles in the way of being benefitted through such type of attempts due to many factors like corruption etc. The Government of India, in 1994, adopted National Housing Policy which is recognition of role of state as facilitator rather than provider. National Housing and Habitat Policy 1998 was accepted as continuation of National Housing Policy. The broad aims of the National Habitat and Housing Policy-1998 (NH&HP) are:<sup>60</sup>

- ↪ Creation of surpluses in housing stock either on rental or ownership basis;
- ↪ Providing quality and cost-effective housing and shelter options to the citizens, especially the vulnerable groups and the poor;
- ↪ Guiding urban and rural settlements to ensure planned and balanced growth and a healthy environment;
- ↪ Making urban transport as an integral part of the urban Master Plan;
- ↪ Using the housing sector to generate more employment and to achieve skill upgradation in housing and building activities;
- ↪ Promoting accessibility of dwelling units to basic facilities like sanitation and drinking water;
- ↪ Removing legal, financial and administrative barriers for accessing land, finance and technology for housing;
- ↪ Forging strong partnerships between private, public and co-operative sectors in housing and habitat projects.

### **Concluding Observation**

Despite international legal provisions, the human right to adequate housing is widely violated globally. Part of the problem is that many individuals across the world are not aware of their rights or do not have the means to implement them. More serious is the manner in which states are increasingly violating the rights of their citizens and abrogating their international and national legal commitments. With the global rise in

slum demolitions and brutal forced evictions, spaces for the working poor are shrinking, including space for housing. Growing agrarian crises fuelled by failure of land reform measures, corporate takeover of farms, lack of farming subsidies, privatisation of basic services, development-induced displacement, and usurpation of agricultural land of small farmers is compelling large rural populations to migrate to urban areas for survival. The absence of low-cost housing options in urban areas forces many to live in inadequate and dire conditions with serious long-term ramifications, including on their health. The issue has taken on an alarming severity over the recent past. The structural causes of migration, including the glaring neglect of rural planning, need to be comprehensively addressed through multi-pronged strategies.<sup>61</sup> Although housing remains as fundamental as food and security and the number of the “house-poor” is on a perpetual ascent, the issue has not yet received the top priority it deserves. ... As a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR 1966), India has a gigantic task on its hands. The challenge before it is to make the right to adequate housing realisable in law and in fact by all its citizens.<sup>62</sup> There is lack of knowledge and awareness on the part of individuals also in this respect. The people must be educated regarding their rights. The National Human Rights Commission must also take proactive steps to aware the common people about their rights and must provide mechanism to enforce their basic human rights.

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### Notes

<sup>1</sup>*The Interlinkages between Violence against Women and Women's Right to Adequate Housing*, held in cooperation with the UN Special Rapporteur on Adequate Housing New Delhi, India October 2003 at 4

<sup>2</sup>*Ibid.* at 17

<sup>3</sup>*Ibid.* at 40

<sup>4</sup>The Habitat Agenda is the main political document that came out of the Habitat II conference in Istanbul, Turkey 3 to 14 June 1996. Adopted by 171 countries, at what was called the City Summit it contains over 100 commitments and 600 recommendations on human settlements issues.

<sup>5</sup>Para 60

<sup>6</sup>E/CN.4/2006/41, 21 March 2006.

<sup>7</sup>Para 6

<sup>8</sup>Para 7

<sup>9</sup>Para 8

<sup>10</sup>Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.

<sup>11</sup>An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, potable drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, food storage, refuse disposal, site drainage and emergency services.

<sup>12</sup>Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised; Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with

the principle of affordability tenants should be protected from unreasonable rent levels or rent increases by appropriate means, In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials.

<sup>13</sup> Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors, the physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the "Health Principles of Housing" prepared by the World Health Organization (WHO) which view housing as the environmental factor most frequently associated with disease conditions in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates.

<sup>14</sup> Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources, Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal, Discernable governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement.

<sup>15</sup> Adequate housing must be in a location which allows access to employment options, health care services, schools, child care centers and other social facilities. This is both true in large cities and in rural areas where the temporal and financial costs of getting to and from places of work can place excessive demands upon the budgets of poor households, Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.

<sup>16</sup> The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed and that they should ensure, *inter alia*, modern technological facilities, as appropriate.

<sup>17</sup> *The Right to Adequate Housing*, Fact Sheet No. 21/Rev.1 (Geneva: Office of the United Nations High Commissioner for Human Rights) at 6 available at [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

<sup>18</sup> <http://www.choike.org/2009/eng/informes/1162.html>

<sup>19</sup> [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

<sup>20</sup> Scott Leckie, 'The Justiciability of Housing Rights', SIM Special 18

<sup>21</sup> [http://human-rights.unglobalcompact.org/themes\\_dilemmas/access\\_to\\_adequate\\_housing/](http://human-rights.unglobalcompact.org/themes_dilemmas/access_to_adequate_housing/)

<sup>22</sup> Miloon Kothari (et al.), *The Human Right to Adequate Housing and Land*. (New Delhi: National Human Rights Commission 2006) at 11

<sup>23</sup> *The Right to Adequate Housing*, Fact Sheet No. 21/Rev.1 (Geneva: Office of the United Nations High Commissioner for Human Rights) at 1 available at [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

<sup>24</sup> *The Right to Adequate Housing*, Fact Sheet No. 21/Rev.1 (Geneva: Office of the United Nations High Commissioner for Human Rights) at 10 available at [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

<sup>25</sup> Art. 25.1

<sup>26</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976.

<sup>27</sup> Art. 11.1

<sup>28</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976.

<sup>29</sup> Art. 17

<sup>30</sup> Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14

December 1950 Entry into force: 22 April 1954.

<sup>31</sup> Art. 21

<sup>32</sup> Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 entry into force 4 January 1969.

<sup>33</sup> Art. 5 (e) (iii)

<sup>34</sup> The first UN conference on the issue, Known as the Habitat I conference.

<sup>35</sup> Para 8

<sup>36</sup> Adopted by General Assembly resolution 45/158 of 18 December 1990

<sup>37</sup> Art. 43.1

<sup>38</sup> The Habitat Agenda is the main political document that came out of the Habitat II conference in Istanbul, Turkey 3 to 14 June 1996. Adopted by 171 countries, at what was called the City Summit it contains over 100 commitments and 600 recommendations on human settlements issues.

<sup>39</sup> Para 39

<sup>40</sup> It is a reaffirmation of the Habitat Agenda agreed separately at the Habitat II conference. It notably reaffirms the commitment of world governments to better standards of living in larger freedom for all humankind.

<sup>41</sup> United Nations General Assembly Resolution S25/2, 2001

<sup>42</sup> Para 6

<sup>43</sup> [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/469f4d91a9378221c12563ed0053547e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument)

<sup>44</sup> Art. 1

<sup>45</sup> Art. 2

<sup>46</sup> Art. 3

<sup>47</sup> The General Assembly expresses its deep concern that millions of people do not enjoy the right to adequate housing.

<sup>48</sup> The General Assembly reiterates the need to take, at the national and international levels, measures to promote the right of all persons to an adequate standard of living for themselves and their families, including adequate housing; and calls upon all States and international organizations concerned to pay special attention to the realization of the right to adequate housing in carrying out measures to develop national shelter strategies and settlement improvement programmes within the framework of the Global Strategy for Shelter to the Year 2000.

<sup>49</sup> Adopted on 5 May 1993.

<sup>50</sup> Discussion Paper ,October 2009 available at [http://acthra.anu.edu.au/2%20ANU%20Right%20to%20Housing%20Workshop\\_%20Discussion%20Paper.pdf](http://acthra.anu.edu.au/2%20ANU%20Right%20to%20Housing%20Workshop_%20Discussion%20Paper.pdf)

<sup>51</sup> *Constitution of the Russian Federation, 1993*: Article 40. (1) Everyone has the right to a home. No one may be arbitrarily deprived of a home.

*Constitution of South Africa, 1996*: Article 26. Housing

(1) Everyone has the right to have access to adequate housing.

(2) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

*Constitution of Mexico, 1917*: Article 4. Every family has the right to enjoy decent and proper housing. The law shall establish the instruments and necessary supports to reach the said goal.

*Constitution of Portugal, 1976*: Article 65. Housing and Urban Planning. (1) All have the right, both personally and for their family, to a dwelling of adequate size that meets satisfactory standards of hygiene and comfort and preserves personal and family privacy.

<sup>52</sup> *The Right to Adequate Housing*, Fact Sheet No. 21/Rev.1 (Geneva: Office of the United Nations High Commissioner for Human Rights) at 1 available at [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

<sup>53</sup> *The Right to Adequate Housing*, Fact Sheet No. 21/Rev.1 (Geneva: Office of the United Nations High Commissioner for Human Rights) at 39 available at [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

<sup>54</sup>[http://mhupa.gov.in/W\\_new/Slum\\_Report\\_NBO.pdf](http://mhupa.gov.in/W_new/Slum_Report_NBO.pdf)

<sup>55</sup>Art. 21

<sup>56</sup>Art. 19 (1) (e)

<sup>57</sup>(1981) 1 SCC 608

<sup>58</sup>1995 Supp. (2) SCC 182

<sup>59</sup>WP© Nos.8904/2009, 7735/2007, 7317/2009 and 9246/2009 Judgment pronounced on 11th February, 2010

<sup>60</sup><http://www.cgg.gov.in/pdfs/WP-4-PKM-Housing%20for%20the%20Poor.pdf>

<sup>61</sup>Miloon Kothari (et al.), *The Human Right to Adequate Housing and Land*. (New Delhi: National Human Rights Commission 2006) at 10-11

<sup>62</sup>Right to housing, *The Hindu*, Mar 21, 2009, Saturday.

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# **The Role of Media in Afghan Women's Rights**

**Nasim Basiri**

The world is becoming global and integral, and women have to be strong and well equipped. Nature deliberately created a certain way, precisely to allow everyone to be integrally connected to the general system by way of their maximum actualization in it. A woman's personal, individual, and unique participation does not contradict the integrality of the whole system, on the contrary, women have a unique perception of life and a great sense of responsibility that should be appreciated and developed. Instead of suppressing women, we must provide integral upbringing and education in order to build an inclusive human society which is based on mutual support and participation in different ways.

The Persian Empire (Iran) established unprecedented principles of human rights in the 6<sup>th</sup> century BC under the reign of Cyrus the great .three centuries later, The Mauryan Empire established principles of civil rights. In Cyrus time, Afghanistan was a part of Persian Empire, so Afghanistan can be called “The Land of Human Rights” and of course women had much highlighted position in that time ... , Discrimination and violence against women has occurred in Afghan society for centuries. In Afghanistan violence against women is very much widespread and deeply rooted in different parts of the country. Violence against women is a dramatic problem in Afghanistan that has caused lots of damages to the life of women itself as well as to the society. Women in Afghanistan have no or little voice to be heard and they have always been victims of violence either from their own family or from the society. They have never given equal rights specially the right to freedom and never been treated equally like men because the traditions, customs and practices have always kept men to be superior on women. despite the collapse of medieval Taliban government, some good efforts have been conducted in women's rights and human rights, but still women are suffering from lots of problems in Afghanistan. The law is not respected, patriarchal culture and family violence are still going on and women are suffering the limitations, discriminations and prejudices in the society. Afghanistan's constitution guarantees women's rights, Afghan government has signed the international commitment of human rights and is committed to respect it, so the law must be respected and punish the violators of women's rights. Afghanistan government should take serious steps with Afghan men for the equality of women's rights and permit Afghan women participate in all kinds of social, cultural, political and economic activities. Over a decade of collapse of Taliban government has passed but still Afghan women are limited and Afghan government does not have enough efforts in women's affairs. Today, in the age of information exploration, from the side of educational functions, it is clear that media plays a very important role in transmission of cultural and intellectual heritage among the nations and human beings, this is true to say that the appearance of social metamorphosis and variation of social values, as a result of media activities takes into a place. Actually, with extensive presence of modern visual, audio and written media, the process of education goes out of the institutions and universities and the world becomes an educational environment. In this process, Media has removed limitations such as:

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location, time, age and climate, modern human/man's life has been affected by media, in one side media is playing a role as a factor of value transmission and cultural norms and in the other side establishes the person or family's communication with the outside world and finally effects the political and social characters in different ways. The importance and value of these activities is that media with using two elements (knowledge and message), effects people's mind and thoughts by the audio and visual waves, and manages their individual actions and behavior. More broadly, violence against women in Afghanistan is an endemic and pervasive problem across all sectors of society. So media can discuss strategies for protecting the fragile gains that Afghan women have achieved in the past decade.

After the collapse of Taliban until now, the global world and the United States of America accompanied Afghanistan government and people in different contexts: generalizing and developing human rights issues and values, defense and etc. From an optimistic perspective, we can take the results effective and positive but from another perspective if we survey addressing the issue of human rights, we will get to know that most of the efforts for the human rights in Afghanistan had a legal dimension not practical. This issue doesn't let the people to get familiar with categories like : human rights, civil society, fighting against violence and discrimination and respecting equal rights between men and women , people cannot communicate with these meanings easily ,so representing the human rights by media can be a very simple and reachable stride to implement human rights values. A significant number of Afghan women are not educated , so they cannot read or write , visual and audio media are first degree possibilities that all people can get their favorite messages from .one of the principal causes of pervasive gender-based discrimination and violence against women in Afghanistan is the lack of enforcement of the rule of law. As Western powers reduce their presence in Afghanistan over the next two years, the Taliban will undoubtedly attempt to reassert their harsh control in Kabul and the north and west of the country where women have made the most gains. Girl's education will likely continue to be a troubling battlefield. Increased access to education for girls is one of the few bright spots since the overthrow of the Taliban.

I would like to give you some important examples of force and violence against women that media had not worked well on them:

- Forced marriage is common in Afghanistan, where even women themselves think this is the rule of their lives and quietly submit to marriage with a man they do not want to marry. Exchange marriage is another occurrence.
- Underage marriage is another common occurrence in the lives of Afghan women. In most of these cases, the girl does not even truly understand the meaning of marriage. It is common that 12 to 14 years old girls , mostly in rural areas , are married off, becoming mothers by the age of 15.
- The Gul case is hardly the only well publicized case. There was also Gulnaz, a young woman who was jailed for adultery after being raped by a relative (she was recently released after a presidential pardon, but may be forced to marry her attacker). The husband of another young woman, Aisha, cut off her nose and ears when she ran away.

- In the latest act of violence against women in Afghanistan, the regional head of women's affairs has been killed by a car bomb. This killing comes just days after a video surfaced, showing the public execution of a young woman allegedly guilty of adultery. The video sparked international outrage, and has been blamed on the Taliban. No one has claimed responsibility for the attack, and the provincial governor's office was in no rush to attribute the bomb to the Taliban, saying instead that "enemies of Afghanistan" had planted the explosive device.
- The torturing and rape of a young woman, Lal Bibi, by Afghan Local Police and the public execution of a young woman, Najiba.
- A man, angry that his wife had not yet borne him a son, strangled her soon after she gave birth to their third child, a girl.

These cases have once again focused attention on the continuing and urgent need to protect women's and girl's rights as the world redefines its role in Afghanistan, and as the Government of Afghanistan moves forward in its transition. The survey of experts looked at problems involving sexual violence, trafficking and other threats to women around the world. It ranked Afghanistan as the worst.

### **What should the social responsibility of the media be?**

The notion of the social responsibility of media is derived from the social responsibility theory of the press which arose as a result of the ability of media to influence the belief, ideas and behavior of people on very important issues. It came about as a result of a view that since the press (newspaper) was influential, it had social responsibilities. Hence, every media ought to deliver accurate and unbiased news to meet the divergent needs of the heterogeneous public, without confining their role to being the mouthpiece of those with special interests or political agendas.

### **To what degree can the media influence the public agenda?**

Agenda setting theory sees the media as instruments used to influence public opinion by setting the agenda in public discourse. The theory states that when issues are covered by the media as often as possible, the public would take them to be important. Agenda setting is a theory about the transfer of salience from the media's pictures of the world to those in our heads, such that whatever is given prominence in the media's picture also becomes prominent in the audience's picture. Public opinion is shaped and influenced as the media choose and sift certain elements of news, which makes the audience of the media think along a certain pattern. Hence the media's choice of topics and how the topics are presented are elements of the theory (Fourie, 2011)

The two major assumptions of agenda-setting theory are:

- ↳ The news media do not mirror reality, but instead filter and shape it.
- ↳ Emphasis by media, over time and on relatively small number of issues, leads the public into perceiving these issues as more important than other issues.

**Here is the list of some important efforts and key suggestions which media can use for women's rights in Afghanistan:**

- ↪ Invite women's rights activists and want them to make people (especially women) aware of their rights, these activists can play a very important role.
- ↪ Media with the help of Afghan government can show that the women's right and protecting the women's rights is an inseparable part and it is one of the main priorities of peace programs and women's rights is also the backbone of economic, political and security strategies.
- ↪ International media must have more efforts for Afghan women's rights; they can promote Afghan women's rights in different ways: short films, documentaries, interviews and etc.
- ↪ Afghan media can play a salutary role in creating larger awareness of the concept of human rights of every individual to his or her fundamental freedom, without distinction as to race, sex, language or religion. So it will help the people of Afghanistan to know how to respect each other's rights, especially women's rights.
- ↪ In view of the fact that there is a revolutionary change and growth in every sphere of life and mainly in the communication and media world, media today, plays a decisive role in the development of society. Thus the role of media in protecting the women's rights cannot be ignored or minimized. Media is a communicator of public. Today its role extends not only giving facts as news, it also analyses and comments on the facts and thus shapes the view of the people. The impact of media on society today is beyond doubt and debate. The media in Afghanistan has been setting for the nation its social, political, economic and even cultural agenda .with the advent of satellite channels, its impact is even sharper and deeper. With twenty four hours news channels, people cannot remain neutral to and unaffected by what the channels are serving day and night. It is, therefore, of paramount importance that the media plays an important and ethical role at all levels and in all parts of the country and the world.
- ↪ Media can also give publicity to the individuals and organizations, which are engaged in securing women's rights. This will encourage as well as motivate others to do the similar work.
- ↪ Media can inform and educate the women of their rights and suggest ways and means by which they can solve their problems and thus empowering them to protect their rights.
- ↪ Media plays the role of communication between the state and the public; it can also play an effective role of making the authorities aware of their duties.
- ↪ Media's new role today is reporting, analyzing and commenting. it faces a challenge in playing the role in protecting women's rights in Afghanistan. The main aim before the journalists should be to give facts but not in a manner and with the purpose to create sensation and to arouse the sentiments of the people. Projection and language should be decent and civilized.

- ↳ Media should refrain from giving statements and pictures that are flaring. Since media is the mirror of the society, care should be taken that the mirror is not hazy.
- ↳ While reporting such violation, media should not get influenced by authorities, it should look deep into the problem of women and provide solutions for them. Mere reporting of the facts is not enough. It should give reasons of the problem and the nature of the violations and then give solutions.
- ↳ Freedom of expression is a sacred right well accepted over the globe and media should respect this freedom.

By understanding the serious responsibility of media community, a fundamental question arises: do all media really do such a great human task or not? the answer is very clear and it refers to management, proficiency and the type of a media vision linked to a measure of responsibility. Media can play a major role in protecting and promoting human rights in Afghanistan, It can make people aware of need to promote certain values in the cause of human rights which includes women's rights and which are of eternal value to the mankind. Peace, non-violence, disarmaments, maintenance and promotions of human rights to all irrespective of color and creed should be minimum common agenda for the media. The media can perform this role in different ways. It can make women aware of their rights, expose its violations and focus on women and areas in need of the protection of women's rights and pursue their case till they achieve them. Violence against women is one of the main and widespread violations of human rights that exist in all cultures in the world. Any act of gender base violence that would cause mental, physical or sexual harm to women is called violence against women. It does not only violate human rights but also slows down the productivity of women in the society which have a very negative effect on economic growth of a country because women form the major proportion of the population in the world. Every type of violence against women is itself a huge problem that results not only to harm a particular gender but also harms the whole society of a country. We hope that group or individual media will spend more time on developing democratic values, civil society and women's rights issue so they can tackle sensitive issue of violence against women. This activity will be hugely important; not only for giving women a voice, but for continuing the slow process of cultural change that has started in the past decade and that the Taliban wants to reverse.

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### References

The United Nations ,1948 : Universal declaration of human rights

Feminist Legal Studies (2005) 13:239–258 : THE CONSTITUTION OF AFGHANISTAN AND WOMEN'S RIGHTS

The new constitution of Afghanistan :

<http://arabic.cnn.com/afghanistan/ConstitutionAfghanistan.pdf>

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# **An Overview of Rural Development Programmes In India**

**Rohit Misra**

Before independence the picture of India could have been seen in the wrinkled faces, flushed cheeks, concavo bellies, folded hands in praying posture and wet eyes of its rural mass residing in the wide spread rural sector and constituting more than 70 % of India's total population. The real India resided in their privation, poverty, starvation, helplessness, wretchedness and mass unemployment. The unemployment situation in both the rural and the urban sectors became almost uncontrollable. The government became politically weak. Therefore its priority became to please the rich minority so that it may run. To mitigate unemployment and poverty among the general mass it has to play pseudo role to remedy some times the rural and some times the urban mass alternately through various unsuccessful employment programmes and plans. Due to the general unemployment the condition of rural mass became more embarrassing than that of urban mass since the rural people had already been subsisting in privation. The fruits of the development programmes in rural sector were grabbed by the social elites in villages. Therefore, the general rural mass, instead of observing their economic uplift, rather found them-selves lagging behind in the run of economic development.

The rural economy, as much as urban economy, is an integrated part of the overall Indian economy. Any talk of overall development without rural development, particularly in a country where three-quarters of people below the poverty line reside in rural areas, is flawed. Poverty is indeed a global issue. Its eradication is considered integral to humanity's quest for sustainable development. Reduction of poverty in India, is, therefore, vital for the attainment of international goals. Poverty alleviation has been one of the guiding principles of the planning process in India. This can be substantiated by the fact that anti-poverty programs have been internalised in the (particularly the ninth) five-year plan.

Integrated development of rural areas is one of the abiding tasks before the Government of India. The National Common Minimum Programme (NCMP) of the Central government reiterates the cardinal importance of villages to the overall development of the country and commits to work towards development of rural areas, which for various reasons could not keep pace with urban areas in the past.

In conformity with this commitment of the Government, the Ministry of Rural Development accords foremost priority to development in rural areas and eradication of poverty and hunger from the face of rural India. A number of initiatives have been taken in the recent years for creation of social and economic infrastructure in rural areas to bridge the rural-urban divide as well as to provide food security and fulfill other basic needs of the rural populace.

The renewed emphasis on rural development is also visible in the commensurate

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progressive increase in the allocation of resources for implementation of poverty alleviation programmes. For the Tenth Five Year Plan, the allocation of funds for rural development programmes has been enhanced to Rs. 76,774 crore as against Rs. 42,874 crore in Ninth Plan.

Addressing the challenge of unemployment in the rural areas of the country is central to the development of rural sector for ameliorating the economic condition of the people. Wage employment is provided in rural areas under National Rural Employment Guarantee Act (NREGA) and Sampoorna Grameen Rozgar Yojana (SGRY) whereas self-employment is provided under Swarnajayanti Gram Swarozgar Yojana (SGSY). Besides generating employment these wage employment schemes also ensure creation of durable assets in rural areas. Initiatives are also taken by the Ministry to build and upgrade the basic rural infrastructure through various schemes.

Under Pradhan Mantri Gram Sadak Yojana (PMGSY) construction and repairing of rural roads are taken up to ensure rural connectivity. It is expected under the scheme that an expanded and renovated rural road network will lead to an increase in rural employment opportunities, better access to regulated and fair market, better access to health, education and other public services so as to accelerate the pace of economic growth in rural areas. Similarly basic amenities for housing, drinking water and toilets, etc. are provided under Indira Awaas Yojana (IAY), Accelerated Rural Water Supply Programme (ARWSP) and Total Sanitation Campaign (TSC) to enhance the welfare and well-being of the vulnerable sections of rural population. Area Development is encouraged through Watershed Programmes to check the diminishing productivity of waste land and loss of natural resources.

**Scheme-Wise Expenditure Report**  
**Financial Year : 2012-2013 Up to : 31/May/2012**

(Rs. in Lakhs)

Scheme Name	Budget Plan	Expenditure Plan	Budget Non Plan	Expenditure Non Plan	% Exp. Plan	% Exp. Non Plan
1	2	3	4	5	6	7
<b><i>Grant No 82 Department of Rural Development</i></b>						
BPLS	24750.00	0.00	0.00	0.00	0.00	0.00
DRDA	44900.00	21434.47	0.00	0.00	47.74	0.00
MSRDP	10625.00	806.04	0.00	0.00	7.59	0.00
NREGA	3167659.00	812432.37	0.00	0.00	25.65	0.00
PC	30.00	1.62	0.00	0.00	5.40	0.00
PMGSY	2169339.00	7000.00	0.00	0.00	0.32	0.00
PURA	13500.00	0.00	0.00	0.00	0.00	0.00
RH	995720.00	201239.86	0.00	0.00	20.21	0.00
SGSY	276965.00	4947.81	0.00	0.00	1.79	0.00
TRG	8350.00	0.00	0.68	0.00	0.00	0.00
<b>Total</b>	<b>6711838.00</b>	<b>1047862.16</b>	<b>0.68</b>	<b>0.00</b>	<b>15.61</b>	<b>0.00</b>

\*Ministry of Rural Development, India

Now we discuss the main schemes, policies, and programmes as following which are being run by the Department of Rural Development under the Ministry of Rural Development:

### **1. Employment Assurance Scheme (EAS)**

Creation of employment opportunities has always been an important objective of developmental planning in India. The relative higher growth of population and labour force has led to an increase in the volume of unemployment and under-employment from one plan period to another. The developmental planning aims at bringing employment into a larger focus with the goal of reducing unemployment to a negligible level within the next ten years. Such an approach is necessary, because it is now released that larger and efficient use of available human resources is the most effective way of alleviating poverty; reduction in inequalities and sustenance of reasonable high pace of economic growth. Accordingly Employment Assurance Scheme (EAS) was launched on 2<sup>nd</sup> Oct., 1993, in 1778 identified blocks of 257 districts situated in the drought prone areas, desert areas, tribal areas and hill areas in which the Revamped Public Distribution System (RPDS) was in operation. The scheme has since picked up and is at present being implemented in all 5448 rural blocks of the country. Based on the experience of last five years of implementation of the programme, EAS has been restructured w.e.f. 1.4.1999 and it has become single wage-employment programme. While the basic parameters have retained, the allocation to States/Districts is more definitely applied. In keeping with the spirit of democratic decentralization, the Zilla Parishads have been designated as the "Implementing Authority" under the programme.

The primary objective of the EAS is creation of additional wage-employment opportunities during the period of acute shortage of wage employment through manual work for the rural poor living below the poverty line. The secondary objective is the creation of durable community assets for sustained employment and development.

### **2. Pradhanmantri Gram Sadak Yojna (PGSY)**

Rural Road Connectivity is not only a key component of Rural Development by promoting access to economic and social services and thereby generating increased agricultural incomes and productive employment opportunities in India, it is also as a result, a key ingredient in ensuring sustainable poverty reduction. Notwithstanding the efforts made, over the years, at the State and Central levels, through different Programmes, about 40% of the Habitations in the country are still not connected by All-weather roads. It is well known that even where connectivity has been provided, the roads constructed are of such quality (due to poor construction or maintenance) that they cannot always be categorised as All-weather roads. With a view to redressing the situation, Government have launched the Pradhan Mantri Gram Sadak Yojana on 25th December, 2000 to provide all-weather access to unconnected habitations. The Pradhan Mantri Gram Sadak Yojana (PMGSY) is a 100% Centrally Sponsored Scheme. 50% of the Cess on High Speed Diesel (HSD) is earmarked for this Programme.

### **3. Swarn Jayanti Gram Swarozgar Yojna (SGSY)**

The objective of the Swarnjayanti Gram Swarozgar Yojana (SGSY) is to bring the assisted poor families (Swarozgaries) above the Poverty Line by ensuring appreciable sustained level of income over a period of time. This objective is to be achieved by inter alia organising the rural poor into Self Help Groups (SHGs) through the process of social mobilization, their training and capacity building and provision of income generating assets. The SHG approach helps the poor to build their self-confidence through community action. Interactions in group meetings and collective decision making enables them in identification and prioritization of their needs and resources. This process would ultimately lead to the strengthening and socio-economic empowerment of the rural poor as well as improve their collective bargaining power.

### **4. Rural Housing Programme (Indira Awas Yojna)**

The genesis of the Indira Awaas Yojana (IAY) can be traced to the programmes of rural employment, which began in the early 1980s. Construction of houses was one of the major activities under the National Rural Employment Programme (NREP), which began in 1980, and the Rural Landless Employment Guarantee Programme (RLEGP), which began in 1983. There was, however, no uniform policy for rural housing in the States. For instance, some States permitted only part of the construction cost to be borne from NREP/ RLEGP funds and the balance was to be met by beneficiaries from their savings or loans obtained by them. On the other hand, others permitted the entire expenditure to be borne from NREP/ RLEGP funds. Further, while some states allowed construction of only new dwellings, others permitted renovation of existing houses of beneficiaries. As per announcement made by the Government of India in June 1985, a part of the RLEGP fund was earmarked for the construction of houses for SCs/STs and freed bonded labourers. As a result, Indira Awaas Yojana (IAY) was launched during 1985-86 as a sub-scheme of RLEGP.

IAY, thereafter, continued as a sub-scheme of Jawahar Rozgar Yojana (JRY) since its launching in April, 1989. 6% of the total JRY funds were allocated for implementation of IAY. From the year 1993-94, the scope of IAY was extended to cover below the poverty line Non-Scheduled Castes/ Scheduled Tribes families in the rural areas. Simultaneously, the allocation of funds for implementing the scheme was raised from 6% to 10% of the total resources available under JRY at the national level, subject to the condition that the benefits to Non-Scheduled Castes/ Scheduled Tribes poor should not exceed 4% of the total JRY allocation. IAY was de-linked from JRY and made an independent scheme with effect from 1st January 1996.

### **5. Jawahar Gram Samridhi Yojna (JGSY)**

Jawahar Gram Samridhi Yojana (JGSY) was launched on April 1, 1999 to ensure development of rural infrastructure at the village level by restructuring the erstwhile Jawahar Rozgar Yojana (JRY). JRY was itself a major wage employment programme launched in the year 1989 by merging the two wage employment programmes namely National Rural Employment programme (NREP) and Rural Landless Employment Guarantee programme (RLEGP). It was the single largest wage employment programme

implemented in all the villages of the country through the Panchayati Raj Institutions. It also contributed to a great extent in creating the durable rural infrastructure, which was of vital importance for the development of village economy thereby improving the standard of living of the rural poor. Both Jawahar Rozgar Yojana and Employment Assurance Scheme ensured the creation of durable assets in the form of school buildings, roads and other infrastructure. However, under these programmes, the generation of wage employment was getting overriding priority with the result that in the process of creating employment, durable assets were created.

## **6. Sampoorna Gram Samridhi Yojna (SGSY)**

The need was felt that the different programmes for wage-employment in the rural areas be merged and one ambitious programme be introduced which would take care of food security, additional wage-employment and village infrastructure at the same time. With this noble idea, a new Wage Employment Programme namely the Sampoorna Grameen Rozgar Yojana (SGRY) was announced by the Hon'ble Prime Minister from the ramparts of the Red Fort on 15<sup>th</sup> August 2001. The new programme was launched on 25<sup>th</sup> September 2001 with an annual outlay of Rs.10,000 crores. Under the Scheme, 50 lakh tonnes of food grains amounting to Rs.5,000 crores (at economic cost) will be provided every year free of cost to the State Governments and Union Territory Administrations. The remaining funds will be utilized to meet the cash component of wages and the material cost. The expenditure of the scheme will be shared by Centre and States in the ratio of 87.5 : 12.5. Under the Scheme, about 100 crore mandays of wage-employment is envisaged to be generated every year. Even though the EAS and the JGSY have been merged with this new Scheme, in order to avoid confusion, these two Schemes will be implemented as a part of the SGRY during the remaining part of the year 2001-2002.

## **7. National Social Assistance Programme and Annapurna (NSAP)**

The Directive Principles of State Policy in the Constitution of India enjoin upon the State to undertake within its means a number of welfare measures. These are intended to secure for the citizens adequate means of livelihood, raise the standard of living, improve public health, provide free and compulsory education for children etc. In particular, Article 41 of the Constitution of India directs the State to provide public assistance to its citizens in case of unemployment, old age, sickness and disablement and in other cases of undeserved want within the limit of its economic capacity and development. It is in accordance with these noble principles that the Government of India on 15<sup>th</sup> August 1995 included the National Social Assistance Programme in the Central Budget for 1995-96. The Prime Minister in his broadcast to the Nation on 28<sup>th</sup> July 1995 announced that the programme will come into effect from 15<sup>th</sup> August 1995. The National Social Assistance Programme (NSAP) then comprised of National Old Age Pension Scheme (NOAPS), National Family Benefit Scheme (NFBS) and National Maternity Benefit Scheme (NMBS). These programmes were meant for providing social assistance benefit to the aged, the BPL households in the case of death of the primary breadwinner and for maternity. These programmes were aimed to ensure minimum national standards in addition to the benefits that the States were then providing or would provide in future.

## 8. Council for Advancement of People's Action & Rural Technology (CAPART)

Recognising the need for an organisation that would coordinate and catalyse the development work of voluntary agencies in the country, particularly to ensure smooth flow of benefits to the underprivileged and socio-economically weaker sections of society, Government of India, in September, 1986 set up the Council for Advancement of People's Action and Rural Technology (CAPART), a registered society under the aegis of the Department of Rural Development, by merging two autonomous bodies, namely, People's Action for Development of India (PADI) and Council for Advancement of Rural Technology (CAPART).

The main objectives of the CAPART are:

- (1) To encourage, promote and assist voluntary action for the implementation of projects intending enhancement of rural prosperity.
- (2) To Strengthen and promote voluntary efforts in rural development with focus on injecting new technological inputs;
- (3) To act as a catalyst for the development of technology appropriate for rural areas.
- (4) To promote, plan, undertake, develop, maintain and support projects/schemes aimed at all-round development, creation of employment opportunities, promotion of self-reliance, generation of awareness, organisation and improvement in the quality of life of the people in rural areas through voluntary action.

CAPART made useful contribution towards the implementation of the following programmes/schemes:

- a. Jawahar Rozgar Yojana (Now renamed as Gram Samridhi Yojana (JGSY),
- b. Development of Women & Children in Rural Areas (DWCRA) The Schemes DWCRA, IRDP, MWS have been merged in single scheme renamed as Swarnjayanti Gram Swarozgar Yojana (SGSY),
- c. Integrated Rural Development Programme (IRDP),
- d. Million Well Scheme (MWS),
- e. Accelerated Rural Water Supply Programme (ARWSP),
- f. Central Rural Sanitation Programme (CRSP),
- g. Indira Awas Yojana (IAY),
- h. Panchayati Raj (PR),
- i. Promotion of Voluntary Action,
- j. Organisation of Beneficiaries (OB) and Social Animators Training (SAT),
- k. Advancement of Rural Technology Scheme (ARTS),
- l. Watershed Development,
- m. Assistance to NGOs/V.A.S.

## 9. District Level Rural Development Agency (DRDA)

The District Rural Development Agency (DRDA) has traditionally been the principal organ at the District level to oversee the implementation of different anti-poverty programmes. Since its inception, the administrative costs of the DRDAs were met by way of setting apart a share of the allocations for each programme. However, of late, the

number of the programmes had increased and while some of the programmes provided for administrative costs of the DRDAs, others did not. There was no uniformity among the different programmes with reference to administrative costs. Keeping in view the need for an effective agency at the district level to coordinate the anti-poverty effort, a new Centrally Sponsored Scheme for strengthening the DRDAs has been introduced with effect from 1<sup>st</sup> April, 1999. Accordingly, the administrative costs are met by providing a separate budget provisions. This scheme which is funded on a 75:25 basis between Centre and States, aims at strengthening and professionalising the DRDAs.

## **10. Provision of Urban Amenities in Rural Areas (PURA)**

Ministry of Rural Development (MoRD), Government of India has re-launched **the scheme “Provision of Urban Amenities in Rural Areas” (PURA)** as a Central Sector scheme during remaining period of the XI Plan. MoRD with support from Department of Economic Affairs and the technical assistance of Asian Development Bank intends to implement the PURA scheme under a Public Private Partnership (PPP) framework between Gram Panchayat(s) and private sector partners. The scheme envisages twinning of rural infrastructure development with economic re-generation activities and is the first attempt at delivering a basket of infrastructure and amenities through PPP in the rural areas. It is an effort to provide a different framework for the implementation of rural infrastructure development schemes and harness private sector efficiencies in the management of assets and delivery of services. The scope of the scheme is to select private partners to develop livelihood opportunities, urban amenities and infrastructure facilities to prescribed service levels and to be responsible for maintenance of the same for a period of ten years in select Panchayats/cluster of Panchayats.

## **11. Mahatma Gandhi National Rural Employment Act - 2005 (MNREGA)**

The **National Rural Employment Guarantee Act (NREGA)**, also known as **National Rural Employment Guarantee Scheme, NREGS**) is Indian legislation enacted on August 25, 2005. The NREGA provides a legal guarantee for one hundred days of employment in every financial year to adult members of any rural household willing to do public work-related unskilled manual work at the statutory minimum wage. The Ministry of Rural Development (MRD), Govt of India is monitoring the entire implementation of this scheme in association with state governments.

This act was introduced with an aim of improving the purchasing power of the rural people, primarily semi or un-skilled work to people living below poverty line in rural India. It attempts to bridge the gap between the rich and poor in the country. Roughly one-third of the stipulated work force must be women. Adult members of rural households submit their name, age and address with photo to the Gram Panchayat. The Gram panchayat registers households after making enquiry and issues a job card. The job card contains the details of adult member enrolled and his /her photo. Registered person can submit an application for work in writing (for at least fourteen days of continuous work) either to panchayat or to Programme Officer. The panchayat/programme officer will accept the valid application and issue dated receipt of application, letter providing work will be sent to the applicant and also displayed at panchayat office. The employment will be provided within a radius of 5 km: if it is above 5 km extra wage will be paid. The

scheme was introduced in 200 districts during financial year 2006-07 and 130 districts during the financial year 2007-08. In April 2008 NREGA expanded to entire rural area of the country covering 34 States and Union Territories, 614 Districts, 6,096 Blocks and 2.65 lakhs Gram Panchayats.

It has been noted that literally and from the social, economic and political perspectives the statement is valid even today. Around 65% of the State's population is living in rural areas. People in rural areas should have the same quality of life as is enjoyed by people living in sub urban and urban areas. Further there are cascading effects of poverty, unemployment, poor and inadequate infrastructure in rural areas on urban centres causing slums and consequential social and economic tensions manifesting in economic deprivation and urban poverty. Hence Rural Development which is concerned with economic growth and social justice, improvement in the living standard of the rural people by providing adequate and quality social services and minimum basic needs becomes essential. The present strategy of rural development mainly focuses on poverty alleviation, better livelihood opportunities, provision of basic amenities and infrastructure facilities through innovative programmes of wage and self-employment. The above goals will be achieved by various programme support being implemented creating partnership with communities, non-governmental organizations, community based organizations, institutions, PRIs and industrial establishments, while the Department of Rural Development will provide logistic support both on technical and administrative side for programme implementation. Other aspects that will ultimately lead to transformation of rural life are also being emphasized simultaneously.

Though the percentage of persons below poverty level in Tamil Nadu has come down significantly between 1993-94 (35.03%) and 1999-2000 (21.12%) as a result of the implementation of various Central and State sponsored schemes, the level of poverty both in absolute numbers (130.40 lakh persons) and percentage of population below poverty line (21.12%) in Tamil Nadu is highest among the four southern States. In spite of huge investments on wage and self -employment programmes, the level of unemployment as per the NSSO 55th round (1999-2000) for Tamil Nadu compared to All India is the second highest among major States in 1987-88 and 1993-94 and third highest in 1999-2000. The Government's policy and programmes have laid emphasis on poverty alleviation, generation of employment and income opportunities and provision of infrastructure and basic facilities to meet the needs of rural poor. For realising these objectives, self-employment and wage employment programmes continued to pervade in one form or other. As a measure to strengthen the grass root level democracy, the Government is constantly endeavouring to empower Panchayat Raj Institutions in terms of functions, powers and finance. Grama sabha, NGOs, Self-Help Groups and PRIs have been accorded adequate role to make participatory democracy meaningful and effective.

In final words we can say that all Governments are serious on rural development. On this issue all parties are one in the parliament business. Rural development has taken place in the manifesto of political parties and it raised by political men on various daises. If the pace and honesty of development sustain than entire rural India will convert in to the urban very soon, we hope.

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## References

- Bell, Clive (1990): Interactions between Institutional and Informal Credit Agencies in Rural India. World Bank Economic Review, Volume 4, Number 3, pp. 297-327
- Bhattacharya, B.B. (1985): Role of Interest Rates as an Incentive for Household Savings in India, 1960-61 to 1981-82. Memo, New Delhi: Institute of Economic Growth.
- Bouman, F.J.A. (1989): Small, Short and Unsecured: Informal Rural Finance in India. pp. 145. Oxford University Press, New Delhi.
- Goldsmith, R.W. (1983): The Financial Development of India: 1960-77, Oxford University Press, New Delhi
- Jha, Gangadhar (1984): Revolving Fund as a Technique of Financing Land Development: A Critique. Naraglok, Vol.16, No.4, October-December, pp. 63-78.
- Kabra, K.N. (1982). The Black Economy in India: Problems and Policies, Chanakya Publishers, New Delhi
- Krishnamurthy, S. and S. Saibaba (1981): Savings Behaviour in India: Verification of Some Explanatory Hypothesis. Institute of Economic Growth, New Delhi.
- Marudachalam, V.M. (1991): Slum Finance in Madras, India. Habitat International, Vol. 15, No.1/2, pp. 239-246.
- Narang, R.C. and K. Wadhwa (1984) Encyclopedia of All India Chit Funds Act and Rules. Wadwa Publishing House, New Delhi.
- Nayar, C.P.S. (1973). Chit Finance: An Exploratory Study of Unregulated Banks. Vora and Co. Bombay.
- Prakash, B.A. (1984): Private Financing Firms in Kerala: A Study. Economic and Political Weekly, Vol.XIX, No.50, December 15, pp. 2129 - 2133.
- Rajshekar, D. (1988): Private Financing Firms in Karnataka: A Boon for Tax Dodgers. Working Paper No. 228, June, pp. 30. Centre for Development Studies, Trivandrum,

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# **Safeguarding Women's Rights: A Step Ahead Towards Human Rights**

**Ved Pal Singh Deswal**

## **Introduction**

Women's Day is celebrated every year on 08<sup>th</sup> March. It is a day when women are recognized for their achievements without regard to divisions, whether national, ethnic, linguistic, cultural, economic or political. It is an occasion for looking back on past struggles and accomplishments, and more importantly, for looking ahead to the untapped potential and opportunities that await future generations of women. The word women empowerment means a process which covers social, political and economic aspects or we can say distribution of social power and control of resources in favour of women. It aims at changing the balance between the sexes so to create a more equitable distribution of power in society. The position of women in society is the true index of its cultural and spiritual attainment and their active role is proved to be an essential part in the evolution of values. No country can prosper in which women's potential is left unrealised. In most of the developing countries women have a low social and economic status, in such countries empowerment of women is essential.<sup>1</sup>

## **Historical Perspective of Status of Women in India**

According to Vedic Smrities it has been pointed out that human beings are not only virtuous but also adorned vices. Therefore, it is an undenied fact that evil propensities are also a part of human nature irrespective of time and place. The abduction of Sita by Ravana and the abduction of Angiras Brahaspati's wife Tara by Soma is a proof of existence of such evil propensities and reprehensible practice in the early society.<sup>2</sup>

Violence against women persists in all regions of the world as a pervasive violation of human rights and a major impediment to achieving gender equality. The United Nations General Assembly provides critical leadership in the global effort to combat such violence. Its landmark Declaration on the Elimination of Violence against Women constitutes the framework for analysis and action at the national and international levels.

## **The United Nations and Gender Equality**

The Charter<sup>3</sup> was the first international agreement to affirm the principle of equality between women and men. Since then, the UN has helped in creating a historic legacy of internationally-agreed strategies, standards, programmes and goals to advance the status of women worldwide. Over the years, the UN and its technical agencies have promoted the participation of women as equal partners with men in achieving sustainable development, peace, security, and full respect for human rights. The empowerment of women continues to be a central feature of the UN's efforts to address social, economic

and political challenges across the globe.

Recognition of the inherent dignity and of the equal and inalienable rights of the members of human family is the foundation of freedom, justice and peace in the world.<sup>4</sup> Today we have widened the sphere of human rights thought and action to new arenas. Human rights are in all the individuals irrespective of their caste, creed, religion, sex and nationality. These rights are essential for all the individuals as they are consonant with their freedom and dignity. Because of their immense significance to human beings human rights are also referred as fundamental rights, basic rights, inherent rights, natural rights and birth rights. He defines Human rights are those minimum rights which every individual must have against the state by virtue of his being a member of human family.<sup>5</sup> Human rights are those rights that everyone has by virtue of their humanity.<sup>6</sup> Our world of terror and horror, of hunger and handicaps of hopes of a human order where people everywhere will be sovereign and as groups and as individuals will be free, where society will guarantee full personhood in holistic richness of every member of the world community, present many problems of social dynamics and jural pragmatism. Justice V.R.Krishna Iyer in his book *Human Rights and the Law* wrote, "We have challenges, ideological and others to creative law-persons, humanist its jurists and sensitive statesmen. This task is to strive for a social order concretizing by positive law, the aspiration of mankind for the full and free development of every individual."<sup>7</sup>

Women and men are created by the same God. Women constitute about one half of the global population, but they are placed at various disadvantageous positions due to gender difference and bias.<sup>8</sup> Gradually man started taking advantage of his strong physical power. As a result of this, the position of women was reduced to the mercy of men by imposing unreasonable customs upon women. India is a tradition bound society where women have been socially, economically, physically, psychologically and sexually exploited from time immemorial, sometimes in the name of religion, sometimes on the pretext of writings in the scriptures and sometimes by the social sanctions. They have been victims of violence and exploitation by the male dominated society all over the world. Among the wonders of the omnipotent creator, woman stands apart for her charm and attraction. But unfortunately this apparent boon has become a curse for her in various ways. The author in his book *Crime Against Working Women* wrote, "History bears testimony to the fact that many bloody battles were fought for women resulting in the rise and fall of many civilizations. Numerous socio-political and legal reforms have failed to change woman's position and her exploitation in one form or other is still rampant. Particularly the Indian woman is greatly exposed to exploitation. The continuing phenomenon of woman's suffering in all walks of her life is a clarion call for humanity to wage an ultimate war against atrocious acts."<sup>9</sup> Women the source of love and compassion have always been exploited by a patriarchal society. Even after more than 60 years of our independence women of India wear a pathetic look. Women's struggle for equality in the society is backed by the law and to some extent by the right thinking people in the society.

### **International Provision for the Women's Rights**

#### **(a) Commission on the Status of Women, 1946**

This convention was established in 1946 by Socio Economic and Social Council. The members meet once in two year in Vienna to examine women's progress

towards equality throughout the world.<sup>10</sup>

(b) **Convention on the Elimination of all Forms of Violence against Women, 1967**

In order to implement the principle set forth in Nov 1967, the General Assembly adopted this convention in Dec 1979. As on May 03 it had 172 state parties.<sup>11</sup>

(c) **The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an International Bill of Rights for Women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.<sup>12</sup>

(d) **Various Conferences on Women**

Four conventions were held during the United Nations sponsored international Women's Decade from 1976-1985. These conferences were held at Mexico city in 1975, Copenhagen in 1980, Nairobi in 1985 and Beijing in the year 1995.

(e) **Optional Protocol to the convention of Women, 1999**

In order to provide for individual complaint system the General Assembly on 07 Oct 1999 adopted this convention to Eliminate all forms of Violence against Women. As on May 2003 it had 50 states parties.<sup>13</sup>

(f) **United Nations General Assembly 2000**

In order to assess the progress on women's issue since Beijing Conference in 1995 towards the full implementation of the goals set out in Beijing. Forms and manifestations of violence against women, and action to prevent and address it, are identified in many other instruments and documents, including the Beijing Declaration and Platform for Action, and the outcome of the twenty-third special session of the General Assembly entitled: "Women 2000: Gender Equality, Development and Peace in the twenty-first century", resolution 1325 (2000) of the Security Council on women, peace and security, and resolutions of the Commission on Human Rights. The Committee on the Elimination of Discrimination against Women monitors steps taken by States parties to the Convention on the Elimination of All Forms of Discrimination against Women. The Special Rapporteur on violence against women, including its causes and consequences significantly contributes to the common effort to address violence against women. The work of the United Nations to address all forms and manifestations of violence against women has gained new momentum with the launching, on 9 October 2006, of the Secretary-General's in-depth study on all forms of violence against women and the adoption by the General Assembly, on 19 December 2006, of an action-oriented resolution on the "Intensification of efforts to eliminate all forms of violence against women.

The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

By accepting the Convention, States commit themselves to undertake a series of

measures to end discrimination against women in all forms, including:

- (a) to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;
- (b) to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- (c) to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

This Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms. The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It affirms women's rights to acquire, change or retain their nationality and the nationality of their children. States parties also agree to take appropriate measures against all forms of traffic in women and exploitation of women. Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations.

### **The United Nation's Role in Protecting Violence against Women**

In December 2003, the General Assembly requested the Secretary-General to prepare an in-depth study on all forms and manifestations of violence against women. The extensive preparatory process for the study involved Member States, entities of the United Nations system, non-governmental organizations, advocates, academics, experts and practitioners. The momentum generated must now be carried forward so as to ensure that the recommendations made in the study are implemented.

The Secretary-General's in-depth study on all forms of violence against women was launched in the General Assembly on 9 October 2006. Its presentation and discussion in the Third Committee were accompanied by a panel discussion on "Ending violence against women: The role and responsibility of various sectors in effective prevention and response" and an exhibit of posters from around the world to raise awareness about violence against women and strengthen commitment to end it.

The aims of this study was to

- (a) Highlight the persistence and unacceptability of all forms of violence against women in all parts of the world;
- (b) Strengthen the political commitment and joint efforts of all stakeholders to prevent and eliminate violence against women; and
- © Identify ways and means to ensure more sustained and effective implementation of State obligations to address all forms of violence against women, and to

increase State accountability.

The study gives an overview of the historical overview of the development of international awareness and action on male violence against women. it sets out the broad context within which violence against women occurs and persists ; synthesizes the knowledge regarding the extent and prevalence of different forms and manifestations of violence against women, in the main settings: that is, within the family, the community, and perpetrated or condoned by the State, including in conflict settings; and reviews the consequences of such violence, including its costs of forms and manifestations of violence against women and its consequences, including costs ;discusses the gaps and challenges in the availability of data, including in methodologies for assessing the prevalence of different forms of violence; highlights the responsibilities of States to address and prevent violence against women; gives examples of promising practices in the areas of law, service provision and prevention ; and puts forward a blueprint for action by all stakeholders by States, at the national level, and by intergovernmental bodies and UN entities to make measurable progress in preventing and eliminating violence against women .

Secretary-General Ban Ki-moon on 25 February 2008 kicked off a multi-year global campaign bringing together the United Nations, governments and civil society to try to end violence against women, calling it an issue that “cannot wait.” “At least one out of every three women is likely to be beaten, coerced into sex or otherwise abused in her lifetime. Through the practice of prenatal sex selection, countless others are denied the right even to exist,” Mr. Ban said in his address at the opening in New York of the latest session of the Commission on the Status of Women. Violence against women impedes economic and social growth, and thus the new campaign will run until 2015, the same target year as the internationally agreed aims known as the Millennium Development Goals (MDGs). Noting that weapons of armed conflict today include rape, sexual violence and abduction of children to be conscripted as soldiers or sex slaves, the Secretary-General recounted his visits to war-torn areas and his conversations with survivors of violence. “This is a campaign for them. It is a campaign for the women and girls who have the right to live free of violence, today and in the future,” he said. “It is a campaign to stop the untold cost that violence against women inflicts on all humankind.” Mr. Ban called on the cooperation of the world's youth, women's groups, men around the world, the private sector and Member States to help the new initiative succeed. He acknowledged that there is no “blanket approach” to tackling the scourge, noting that each country must formulate its own measures to address violence against women. “But there is one universal truth, applicable to all countries, cultures and communities: violence against women is never acceptable, never excusable, never tolerable,” the Secretary-General stated, adding that he hopes to hold a high-level event in 2010 to review progress.

But there is one universal truth, applicable to all countries, cultures and communities: violence against women is never acceptable, never excusable and never tolerable.

As part of today's campaign launch, Rachel N. Mayanja, the Secretary-General's Special Adviser on Gender Issues and the Advancement of Women, held a press conference together with a number of other activists, both male and female, working to end violence

against women and are slated to participate in other discussions on the subject at UN Headquarters.

“While everybody professes that women hold up the sky and women's contributions are critical to development to everything it hasn't been demonstrated concretely.” Ms Mayanja said. “And here we are, halfway through the Millennium Development Goals projected period, and we are still lagging behind.” Many women have been left out of development efforts because of the violence that is continually being inflicted on them, she said. The Secretary-General's campaign, she added, would bring a new sense of urgency to bear on this tragic issue.

### **Role of Indian Government in Protecting Rights of Women**

The Indian society is now experiencing drastic change in economy, social structure and family structure. The women in India are enjoying more liberty and equality than before. But the harsh reality is that lots of women have been facing miseries like bride burning, rape, subjugation and dowry. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women.

The constitution of India is considered a forward looking constitution because its preamble recognises the principles of social, economic and political justice. Indian Constitution guarantees several rights for women. Constitutional provisions promise to provide equal opportunities to women by removing gender bias. Article 14 provides equality before law and equal protection by the law. Article 15 (1) assures not to discriminate on grounds of religion, race, caste, sex or place of birth. Article 15 (3) declares the State to make special provisions in favour of women and children, Article 16 reassures equality of opportunity for all citizens in public employment. Article 39 declares the State to direct its policy towards securing equal pay for equal work for both men and women. And article 51 lays down provision to renounce practices derogatory to the dignity of women. In 1971 the Committee on the Status of Women in India was constituted by a resolution of the Ministry of Education and Social Welfare. The report of this committee is considered as an eye opener to the stark inequalities between men and women. The culmination of all government efforts is the National Policy on Education, 1986. The Policy states that education will be used as an agent of basic change in the status of women. The National Education System will play a positive interventionist role in the empowerment of women. Women's studies will be promoted as a part of various courses and educational institutions encourage taking up active programmes to further women's development. Major emphasis will be laid on women's participation in vocational technical and professional education at different levels.

The Plan of Action 1992 has also special parameters on empowerment of women. But the National Policy for Empowerment of Women 2001 has given a great charter for women's empowerment in all fields<sup>14</sup>. The Supreme Court has in numerous cases emphasized that while discussing constitutional requirement, court and Counsel must never forget the core principle embodied in the international conventions and instruments and as far as possible give effect to the principles contained in those international instruments. The

courts are under an obligation to give due regard to international conventions and norms for construing domestic laws, more so, when there is no inconsistency between them and there is a void in domestic law.<sup>15</sup>

(a) **Panchayati Raj Institutions :**

The 73<sup>rd</sup> and 74<sup>th</sup> Amendments (1993) to the Indian Constitution have served as a breakthrough towards ensuring equal access and increased participation in political power structure for women. The Panchayati Raj Institutions will play a central role in the process of enhancing women's participation in public life. The Panchayati Raj Institutions and the local self Governments will be actively involved in the implementation and execution of the National Policy for Women at the grassroots level.<sup>16</sup> In cases involving violation of human rights, the courts must forever remain alive to the international instruments and conventions and apply the same to a given case when there is no inconsistency between the international norms and the domestic law occupying the field. In the instant case the High court appears to have totally ignored the intent and content of the international conventions and norms while dealing with the case. For the centuries the women have been subjected to various forms of exploitation, harassment and torture both in physical and sexual capacities. When women entered into the paid labour force from the narrow confinement of the family they experienced a new kind of harassment at the hands of employers, supervisors and co-workers. Women in the work place experience a wide range of sexual conducts ranging from sexist comments to non-violent sexual contacts to violent sexual impositions.<sup>17</sup>

(b) **Enactment of Domestic Violence Act 2005 for protecting Women against Crimes:**

The Government enacted the Domestic Violence Act and it covers the following provisions

- (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.<sup>18</sup>

In that situation an aggrieved person or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act. Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider. The Magistrate shall endeavor to dispose of every application made under sub-section.<sup>19</sup>

In this case the Supreme Court upheld the dignity of a woman. The court did not allow the blue-eyed and the mighty police supreme Mr. Gill to escape judicial scanning of his alleged insult to the modesty of the complainant who was none else but a/an I.A.S. Officer.<sup>20</sup>

In this case the Court held that where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.<sup>21</sup>

## Conclusion

It is universally acknowledged that knowledge generates self-worth, confidence and self-esteem. Therefore, education is placed at the centre of all strategies for women's empowerment. Education accelerates effective participation of women at all levels of national development. As the education for girls in India is influenced by several factors and forces like social class, caste, ethnic group, residence in a rural or urban area etc serious efforts were started to encourage education for women. Education for girls has become a national goal. Indian Parliament has enacted bunch of Statutes for protecting the rights of women against violence and crimes. Even after enacting so many laws why, the violation or crime against women is on an increase rather than decline. Is it the lack of initiative or the awareness which is the culprit? Can we make the government liable for not performing the duties or not fulfilling its obligation to punish the culprits? The recent case<sup>22</sup> of Punjab Government remission of sentence of the rape convicts and let loose them in the society for the crime to happen. Who is liable under these circumstances? Is it the women who was raped or the judicial system which punished him or the government, which is liable to give protection, is the culprit here? The Government alone cannot achieve this goal until and unless public enforcement is there. Therefore it is our moral duty to help our Govt. in protecting the rights of women, which is the requirement of a Civilization Society. We have to prove this maxim, "God lives where women are worshipped" which is a symbol of civilization of the society.

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## Notes

<sup>1</sup>Bora Sanchita, "Women Empowerment and Education" (1999) p 43.

<sup>2</sup>These are the extracts from Vedic Smritis.

<sup>3</sup>United Nations Charter, 1945.

<sup>4</sup>Preamble, Universal Declaration of Human Rights, 1948.

<sup>5</sup>D.D. Basu, "Constitutional Law of India" (2003) p 157.

<sup>6</sup>Jurist R.J. Vincent, "Human Rights and Law" (2000) p 438

<sup>7</sup>Justice V.R.Krishna Iyer, "Human Rights and the Law" (1995) p 133.

<sup>8</sup>Awasthi Dr. SK & RP Kataria, "Law Relating to Protecting Human Rights", Orient Publishing Co. p 329.

<sup>9</sup>Prabhat Chandra Tripathi, "Crime Against Working Women" (1999) p 25.

<sup>10</sup>Commission on the Status of Women, 1946.

<sup>11</sup>Convention on the Elimination of all forms of Violence against Women, 1967.

<sup>12</sup>The Convention on the Elimination of All Forms of Discrimination against Women, 1979.

<sup>13</sup>Optional Protocol to the convention of Women, 1999 :

<sup>14</sup>Supra Note 1.

<sup>15</sup>Prem Shankar Sukla v. Delhi Administration, AIR 1980 SC 1535

<sup>16</sup>Amendment Act (1993) to the Indian Constitution.

<sup>17</sup>Basu, Palok Justice, “Law Relating to Protection of Human Rights”, Modern Law Publications New Delhi (2007) p.365.

<sup>18</sup>Section 5 of the Domestic Violence Act, 2005.

<sup>19</sup>Section 16 of Domestic Violence Act, 2005.

<sup>20</sup>Rupan Deol Bajaj v. K.P.S. Gill AIR 1996 SC 309.

<sup>21</sup>Vishaka v. State of Rajasthan, AIR 1997 SC 3011.

<sup>22</sup>Tandon Aditi, Rape of Law: Convicts walk free in Punjab, The Tribune Wednesday, March 5, 2008, p. 1

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# Food Security: Reality or Dream

Gargi Chakrabarti

## Introduction

Food gives human being proper energy, provides nutrients for growth and repair of body and helps man to prevent and cure diseases. India, being the agriculture based country still does not have 'food security'. India is self-sufficient in food production and will remain so until 2025<sup>1</sup>, in spite of that because of inefficiencies in the food supply chain, food supply is threatened and hunger and malnutrition is perpetuating. UNICEF estimated that in the year 2000, about 2,420,000 children died in India before their fifth birthdays and main cause of this massive child mortality was malnutrition<sup>2</sup>. Still 60 million children and 21% of general people in India are underweight and malnourished<sup>3</sup>. Moreover no one can deny that huge number of people of India remains hungry at the end of the day. It is a fact that India produces enough food grains which is sufficient to feed all Indians but because of uneven distribution all the people usually not getting proper nutritious and safe food in enough quantity<sup>4</sup>. In the international level, 'right to food' is accepted as one of the basic human rights<sup>5</sup>. The existing problem of food security become more complex due to several other causes, which ranges from loss of varieties of plant genetic resources and traditional biological diversity; loss of soil fertility; lack of awareness regarding legal provisions among farmers; incoherence between different legal provisions; non-implementation of related legal measures; and introduction of genetically modified food with improper research. These all factors will be discussed in this article.

## Right to Food: International and Domestic Acceptance

Food and nutrition is accepted worldwide as a human right; international human rights law articulated right to food within the broader context of the human right to adequate standard of living. 'Right to food' can be defined as a situation "*when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.*"<sup>6</sup> In 1948 the *Universal Declaration of Human Rights* accepted that every human being should have the right to a standard of living for maintenance of health and well being and it includes food as well. Subsequently other international agreements acclaimed right to food as well.<sup>7</sup> *International Covenant on Economic, Social and Cultural Rights* recognized that everyone's fundamental right is to be free from hunger and also the right of everyone to have an adequate standard of living including adequate food.<sup>8</sup> *Convention on the Rights of the Child* 1990 had given emphasis that State should provide the proper measure to combat disease and malnutrition by providing nutritious food<sup>9</sup> which is reinforced by the UN's Committee on Economic, Social and Cultural Rights in 1999.<sup>10</sup>

Article 21 of Indian Constitution calls for the 'right to protection of life and personal

liberty',<sup>11</sup> the question is whether Article 21 by virtue of this right include the right to food. An NGO, the People's Union of Civil Liberties (PUCL) submitted this question before the Supreme Court of India in a 'writ petition' on April 16, 2001; in response Supreme Court issued orders on 3<sup>rd</sup> September 2001 for the government agencies *"to identify the needy within their jurisdictions, and to assure that they receive adequate food"*. Various schemes have been initiated thereafter by the States, for example under the Targeted Public Distribution Scheme, *"The States are directed to complete the identification of BPL (below poverty level) families, issuing of cards, and commencement of distribution of 25 kgs grain per family per month"*.<sup>12</sup>

### **Adequate Food Production but Inadequate Distribution**

In 1942-43 India faced the great Bengal famine, but after independence it has transformed itself as a major agriculturally productive country; India occupies first or second position in production of some of the major food and cash crops (Reference Table 1).

**Table1. Production of major crops and position of India (1995-97)**

<b>Crops</b>	<b>India's Share (%)</b>	<b>India's Rank</b>
Wheat	11.4	2
Rice	21.4	2
Pulses	26.0	1
Groundnut	28.6	1
Sugarcane	22.6	2
Tea	28.3	1
Jute	52.5	1

Source: FAO 1997

India used to grow so much of food grain that it has a grain stock greater than any other country except China; still one-fifth of its citizen are malnourished, almost twice the rate of other developing countries like Vietnam.<sup>13</sup> Biggest problem in India is, only 41.4% of the produced grain has been taken up by the states to reach Indian population (according to a recent study by World Bank).<sup>14</sup> The goal of food distribution is to connect the producers, like farmers, to consumers, and also to allocate the food accordingly in the population. According to current structure, food is usually transported to a central location and then distributed to outer cities and villages. Thus it requires proper cold storage and efficient transportation system, as well as good roadways. Problem intensifies with entrance of the intermediaries in between producers and the consumers. According to the statistics, out of around 600 million tonnes of fruit and vegetables, about 25% to 30% is wasted due to inadequate transport and storage facilities.<sup>15</sup> The

government has established the Public Food Distribution System (PDS) for facilitating the distribution of food to targeted population. The Working Group on Public Distribution System has given importance on the requirement of storage network; decentralization of operations; examination of quality and quantity of the procured food grains; provision of various nodal and retail outlets specially in remote and inaccessible areas of rural India; assessment of transport requirement based on anticipated movement of food grains etc.<sup>16</sup> However, implementation of PDS is not proper and management of this system suffers from corruption – particularly black marketing, caste prejudices and the utter failure of various local governments.<sup>17</sup> The actual number of households using the PDS is around 91 million, significantly less than the 160 million being claimed by the government. 78% of these persons are trying to make use of the system - 26% are from urban areas while 52% are rural households.<sup>18</sup> Of these 91 million households an alarming 61% claim that the PDS is plagued by corruption and 49% claim that corruption has increased in the past few years.<sup>19</sup> The PDS is viewed as the most corrupt institution in India.

### **Incoherent Legal Regimes**

Food security is primarily related with food production. Food grains are produced by the farmers, but unfortunately farmers are the group of people in India who suffers mostly from hanger. Several legal regimes are related with the food production, agriculture, environment, soil fertility, food quality checking and distribution. Here the discussion will be limited to the legal provisions of India which are directly related with the farmers; namely, Farmers' Rights, Seed Act, Biological Diversity Act, Biotechnology Bill etc.

Agricultural crops are part of plant genetic resources. Protection of genetic resources is provided in Indian Biological Diversity Act 2002. Specifically access and benefit sharing is promoted by that legislation; but no specific mention about protection of biological diversity related to foods for the maintenance of food security. For agriculture to be performed perfectly, farmers have to have the supply of seeds for them. Seed protection and supply is regulated in India by The Seed Act 1966. Seed Bill 2004 and Seed Bill 2010 is proposed to replace the Seed Act 1966 and aimed to protect the farmers and small scale agriculturist from monopolistic activities of commercial seed producers and seed suppliers. The registration of all varieties of seeds is proposed. The Bill would not restrict the farmers' right to use or sell his farm seeds and planting material provided that he does not propose to sell the same under a brand name. Provision of compensation is proposed in case of non-compliance with the proposed quality of the seed which the farmer may claim under Consumer Protection Act 1986.<sup>20</sup> The Parliamentary Committee<sup>21</sup> proposed that the Bill should not impose a condition that the farmers' seeds also must conform to the minimum standards required to be maintained by the commercial producers for registering their seeds. What is overlooked in the Seed Bill is the fact that either registration/certification or compensation claim would be a pretty costly and time consuming affair for the farmers; even according to our social structure the farmers are not aware of their rights so that they can make proper use of their legislative rights. The Protection of Plant Variety and Farmers' Rights Act (PPVFRA) 2001 provides protection of farmers' rights,<sup>22</sup> all registered varieties are supposed to be available to the farmers,<sup>23</sup> even the provision of compulsory licensing is given therein;<sup>24</sup> but there are loopholes and

loose ends as rights are not properly clarified. Contamination of the neighbouring non-GM crops is a risk related with the cultivation of the GM crops, and specific data regarding the bio-safety and the environmental safety is yet to be available. Issue of farmers' rights regarding protection from these newer problems are not at all addressed in Indian PPVFRA 2001. Genetically modified crops are already introduced in India, and India is on the way of preparing The National Biotechnology Regulatory Bill 2008, whose function is to regulate the importation, transport, containment, manufacture, sale, distribution and environmental release of organism as well as research including field trials of the organism. All these legal regimes are having impact on farmers' rights by some way or other. But unfortunately, there are provisions which do not go hand-in-hand to provide proper protection to farmers' rights. For example, PPVFRA 2001 does not provide any provision for access mechanism along with the provision for benefit sharing system<sup>25</sup> for the farmers which are provided by the Indian Biological Diversity Act 2002; according to Seed Act 1966 registration of the seed varieties do not need declaration of origin and ownership of the variety, which might legitimise the misappropriation of farmers' varieties. There is interface among these legislations, but the inter-relationships among them and co-ordination among the respective national authorities are not clarified which creates ambiguity, confusion and lack of transparency. In the National Biotechnology Regulatory Bill 2008 Government of India recognised that the modern biotechnological advancement has an important relation with agriculture and food production and it is proposed that Product Ruling Committee will be formed to take measures to minimize risk on human health and environment,<sup>26</sup> but no specific policing/watch dog activity is provided which would be better to combat the huge impact of environmental contamination by genetically modified organisms on food security.

## Way Forward

National Food Security Bill 2011 has been proposed in which the 'right to access of food security' has been acclaimed;<sup>27</sup> government has given obligatory duty to provide access to adequate and appropriate food;<sup>28</sup> special provision of nutritious food for children,<sup>29</sup> pregnant and nursing mothers<sup>30</sup> have been provided. Positive approach has been shown by providing emphasis on child malnutrition,<sup>31</sup> growth deficiency,<sup>32</sup> and entitlement of right of persons living in starvation.<sup>33</sup> PDS system (which is mentioned earlier) is also reinforced in this Bill.<sup>34</sup> Another path finder is the National Development Council (NDC), which in its 53rd meeting held on 29th May, 2007 adopted a resolution to launch a Food Security Mission comprising rice, wheat and pulses to increase the production of rice by 10 million tons, wheat by 8 million tons and pulses by 2 million tons by the end of the Eleventh Plan (2011-12).<sup>35</sup> Accordingly, a centrally sponsored scheme, 'National Food Security Mission', has been launched by Ministry of Agriculture from 2007-08. Department of Agriculture of each State Government is deputed to implement the scheme and local problems has proposed to give priority on state by state basis. This initiative seems to have a practical and holistic approach, as it addressed all agriculture related factors together; for example, seed distribution; plant and soil protection management; resource conservation techniques like knap sack sprayers, power weeders, multi crop planters and seed drills etc; incentive for pump sets; and cropping system based training.<sup>36</sup>

## Conclusion

Food is not an isolated item; it is an aggregation of various aspects of environmental and ecological balance, sustainable agricultural development, technology support, use of traditional knowledge, soil fertility, water resource management, farmers' rights, distribution and storage of food grains etc. It is evident that there is an urgent need to work together for successful food supply. But in India inherent problem is, each and every sector works independently, not hand in hand. Apart from devastating natural calamity, India always used to be self-sufficient in food production. Traditional agricultural knowledge is quite appreciable in India and still huge number of farmers used to exercise inter-generational traditional knowledge for agricultural practice. It will be better if with aid of modernization of this practice we can enhance the quantity and quality of food production. Huge population of India is a great challenge for every sector and mostly so for the food supply. That is why, any technological implementation need rigorous scan to wipe out any detrimental factor. Strong infrastructure can be formed with the assimilation of legislative, administrative and policy implementation perspective. We can learn from the experiences of various other countries but we need to find out the exact Indian requirement according to the Indian socio-economic structure. There is a huge scope to increase the soil fertility through microbes. it plays an important role in soil characteristics maintenance for example, it helps in nitrogen fixation, mineralization, immobilization of several micro and macro nutrients of the soil, it controls soil borne diseases, even it helps in promotion of plant growth by secretion of growth hormone.<sup>37</sup> Microbes can be used as a bio-control agents for weeds, like some fungus has been used as a weed control agent for rice and soybean fields; even microbes can be used to modify some preconditions for agriculture, like mulching of coconut plants with microbe *Stylosanthes hamata* reduces irrigation requirement significantly.<sup>38</sup> Indian scientists are capable to enrich in this field, so this type of virgin field India need to explore. This is not the time to consider on instant gain, this is the time to concentrate on long term sustainable benefits. Food Security Bill is having uncourageous vision, but again the question is proper implementation and execution. With the other various issues in India, food security is the most important issue. Experts from various fields need to sit together to resolve the issue or to look into the solution to secure farmers' life, equal distribution, better storage, and above all sustainable development of agricultural practice. Food security is not a dream, it is hard core realty, and food is not a luxury good but the basic need for survival. Whatever may be the allied aspects are there, for example land reforms or 'green revolution'; evaluation needs to be done keeping long term benefit in mind with a proper visionary; then only we can resolve the issue of food security and the dream of food secured India will become true realty.

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## Notes

<sup>1</sup>William Thomson, INDIA'S FOOD SECURITY PROBLEM, The Diplomat Blog (2<sup>nd</sup> April 2012) available online at [http://thediplomat.com/indian-decade/2012/04/02/india%E2%80%99s-food\\_security-problem/](http://thediplomat.com/indian-decade/2012/04/02/india%E2%80%99s-food_security-problem/) accessed on 10.10.12

<sup>2</sup>George Kent, "The Human Right to Food in India" 2002 available online <http://www.earthwindow.com/grc2/foodrights/HumanRightToFoodinIndia.pdf> accessed on 01.10.12

<sup>3</sup>According to the International Food Policy Research Institute's 2011 Global Hunger Index.

- <sup>4</sup>George Kent, “The Human Right to Food in India” 2002 available online <http://www.earthwindow.com/grc2/foodrights/HumanRightToFoodinIndia.pdf> accessed on 01.10.12
- <sup>5</sup>See Article 25 of Universal Declaration of Human Rights, Article 11 of International Covenant on Economic, Social and Cultural Rights and Article 24 of Declaration of the Rights of the Child.
- <sup>6</sup>*General Comment 12* (Twentieth session, 1999): The Right to Adequate Food (Art. 11) is published on May 12, 1999 by the UN's Committee on Economic, Social and Cultural Rights; Paragraph 6 of it presents the core definition: “*The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.*”
- <sup>7</sup>Article 25(1) of the *Universal Declaration of Human Rights* 1948 asserts that “*everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food. . . .*”
- <sup>8</sup>Article 11 of the *International Covenant on Economic, Social and Cultural Rights* 1976 said that “*The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing . . .*” and also recognizes “*the fundamental right of everyone to be free from hunger. . . .*”
- <sup>9</sup>Article 24 of the *Convention on the Rights of the Child* 1990 said that “*States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health . . . (paragraph 1)*” and shall take appropriate measures “*to combat disease and malnutrition . . . through the provision of adequate nutritious foods, clean drinking water, and health care (paragraph 2c).*”
- <sup>10</sup>Paragraph 14 of *General Comment 12* (Twentieth session, 1999): The Right to Adequate Food (Art. 11) by the UN's Committee on Economic, Social and Cultural Rights summarizes the obligations of States as follows: “*Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger.*”
- <sup>11</sup>Article 21 of the Indian Constitution says “*No person shall be deprived of his life or personal liberty except according to procedure established by law*”.
- <sup>12</sup>George Kent, “The Human Right to Food in India” 2002, page 2-3 available at <http://www.earthwindow.com/grc2/foodrights/HumanRightToFoodinIndia.pdf> accessed on 01.10.12
- <sup>13</sup>Vikas Bajaj, “As Grain Piles Up, India's Poor Still Go Hungry”, *New York Times*, 7<sup>th</sup> June 2012, available online at [http://www.nytimes.com/2012/06/08/business/global/a-failed-food-system-in-india-prompts-an-intense-review.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/06/08/business/global/a-failed-food-system-in-india-prompts-an-intense-review.html?pagewanted=all&_r=0)
- <sup>14</sup>*Ibid.*
- <sup>15</sup>See Report, “India's food crisis has many ingredients” at Poverty Matters Blog of The Guardian, available online at <http://www.guardian.co.uk/global-development/poverty-matters/2011/jul/19/india-food-crisis>
- <sup>16</sup>See, “Public Distribution System and Food Security”, Report of Working Group for the Fifth Five Year Plan, November 2001 (TFYP Working Group Sr.No.65/2001) available at [http://planningcommission.nic.in/aboutus/committee/wrkgrp/wg\\_pds.pdf](http://planningcommission.nic.in/aboutus/committee/wrkgrp/wg_pds.pdf)
- <sup>17</sup>See, “INDIA: Widespread corruption in the Public Food Distribution System causing starvation death”, A written statement submitted by the Asian Legal Resource Centre, Human Rights council, Fifth Session, 2007 available at [http://www.alrc.net/doc/mainfile.php/alrc\\_st2007/417/](http://www.alrc.net/doc/mainfile.php/alrc_st2007/417/)
- <sup>18</sup>See, “Corruption in PDS : Business Out of Poverty”, *Economics and Politics: Wall Street Journal* 1 May 2007
- <sup>19</sup>See, “Transparency International : India Corruption Study” 2005
- <sup>20</sup>Section 20 of Seed Bill 2004 available online at [http://www.prsindia.org/uploads/media/1167468389/1167468389\\_The\\_Seeds\\_Bill\\_2004.pdf](http://www.prsindia.org/uploads/media/1167468389/1167468389_The_Seeds_Bill_2004.pdf) accessed on 10.10.12. Even compensation provision for farmers is there in Section 39(2) of PPVFRA 2001, available online at <http://agricoop.nic.in/PPV&FR%20Act,%202001.pdf> accessed on 10.10.12
- <sup>21</sup>After placing the Bill before Rajya Sabha, the Standing Committee on Agriculture appointed a Parliamentary Committee to study the Bill under the Chairmanship of Prof. Ramgopal Yadav and he submitted his report on 20.11.2006 and recommends for certain changes in the original Bill.
- <sup>22</sup>Chapter VI of PPVFRA 2001
- <sup>23</sup>Section 8(2)(a) of PPVFRA 2001
- <sup>24</sup>Section 47-53 of PPVFRA 2001

- <sup>25</sup>Section 26 of PPVFRA 2001
- <sup>26</sup>Section 11(5)(a) of National Biotechnology Regulatory Bill 2008
- <sup>27</sup>Section 4 of National Food Security Bill 2011
- <sup>28</sup>Section 5 of National Food Security Bill 2011
- <sup>29</sup>Section 8-9 of National Food Security Bill 2011
- <sup>30</sup>Section 6 of National Food Security Bill 2011
- <sup>31</sup>Section 10 of National Food Security Bill 2011
- <sup>32</sup>Ibid.
- <sup>33</sup>Section 15-20 of National Food Security Bill 2011
- <sup>34</sup>This reinforcement is done by inclusion of major practical issues in the legislation like decentralization of the system (Section 26.4), proper infrastructure for storage of food grains (Section 28), local public distribution model (Section 29) proper distribution of food grains by 'fair price shops' (Section 31) and monitoring of the whole system (Section 34).
- <sup>35</sup>Detailed activity and Action Plans are given online at <http://nfsm.gov.in/> accessed on 25.10.12
- <sup>36</sup>See Action Plans of each State at <http://nfsm.gov.in/ActionPlans.aspx>
- <sup>37</sup>Alexander M. 1971. MICROBIALECOLOGY. John Wiley & Sons, Inc.
- <sup>38</sup>William E Fry, PLANT MICROBES: BENEFICIAL AND DETRIMENTAL, available online at <http://science-in-farming.library4farming.org/Research-Biotechnology-Careers/Biotechnology-Its-Application-to-Plants/Plant-Microbes.html> accessed on 20.04 2012

## Reference

William Thomson, INDIA'S FOOD SECURITY PROBLEM, The Diplomat Blog (2<sup>nd</sup> April 2012)

George Kent, THE HUMAN RIGHT TO FOOD IN INDIA” 2002 available at <http://www.earthwindow.com/grc2/foodrights/HumanRightToFoodinIndia.pdf>

PUBLIC DISTRIBUTION SYSTEM AND FOOD SECURITY, Report of Working Group for the Fifth Five Year Plan, November 2001 (TFYP Working Group Sr.No.65/2001)

CORRUPTION IN PDS: BUSINESS OUT OF POVERTY, *Economics and Politics*: Wall Street Journal 1 May 2007

Vikas Bajaj, AS GRAIN PILES UP, INDIA'S POOR STILL GO HUNGRY, *New York Times*, 7<sup>th</sup> June 2012

Report, INDIA'S FOOD CRISIS HAS MANY INGREDIENTS” at Poverty Matters Blog of *The Guardian*

Gunender Kapur, FOOD DISTRIBUTION IN INDIA, Published in Italian Trade Commission, 2009

THE CHALLENGE OF HUNGER: ENSURING SUSTAINABLE FOOD SECURITY UNDER LAND, WATER AND ENERGY STRESSES, Global Hunger Index, International Food Policy Research, October 2012.

Charlotte McClain-Nhlapo, IMPLEMENTING HUMAN RIGHTS APPROACH TO FOOD SECURITY, International Food Policy Research, 2020 Africa conference Brief.

GETTING GRAIN TO THE POOR: INDIA GRAPPLES WITH PROBLEMS OF PLENTY:INDIA

(<http://knowledge.wharton.upenn.edu/india/article.cfm?articleid=4524>)

# **Violation of Children's Rights and Domination of Nurturing Parents**

**A. G. Sudha\*, D. Arun Kumar\*\*, L. Manivannan\*\*\***

“Our nation's future, its prosperity and poverty, strength and weakness depends on the care with which we build up the character and habits of our children”

– Dr. Radhakrishnan

## **Introduction**

Child development that occurs from birth to adulthood was largely ignored throughout much of history. The Children were often viewed simply as small versions of adults and little attention was paid to the many advances in cognitive abilities, language usage, and physical growth that occur during childhood and adolescence.

Interest in the field of child development finally began to emerge early in the 20th-century, but it tended to focus on abnormal behavior.

But an understanding of child development is essential, allowing us to fully appreciate the cognitive, emotional, physical, social and educational growth that children go through from birth and into early adulthood.

Development asserts a very strong influence over children's behaviors. Children have an innate need, or drive, to practice the important tasks of different developmental stages. Each stage has predictable behaviors associated with it.

## **Child Rights**

According to the UNCRC Child Rights are minimum entitlements and freedoms that should be afforded to all persons below the age of 18 regardless of race, colour, gender, language, religion, opinions, origins, wealth, birth status or ability and therefore apply to all people everywhere. The UN finds these rights interdependent and indivisible, meaning that a right cannot be fulfilled at the expense of another right.

The purpose of the UNCRC is to outline the basic human rights that should be afforded to children. There are four broad classifications of these rights. These four categories cover all civil, political, social, economic and cultural rights of every child.

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- **Right to Survival:** A child's right to survival begins before a child is born. According to Government of India, a child life begins after twenty weeks of conception. Hence the right to survival is inclusive of the child rights to be born, right to minimum standards of food, shelter and clothing, and the right to live with dignity.
- **Right to Protection:** A child has the right to be protected from neglect, exploitation and abuse at home, and elsewhere.
- **Right to Participation:** A child has a right to participate in any decision making that involves him/her directly or indirectly. There are varying degrees of participation as per the age and maturity of the child.
- **Right to Development:** Children have the right to all forms of development: Emotional, Mental and Physical. Emotional development is fulfilled by proper care and love of a support system, mental development through education and learning and physical development through recreation, play and nutrition. (i.e) It includes the right to leisure, to recreation and to cultural activities.

This paper throws lights on the children right to development and in particular to television which plays the vital role in their rights to leisure and recreation

### **Role of Television in Children Life**

- ↻ Television Is Effective 'Painkiller' For Kids
- ↻ It is children's favourite learning companion
- ↻ It creates the three-parent family
- ↻ Parents admit 'TV as babysitter'

### **Statement of Problem**

Children are voracious and unselective viewers of television who spend a considerable part of their free time in front of television sets. Cartoons, the kiddie's niche have become an integral part of their day-to-day life. It is baby sitter, companion and an important agent of socialisation for children. Also adults use cartoons as a pacifier and as a means to inspire children to eat. Watching cartoon is a highly passive activity, too. With less outdoor activities and social interaction, children are more exposed to cartoon. This is a worldwide phenomenon.

### **Objectives of The Study**

- To study the children's right in general and in particular to violation of rights on children.
- To identify the various problems of viewers of television and the behaviour modification of children.
- To suggest better ways and means to modify the behaviour of cartoon viewers.

## Methodology

Multi stage sampling technique was employed to collect the primary data from 1120 sample respondents of the four zones of Salem Corporation. The secondary data was obtained from the database maintained by the Chief Educational office, Library resources and Net resources. Simple percentage analysis and Henry Garret ranking method were adopted to analyse the data.

## Impact of Children's Right To Development

### Denied to watch a TV show, 9-year-old hangs herself (2012)

Kanpur, June 12 (IANS) - Kiran, a student of Class 5, A nine-year-old girl in Kanpur, Uttar Pradesh committed suicide by hanging herself after her siblings refused to let her watch her favourite television show.

Scared, they raised an alarm after which neighbours called the police. Her parents - Om Prakash, a truck mechanic and mother Geeta - had gone out Monday evening when the incident took place.

### Teenager dies in bid to imitate cartoon character(2011)

MUMBAI: Tragedy struck an Andheri (E) family when Abhishek Thakkar, a Class VIII student 13-year-old boy died while trying to imitate the actions he saw in a cartoon show at home. The mother and two siblings went to sleep while, Abhishek stayed up to watch a cartoon show in which a character tries a similar stunt and escapes unhurt.”

### MP: Imitation of TV characters leads to child's death (2007)

Shivpuri (MP), July 23: Kuldeep, A 12-year-old who often used to imitate characters in children television serials, tied one end of a rope to a piece of wood, looped a noose around his neck and got on to a stool. As he jumped in air, the noose tightened and he gave a scream.

Kuldeep's parents had gone to their native village Ghatwara leaving their three children behind at home.

### Boy dies after friends imitate *Naruto* (2008)

Codey Porter, a 10-year-old of Everett, Washington, a suburb of Seattle, died on Saturday after friends buried him in a sandbox, according to *The Seattle Post Intelligencer*. The boys were apparently imitating the popular anime show *Naruto* in a playground.

The children were allegedly reenacting one of the show's character's special attacks, where the target is enveloped in sand. Though the boy thrashed around when he couldn't breathe, his friends apparently thought he was joking and didn't pull him out until damage had already been done. He died later in a hospital, surrounded by his family.

### Girl, 4, hangs herself with hairband 'as she copies TV cartoon'(2008)

Paige a four-year-old had recently watched a scene in which a character “Go Diego Go” was swinging around with what looked like a rope attached to his neck.

Paige was playing alone imitating “Go Diego Go” in her room at the family home in Hawkinge, near Folkestone, Kent, when the hairband became caught on a hammock where she kept her cuddly toys.

Her parents Phil Brown and Lorraine Ford, 26, became worried when she did not reply after they called her for lunch on New Year's Day. They went upstairs to check and found her hanging with the hairband round her neck.

## Results and Discussion

**Parents' Opinion on Their Children's Freedom:** It is noted from the table 1 that 76.7% of the respondents opined that child is given freedom to choose the television program whereas, 23.3% respondents, opined that child is not given freedom to choose the television program.

**Table 1**  
**Parents' Opinion on Their Children's Freedom**

S. No	Opinion	Frequency	Percent
1	Given freedom	859	76.7
2	Not given freedom	261	23.3
	<b>Total</b>	<b>1120</b>	<b>100</b>

**Television program viewed by the child is monitored:** It is obvious from the table 2 that 79.9% of the respondents opined that they monitor the program viewed by the child whereas, 20.1% respondents opined that they don't monitor the program viewed by the child.

**Table 2**  
**Television program viewed by the child is monitored**

S. No	Opinion	Frequency	Percent
1	Yes	895	79.9
2	No	225	20.1
	<b>Total</b>	<b>1120</b>	<b>100</b>

**Schedule of television Watching:** It is stated from the table 3 that 58.7% of the respondents opined that they possess **television** watching schedule, whereas 41.3% of the respondents opined that they don't possess **television** watching schedule.

**Table 3**  
**Schedule of television Watching**

S. No	Opinion	Frequency	Percent
1	Yes	657	58.7
2	No	463	41.3
	<b>Total</b>	<b>1120</b>	<b>100</b>

**Time allowed for watching cartoons during weekdays and weekends:** The table 4 indicates the time allowed for the child for watching cartoons during weekdays and learnt that 47.2% of the respondents allowed their child to watch cartoons for <1 hr. It is followed by 10.4% respondents who have allowed their child to watch cartoons for 1-2 hrs. While 1% of the respondents allowed their child to watch cartoons for 2-4 hrs, 0.1% of the respondents allowed their child to watch cartoons for >4 hrs.

It is stated from the above table that during weekends, 1.8% of the respondents allowed their child to watch cartoons for <1 hr. It is followed by 22.5% respondents who allowed their child to watch cartoons for 1-2 hrs. While 27.7% of the respondents allowed their child to watch cartoons for 2-4 hrs, 6.7% of the respondents allowed their child to watch cartoons for >4 hrs.

**Table 4**  
**Time allowed for watching cartoons during weekdays**

S. No	Time (Hrs)	Weekdays		Weekends	
		Frequency	Percent	Frequency	Percent
1	<1 hr	529	47.2	20	1.8
2	1-2 hrs	116	10.4	252	22.5
3	2-4 hrs	11	1	310	27.7
4	>4 hrs	1	0.1	75	6.7
	<b>Total</b>	<b>657</b>	<b>58.7</b>	<b>657</b>	<b>58.7</b>

**Program type regularly viewed by the child:** The table 5 ascertains that 56.1% of the respondents viewed cartoon program type regularly. It is followed by 7% respondents who viewed nature programs regularly. While 4.6% of the respondents viewed serials regularly, 9.2% of the respondents viewed film regularly. But 11.3 %, 7.1 % and 4.7 % respondents regularly viewed songs, sports and news respectively

**Table 5**  
**Program type regularly viewed by the child**

S. No	Program Type	Frequency	Percent
1	Cartoon	628	56.1
2	Nature	78	7
3	Serial	52	4.6
4	Film	103	9.2
5	Song	126	11.3
6	Sports	80	7.1
7	News	53	4.7
	<b>Total</b>	<b>1120</b>	<b>100</b>

**Activities used as a control measure to keep child away from viewing cartoon**

**programs:** It is evident from the table 6 that 20.4% of the respondents engage the child in routine task as a control measure to keep their child away from viewing cartoon programs. It is followed by 36.4% respondents who send their child to tuition to keep their child away from viewing cartoon programs. While 6.1% of the respondents use child lock as a control measure to keep their child away from viewing cartoon programs, 28% of the respondents involve them in playing. But 5.4% and 3.7% of the respondents involve them in additional courses and other activities respectively as a control measure to keep their child from viewing cartoon programs.

**Table 6**  
**Activities used as a control measure to keep child away from viewing cartoon programs**

S. No	Control measure	Frequency	Percent
1	Routine task	228	20.4
2	Tuition	408	36.4
3	Child lock	68	6.1
4	Involve in play	314	28
5	Additional Course	61	5.4
6	Others	41	3.7
	<b>Total</b>	<b>1120</b>	<b>100</b>

**Person accompanying child for watching cartoons:** It is seen from the table 7 that 53.3% of the respondents opined that siblings accompanying the child for watching cartoons. It is followed by 12.1% respondents who opined that friends accompany the child for watching cartoons. While 6.3% of the respondents opined that grandparents accompany the child for watching cartoons, 10.9% of the respondents opined that parents accompany the child for watching cartoons. But 17.4% of the respondents opined that the child watch the cartoons alone.

**Table 7**  
**Person accompanying child for watching cartoons**

S. No	Accompanying Person	Frequency	Percent
1	Siblings	597	53.3
2	Friends	136	12.1
3	Grandparents	70	6.3
4	Parents	122	10.9
5	Alone	195	17.4
	<b>Total</b>	<b>1120</b>	<b>100</b>

**Parents' opinion on psychological problems faced by the child:** It is revealed from the table 8 that among the various problems, the problem of "Child is easily distracted by noises or sounds of cartoons" was ranked first with a Garrett score of 109218 points. It is followed by the problem "Child complains that he / she watches cartoon because of

loneliness” ranked second with a Garrett score of 109208 points. The third rank was placed for the problem “Daydreams” with a Garrett score of 108457 points. The problem “Receives complaint from school for poor school achievement” was ranked fourth with a Garrett score of 108452 points. The fifth rank was placed for the problem “Child forgets all works while watching cartoons” with a Garrett score of 108388 points. The sixth place goes to the problem “Receives complaint that child imitates like cartoon in school” with a Garrett score of 108167 points. The seventh rank was placed to the problem “Refuses to go to bed watching cartoons” with a Garrett score of 108074 points and the problem “Child physically attacks people like cartoons without thinking” ranked eighth with a Garrett score of 108054 points.

**Table 8**  
**Parents' opinion on psychological problems faced by the child**

S. No	Psychological Problems	Total Score	Mean Score	Rank
1	Child complains that he/she watches cartoon because of loneliness	109208	97.51	II
2	Daydreams	108457	96.84	III
3	Child is easily distracted by noises or sounds of cartoons	109218	97.52	I
4	Receives complaint from school for poor school achievement	108452	96.83	IV
5	Receives complaint that child imitates like cartoon in school	108167	96.58	VI
6	Child physically attacks people like cartoons without thinking	108054	96.48	VIII
7	Refuses to go to bed watching cartoons	108074	96.49	VII
8	Child forgets all works while watching cartoons	108388	96.78	V

**Parents' opinion on physical problems faced by the child:** It is clear from table 9 that the problem “Child becomes tired watching cartoons for a long time” was ranked first with a Garrett score of 109597 points. It is followed by the problem “Child complains of headache after watching cartoon” was ranked in the second place with a Garrett score of 109584 points. The third rank was placed for the problem “Child complains of eye problem after watching cartoon” with a Garrett score of 109321 points. The problem “Child feels uneasy after watching cartoon” was ranked fourth with a Garrett score of 109125 points. The fifth rank was placed for the problem “Child takes unnecessary risks” with a Garrett score of 108990 points and the sixth place goes to the problem “Child Physically attacks people like cartoons” with a score of 108593 points.

**Table 9**  
**Parents' opinion on physical problems faced by the child**

S. No	Physical Problems	Total Score	Mean Score	Rank
1	Child becomes tired watching cartoons for a long time	109597	97.85	I
2	Child complains of headache after watching cartoon	109584	97.84	II
3	Child feels uneasy after watching cartoon	109125	97.43	IV
4	Child complains of eye problem after watching cartoon	109321	97.61	III
5	Child takes unnecessary risks	108990	97.31	V
6	Child Physically attacks people like cartoons	108593	96.96	VI

## Findings

- The analysis sheds light that majority (76.7%) of the respondents opined that child is given freedom to choose the cartoon program.
- It is noted from the analysis that majority (79.9%) of the respondents opined that they monitor the program viewed by the child.
- The analysis depicts that 58.7% of the respondents opined that they possess television watching schedule.
- It is concluded from the analysis that 47.2% of the respondents allowed their child to watch cartoons for less than one hour during weekdays, whereas 27.7% of the respondents allowed their child to watch cartoons for 2-4 hours during weekends.
- The analysis shows that 56.1% of the respondents viewed cartoon type programs regularly.
- From the analysis, it is noted that 36.4% of the respondents send their child to tuition to keep them away from viewing cartoon programs.
- It is highlighted from the analysis that 53.3% of the respondents opined that associates accompany the child for watching cartoons.
- The Henry Garrett ranking analysis reveals that, the major psychological problems faced by the parent respondents were, “The child is easily distracted by noises or sounds of cartoons” and “Child complains that he / she watches cartoon because of loneliness.”
- Similarly while analyzing the major physical problems faced by the parent respondents, were, “Child becomes tired watching cartoons for a long time” and “Child complains of headache after watching cartoon.”

## Suggestions

1. Television serves as part of the background in the home. Hence, the **parent must set a good example to switch on the television** to see something genuine and switch it off when the program is over. Parent can be a role model, in limiting their own television viewing and careful program choosing which will help the child to do the same.
2. The parents must accompany their child while watching television or whenever possible and talk about what they see.
3. A Similar rating system should be adopted in India too like the TV ratings available in the following countries

➤ Argentina	➤ Israel	➤ Serbia
➤ Australia	➤ Italy	➤ Slovenia
➤ Brazil	➤ Japan	➤ South Africa
➤ Canada	➤ Macedonia	➤ South Korea
➤ Chile	➤ Malaysia	➤ Spain
➤ Colombia	➤ Maldives	➤ Republic of China
➤ Denmark	➤ Mexico	(Taiwan)
➤ France	➤ Netherlands	➤ Thailand
➤ Finland	➤ New Zealand	➤ Turkey
➤ Greece	➤ Peru	➤ United Kingdom
➤ Hong Kong	➤ Philippines	➤ United States
➤ Hungary	➤ Poland	➤ Venezuela
➤ Iceland	➤ Portugal	
➤ Ireland	➤ Romania	

## Conclusion

Television cartoon, an entertainment medium is the right to development that purports to meet the needs of the children. This right should be limited because cartoons are saturated with potentially harmful content which is negligent from parent's perspective. If this scenario persists then the effect of cartoons on children will be in two dimensions, namely psychological & physical harm to themselves and their counterparts. It is the prime duty of the parents to inculcate the good habits and moral values along with discipline. Due care should be taken among the children watching aggressive nature of cartoon programs.

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## References

Dr .Radhakrishnan cited by the Indian Council for Child Welfare. Children's Day Special, New Delhi. 1962.

<http://psychology.about.com/od/developmentalpsychology/a/childdevtheory.htm>

<http://www.abilitypath.org/areas-of-development/social--emotional/behavior-and-discipline/articles/child-behavior-developmental-stages.html>

<http://www.childlineindia.org.in/child-protection-child-rights-india.htm>

[http://www.br-online.de/jugend/izi/english/publication/televizion/25\\_2012\\_E/holler\\_tvpresenter.pdf](http://www.br-online.de/jugend/izi/english/publication/televizion/25_2012_E/holler_tvpresenter.pdf)

[http://www.thaindian.com/newsportal/uncategorized/denied-to-watch-a-tv-show-9-year-old-hangs-herself\\_100624034.html](http://www.thaindian.com/newsportal/uncategorized/denied-to-watch-a-tv-show-9-year-old-hangs-herself_100624034.html)

[http://articles.timesofindia.indiatimes.com/2011-11-18/mumbai/30414655\\_1\\_cartoon-character-mezzanine-floor-simran](http://articles.timesofindia.indiatimes.com/2011-11-18/mumbai/30414655_1_cartoon-character-mezzanine-floor-simran)

<http://news.oneindia.in/2007/07/23/child-dies-trying-to-imitate-television-serial-character-1185176363.html>

<http://www.tv.com/news/boy-dies-after-friends-imitate-naruto-11008/>

<http://www.dailymail.co.uk/news/article-505824/Girl-4-hangs-hairband-copies-TV-cartoon.html>

[http://en.wikipedia.org/wiki/Television\\_content\\_rating\\_systems](http://en.wikipedia.org/wiki/Television_content_rating_systems)

<http://www.nurturee.com/media/mmedia/online.asp?story=14>

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# **Intellectual Property Rights: An Assertion of Right To Privacy**

**Saroj Mishra\*, Neeraj Shukla\*\*, Shweta Mishra\*\*\***

## **Introduction**

The individual shall have full protection in person and in property, this principle is as old as the common law; but it has been found necessary from time to time to define anew and the exact nature and extent of such protection. Political, social, and economic changes entail the recognition of new rights, and the common law, in its eternal youth, grows to meet the new demands of society. Thus, in very early times, the law gave a remedy only for physical interference with life and property, for trespasses vi et armis. Then the "right to life" served only to protect the subject from battery in its various forms; liberty meant freedom from actual restraint; and the right to property secured to the individual his lands and his cattle. Later, there came recognition of man's spiritual nature, of his feelings and his intellect. Gradually the scope of these legal rights broadened; and now the right to life has come to mean the right to enjoy life, the right to be let alone; the right to liberty secures the exercise of extensive civil privileges; and the term "property" has grown to comprise every form of possession -- intangible, as well as tangible.

Intellectual property rights (IPR) have become important in the face of changing trade environment which is characterized by the following features namely global competition, high innovation risks, short product cycle, need for rapid changes in technology, high investments in research and development (R&D), production and marketing and need for highly skilled human resources. Geographical barriers to trade among nations are collapsing due to globalisation, a system of multilateral trade and a new emerging economic order. It is therefore quite obvious that the complexities of global trade would be on the increase as more and more variables are introduced leading to uncertainties. Many products and technologies are simultaneously marketed and utilized in many countries. With the opening up of trade in goods and services intellectual property rights (IPR) have become more susceptible to infringement leading to inadequate return to the creators of knowledge. Developers of such products and technologies would like to ensure R&D costs and other costs associated with introduction of new products in the market are recovered and enough profits are generated for investing in R&D to keep up the R&D efforts. One expects that a large number of IP rights would be generated and protected all over the world including India in all areas of science and technology, software and business methods.

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## Intellectual Property Rights (IPR)

Intellectual property is a form of knowledge which societies have decided can be assigned specific property rights. They have some resemblance to ownership rights over physical property or land. But knowledge is much more than intellectual property. Knowledge is embodied in people, in institutions and in new technologies in ways that have long been seen as a major engine of economic growth. Alfred Marshall, the “father” of modern economics, thought so in the 19<sup>th</sup> Century. With recent scientific and technical advances, particularly in biotechnology and information and communications technologies (ICTs), knowledge has become to an even greater degree than before the principal source of competitive advantage for both companies and countries. Trade in high technology goods and services which are knowledge-intensive, and where IP protection is most common, tends to be among the fastest-growing in international trade. Intellectual property rights as a collective term includes the following independent IP rights which can be collectively used for protecting different aspects of an inventive work for multiple protection:-

- ↔ Patents
- ↔ Copyrights
- ↔ Trademarks
- ↔ Registered ( industrial) design
- ↔ Protection of IC layout design,
- ↔ Geographical indications, and
- ↔ Protection of undisclosed information

In developed countries, there is good evidence that intellectual property is, and has been, important for the promotion of invention in some industrial sectors, although the evidence as to exactly how important it is in different sectors is mixed. For example, evidence from the 1980s indicates that the pharmaceutical, chemical and petroleum industries were predominant in recognising that the patent system was essential to innovation. Today, one would need to add biotechnology and some components of information technology. Copyright has also proven essential for the music, film and publishing industries.

For developing countries, like the developed countries before them, the development of indigenous technological capacity has proved to be a key determinant of economic growth and poverty reduction. This capacity determines the extent to which these countries can assimilate and apply foreign technology. Many studies have concluded the most distinctive single factor determining the success of technology transfer is the early emergence of an indigenous technological capacity.

## Defining Privacy

Of all the human rights in the international catalogue, privacy is perhaps the most difficult to define and circumscribe. Privacy has roots deep in history. The Bible has numerous references to privacy. There was also substantive protection of privacy in early Hebrew culture, Classical Greece and ancient China. These protections mostly focused on the right to solitude. Definitions of privacy vary widely according to context and

environment. In many countries, the concept has been fused with Data Protection, which interprets privacy in terms of management of personal information. Outside this rather strict context, privacy protection is frequently seen as a way of drawing the line at how far society can intrude into a person's affairs. It can be divided into the following facets :

- Information Privacy, which involves the establishment of rules governing the collection and handling of personal data such as credit information and medical records;
- Bodily privacy, which concerns the protection of people's physical selves against invasive procedures such as drug testing and cavity searches;
- Privacy of communications, which covers the security and privacy of mail, telephones, email and other forms of communication; and
- Territorial privacy, which concerns the setting of limits on intrusion into the domestic and other environments such as the workplace or public space.

The lack of a single definition should not imply that the issue lacks importance. As one writer observed, "in one sense, all human rights are aspects of the right to privacy."

### **Some View Points on Privacy**

The Preamble to the Australian Privacy Charter provides that, "A free and democratic society requires respect for the autonomy of individuals, and limits on the power of both state and private organizations to intrude on that autonomy. Privacy is a key value which underpins human dignity and other key values such as freedom of association and freedom of speech. . Privacy is a basic human right and the reasonable expectation of every person."

Alan Westin, author of the seminal 1967 work "Privacy and Freedom," defined privacy as the desire of people to choose freely under what circumstances and to what extent they will expose themselves, their attitude and their behavior to others.

According to Edward Bloustein, "Privacy is an interest of the human personality. It protects the inviolate personality, the individual's independence, dignity and integrity."

According to Ruth Gavison, "There are three elements in privacy: secrecy, anonymity and solitude. It is a state which can be lost, whether through the choice of the person in that state or through the action of another person."

The Calcutt Committee in the UK said that, "nowhere have we found a wholly satisfactory statutory definition of privacy." But the committee was satisfied that it would be possible to define it legally and adopted this definition in its first report on privacy:

The right of the individual to be protected against intrusion into his personal life or affairs, or those of his family, by direct physical means or by publication of information.

The Right to Privacy

Privacy can be defined as a fundamental (though not an absolute) human right. The law of privacy can be traced as far back as 1361, when the Justices of the Peace Act in England provided for the arrest of peeping toms and eavesdroppers. In 1765, British Lord Camden, striking down a warrant to enter a house and seize papers wrote, "We can safely say there is no law in this country to justify the defendants in what they have done; if there was, it would destroy all the comforts of society, for papers are often the dearest property any man can have." Parliamentarian William Pitt wrote, "The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; its roof may shake; the wind may blow though it; the storms may enter; the rain may enter -- but the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement." The modern privacy benchmark at an international level can be found in the 1948 Universal Declaration of Human Rights, which specifically protected territorial and communications privacy. Article 12 states:

No-one should be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks on his honour or reputation. Everyone has the right to the protection of the law against such interferences or attacks.

Numerous international human rights covenants give specific reference to privacy as a right. The International Covenant on Civil and Political Rights (ICCPR), the UN Convention on Migrant Workers and the UN Convention on Protection of the Child adopt the same language.

On the regional level, these rights are becoming enforceable. The 1950 Convention for the Protection of Human Rights and Fundamental Freedoms, Article 8 states:

(1) Everyone has the right to respect for his private and family life, his home and his correspondence. (2) There shall be no interference by a public authority with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health of morals, or for the protection of the rights and freedoms of others.

Nearly every country in the world recognizes the right of privacy explicitly in their Constitution. At a minimum, these provisions include rights of inviolability of the home and secrecy of communications. Most recently-written Constitutions such as South Africa's and Hungary's include specific rights to access and control one's personal information. In many of the countries where privacy is not explicitly recognized in the Constitution, such as the United States, Ireland and India, the courts have found that right in other provisions. In many countries, international agreements that recognize privacy rights such as the International Covenant on Civil and Political Rights or the European Convention on Human Rights have been adopted into law.

In the early 1970s, countries began adopting broad laws intended to protect individual privacy. Throughout the world, there is a general movement towards the adoption of comprehensive privacy laws that set a framework for protection. Most of these laws are based on the models introduced by the Organization for Economic Cooperation and Development and the Council of Europe. In 1995, conscious both of the shortcomings of

law, and the many differences in the level of protection in each of its States, the European Union passed a Europe-wide directive which will provide citizens with a wider range of protections over abuses of their data. The directive on the "Protection of Individuals with regard to the processing of personal data and on the free movement of such data" sets a benchmark for national law. More than forty countries now have data protection or information privacy laws. More are in the process of being enacted.

### **Reasons for Adopting Comprehensive Laws**

There are two major reasons for the movement towards comprehensive privacy and data protection laws. Many countries are adopting these laws for one or more reasons.

To remedy past injustices. Many countries, especially in Central Europe, South America and South Africa, are adopting laws to remedy privacy violations that occurred under previous authoritarian regimes.

To promote electronic commerce. Many countries, especially in Asia, but also Canada, have developed or are currently developing laws in an effort to promote electronic commerce. These countries recognize consumers are uneasy with their personal information being sent worldwide. Privacy laws are being introduced as part of a package of laws intended to facilitate electronic commerce by setting up uniform rules.

### **Continuing Problems**

Even with the adoption of legal and other protections, violations of privacy remain a concern. In many countries, laws have not kept up with the technology, leaving significant gaps in protections. In other countries, law enforcement and intelligence agencies have been given significant exemptions. Finally, in the absence of adequate oversight and enforcement, the mere presence of a law may not provide adequate protection.

There are widespread violations of laws relating to surveillance of communications, even in the most democratic of countries. The U.S. State Department's annual review of human rights violations finds that over 90 countries engage in illegally monitoring the communications of political opponents, human rights workers, journalists and labor organizers. In France, a government commission estimated in 2006 that there were over 100,000 wiretaps conducted by private parties, many on behalf of government agencies. In Japan, police were recently fined 2.5 million yen for illegally wiretapping members of the Communist party. Companies regularly flaunt the laws, collecting and disseminating personal information. In the United States, even with the long-standing existence of a law on consumer credit information, companies still make extensive use of such information for marketing purposes.

### **Threats to Privacy**

The increasing sophistication of information technology with its capacity to collect, analyze and disseminate information on individuals has introduced a sense of urgency to the demand for legislation. Furthermore, new developments in medical research and care,

telecommunications, advanced transportation systems and financial transfers have dramatically increased the level of information generated by each individual. Computers linked together by high speed networks with advanced processing systems can create comprehensive dossiers on any person without the need for a single central computer system. New technologies developed by the defense industry are spreading into law enforcement, civilian agencies, and private companies.

According to opinion polls, concern over privacy violations is now greater than at any time in recent history. Uniformly, populations throughout the world express fears about encroachment on privacy, prompting an unprecedented number of nations to pass laws which specifically protect the privacy of their citizens. Human rights groups are concerned that much of this technology is being exported to developing countries which lack adequate protections. Currently, there are few barriers to the trade in surveillance technologies.

It is now common wisdom that the power, capacity and speed of information technology is accelerating rapidly. The extent of privacy invasion or certainly the potential to invade privacy increases correspondingly. Beyond these obvious aspects of capacity and cost, there are a number of important trends that contribute to privacy invasion :

**GLOBALISATION** removes geographical limitations to the flow of data. The development of the Internet is perhaps the best known example of a global technology.

**CONVERGENCE** is leading to the elimination of technological barriers between systems. Modern information systems are increasingly interoperable with other systems, and can mutually exchange and process different forms of data.

**MULTI-MEDIA** fuses many forms of transmission and expression of data and images so that information gathered in a certain form can be easily translated into other forms.

## **Conclusion**

There is a well established statutory, administrative and judicial framework to safeguard intellectual property rights in India, whether they relate to patents, trademarks, copyright or industrial designs and are in harmony with international practices and in compliance with India's obligations under TRIPS. Well-known international trademarks have been protected in India even when they were not registered in India. The courts, under the doctrine of breach of confidentiality, accorded an extensive protection of trade secrets. Right to privacy, which is not protected even in some developed countries, has been recognized in India.

Privacy has become one of the most important human rights issues of the modern age. In the field of information and communications technology, the speed of policy convergence is compressed. Across the surveillance spectrum, wiretapping, personal ID systems, data mining, censorship or encryption controls, it is the West which invariably sets a proscriptive pace. Governments of developing nations rely on first world countries to supply them with technologies of surveillance such as digital wiretapping equipment, deciphering equipment, scanners, bugs, tracking equipment and computer intercept

systems.

Government and citizen alike may benefit from the plethora of IT schemes being implemented by the private and public sectors. The Internet will revolutionize access to basic information on government services. Encryption can provide security and privacy for all parties. However, these initiatives will require a bold, forward looking legislative framework. Whether governments can deliver this framework will depend on their willingness to listen to the pulse of the emerging global digital economy and to recognize the need for strong protection of privacy.

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# **The Right to Sanitation in India: An Understanding in Human Rights Context<sup>#</sup>**

**Badruddin\*, Anis Ahmad\*\***

## **Introduction**

Sanitation and safe drinking water are considered critical determinants of public health. Without attending to the primary task of providing mass housing, a hygienic environment, adequate water supply, and proper sanitation, we will not adequately think to resolve the genuine issue relating to public health.<sup>1</sup> Inadequate sanitation is the root cause of human and ecological degradation and this is an important facet of human decency and dignity. In many countries Sanitation remains one of the largest unaddressed developmental challenges. Unfortunately, the enough attention is not being paid to sanitation particularly in developing countries like India where, despite significant improvements in recent years, at least 40 per cent of the population does not have access to adequate sanitation. Sanitation is a very complex issue, in the sense that, it is directly linked to health, water and the environment, which has impacts on socio-economic development and the realization of various human rights.<sup>2</sup> The gravity of sanitation crises is profound at international and national level. In recognition of this crisis of late, the United Nations has declared 2008 as the International Year of Sanitation, to provide the necessary impulse to achieve the targets under the Millennium Development Goals in 2015. Thus there is a clear recognition of the importance of sanitation at global level but it has no comprehensive binding legal framework at present that could provide guidance to individual countries in order to foster better sanitation.<sup>3</sup>

But international human rights instruments appear to be considerable having a lot of potential in ensuring the enjoyment of many basic human rights including sanitation in post 2000 developments. In pursuance of this broad objective, the Government of India started number of initiatives in recent past in rural and urban context such as Total Sanitation Campaign (TSC) and National Urban Sanitation Policy, 2008. It seeks to accelerate sanitation coverage in rural areas and ensure access to toilets to all, promote community participation and management, safe disposal of waste and recycling of treated waste water, and managing of public sanitation facilities in all urban areas to all by 2012.<sup>4</sup> Further the existing legal regime governing sanitation relatively inadequate to address the problem of sanitation in India. The present article takes a legal stance of the prevalent law and policy framework at international and national level relating to sanitation in order to guarantee the right to sanitation for all. While examining sanitation as human right, the paper also briefly touches the Constitutional provisions and judicial recognition by the apex Court of India. It also calls for a serious reconsideration of the human rights approach to sanitation in its broader context including the environment, health and water dimensions for present and future generations.

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## Problematic Perspective

The sanitation crisis remains the most unaddressed development challenges, which depicts sad picture at international and national level.<sup>5</sup> According to U.N. over 2.5 billion people, this constitutes 40 per cent populations who have no access to adequate sanitation facilities worldwide, out of which 600 million is thought to be in South Asia. A decade ago, only about 20-30 percent of the population in most of South Asia was estimated to have access to safe sanitation facilities.<sup>6</sup> In its finding for the year 2008, UNICEF estimated that as many as 63.8 crore people, that is, 54 percent of the country's population, practice open defecation due to inadequate sanitation.<sup>7</sup> The target 10 of goal 7 of the Millennium Development Goals (MDGs) enjoin upon the signatory nations to extend access to improved sanitation to at least half the urban population by 2015, and 100% access by 2025. This implies extending coverage to households without improved sanitation, and providing proper sanitation facilities in public places to make cities open defecation free.<sup>8</sup>

As for as India situation is concerned, according to a current estimation 60 per cent Indian population do not have access to toilet, and hence are forced to defecate in the open.<sup>9</sup> In an estimate, in India nearly 4000 cities they were not having adequate sanitation facilities including Delhi and other metropolitan cities. More than five crore urban populations practice to use open defecation in this country. They severely affected the ground water.<sup>10</sup> According to a report, the economic impact of inadequate sanitation costs India about Rs. 2.4 trillion or about 6.4 per of its gross domestic product. Further the impacts of poor sanitation are especially significant for the urban poor (22% of total urban population), women children and the elderly, the loss due to diseases caused by poor sanitation for children under 14 years alone in urban areas amounts to Rs. 500 crore at 2001 prices (Planning Commission-United Nations International Children Emergency Fund (UNICEF) 2006). In rural India, only 21.9 per cent of the rural population in India had access to latrines. In addition, coverage in rural areas is less than half of that in urban areas.

In India per day at least 2000 persons died due to diarrhea. Diarrhea alone claims four lakh lives annually of which 90 percent are children, but tragically enough, the annual central budget is just Rs.2000 crore which is just about two percent of the entire budget for rural development which is close to Rs.1 lakh crore.<sup>11</sup> Only five states in India Sikkim, Kerala, Haryana, Himachal Pradesh and Maharashtra are doing well in sanitation others have a long way to go. Uttar Pradesh alone accounts for 10 percent of population that suffers on account of inadequate sanitation. In India per day at least 2000 person died due to diarrhea, open toilet generates a lot of disease. The former Lok Sabha Speaker Mr, Somnath Chatterjee, speaking in 2008, in Third South Asian Conference on Sanitation held at Delhi, describing as unfortunate that fact that we were living in a world where 40 per cent of the population continued to live without basic sanitation facilities, Mr, Chatterjee further said it was a matter of great distress that an estimated 2.6 billion people, including 960 million children had not gained access to improved sanitation facilities, without which there could not sustainable development.<sup>12</sup> The Eleventh five year Plan (2007-12) of India targets to achieve universal sanitation coverage in the country by 2012. The Plan has also recognized the gender dimension of sanitation by

highlighting the need for women in particular to have privacy in defecation. In this connection it needs defecation. Government of India's Total Sanitation Campaign (TSC) aims at providing toilets to all rural households by the end of the eleventh plan i.e. 2012. The Jawaharlal Nehru National urban Renewal Mission and other programmes are aimed at 100 per cent sanitation coverage in the urban areas. TSC also aims at providing information, education and communication to the rural poor in sustainable use of the toilets. However, the current percentage of households with toilets is only 49 as per 2006 figures quoted in the Eleventh Plan.<sup>13</sup> World Bank's World Development Indicators (2008) and the UNDP's Human Development Report 2007-08 are mentioning 2004 figures which show only 33 per cent households with improved sanitation facilities. The figures in this regard could have possibly risen to 49 per cent; but there still remains a wide field to be covered, in terms of elimination open defecation by building household toilets and building awareness to use and maintain them. Considering the severe competition for urban space, the provision of sanitation facilities to the increasing population of slum dwellers in India's cities and towns is an issue which demands special attention.<sup>14</sup> Country like India where, despite the significant improvements in recent years, nearly 40 per cent of the population and possibly more they have not yet an appropriate sanitation.

### **International Human Rights Instruments**

At the global level various international conventions have acknowledges the right to water and sanitation impliedly as well as explicitly. The *Universal Declaration on Human Rights*, 1948 is the pioneering law on the on human rights and forms a key part of the International Bill of Rights.<sup>15</sup> The UDHR is the first major international agreement. It is considered to have been the inspirational source to all subsequent human rights treaties. It deals with the basic human right questions within the framework of health, food, housing and particularly the right to live with human decency and dignity.<sup>16</sup> The declaration in its preamble as well as Article 25 recognise right to sanitation impliedly. The Article 25 (1) stipulates that:

"Everyone has the right to a standard living adequate for the health and well- being of himself and of his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

At the international level, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) 1966, the cornerstone treaty in the field of economic, social and cultural rights and became law on 3 January 1976 and is now legally binding on more than 158 countries. This covenant does not expressly talks about the right to sanitation; article 11(1) stated that:

"The State parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and for his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation

based on free consent.”<sup>17</sup>

The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) became law on 3 September 1981 and is now legally binding on 163 countries. The UN Committee on the Elimination of All Forms of Discrimination Against Women monitors State party compliance with the Convention. The Convention under article 14(2) (h):

“State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right... (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”

The *Convention on the Rights of the Child* (CRC) 1989, under article 24 (2) (e) obliges on the states parties to ensure that all segments of society, “are informed, bare access to education and are supported in the use of basic knowledge of hygiene and environmental sanitation” in addition article 27(1) of the CRC recognizing the right of every child to an adequate standard of living has consistently been interpreted by the committee on the Rights of the child, the treaty body in charge of monitoring and interpreting the CRC, to encompass access to clean drinking water and latrines.<sup>18</sup>

In 1994, at the *International Cairo Conference on Population on Development*, stated that the right to an adequate standard of living included the adequate water and sanitation. The *Principle 2* that:

Counties should ensure that all individuals are given the opportunity to make the most of their potential. They bare the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation.

The Habitat Agenda Goals and Principles, adopted in the framework of the *Second United Nations Conference on Human Settlements (Habitat II)* in 1996, provides in almost identical terms in *Principle 11* that:

Everyone has the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation.

The Guiding Principles on Internal Displace, 1998 drafted by the Representative of the Secretary – General on Internally Displaced Persons submitted to the Commission on Human Rights in 1998, explicitly contains sanitation is an element of the right to an adequate standard of living.<sup>19</sup>

Further the Declaration on cities and Other Human Settlements in the New Millennium 2001 also explicitly cast a duty on the Representatives of Governments resolve to promote access to safe drinking water for all and to facilitate the provision of basic infrastructure and urban services, including sanitation, waste management that is integrated and accessible to all, including people with

disabilities.

In 2002 the UN Committee on economic, cultural and social rights (General Comment 15) also recognized the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use.

In continuation the 57<sup>th</sup> Session of Economic, Social and Cultural Rights, 2005 again explicitly recognizes right to water and sanitation in more comprehensive manner.

In 2006 UN Sub-Commission Guidelines for the Realisation of the Right to Drinking Water and Sanitation explicitly stated that everyone has the right to have access to adequate and safe sanitation that is conducive to the protection of public health and the environment.

The *United Nations Declaration on the Rights of Indigenous Peoples*, 2007 expressly stipulates that indigenous people have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the area of sanitation, health and social security.<sup>20</sup>

In 2008, the UN Human Rights Council adopted resolution, which emphasizes that international human rights law, including the ICESCR, CEDAW and CRC entail obligations in relation to access to sanitation.

Recently a Resolution adopted by the United Nation General Assembly on the *Human right to Water and Sanitation*, 2010 also recognizes that:

the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.<sup>21</sup>

Further the resolution calls upon states and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe clean, accessible and affordable drinking water and sanitation for all.

## **National Law and Policy Framework**

### **A. Constitutional and Statutory Frameworks**

Constitutional law is defined as *grund norm* of a nation, which prescribes fundamental principles to regulate the relations of government and its citizens and also chart out plan and method according to which the public affairs of the nation are to be administered. The Indian Constitution define the powers and functions of the state, impose enormous duties to realize the nation's goals; and dictates the state to respect the citizen's rights and freedoms and promote socio-economic and political welfare of the peoples. But in the wake of human rights jurisprudence, the ambit and scope of constitutional rights are being amplified. Since then the concept is ever widening. The judiciary has taken a liberal view regarding the right to life. Nonetheless, the Directive Principles of State Policy embodied in Part IV are a unique and fundamental charter of governance of the country

which imposes an obligation on the state to take positive steps for socio- economic and environmental justice to all.<sup>22</sup> The health and sanitation values are well reflected impliedly under Article 47 proclaims that:

*The state shall regard the raising of level of nutrition and standard of living of its people and the improvement of public health as among its primary duties.....*<sup>23</sup>

The Constitution provides federal scheme of distribution of legislative powers between Union and States. The public health and sanitation have found place at entry 06 in List- II (State List) of the Seventh Schedule.<sup>24</sup> It is salacious to note that the Constitution ( Seventy- third and Seventy – Fourth Amendments) Acts , 1992, under entry 23 as well as entry 6 to the Constitution set the goal of devolution of powers and responsibilities regarding Sanitation to local authorities for planning and executions. In addition to this the preambular assertion to the Indian constitution establishes India as Socialistic and welfare state is to provide a decent standard of life to the people.<sup>25</sup>

At present, there is no statutory framework exclusively addressing sanitation in India. However, sanitation is an important part of statutes dealing with governance at the local level. For instance, most of the Municipal Acts contain a chapter dealing with 'water supply and sanitation', which tends to make sanitation and water supply an obligatory function of these local authorities. Apart from this some states have enacted legislation to constitute a state level authority for water supply and sanitation. Further, in the case of metropolitan cities such as Delhi and Kolkata and in the case of cantonment areas, there exist separate statutory frameworks and authorities. The relative neglect of sanitation in law is also reflected in the fact that there is at present no legislative framework that governs the standards that must be followed even though various standards have been introduced and constitute the point of reference that nearly all concerned institutions use. There are certain aspect of sanitation which has been given specific importance, such as the problem of manual scavenging and its link to untouchability. The issue of untouchability was abolished by Article 17 of the Indian Constitution.<sup>26</sup>

Of late the Indian parliament adopts the *Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act*, 1993, under the Constitutional mandate of Article 252. The Preambular assertion resolute for the prohibition of employment of manual scavengers as well as construction or continuance of dry latrines and maintenance of water-seal latrines and matter connected therewith. To eradicate the pernicious and obnoxious practice prevalence across the country, this is deeply offensive to health and human dignity. To achieve these objectives the Act employs various provisions. Further this Act sought to prohibit the employment of manual scavengers as well as construction or continuance of dry latrines.<sup>27</sup>

## **B. Central Government Initiatives**

### **(i) Total Sanitation Campaign**

The evolution and development of rural sanitation came into focus in the Government of India in the World Water Decade of 1980s. The Central Rural Sanitation Programme was started in 1986 to provide sanitation facilities in rural areas. It was a supply driven, highly subsidy and infrastructure oriented programme. As a result of these deficiencies and low

financial allocations, the CRSP had little impact on the gargantuan problem. The experience of community-driven, awareness-generating campaign based programmes in some states and the results of evaluation of CRSP, led to the formulation of the Total Sanitation Campaign (TSC) approach in 1999 was a landmark development in the rural sanitation sector reforms in India. It is one of the flagship programmes of the Government of India.<sup>28</sup> A number of initiatives have been taken in recent years. According to new TCS guidelines, 2010, the main aims of the TSC are as under:

- a. Bring about an improvement in the general quality of life in the rural areas.
- b. To accelerate sanitation coverage in rural areas and ensure access to toilets to all by 2012.
- c. Motivate communities and Panchayati Raj Institutions promoting sustainable sanitation facilities through awareness creation and health education.
- d. In rural areas, cover schools by March 2008 and Anganwadis by March 2009, with sanitation facilities and promote hygiene education and sanitary habits among students.
- e. It also seeks to encourage the adoption of cost effective and appropriate technologies for ecologically safe and sustainable sanitation. Sanitation as well as to foster awareness creation and health education at the local level. these goals are to be achieved through a demand
- f. Develop community managed environmental sanitation systems focusing on solid & liquid waste management.

A study conducted the Water Aid envisages that different states adopt different degree of compliance with the TSC guidelines and the key norms such as ' people centered approach' and 'participation of women' are not adequately complied.

In this year the Union Minister for Rural Development, Drinking Water and Sanitation, Mr. Jairam Ramesh concedes that the Total Sanitation Campaign (TSC) launched in 1999, was “ a token sanitation campaign and not a total sanitation campaign.” Therefore, he launched a new Programme Nirmal Bharat Abhiyan in Gram Panchayat as social movement to revolutionarise the Indian masses.<sup>29</sup>

## **(ii) National Urban Sanitation Policy, 2008**

The National Urban Sanitation Policy (NUSP) .2008 consists of six parts including the three annexure. The first part deals with the background. The second part devotes to prescribe certain visions of the policy. The policy key dimensions are envisaged in third part. The fourth part enumerated the policy goals. The fifth part discussed the implementation support strategies. Part six deals the main components of the policy.

The policy vision for urban sanitation in India is:

All Indian cities and towns become totally sanitized healthy and livable and ensure and sustain good public health and environmental outcomes for all their citizens with a special focus on hygienic and affordable sanitation facilities for the urban poor and women.

In order to achieve the above vision, following key policy issues must be addressed:

- ↪ Poor Awareness
- ↪ Social and Occupational aspects of Sanitation
- ↪ Fragmented Institutional Roles and Responsibilities
- ↪ Lack of an Integrated city-wide Approach
- ↪ Limited Technology Choices
- ↪ Reaching the Un-served and poor
- ↪ Lack of Demand Responsiveness<sup>30</sup>

The overall goal of this policy is to transform Urban India into community-driven, totally sanitized, healthy and livable cities and towns.

### Judicial Recognition

Sanitation has also been considered on various occasions by courts in India.<sup>31</sup> In the early 1980's the judicial approach in *Municipal Council, Ratlam v Vardhichand*<sup>32</sup> the Supreme Court speaking through Justice Krishna Iyer in an unmistakable term developed an alternative ratio. A responsible municipal council constituted for the precise purpose of reserving public health and providing better facilities cannot run away from its principal duty, by pleading financial inability. Decency and dignity are non-negotiable facets of human right and are a first charge on local self governing bodies.

Dovetailing the environment and health the Supreme Court in *Virender Gaur v State of Haryana*<sup>33</sup> delineated that 'the word environment is of broad spectrum which brings within its ambit hygienic atmosphere and ecological balance. The citizen cannot exercise the fundamental right unless the corresponding constitutional duty is being carried out by municipality.

*Janki Nathubhai Chhara v Sardarnagar Municipality*<sup>34</sup> was a public interest litigation which like Koolwal and the Ratlam Casem involved unhygienic conditions within a municipality. The area, whose residents 'belonged to the lowest strata in the society' was filthy and unhygienic in normal times and become submerged during the monsoon. The Gujarat High Court, therefore, persuaded the municipality and the state government to install a permanent sewerage and drainage system.

Further in *L.K. Koolwal v State of Rajasthan*<sup>35</sup> a writ petition to enforce improved sanitation measures in Jaipur met favorable disposition on the expanded right to life. The court held that:

Maintenance of health, preservation of the sanitation and environment falls within the purview of Art.21 of the Constitution as it adversely affects the life of the citizen and it amounts to slow poisoning and reducing the life of the citizen because of the hazards created, if not checked.

The court further said that fundamental duty enshrined under Article 51-A (g) extends not only to citizens but to instrumentalities of states.

In *M.C. Mehta v State of Orissa*<sup>36</sup> The court constituted a committee of senior government

officials to devise measures to prevent water pollution and improve Cuttack's sanitation a year.

In *Dr. K.C. Malhotra v State of MP*<sup>37</sup> the Madhya Pradesh High Court, directed the municipal authorities to cover an open drain, build public latrines and ensure that the drinking water supplied was not contaminated. The state public health department was told to adopt a range of public health measures.

In *Noyyal River Ayacutdars Protection Association v. Government of Tamil Nadu*<sup>38</sup> The Court have also examined sanitation from the point of view of fundamental rights and have read the right to life as including the right to sanitation. In doing so, courts have focused on the link between sanitation, public health dignity and the environment.

On the basis of the case law, it appears that the right to sanitation is recognized as part and parcel of Article 21. Yet, not much has been done to beyond this general recognition to establish a concrete justifiable right-duty framework in practice.

## Conclusion

After analyzing the whole gamut of the sanitation problems from international and national level, we reach to the conclusion that in India the inadequacy of existing law and policy framework regime governing the sanitation. A serious concern in this field has been taken into consideration only in 2008 by the global community. As a result of this growing international awareness about the consequences of sanitation which undermines access to many basic rights such as right to health, education, life, housing, the prohibition of inhuman or degrading treatment and environment. As we see that the lack of sanitation imposes a heavy cost on health of rural urban populations, which contributes significantly to the water pollution and its impact on livelihoods and economic development. Little has been achieved and more remain to be achieved. Therefore it is high time to evolve an effective law and policy framework that will address various aspects of sanitation in both urban and rural India. Further the existing policies and laws should be renovated that leads to the fulfillment of human rights to adequate sanitation and to ensure equitable access to sanitation for all, which promote the decency and dignity of all Indian citizen.

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## Notes

<sup>#</sup> The authors profoundly acknowledge Prof. Phillipe Cullet for the conceptualizing the theme of this paper.

<sup>1</sup> The Hindu Daily: New Delhi Edition April, 12, 2005 at 10

<sup>2</sup> See Isabelle Milbert, Phillipe Cullet and Christophe Golay, *The Right to Sanitation in India: Towards Access to Sanitation for all*, [www.graduateinstitute.ch/webdav/site/cas/.../](http://www.graduateinstitute.ch/webdav/site/cas/.../)

<sup>3</sup> COHRE, Water Aid, SDC & U N- HABITAT, *Sanitation: A Human Rights Imperative* (2008) p.1

<sup>4</sup> The Hindu Daily: New Delhi Edition October, 25, 2008, at 12

<sup>5</sup> Supra note 2 at 1

<sup>6</sup> *Nurturing the Rural Sanitation Revolution in India*, at 02, Ministry of Rural Development Government of India

<sup>7</sup> The Hindu Daily: New Delhi Edition September 29, 2011 at 08

- <sup>8</sup>The Hindu Daily: New Delhi Edition Magazine Section , November 16, 2008 at 14
- <sup>9</sup>The Hindu Daily: Allahabad Edition June 14, 2012 at 16
- <sup>10</sup>The Naubharat Times Hindi Edition Delhi, November 13, 2008 at 16
- <sup>11</sup>Dainik Jagran Hindi Edition Lucknow, October, 02 , 2011 at 24
- <sup>12</sup>The Hindu Daily: New Delhi Edition November 22, 2008 at 11
- <sup>13</sup>Supra note 8
- <sup>14</sup>Ibid
- <sup>15</sup>See, Universal Declaration of Human Rights, 1948
- <sup>16</sup>Indira Kurana , Romit Sen, Towards Understanding the Right to Water and Sanitation, (2009) Water aid India New Delhi – 1 available at, [www.indiawaterportal.org/.../indiawaterportal..../WAI..%20Discussion%20paper\\_...](http://www.indiawaterportal.org/.../indiawaterportal..../WAI..%20Discussion%20paper_...) Visited on 27-10-2011 See also, Roberto Lenton, Albert Wright and Kriston Lewis, Health, Dignity and Development: What will it Take? 79 , London: Earthscan ( 2005)
- <sup>17</sup>Ibid at 02
- <sup>18</sup>Ibid at 3-4
- <sup>19</sup>Ibid at 4
- <sup>20</sup>Ibid
- <sup>21</sup>See, e.g, United Nations General Assembly Resolution on The Human Right to water and Sanitation, 64/292, ( 2010)
- <sup>22</sup>Subhash Kashyap, Our Constitution: An Introduction to India's Constitution and Constitutional Law, National Book Trust, India ( 2010) 55- 145
- <sup>23</sup>Md. Zafar Mahfooz Nomani, Right To Health: A Socio- Legal Perspective, Uppal publication New Delhi, (2004) 56
- <sup>24</sup>S.K. Bhatnagar, Sanitary Environment: The Constitution and Judicial approaches, in ed. Paras Diwan, Environment Protection, Problem, Policy Administration, Law (1987) 449.
- <sup>25</sup>P.M. Bakshi, The Constitution of India , Universal publishing Com.Ltd. (2006) 390-391
- <sup>26</sup>Supra note 2 at 9
- <sup>27</sup>Ibid at 10
- <sup>28</sup>Total Sanitation Campaign Guidelines, 2007 Sections 2&5.
- <sup>29</sup>The Hindu Daily: Allahabad Edition June 14, 2012 at 16
- <sup>30</sup>See National Urban Sanitation Policy, 2008, Section 1.
- <sup>31</sup>Syam Divan & Armin Rozencranz, Environmental Law and Policy in India , Cases, Policies and Statutes, Oxford University Press, New Delhi (1999) 366
- <sup>32</sup>AIR 1980 SC 1622.
- <sup>33</sup>[indiankanoon.org/doc/114802,24.11.1994](http://indiankanoon.org/doc/114802,24.11.1994).
- <sup>34</sup>AIR 1986 Guj 49.
- <sup>35</sup>AIR 1988 RAJ 2
- <sup>36</sup>AIR 1992 ORI 225.
- <sup>37</sup>AIR 1994 MP 48.
- <sup>38</sup>[indiankanoon.org/doc/197754/](http://indiankanoon.org/doc/197754/) October 6, 2009

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**National Seminar**  
On  
**“Human, Humanity and Discrimination in India”**

**Organized by**  
All Indian Rights Organization (AIRO)  
&  
Indian Association of Social Scientists (IAOSS)

**Venue**  
Jai Shankar Auditorium, Rai Uma Nath Bali Auditorium,  
Lucknow, Uttar Pradesh, India

**Date: 21st March 2012**

**A Report**

**Disclaimer**

The views expressed in the papers incorporated in the report are entirely of the authors or the organizations they represent. The mere incorporation of these papers in the report does not necessarily mean that AIRO and IAOSS have accepted their views.

Man has a complex mind. He proved his ability in all the areas of life starting a settled life in Neolithic era and kept moving and growing thence. It is also clear that all men are not equal so far as their mental status, efficiency and behavior is concerned. This inequality generates a process of discrimination in every walk of life. With settled life and growth of population occurred an imbalance between natural resources and population which led to a sharp discrimination in society. This discrimination is reflected in gender biasness, unequal distribution of wealth, improper access to education, in social culture discrimination, biological discrimination, discrimination on the basis of caste, creed, colour, sex place of birth etc. discrimination is a buster of deviation and anomie in the society and this discrimination is under scanner which is the demand of any society, state or nation. The first article of the Universal Declaration of Human Rights affirms that “all human beings are born free and equal in dignity and rights”. But even after over 60 years of the Universal Declaration of Human Rights and 45 years of International Day for the Elimination of Racial Discrimination, discrimination continues in all walks of life.

Hence on the occasion of International Discrimination Day on 21st March 2012 to discuss discrimination in everyday life the All Indian Rights Organization (Community Development Programme of Naina Dayal Foundation) and Indian Association of Social Scientists (IAOSS) organized a one day Seminar on **“HUMAN, HUMANITY AND DISCRIMINATION IN INDIA”**.

The Seminar focused on elimination of discrimination and reminded us of our collective responsibility for promoting and protecting this ideal. Academicians, scholars, students, non-governmental organizations, media, lawyers, members of civil society and individuals actively participated and deliberated on the various sub-themes of the

Seminar to overcome the problem of discrimination. Papers presented on various sub themes addressed the public and private attitudes that perpetuate it.

### **The sub-themes for the Seminar were**

- ↳ Discrimination at linguistic level
- ↳ Discrimination on the basis of caste and tribe
- ↳ Protective discrimination and reservation policy
- ↳ Gender and discrimination
- ↳ Discrimination and human rights violation
- ↳ Children and discrimination
- ↳ Discrimination within family on the basis of economy, age, colour etc.
- ↳ Economic inequality and discrimination
- ↳ Discrimination and social mobility
- ↳ Discrimination on the basis of ethnicity, religion and culture
- ↳ Racial discrimination: the caste perspective
- ↳ Discrimination: social exclusion, inclusion and equal opportunity
- ↳ Anti Discrimination and Affirmative Action in India
- ↳ Discrimination and institutional response
- ↳ Any other topic relating to theme

These sub themes were broadly divided into Four Technical Sessions. Technical Session 1&2 deliberated upon **Socio-Economic, Political and Historical Discrimination** whereas **Technical session 3&4 dealt with Gender, Linguistic, Religious and Racial Discrimination.**

Prof. Dinesh Sharma, Mayor, City of Lucknow and Chief Guest of the Seminar lighted the lamp and inaugurated the seminar. Dr. Alok Chantia, Organizing Secretary of the Seminar welcomed the guests. Director of the Seminar Dr. Preeti Misra presented the theme of the seminar. She expressed the hope that deliberations and outcomes of this National Seminar will go a long way in helping to work together against discrimination whenever and wherever it occurs. In his presidential address Prof. Dinesh Sharma spoke on cultural ecology, he described the existence of humanity in Indian culture which advocates for co-existence of everyone. He expressed his hope that this process of humanity can minimize the blot of discrimination in modern India. Prof. Sharma set the tone of the seminar by talking about linguistic discrimination, he raised a strong objection to linguistic discrimination which has divided the whole country into English centric India and Hindi centric India, ultimately leading to a society of hatred. Prof. S.N. Misra, the great historian, in his key note address gave an overall idea about discrimination. He spoke on inherent quality of discrimination in culture and gave an example of Jainism where all 24 Tirtankars were from Kshatriye caste instead of Vaishya or Shudras and he also pointed out the scenario of discrimination across the globe. He reasoned that in all other countries of the world people are aware but in India people are least aware for their rights, that is why they suffer from many forms of discrimination. Prof. Misra also pointed out that in agriculture society caste discrimination is more manifest than in industrialized society where class discrimination is more prevalent.

Total 71 abstracts of papers were received out of which more than 40 papers were read during the four technical sessions of the Seminar. Prof. R.K. Tripathi Ex Head, Department of Commerce, Lucknow University, Lucknow chaired the first and second technical sessions whereas second and third technical sessions were chaired by renowned historian Prof. D.P. Tewari, Head, Department of Ancient History, Lucknow University, Lucknow. Highlights of some important papers are-Dr. S. Hassan Rizvi, Head of Department of Sociology, Shia P.G. College in his paper talked about how discrimination is symbol of social and psychological imbalance in the society? Discrimination and the response of young Indian dalit poets in English was discussed by Dr. S.C. Hazela, Associate Professor, Dept. of English, Sri J.N.P.G. College, Lucknow. He scrutinized the poetry of young Dalit poets like Meena Kandaswami. Her poetry is a revolt against that Hindu caste system that legitimizes discrimination on the basis of one's birth. The images, metaphors and the language redefine new forms of expression and representation in the gamut of literature and cry for a re-evaluation not only of the discriminatory attitude of the higher caste Hindus but also break the formal framework of poetry itself. Dr. Renu Srivastava in her paper analyzed the discrimination in the context of money power and corruption with socio-political ramifications. Dr. Neeta presented her paper on discrimination against women in 19th century and role of Raja Ram Mohan Roy in eradicating various social evils in society. Dr. Anis Ahmad advocated for establishing an Equal Opportunity Commission to deal with problem of discrimination in India. Dr. Prashant Tripathi expressed his views that humanity and discrimination are two very closely woven concepts but inspite of them being inter-related, they contradict each other to a perplexing limit as to decide whether they supplant or supplement each other. Dr. P.K. Pandey from Dibrugarh, expressed his views on discrimination against disabled women. Shashank Shekhar, Dr. R.K. Singh and Sudhir Kumar in their joint paper expressed that gender discrimination is one of the oldest menaces of the society and law is an effective tool to deal with it.

Dr. Bhavna Sharma, Ms. Richa Katyal from IMS Law College Noida, Mrs. Nikki Saxena and Dr. Mahima Devi from Dr. RPM Degree College presented their paper on Gender Discrimination. The issue of tribal rights, development and social exclusion with a case study with Kondh Tribe of Orissa was shared by Dr. Bibekanand Nayak Asst. Prof. Babasaheb Bhimrao Ambedkar Univ. Dr. Rohit Misra and Dr. Abhishek Tripathi Dept. of Social Work University of Lucknow spoke about discrimination with HIV positive people. Dr. Alok Chantia shared his paper on culture, discrimination and human rights with special reference to Dhankut of District Bahraich of U.P. Views on discrimination in electoral system of India through a case study of U.P. assembly elections 2012 was shared by Shri Umesh Shukla Vice President of All Indian Rights Organization (AIRO).

The issue of children and discrimination was discussed by Shri Shashank Upadhyaya. Saman Narayan Upadhyay, Lecturer, IMS Law College, Noida in his paper discussed protective discrimination and reservation policy in India with special reference to women. views on human, humanity and fashion : a common discrimination among women was shared by Mrs. Shikha Chantia, Lecturer, Amity University, Lucknow. Ideology and discourse of positive discrimination in India was discussed by Sri Rudra Prasad Sahu, whereas discrimination of disabilities in India: a socio-legal approach was discussed by Mr. Sukanta Sarkar from ICFAI University Tripura, Agartala. Mr. Vijay

Prakash Misra expressed his thoughts on reservation policy for interest rates and discrimination: an appraisal.

Dr. Sudha Misra presented her paper on Ravindra Nath Tagore and discrimination in his educational thoughts. Mr. Bhanu Pratap, Avishek Raj and Dr. Preeti Misra expressed their thoughts on right to development: redressal of economic inequality and a new approach to development. Mr. Jagadish Prasad from Ambedkar Law College spoke on gender discrimination in India as a grave violation of human rights with reference to dalit women. An Iraqi Ph.D. student Mr. Ali Mahmood Yahya gave his views on gender discrimination in the light of human rights, international convention and Iraqi laws. Ravindra Kumar Keshav from University of Lucknow Presented his paper on Discrimination And Social Mobility whereas Abhishek Shukla on Reservation Policy Another Angle of Understanding. Priyanka Tripathi, Sonali Roy Choudhary, Ravinath Tiwari, Rajesh Ranjan Kumar, Ashutosh Misra, Ajay Kumar Barnwal, Anurag Srivastava, Meera and Deepika also expressed their thoughts on various dimensions of discrimination existing in Indian society.

The Seminar ended with overwhelmingly heard valedictory address by Prof. Kameshwar Chaudhary, former Head, Dept. of Sociology and Dean School For Ambedkar Studies, Babasaheb Bhimrao Ambedkar University, Lucknow who not only threw light on various theoretical and philosophical dimensions of discrimination but also talked about the sources which perpetuate discrimination in various walks of life. In his valedictory address Prof Chaudhary classified the meaning of discrimination and highlighted many facts regarding caste system in India and reservation policy and its implications. He also discussed the problem of ethnocentrism which is against the democratic parameter and he concluded with his observation on equality which has yet to come in India

Deliberations and discussions during the seminar fruitfully concluded that discrimination lurks in even the most tolerant society like India and manifests itself in insidious ways. Discrimination on the grounds of sexual orientation, gender identity and gender expression, language, religion, caste, race is the most prevalent and existent in present society. Seminar concluded that discrimination and resultant exclusion of certain groups due to their identity based on social origin, ethnic and religious background, race, colour, gender and nationality is very common to several societies. The practices of discrimination overwhelmingly exist in the social, economic, political and cultural spheres of every society, irrespective of the existence of legal safeguards and equal opportunity policies. In India, in spite of Constitutional safeguards discrimination largely refers to caste discrimination, gender discrimination and discrimination based on religious, regional and ethnic identities with variations in specific forms and extent across regional and social contexts.

The outcome of this seminar seeks to extend discussions to the changing nature and forms of discrimination and social exclusion, both in specific and comparative contexts as the nature, practices and consequences of discrimination vary from one context to another and from one society to the other. The august gathering of the seminar came to a conclusion that such seminars should be a regular event to eliminate the blot of discrimination. Though it was also accepted that discrimination cannot be wiped off

completely from the face of society but can be minimized through genuine efforts by academicians, civil society members and various other statutory and constitutional bodies.

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(A Chapter of Naina-Dayal Foundation)



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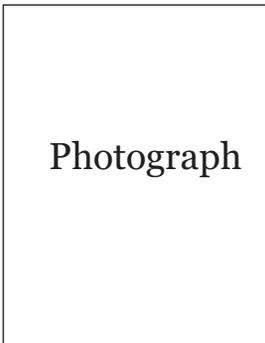
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## **The Anthropos: A Journal of Human Spectrum**

The official journal of the All Indian Rights Organisation (AIRO) (A Chapter of Naina-Dayal Foundation)- The Anthropos (A Journal of Human Spectrum) is an International Journal of Repute. It is published bi-annually in June and December every year.

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