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(A Journal of Human Spectrum)

Volume 2, Number 1

January-June 2013



All Indian Rights Organization (AIRO)

(A Chapter of Naina-Dayal Foundation)

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From the Editors' Desk...

It gives us immense pleasure to place the second volume of our journal “**The Anthropos**” in your valuable hands. Present issue contains topics of present day relevance in human right arena. It mirrors into the issues of violence against women, against tribal people, against people with disability from human right perspectives. Present issue not only looks into the importance of human right education, but also opens the door to discuss the multi-dimensional approach to the implementation of human rights as an ethical necessity, besides discussing the critical issues involved in reservation and Assisted Reproductive Technology in surrogacy.

A lot of water has flown since the history began but still independence and dignity of women wear a pathetic look across the world. Latest WHO report says that every third woman in the world is subjected to some kind of domestic violence irrespective of developmental stage of a country. Violence against women in the family has a long history and only in the last 30 years has been recognized as a public health problem with significant health consequences in developed as well as developing countries.

Ms. Mahjabeen Khaled Hossain in her paper explains the rights of marriage given within Islam. She uses the examples from the teachings of prophet Mohammad (SAW) and implementation of the divine laws of the Holy Quran to show how the revolutionary changes were brought about in Arabian society and subsequently, in Islamic nations.

Dr. Karabi Mitra in her paper '**The Living Sati**' focusses on the changing life style of the high-caste widows in Bengal in the light of literature. She echoes the personal sufferings and the social hurdles experienced by the widowed ladies of the 'modern days'.

Dr. G A Solanki discusses the core areas of issues pertaining to women empowerment through education with related legislation and suggestions.

The Fashion Industry is a global Industry, generating trillion revenue consequently, the question of whether-and to what extent- fashion designers can protect their works under the intellectual property laws of their country is hotly debated, **Shikha Chantia & Anoop Kumar Singh** has tried to find out answer of this debate.

Women's struggle for equality in the society needs to be backed by law and to some extent by the right thinking people in the society. The Government alone cannot achieve the goal of human rights of women until and unless attitudinal change takes place in the society. **Dr. K. K. Bajpai** and **Dr. Vivek** critically analyse the nature of human rights violation of women in India.

Forests have been the major source of livelihood for human beings since time immemorial. So far the tribal people of India are concerned; they have developed a symbiotic relationship with the forest due to their close proximity with the forest as the natural habitation for these people. There is a strong need to look the tribal affairs from the perspectives of tribal people for the sustainable development in the country. **Dr. Bir Pal Singh** reasons that development should be people oriented seeing the social and cultural boundaries of the tribal people.

Dr. S.S. Das and Mr. **Jageshwar Nath** emphasize upon the reproductive rights of women as human right. Paper by **Esha Ghosh** focuses on the educational and economic changes in the status of displaced adivasi Oraon women who were gradually exposed to forces of industrialization and urbanization.

Out of all types of disabilities, intellectual disability poses greater challenges than the other types do. **Saumya Chandra** analyses whether Expressive Therapy influence the functioning of neuropsychological variables among children with intellectual disability?

The criteria for reservation has always been controversial and debatable. **Javeed Ahmed Bhat** in his paper critically assesses and evaluates the policy of reservation in the State of Jammu and Kashmir as well as discusses the present politics in the State regarding reservation.

Education for human rights is the concomitant to all other rights. Education for human rights helps people feel the importance of human rights, internalize human rights values and integrate them into the way they live. Education for human rights also gives people a sense of responsibility for respecting and defending human rights and empowers them, through learned skills, to take appropriate action. **Ms. Shampa I. Dev** emphasizes on the Purpose of Human Rights Education and analyses that if the goals of legal education and particularly human rights education are formally and thoughtfully laid down then all can work together and bring about success in the society. **Dr. Sandeep Srivastava** discusses the role of human right education in global era.

The multi-dimensional approach to the implementation of human rights is an ethical necessity but a practical impossibility as the specialization of professionalism handicaps time-consuming cooperation. **R.E.S.Tanner** analyses that Multi-dimensionalism is best applied to the study of small communities in which such implementation might be negotiable.

With Best Wishes
Yours
Alok Chantia
(Editor)

THE ANTHROPOS

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CONTENTS

Articles

- | | | |
|--|------------------------------------|----|
| 1- Islam And Marriage : A Human Right Perspective | Mahjabeen Khaled Hossain | 1 |
| 2- The Living Sati: A View From Literature | Karabi Mitra | 11 |
| 3- Education: The Only Answer For Women Empowerment | G. A. Solanki | 17 |
| 4- Copyright Law Protection for Fashion Design - Interfaces Between Copyright Act 1957 and Design Act 2000: An Appraisal | Shikha Chantia & Anoop Kumar Singh | 23 |
| 5- Nature Of Human Rights Violation Of Women In India: Critical Appraisal | K. K. Bajpai & Vivek | 31 |
| 6- Tribe, Forest And Law: The Development Debate | Bir Pal Singh | 37 |
| 7- Woman's Right to Control Their Reproductivety - A Human Right Dimension | S.S. Das & Jageshwar Nath Singh | 48 |
| 8- Adivasi Women In An Industrial Milieu | Esha Ghosh | 56 |
| 9- Can Expressive Therapy Influence The Functioning Of Neuropsychological Variables among Children With Intellectual Disability? | Saumya Chandra | 61 |
| 10- Assessment, Evolution And The Politics Of Reservation In Jammu and Kashmir | Javeed Ahmed Bhat | 68 |
| 11- Plea For A Revamp In Human Rights Education | Shampa I. Dev | 81 |
| 12- Role Of Human Right Education In Global Era | Sandeep Srivastava | 88 |
| 13- The Implementation Of Human Rights: Some Thoughts on Multi-Dimensional Approaches | R.E.S. Tanner | 92 |

Reports

- 1- International Seminar on Future of Human

Rights, Humanity and Culture in Emerging Globalized World	A Report	100
2- National Seminar on Women, Dalit and Human Rights in India	A Report	111
Book Review		
1- Mohammad Talib. 2010, Writing Labour: Stone Quarry Workers in Delhi	Babu P. Remesh	117

Islam and Marriage : A Human Right Perspective

Mahjabeen Khaled Hossain*

Abstract

The institution of marriage has been promulgated in a concrete and concise way with the revelation of every religious doctrine. The Muslims can boast of the introduction of human rights in the society. Marriage was declared as a civil right aimed at entering equality of men and women in the society. With the ardent of Islam, polyandry was prohibited and polygamy was brought to a limited state in accordance with the divine message. This saw the beginnings of the development of the modern day nuclear family in Arabia and subsequently in later Islamic civilizations. The number of wives was limited to four and that too if and only if men could do equal justice to them. Islam had the injunction on categorically set rules of married life indication specific conjugal rights. Islam, being the complete code of life, was the first to demarcate the share of females to inherit property of their fathers and husbands. This paper will explain the rights of marriage given within Islam. It will use the examples from the teachings of prophet Mohammad (SAW) and his implementation of the divine laws of the Holy Quran to show how the revolutionary changes were brought about in Arabian society and subsequently, in the following Islamic nations. Furthermore it will discuss the universality of these marital rights and illustrate that even the Holy Quran had been revealed 1400 years ago, its divine laws are applicable even in this era of modernity.

Introduction

Marriage is an established institution in human society. However, there is no written record as to when this fundamental institution was at first instituted. Nevertheless, the institution of marriage is found in the oldest societies in human history. It is a binding relationship, socially and legally, between a man and a woman. As an institution marriage has been concretized by the revelations of all religions.

Marriage ensures human rights, that is, rights of men and women, encompassing cultures, embodying social values and norms, common worldwide. In early system of marriage, contracts did not consider aspects of human rights, but streamlined social discipline. Therefore, with no restriction on the practice of polygamy and polyandry, it was for wealthy and influential men to possess as many wives and concubines. Thus, women's status in that society was not much above of slaves. As a simple possession of her husband, a woman was bound, without questions, to his rules and regulations.

It was with the advent of Islam when marriage, as an institution, was reborn with equality, justice and clear regard for human rights. Marriage meant weddings with a disciplined shape and form. It became part of and contributed to enlightened changes in human society. It also revolutionized existing cultures establishing human rights.

This paper will discuss briefly the historical perspective and the institution of marriage, culture, human rights, and focus on some relevant queries on marriage in pre-Islamic era in Arabia; the revelation of the Quran and the changes in the rights of marriage in Islam as enshrined in the Holy Book and the Hadith; and the role of Islam in establishing rights of men, women and children. In conclusion, the paper will highlight some instances of divine laws, still being applied even in this modern day world.

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Marriage, Culture and Human Rights

The concepts of marriage, culture, and human rights, are related closely to one another to a great extent. In the primitive societies, these concepts were absent, and dominantly present was the concept of 'Might is Right'. In present day societies, the three concepts have developed a co-relation, despite marriage ceremonies based on different cultures, societies. For it is now clear, marriage reflects culture; culture manifests in wedding ceremonies of societies; and depicts the rights of citizens in those societies, irrespective of their religious affiliations.

Marriage

Marriage is a social bond. It is an interpersonal relationship enjoying governmental, social, or religious recognition. It is often created as a contract or through civil arrangements. The nature of marriage or wedlock is defined narrowly as being only between a man and a woman. This has, however, changed in definition and form over the centuries. It is not today as it was centuries ago. Now, marriage is removed from the families, to the couples. It has also made women more equal. Earnest R Grouws defined marriage as a public confession and legal registration of an adventure to follow. Mahatma Gandhi termed marriage as a fence that protects religion. Edward Westermarck said of marriage as, "More or less durable connection between the male and female lasting beyond mere propagation till after the birth of offspring."

Culture

Various definitions of culture reflect differing theories of understanding human activity, or, of criteria of evaluating human activity. However, simplistically, culture can be defined as overall behavior, ways of life, arts, beliefs and institutions of a nation inherited through generations. Culture can also be defined as the way of life, which includes codes of manner, dress, language, religion, rituals, norms of behavior, and systems of belief of a social group, or of a society. E B Taylor in his book of 'Primitive Culture' said, "Culture is that complex whole which includes knowledge, belief, arts, moral law, custom and any other capabilities and habits acquired by man as a member of society." Maclver said, "Culture is what we are." According to the United Nations Educational, Scientific and Cultural Organization (UNESCO- 2002), "Culture should be regarded as the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs."

Human Rights

All human beings are born free with equal dignity and rights. According to the Universal Declaration of Human Rights adopted and proclaimed by General Assembly Resolution 217 (III) of 10 December 1984 –

Article (2): Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article (18): Everyone has the right to freedom of thought, conscience and religion; this right

includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article (27-1): Everyone has right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Marriage takes place in most cultures, though specific customs may vary widely. Marriage is difficult to define cross-culturally, because different cultures define differently family, love, parenthood, gender roles, etc. Therefore, cross-culturally, one's motivation to get married and expectations of it vary widely. In some cultures, marriages are conducted very much like business transactions; whereas, in others, they are for deeply sentimental reasons.

Marriage in pre-Islamic Arabian society

There were some types of marriages still prevailing, where polygamy (having several wives at one time) and polyandry (having several husbands at one time) are professed and practiced. The other types included polygyny, endogamy, common law marriage and monogamy (the union of one wife to one husband). In some jurisdictions, civil marriage has been expanded to include same-sex marriage. However, monogamy is quite common and found almost everywhere around the world.

In pre-Islamic societies, there existed some eight kinds of marriages. Islam made an exception of one and declared the rest illegal. The affluent Arabs, especially the Quraysh and Hashimite families, followed the customs of their forefathers that virtually changed from the spirit of the Hazrat Ibrahim (Peace be upon Him). They themselves became misguided and their practices became distorted. This adversely affected their cultures and societal norms, thus pushing the people into darkness, and to overall human rights violations.

Marriage in Islam

Celibacy is not recommended for Muslim men or women. The most common form of marriage unites one man and one woman as husband and wife. The age for marriage is whenever individuals feel themselves ready, financially and emotionally, for taking the vows. Here, it must be noted that in Islam, marriage is not a religious concept as it is in many religions, but a civil contract between a man and a woman. Islam also recommends marriage highly as, among other things, it helps in the pursuit of spiritual perfection.

There are several passages and verses in The Holy Qur'an regarding marriage and family encouraging Muslims to be married, if possible. The Creator of the Universe –Allah- has stated in the Holy Quran:

“Marry those among you who are single, and the virtuous ones among your slaves, male or female; if they are in poverty, Allah will give them, means out of His grace: for Allah is Ample-giving and He Knows all things.” (c24:v32)

“O Mankind; fear your Guardian Lord, Who created you from a single person, created out of it, His mate, and from them twain scattered (like seeds) countless men and women: fear Allah through whom ye demand your mutual (rights) and be heedful of the wombs (that bore); for Allah ever watches over you.”(c4:v1)

“If you fear that ye shall not be able to deal justly with the orphan, marry women of your choice, two or three or four; but if ye fear that ye shall not be able deal justly (with them), then only one, or that which your right hand possess. That will be more suitable, prevent you from

doing injustice.” (c4:v3)

Prophet Mohammad (Peace be upon Him) said, “A person who possesses the means to marry (i.e. he is able to work etc. to support a wife and children) and does not marry, then he is not from amongst us (i.e. the believers).”

Prophet (Peace be upon Him) has even said that “when a Muslim gets married, he has fulfilled half of the religious devotion and duties, and then he should take care of the other half by being God-minded and aware of his obligations.”

As a Muslim, one should live in accordance with Islamic Jurisprudence, and in the way shown by the greatest of creations, Prophet Mohammad (Peace be upon him), who made the biggest impact on mankind and its existence in the universe.

Human Rights and Marriage

Marriage is a human right, accepted in all civil societies. Before Prophet Muhammad (Peace be upon Him), Arab women had few rights. Infant girls could be killed and buried in the sand by parents, if they wanted a male child instead. A woman could not inherit land or property of her parents. Only sons could inherit. Women (and in most cases men, too) did not have a say in their marriages, which were arranged by their parents. Women were usually treated like property of men. But these conditions changed with Islam.

Marriage became a vital part of a Muslim's life. In fact marriage became so important in the religion of Islam that it was declared to be one half of one's faith.

Most of us are contented with focus on major principles relating to different issues of a society. However, the Quran presents a complete code of life. The Quran establishes marriage with moral safeguard and legal means to have relationship with the opposite sex, and to grow a family. It is both a solemn and a sacred relationship, far above mere physical aspect. It is not only a contract between two persons committing themselves to each other, but importantly, a contract in which the Almighty Allah is made the first and prime witness. It is made with all intention of making it permanent, and for eternal success.

Rights of Women as Mother

Islam improved the status of women. Women were to be respected. The Qur'an and the sayings of Prophet Muhammad (Peace be upon Him) influenced the lives of Muslim women in the past and still influence their lives today.

Mothers are accorded a special place of honor in Hadith too: “A man came to the Prophet Muhammad and asked him, “O Messenger of Allah, who among the people is the most worthy of my good companionship?” The Prophet said, “Your mother”. The man then said, “Who is next?”. The Prophet said, “Your mother”. The man further asked, “Then who is next?” Only then did the Prophet say, “Your father.”

Rights of Women as A Wife

Marriage in Islam is based on mutual peace, love, and compassion, and not just satisfaction of man's needs. Quran stated, “And among His Signs is that He created for you, mates from among yourselves, that you may live well in tranquility with them, and He has put love and mercy between your (hearts); verily in that are signs for those who reflect. (c30:v21) He is the Creator of the heavens and the earth: He has made for you pairs from among yourselves and pairs among cattle: by this means does He multiply you: there is nothing whatever like unto

Him, and He is the One that hears and sees (all things)". (c42:v11)

According to Prophet's teaching, a women's consent is prerequisite for the validity of marital contract. Female has the right to accept or reject marriage proposals. In modern age, marriage without female consent is also regarded unlawful.

Islam ensured Inheritance

Islam revolutionized old opinions, concept of justice, and imbalance prevalent before its advent in all spheres of society. Thus, 1400 years ago, Islam introduced radical change not only in the Arabian society, but also in all Islamic nations. The Almighty Allah intended Muslims to develop a society where all members lived in peace and harmony. The Holy Prophet (Peace be upon Him) emphasized parents should be just and fair to all the children, particularly in matters of gifts and kindness, and that one should not get more while other or others gets less, or nothing. Equality and nondiscrimination was not only desirable, but they also met the demands of justice and equity pleasing to the Almighty Allah. On this, the sayings of Prophet Muhammad (Peace be upon Him) also taught kindness, care and respect of women in general, to build a congenial environment in the family life.

It is Islam that ensured equity in the distribution of movable and immovable assets and properties among children of parents and ancestors. "Men shall have a share of what parents and relatives leave behind, and women shall have a share of what parents and kinsfolk leave behind, whether it be little or much - a share is ordained (by Allah)". (c4:v70)

"From what is left by parents and those nearest related, there is a share for men and a share for women, whether the property be small or large – a determinate share."(c4:v7)

"But at the time of division, other relatives, or orphans, or poor who are present, give them, out of the property, and speak to them words of kindness and justice". (c4:v8)

"Almighty Allah (thus) directs you regarding your children's (inheritance); to male, a portion equal to that of two females; if only daughters, two or more, their share is two –thirds of the inheritance; if only one, her share is of a half. For parents, a sixth share of the inheritance to each, if children is deceased; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has sixth, (the distribution in all cases is) after the payment of legacies and debts". (c4:v11)

Islam Allows Polygyny or Polygamy in a Limited Scale

Islam also recommends polygyny, among other things, but in a limited scale. Despite monogamy - the union of one wife to one husband - is widespread almost everywhere, polygyny or polygamy at the same time, however, has been acceptable in many societies. According to Chamber's Dictionary, Polygyny is the condition of customs of allowing more than one wife at the same time. There are many reasons that support polygyny, but Islam limits the practice to four wives, permissible only when one can be equally fair to all wives. Thus, Muslim men are allowed to practice polygyny, and can have more than one wife at a time, up to a total of four. On the other hand, Muslim women are not allowed to practice polyandry. It has to be added that polygamy in Islam is a matter of mutual consent. No one can force a woman to marry a married man. Besides, the wife has the right to stipulate that her husband must not marry any other woman as a second wife.

Unrestricted polygamy existed in pre-Islamic Arabia. Polygamy was a custom prevalent in the society of pagan Arabs, and Jews. During that time, men used to marry as many as nearly

hundred women on temporary or contractual basis. On the basis of this custom, in those ancient societies, the wealthy and influential men, kings and people of high-profile, possessed many wives and concubines, declaring themselves mostly as God's representatives on the earth.

Before Prophet Musa (Peace be upon Him), the Israeli people were habituated to polygamous marriages. The ancient Hebrew used to endorse many wives whenever wished or desired. In ancient Hindu society, men could have more than one wife, and women could have many husbands. In later times, such tradition was followed largely by high caste (Brahmins) of the Hindus community, marrying wives whenever they pleased.

The revelation of the Holy Quran and Islam brought a revolutionary change in marriage. They provided for a disciplined lifestyle and a decent shape to polygamy, as well as polygyny. The Holy Quran says, "If you fear that ye shall not be able to deal justly with orphan, marry women of your choice, two or three or four; but if ye fear that ye shall not be able deal justly (with them), then only one, or that which your right hands possess. That will be more suitable, prevent you from doing injustice." (c4:v3)

In another verse Allah says: "Ye never able to do good to justice between wives even if it is your ardent desire; but turn it away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, practice self-restricted, Allah is oft-Forgiving, Most Merciful." (c4:v129) The Holy Quran did not create any fundamental right of polygamy. The relevant Quranic verse is only permissive. Under the circumstances of the then Muslim society, polygamy was permitted. Whether in any society, polygamy will continue or not, depends on the social needs and values.

The Holy Prophet Muhammad (Peace be upon Him), as narrated in a Hadith, has said "If a man has two wives and he is impartial to one, he will appear on the Day of Resurrection with one side hanging down. Islam considers Imbalance and injustice among wives as an offense".

The resorting to the practice of polygamy by Muslims, including the Holy Prophet actually occurred during the time in history when Islam was weak and struggling to rise and establish itself. At the time when battles were fought for survival, particularly after the Battle of Uhud, when many Muslims were killed, leaving their wives and women behind, the above mentioned Quranic verse was revealed. The number of women became more than men, and that trend was likely to continue with the battles to come. These widows had to be rehabilitated and Prophet Mohammad (Peace be upon Him) asked Muslim men to take care of them through marriages, and consequently taking charge too of the orphans.

The case of Prophet Muhammad's (Peace be upon Him) marriages can be treated as an exceptional one, as they were contracted to set an example for other Muslim men to follow for the overall wellbeing of the then existing society.

However, if a Muslim man was not capable to be equally just and fair to four wives, he was not to marry more than the number he could be just and fair with.

Women verses Men

Islam regarded men and women as being of the same essence created from a single soul. The teachings of the Holy Quran were revolutionary. According to Quranic law, the relationship was set on the principle of the division of labor with men usually carrying out tasks outside home, while women taking charge of tasks within home.

The Holy Quran states “Men are the protectors and maintainers of women,” (c4:v34). The Holy Quran urges Muslim husbands to be kind to their wives even if they do not like them. “O you who believe! You are forbidden to inherit women against their will. Nor should you treat them with harshness, that you may take away part of the marital gift you have given them, except when they have been guilty of open betrayal of marital vows and trust; on the contrary, live with them in a state or condition of kindness and equity. If you take a dislike to them it may be that you dislike a thing and through it Allah brings about it a great deal of good. (c4:v19)

Earlier, it was mentioned before the advent of Islam, the Arabs who did not believe in the Creator or Allah - buried live infant girls; and women danced naked in the vicinity of the Kaa'ba (sacred place of Muslims) during cultural programs, as annual fairs. They treated women as mere chattels and objects of amusement and pleasure with no rights or position. This era was called the Age of Jahiliya (darkness).

As Ibn-e-Umar narrates that Prophet Mohammad (Peace be upon Him) said, “All of you are guardians and are responsible for your wards. The ruler is a guardian of the people, and the man is a guardian of his family; the lady is a guardian and is responsible for her husband's house and his offspring; and so all of you are guardians and are responsible for your wards.” [Al-Bukhari, Volume 7, Book 62, Number-128] The Prophet of Islam, Muhammad (Peace be upon Him), reportedly said women are the twin halves of men.

Islamic teachings are universal in nature. They respond to the needs of diverse times, cultures, and circumstances.

Equity in Some Other Extents

Equity is used here to mean justice and overall equality of the totality of rights and responsibilities of both genders. It does allow for the possibility of variations in specific items within the overall balance and equality. In regard to the above mentioned issue, the Holy Quran says: “And (women) shall have rights similar to the rights against them, according to what is equitable; but men (husbands) have a degree over them.” (c1:v228) The Quran calls man and woman as the dress of each other. The Holy Quran says, “They (wives) are your garments and you are their garments.” (c1: v187)

The Prophet (Peace be upon Him) has laid down the basis on which marital relationship is established. He (Peace be upon Him) has enjoined his followers to treat their wives well. He says: "I enjoin you to be good to your women."

We cannot fulfill the prophet's instructions unless we establish a relationship with our wives on the basis of mutual care and kindness.

To emphasize taking good care of women, Islam has outlined certain rights and duties for both man and woman to be honored. Both can claim equal rights against each other, except for those minor differences which are necessitated by the nature of their roles, and the way they are created. Allah says in the Qur'an: "In accordance with justice the rights of the wives (with regard to their husbands) are equal to the (husband's) rights with regard to them." (c2:v228).

The Prophet Mohammad (Peace be Upon Him) has specified the rights of a woman against her husband when he was asked by one of his men companion: "Messenger of Allah, what rights does a man's wife hold over him?" He answered: “That you feed her when you find food to eat, and dress her when you dress yourself, and that you do not strike her on her face

and do not abuse her verbally, and that you do not boycott her except within`the0home.” (Related by Abu Dawood and Ibn Hibban).

However, women still did not have equal rights with men. For example, arranged marriages are still found in many countries today, including countries like Bangladesh, India, and in the Middle East .Many women still had no say in their marriage arrangements. This was a custom some parents did not change. It is essential both spouses should keep each other's honor, and protect and gratify each other with love. If unfortunately, any action damages mutual trust, or any serious difference arise in conjugal life, only then divorce, the last option ending a distasteful marriage, is applicable. However, both parties should try to settle the disputes within themselves. If they ultimately fail to solve the problems, and if both parties agree, divorce can be applied. But divorce has been defined by the Prophet Muhammad (Peace be upon Him) as the most hateful of all lawful things in the sight of Allah.

Religion Often Influences Marriage and Practices

Islam reformed the old marriage laws in far-reaching manner, while retaining their essential features. In this regard, as in other areas of social legislations, the prime aim of Prophet Muhammad (Peace be upon Him) was to improve 'woman's position'.

The regulations on marriage, which, in principle, are the most important have been laid down in the Quran in Sura Nisa (from the period shortly after the battle of Uhud):" If ye fear that ye cannot act justly to the orphans, marry the women whom ye think good, by twos, threes or fours; but if ye fear inability to be just, then marry one only, or whom you possess; this will be easier that ye be not unjust".(c3:v3)“Give the women their dowry freely; but if they voluntarily remit you a part of it, enjoy it and may it prosper you.”(c3:v4) “arry not the woman whom your fathers have married (except what is already past); for this is shameful and abominable and an evil way. Forbidden to you are your mothers, your daughters, your sisters, your aunts paternal and maternal, the daughters of your brother and sister, your foster-mothers and foster-sisters, the mothers of your wives and the stepdaughters who are in your care, born of your wives, with whom ye have had intercourse — but if ye have not had intercourse with them, it is not a sin for you— and the wives of the sons, who are your offspring, also that ye marry two sisters at the "same rime except what is already past; Allah is gracious and merciful”.(c3:v23)“Further married women except that you possess. This is ordained by Allah for you. But he has permitted you to procure outside of these cases with your money in decency and not in fornication. To those of them that ye have enjoined give their reward as their due, but it is no sin to make an agreement between you beyond the legal due. Allah is all-knowing and wise.”(c3:v24)

Conclusion

Marriage, as an institution binding a man and a woman together for raising family under a social discipline and for societal harmony, is professed by all religions and has been practiced by their followers ardently through millenniums. There had, however, been times when the institution was weakened and eroded by inroad of revived paganistic rituals and cultures, only to be again thwarted by impositions of religious interventions. This has been a cyclic phenomenon in human history till the last sway of pagan revival was demolished by the birth of Prophet Mohammad (Peace be upon Him), and the establishment of Islam. The dictates of the Almighty Allah through the Holy Quran and the firm clear authority of His last Messenger consolidated marriage as a strong and solid institution with all the trappings of legal, moral, social, cultural bindings. Islam gave marriage specific and clear rules and

regulations ensuring equality in partnership, establishing equal human rights, and judicious sharing of mutual owned wealth and property, between husband and wife. In fact, once contracted to a marriage, both husband and wife were bestowed with new changed legal status with new rights and obligations.

To the followers of Islam, Muslim men and women, marriage became a vitally important part of their lives as much as a half of their faith. Despite Muslims being converted from different and varied backgrounds, their marriages may reflect aspects of their previously practiced cultures, but never those conflicting with the rules and laws as laid down by Islam. Within the confines of marriage, Muslim men and women are to procreate, raise children as true followers, and assure their healthy life and settled future.

Our world today is again beset with the disease of ancient pagan way of life where marriage is no longer considered necessary, or even significant for a relationship; where marriage of same genders are seen as acceptable. Against such a wayward approach, Islam and Muslims have been able to stand as an unwavering bulwark protecting the sanctity of marriage. Thus, many of those with a stint of eventual frustrating pagan way of life are turning to Islam to find solace and comfort in this increasingly troublesome complex world. Indeed, for only Islam and the Islamic way of life still offers hope and peace to all who wish to know and follow the teachings of the Holy Quran and the preaching of the Holy Prophet Mohammad (Peace be upon Him).

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“Literacy is a bridge from misery to hope. It is a tool for daily life in modern society. It is a bulwark against poverty, and a building block of development, an essential complement to investments in roads, dams, clinics and factories. Literacy is a platform for democratization, and a vehicle for the promotion of cultural and national identity. Especially for girls and women, it is an agent of family health and nutrition. For everyone, everywhere, literacy is, along with education in general, a basic human right.... Literacy is, finally, the road to human progress and the means through which every man, woman and child can realize his or her full potential.”

- Kofi Annan

The Living Sati: A View From Literature

Dr. Karabi Mitra*

Abstract

The paper aims to focus on the changing life style of the high –caste widows in Bengal in the light of literature. It is well-known that, the widow –remarriage movement was initiated in Bengal by Iswar Chandra Vidyasagar. However due to various reasons the movement was not carried on by his successors in the realm of social reform movement. On the contrary the widows' question assumed a Hindu nationalist tinge and they were projected as upholders of Santana tradition. A genre of literary writings highlighting the austere life style of widowed ladies from other parts of India were published in order to implant a strong conservative tradition of Hindu widowhood among the suffering milieu. In the present study how the literary writings of the twentieth century projected the pangs and challenges faced by the widowed ladies mostly being in their early youth will be highlighted. Despite their moral support to them the writers sincerely sketched the dilemmas experienced by the ladies. The personal sufferings and the social hurdles experienced by the widowed ladies of the 'modern days; poses a challenge to the 'globalized 'modern social view –point which relishes at the projection of white-clad young widow even on the screen of popular television serials. The plight, the sufferings, the deprivations and the mental block imposed by the society on one segment of our generation poses us a vital question 'whether we are capable enough to wipe off their tears and place them on a truly place of social honor?'

Introduction

The paper aims to focus on the changing life style of the high caste Hindu widows in Bengal in the light of literature. It is well known that, the widow –remarriage movement was initiated in Bengal by Iswarchandra Vidyasagar . However due to various reasons the movement was not carried on by his successors in the realm of social reform movement. On the contrary the widows' question assumed a Hindu nationalist tinge and they were projected as upholders of sanatana tradition . A genre of literary writings highlighting the austere life style of widowed ladies from other parts of India were published in order to implant a strong conservative tradition of Hindu widowhood among the readers.

Objectives

In the present study how the literary writings of the late nineteenth to twentieth century projected the pangs and challenges faced by the widowed ladies mostly being in their early youth will be highlighted. Despite their moral support to them the writers sincerely sketched the dilemmas experienced by the ladies.

The personal sufferings and the social hurdles experienced by the widowed ladies of the 'modern days, throw a challenge to the 'globalized' modern viewpoint which relishes at the projection of white-clad young widow or observance of austere widowhood even on the screen of popular television serials.

Methodology

Bengali literature dating from mid-nineteenth century to mid-twentieth century is the core material. Besides supportive documents for historical analysis, data collected from various

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sites and personal interview are other source of information.

The Text

During the colonial period the Hindu women's body was 'the ultimate site of virtue, of stability, the last refuge of freedom (Sarkar, 2001, p. 265) and considered as free from the polluting touch of the colonial government since they inhabited in the inner domain and no direct contact with the outside world was made. She was the upholder of the tradition. Paradoxically the widow seems to be de-gendered and her body was subjected to the colonial control as a result of the legal interventions in matters of Sati, remarriage of the widows etc.

With the passage of the Widow remarriage Act (1829) the social control over her body and behavior was tightened probably with a scheme to not to allow her to alienate family property or *streedhan* i.e. the property she inherited from her parents. In order to challenge the colonial interventions she was supposed to act with complete submission to the conservative tradition. Since during the time under discussion conservatism and nationalism became synonymous for some time therefore, her body became a storehouse of conservatism as well as nationalism. In fact she was exposed to three sorts of stress:- her personal loss, life of deprivation and playing the role of national symbol as ideal widow.

As a result the lifestyle stored for the Hindu widow was that of severe austerity. Despite their privilege to live life they were deprived of nutritious food, proper dress and their personal life became a matter of public intervention. Despite the enactment of 1856 ensuring remarriage of the widows and glorification of the Hindu widowhood on the part of social thinkers they became a neglected community in the Hindu family. A number of tracts questioned the efforts of Iswarchandra Vidyasagar in obnoxious language (Chakraborti, 1998, p. 13). The enactment of 1856 set a virtual taboo on her remarriage since she was supposed to be deprived of rights in the property of her deceased husband and if she is a minor the remarriage will have to be permitted by her guardians (Chakravarti & Gill, 2001, pp. 60-2). No space for her own decision was left.

In Bengal widowhood opened a significant area of nationalist discussion. Bhudev Mukhopadhyay prescribed ideal lifestyle for the widow in his *Baidhavya Brata* (1356 B.S.). He stressed on the social respect for the lady and observed that caring attitude from the family members may relieve her deep rooted sorrow and she may devote herself in daily activities. It is clear that, prevailing practice of mal-treatment of the widows led him to write the treatise.

Contemporary literature glorified historical widowed women namely Ahalyabai, Jijabai, Tarabai and others. Ahalyabai, the queen of Indore remained the best model of Hindu widowhood especially in a period when the maintenance of the chastity of the widows [especially the younger generation] presented a social challenge. Despite her role as the head of a disturbed region and continuous engagement in public welfare all of the biographers highlighted her virtuous life and identity as a widowed lady (Basu, 1900). The anxiety to control the sexuality of the widow found expression in reinstating the principle of *pativrata* or 'wifely devotion'. In this context publication of prescriptive texts on widowhood by Bhudev and the legend of Savitri by Chandranath Basu entitled *Savitritatwa* {1900} may be referred to.

Veneration for the sati, worship in various forms, identification of the custom with 'national tradition' created a permanent place for the widow in the Hindu mind-set. Vrindaban and Benaras still remain the abode of the widows where they are exposed to severe exploitations.

While the aged are forced to live in a near-begging condition the younger one are exposed to the sex hungry people. Meera Khanna, one of the convenors of the world's first International Conference on Widows in South Asia [February,2002}made a detailed study on their condition and commented 'we treat widowhood not as a natural stage in the life cycle of an woman we treat it as some kind of an aberration.We accept death but we don't accept widowhood....because somewhere in the Indian psyche, the woman's identity is with the man and the minute he is not there it is something that cannot be accepted.'

Stridharmapaddhati by Tryambakayajvan, an eighteenth century Sanskrit text (Leslie, 1989, pp.299-304) underlined the do's and don'ts of the widows. According to him 'she should live the subdued and restricted life of the celibate student'. The 'restriction's included eating only once a day, severe fasting, wearing of colorless saree,no use of luxurious articles and ornaments, sleeping on the ground etc .Pandita Ramabai Saraswati, a social worker from Maharashtra observed that the social torture fell much upon the childless widow being 'the greatest criminal upon whom Heaven's judgment has been pronounced (Saraswati,1888). Tarabai Shinde another exponent of the widow's rights made a caustic criticism of the social taboos imposed on the widow (O'Hanlon, 1994).

Undoubtedly the widowed milieu inhabited in the *antahpur* and suffered social dishonor in numerous ways. Tonsuring, austere life-style, observance of *ekadasi* and other rituals without a drop of water became their daily practice. They practiced the rituals in order to wipe away own sins and to gain'heaven for her and her husband'. Nobody questioned on the negation of human-rights towards this large section of women.Probably their non-productivity was the chief source of the social ostracization. The scenario changed to some extent in the urban sector however, the high caste widows'sufferings remain unaltered in the semi-urban and rural areas.

Coming back to the Vrindaban context *The Telegraph* [December,20,2007] reported that among 10000 widows present there during the conference officially more than 6000 were from West Bengal. However NGOs estimated the number around 20000 from Bengal and the number of assembled widows around 35000. They were aged between 45-82 and lived in temples. Surprisingly the representatives of the West Bengal government failed to turn up at most of the Joint co-ordination meetings held between the U.P.government and that of West Bengal. The Government set up Welfare and Rehabilitation Board {WARB} to look after the widows and dependents of those who died in harness, family pension schemes are aimed to take care of their financial status. However, it was observed that,in most of the cases the family members get rid of their helplessness. Either they force her to marry someone of them and then abandon her or snatch away her pension. They cannot be considered as a monolithic group rather like other social groups they are a multi-layered people with varied dimension of problems.

While condition of the average widows especially living in rural and semi-urban sector remains a matter of grave concern and nowadays NGOs are working for them, some of them are equipped with vocational training yet social outlook towards them has not altered a lot .Lack of education is the greatest obstacle in some sector while in an era of nuclear family system the elderly widows face utter neglect and disrespect. Therefore the nature of the problems must be decided upon at first next the means of solution may be chalked out. Mere raising of the complaint of the violation of human rights may not be a solution but empowerment of women by a combination of private and public effort and framing of the pattern of education with the objective of the creation of self-esteem,confidence among

the girl children may be of some use for the average women .

It is well-known that, literature sincerely projects the society and delivers the message to the average people in a successful manner. In the present paper the reflection of widowhood of the high caste Hindu women in vernacular literature will be highlighted. Several popular novels dating from late nineteenth to mid twentieth centuries are selected for discussion since this span of time witnessed radical changes in the life of the women. Apart from education they actively participated in the political life of the nation which definitely altered their mind set and vision of the inner and outer space of the household. Numerous lady authors articulated their thoughts and it is noted that, projection of the widows represented a dilemma in the literature. While Bankimchandra Chattopadhyay and Rabindranath Tagore, the stalwarts of modernity stressed on the critical mentality of Rohini and Binodini, their heroines most of the time who felt jealous of the child wives of Govindalal and Mahendra in *Krishnakanter Will* (Bankimchandra Chatterjee, 1875) and *Chokher Bali* (Rabindranath Tagore, 1902) respectively and in course of events finally won over their hearts and involved in extra-marital relationships Mokshada of *Pratham Pratisruti* (Ashapurna Devi, 1966), Bandana of *Swet Patharer Thala* (Bani Basu, 1990) were more concerned for their family life and social responsibilities. They definitely had a craving for their husbands whom they lost at an early age however, sexuality is not covering their personalities. It seems that, they are more down-to-earth by nature. Ashapurna reminds the reader how the widowed ladies upheld the tradition of preparing seasonal delicacies and devoted their life for the well being of the family especially in a joint family system. Krishna Kripalani, the translator of *Chokher Bali* described Binodini as 'the most real, convincing and full-blooded'. In her frustrations and suffering is summed up the author's ironic acceptance of the orthodox Hindu society of the day... Conscious of beauty and wit she rebels against the unjust privations of a bleak and humiliated existence to which as a widow she is condemned for life and asserts her right to love and happiness.'... "In no other novel has he accepted the kinship between love and sex with such frank sympathy--- the white lotus of love in the slime of desire.' (Kripalani, 2007, pp. vi-vii). Rohini and Binodini are two rebel characters who refused to live as 'living Sati' however in the end one was murdered and the other reformed herself and agreed to dedicate herself to social work. Their determination to live life in their own terms died out.

Bhudev's mythical seat of extra-terrestrial reverence to the widows in the Hindu family was deconstructed by both of the male novelists under discussion. The beautiful young widow's unlimited capability of doing and undoing settled facts like married life has been established by them. Evidently Bankim was in support of the regimented life of the widow and in the novel he referred to how widow-remarriage had become a fashionable affair with the neo-youth of Bengal. Thereform of widow remarriage had a repercussion on the family life of Bengal. However Bankim was not optimistic about the future of the widows like Rohini therefore she suffered death-penalty and her partner sought for a new divine life. Binodini's role as a superiority in love and sacrifice has dwarfed the middle class married male. When she decided to relieve the man she left her. In a way these novels are feminist by nature because the story evolved around the emotion of the female and they remained the ultimate decision-maker in their life.

Traditionally in Bengal the widows were sent to Benaras to live a miserable life because 'deploring them to a distant land was a convenient strategy to get rid of them and a pilgrimage place served as the right choice, ensuring the religious commitment of the Bengali male populace' (EPW, 2000, p. 1151). Whenever their relatives remembered them they sent a

meagre amount of money for their subsistence. However most of them were forced to beg and the younger section opted for sex work. Jyotirmayee Devi pictured the extremities of their life at Kasi in her story *Pinjrapol* (1987). Her clear view discovered the paradox within their meagre lifestyle. Haimo, the liberated daughter of Sarada realized the ultimate truth of physical necessity in the life of man. She realized that, modernity failed to alter their austerities...the widows irrespective of their social status are the worst sufferers of traditionalism. She exclaimed that, like the use of conch bangle and vermilion as a symbol of chastity, the white attire of the widow symbolizes sacrifice.

Towards the end of the century the social status of the widows changed in favor of their greater acceptance in the social life. Probably the male authors of the early twentieth century could not imagine for any alternative life style which was not the case for Bani Basu, an author of the late twentieth century. Her Bandana started to live an austere widowhood. With the intervention of her uncle she was 'rescued' and began to live the normal life with occasional interventions of conservatism. Unlike her counterparts Bandana, the central character of *Swet Patharer Thala* realized that, observance of some customs merely lead to cover the unalterable truth of widowhood. Finally her decision to get married was not supported by her University –educated son who however, later on bargained with her regarding her remarriage in exchange of his marriage with an upstart girl. In the climax the educated, liberated young daughter-in-law humiliated Bandana by questioning her liberal attitude towards food and dress code. Basu showed that, superstitions regarding widows are certainly not limited within the so-called backward conservative section but on the contrary contaminate the 'modern' mind too. The co-teachers and office colleagues of Bandana equally taunted her. Therefore it seems that social humiliation of the widows is a permanent feature of contemporary Hindu society and it is closely related to the mindset of the better positioned, powerful milieu irrespective of gender, class and cultural background.

A diametrically opposite representation of a widowed lady was made by Binata Roy Choudhury in her *Anyo Ami* (2009). Tamasa, the heroine of the novel was a young widow who led life in her own terms. She used her social affluence to get Jhalak, a gigolo as her bed-partner. The age-old tradition of humiliation of the widows as soft target gives way to a reverse process. In the end of the story Roy Choudhury explained inter-gender relationship on the basis of power-relationship fed by cash-nexus.

In our very small discussion a fraction of the life of the Hindu widows have been highlighted with the help of literary representations. Both the rural and urban milieu are selected for discussion. Truly the urban-centric reforms did not have much effect on the rural women during the early part of our study however the present picture is changing. It seems that, at least theoretically after much struggle during the end of the century traditional rigidity in the life style of the Hindu widows has left the ground in favor of their living in their own terms. The figure of 'widow as a modern, liberal, rights-bearing subject' (Majumdar, *EPW*, 2002 p.5015) is emerging out of the darkness of blind conventions. May not all of them seek sexual liberty in the fashion of Tamasa however most of them decide their own food and dress and lifestyle. Especially in urban scenario rigidity is no longer followed as a mark of reverence towards the conjugal relationship. Their increasing rate of higher education, participation in social reforms as well as NGOs, 'writing and petitioning for better health and child care facilities ...material benefits, improved marriage and inheritance laws, suffrage' (Sarkar&Sarkar, 2007, p.7) are agents of change in the status of women and logically the widows are beneficiaries of the improvements. The mind-set of the Hindu widows is probably changing towards a rational end. In the nuclear families they are taking own

decisions regarding their lifestyle and here lies the possible silver lines in the life of high caste Hindu widows.

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Education: The Only Answer for Women Empowerment

Dr. G. A. Solanki*

Abstract

Women like others are the integral part of the society and her contribution to the societal development is noteworthy. Indian tradition and culture has put the women in high esteem and regarded her as the most valuable national resource. Women as a folk have got greater role to play in molding and shaping the family and society as well. She also contributes to nation's economy. During the pre-independence period various educationists, social scientists and historians through their studies and research on the women and their related problem brought to limelight the significant contribution the women had played for the development of the society. After independence, importance was laid on the role of women in shaping the family and society and accordingly several welfare measures were undertaken by the Government. Yet despite all these when the developing nations are trying to protect and preserve the talent of the women, in most parts of the society they are subjected to discrimination and exploitation and are deprived of the social, economic and political rights. The paper aims to discuss the core areas of issues pertaining to women empowerment, related legislation and suggestions.

Introduction

Law is not an end in itself. It is a means to achieve some social goals. The suggestion that women have through the ages been marginalized to a defined 'subordinate status' is something that would be easily understood in most parts of the developed and developing world.

The few decades have witnessed a concerted effort by women individually and in organized manner to redress the imbalance approach in societal behavior which itself in fact is a result of incredulous and often mythical norms. For the Indian women the struggle for equality is still in a very elementary stage. Gender is a complex term and gender relations even more complex when viewed in the Indian context.

Women's lives in India and the world over are circumscribed by patriarchy, inadequate access to productive resources and powerlessness. At the core of the circle denial and discrimination in their rightful entitlements of life, education and training for a scientific technological world, health, and social security, lies the gross violation of the human rights of women embodied in invisible structural and outward forms of violence perpetrated by institutions of family, community and society at large. It is maintained that 'gender' is thus an essential factor in women's subordinations to men and the subsequent devaluing of the feminine in relation to the masculine. To the extent that the feminine values of cooperation, carrying, compassion are important to achieving an ethical, equitable, just and sustainable livelihood, understanding gender power relations is critical to understanding how we might make the necessary changes.¹

What is Gender Discrimination?

The term gender discrimination refers to the particular kind of practice whereby certain rights or privileges are granted or denied on the basis of their gender. There are some societies where this kind of practice is very old and acceptable to both genders. Again, there

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are certain religious groups that hold gender discrimination as part of their popular doctrine. However, in most developed countries, it is considered either illegal or inappropriate.

Attitudes toward gender discrimination can normally be traced back to the roots of certain segments of society. Much of the discrimination is attributed to stories such as a woman being made from man's rib and societal practices such as dowries paid to fathers by prospective husbands to purchase their daughters to be wives. Countless literary fiction references are made to females being the fairer, weaker sex and males being the strong, invincible hunters of the world. The combined power of these societal and religious beliefs left little room for equitable thinking for centuries.² In the past few decades, gender discrimination has gained respect as a serious affront. It is frequently given as much credence as racial discrimination.³

From birth till death, women's are facing various types of discrimination. Some of them are:

Treatment as Family servants

There are many developing countries where birth of a girl child is considered as added 'expense'. There are many parts in India, where there is a tradition to greet the family to whom a girl is born by saying: "The servant of your household has born". It is a pathetic condition for a girl when she is being made realized that she is worth less than a boy. Her opportunities are taken back and she is made to feel that she is second rate. Again, extreme poverty and constant biases against a girl child prevents her to live up to her full potential.

Discrimination

Discrimination of all sorts and at all levels against girls and women is a demoralizing reality in many developing countries. This adds to many other misfortunes which in turn affect the potential for entire nation. The status of women is central to the health of any society, both socially and economically.

Dowry

The lesser we say is better. It is more than 60 years of our independence and still we are not able to come out of this shackles. In developing countries where it is difficult to have meals for two times a day for poor, the birth of a girl shall prove to be a monetary drain and more specifically where religion permits practice of dowry.

Neglect

In a developing country where poverty is a part of life, the birth of daughter will be an added monetary burden. This attitude has resulted in neglect of girl child. There are countries where a mother of a girl child will not give her own milk so that women can try to get pregnant again with a boy as soon as possible. The neglect continues even after the girl child is grownup. They are given less food, improper health care than boys. When this girl child becomes young nothing much is changes. Traditions say that they have to eat last and at times the leftovers of men and boys.

Abortions

When a girl child is considered to be a added financial burden for a family it has been seen in many cases that parents themselves ends up the life of the baby girl child. Sex-selective abortions are even more common than infanticides in India. They are growing ever more frequent as technology makes it simple and cheap to determine a fetus' gender. In Jaipur, a

Western Indian city of 2 million people, 3,500 sex-determined abortions are carried out every year. The gender ratio across India has dropped to an unnatural low of 927 females to 1,000 males due to infanticide and sex-based abortions.⁴

Sexual Abuse

Even after infancy, the threat of physical harm follows girls throughout their lives. Women in every society are vulnerable to abuse. But the threat is more severe for girls and women who live in societies where women's rights mean practically nothing. Mothers who lack their own rights have little protection to offer their daughters, much less themselves, from male relatives and other authority figures. The frequency of rape and violent attacks against women in the developing world is alarming.⁵ Eve teasing, marriage at the young age, sexual harassment and rape are the worst crimes that a woman has to face. She is at times treated less than a human, and the society is watching this show.

Labour

This is again very alarming situation. The young girls when grew up, their life becomes more hard. Going to the school is just a dream. Only for few years she can go to school, but once she crosses 10 years of age she becomes a subject matter who can now work for all day at home. Housework in developing countries consists of continuous, difficult physical labor. A girl is likely to work from before daybreak until the light drains away. She walks barefoot long distances several times a day carrying heavy buckets of water, most likely polluted, just to keep her family alive. She cleans, grinds corn, gathers fuel, tends to the fields, bathes her younger siblings, and prepares meals until she sits down to her own after all the men in the family have eaten. Most families can't afford modern appliances, so her tasks must be done by hand—crushing corn into meal with heavy rocks, scrubbing laundry against rough stones, kneading bread and cooking gruel over a blistering open fire. There is no time left in the day to learn to read and write or to play with friends. She collapses exhausted each night, ready to wake up the next morning to start another long workday.⁶

Denial for Education

It is not a new phrase to hear 'why do you want to go to school...girls have to learn how to prepare food and take care of kids and family. Girls don't have to go out to earn...' These are the common terminologies that a girl child has to hear. Denial of the education to the girl child is the 'root cause' of the gender discrimination.

Sex Trafficking

Some families decide it's more lucrative to send their daughters to a nearby town or city to get jobs that usually involve hard labor and little pay. That desperate need for income leaves girls easy prey to sex traffickers, particularly in Southeast Asia, where international tourism gorges the illegal industry. In Thailand, the sex trade has swelled without check into a main sector of the national economy. Families in small villages along the Chinese border are regularly approached by recruiters called "aunties" who ask for their daughters in exchange for six years' wages. Most Thai farmers earn only \$150 a year. The offer can be too tempting to refuse.⁷

There are several reasons for gender discrimination; some of them are listed below:

1. Poor Educational standard
2. Caste

3. Culture (I would like to say this as hypocrisy)
4. Rigid customs and beliefs
5. Low income and unemployment
6. Society and Family situations

As discussed above there are several reasons for the gender discrimination. The foremost among others is the denial for education to the girl child or poor education standard. Government has come up with many policies for upbringing the level of education of the girl child, but its execution is not done properly. Secondly, various caste systems and religious beliefs also play a vital role in gender discrimination. Rigid customary beliefs and low income of the family adds fuel to the fire. In cases when society itself takes the stand that women are just a subject matter or property of the man, nothing much can be done for the upliftment of women.

Education is the only means to resolve this issue.

Legislative Measures

There are various legislative measures that aim to answer the gender discrimination and gender imbalance. The foremost is the Constitutional Guarantees in Part III (Fundamental Rights) and Part IV (Directive Principles).

The emphasis on equality for women has been assured under Article 14, 15, 15B, 16, 38, 39B, and 44 of Indian Constitution. A.14 provides equality before law. Thus women in Indian society enjoy the same protection and treatment as men which are guaranteed by the Constitution. In *Air India v. Nargis Mirza*,⁸ the Supreme Court while analyzing certain provisions of Air India tilted towards protecting the rights of women. The court while upholding the restraint upon air hostesses to marry within four years of entering into service as a non-discriminatory measure of promoting family planning, the rule which required them to retire upon first pregnancy was declared unreasonable and arbitrary and hence violative of A. 14.⁹

It is submitted that no Constitution is so much soaked with gender sensitivity and gender justice as the Indian Constitution in conformity with Gandhian ethos and ideal of social and political reforms to uplift the women.

Article 15(3) provides a benign exception to equality rule for the benefit of women.¹⁰ This appears a sort of our atonement to women power and the Indian Vedic Ideal of mother being holier than father and gods. Accordingly a series of legislative measures were enacted to ensure sex equality and to remove gender disabilities which women suffered from medieval times onwards.

This led to introduction of monogamy, daughter, widow and mothers right to inherit property along with son, consent of wife for the adoption of a child by a married man, enabling a woman to adopt a child, empowering wife to claim separate maintenance and appoint guardian at will. Establishment of family courts, appointment of women as judges and enactment of the National Commission for Women 1990 to ensure women development, equal status for women and to remove all discriminations against women are some of the landmarks towards women empowerment.¹¹

Likewise social evils concerning women like 'Purdah system', preventive of Sati, child

marriage, female infanticide, polygamy, dowry, exclusion of women from succession to property etc. have been curbed through legislative measures. To secure equality to women at work measures like equal pay for equal work, maternity benefit, prohibition of employment of women in mines, night work and restrictions on work which is hazardous and unsuitable to their health etc have been enacted. The Suppression of Immoral Traffic in Women and Girls Act 1986 punishes prostitution and Indecent Representation of Women (Prohibition) Act 1986 advertisements and publications containing, indecent representation derogatory to dignity of women is made punishable offence.¹²

In India the Constitution and the various legislative measures¹³ have abolished inequality and atrocities against women yet women continue to suffer injustice. It is the judiciary which has provided crutches to women, in their long march towards a woman's paradise where they may enjoy equality, justice and dignity free from male chauvinism and paternalistic romanticism. However, gender discrimination is a universal phenomenon despite philosopher's philosophies such as Rousseau, Immanuel Kant, Radbruch, Gandhi and Martin Luther King. Discrimination against women existed¹⁴ and shall exist in American society despite power women-lib-movements, due process of law and equal protection of law under 14th Amendment.¹⁵

Conclusion

It is evident from various judgments wherein we find a young widow was burnt on her husband's funeral pyre,¹⁶ or a young bride¹⁷ was burnt to death for dowry or death of a girl child in police custody¹⁸ or violence against women by way of rape¹⁹ etc. Perhaps the National Commission for Women and the National Human Rights Commission armed with necessary legal and constitutional provisions have not been successful in bringing about a qualitative change in the paradigms of justice for women. This is also evident from the observations of Justice Saghir Ahmad when he remarks:²⁰ 'Unfortunately, a women, in our country, belongs to a class or group of society who are in a disadvantageous position on account of several social barriers and impediments and have, therefore, been the victim of tyranny at the hands of men with whom they, fortunately, under the Constitution enjoy equal rights.'²¹

The only answer against the predicament of gender discrimination is 'Education'. Education is the only weapon that can help to break the pattern of gender discrimination and bring lasting change for women, which in turn shall make their life more meaningful. It is only through education that gender bias can be removed. The longer stay in school shall help her to pursue higher education and will help to earn livelihood. This shall prevent child marriages, and more number of children's. Education girl shall make her children also to go to school. In long run it shall provide comprehensive change in the society. Through education, women shall have good status in society, which in turn shall translate into power to influence society as a whole. To defend against the evil of sexual abuse women needs authority and it is through knowledge one gains authority.

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¹Antrobus and Bisot, 1993)

²See, What is Gender Discrimination, available at <http://www.wisegeek.com/what-is-gender-discrimination.htm>, accessed on 1/10/12

³ Ibid

⁴See, Gender Discrimination, available at, <http://childreninneed.org/magazine/gender.html>, accessed on 3/10/12

⁵Ibid 4

⁶Ibid 5

⁷Ibid 6

⁸AIR 1981 SC 1829

⁹See, Women and Human Rights, edited by Reicha Tanwar, Nirmal Book Agency

¹⁰University of Madras v Shantabai, AIR 1952 Mad. 67; Anjali Ray v. State of West Bangal, AIR 1952 Cal 9825; Dattatraya Motiram v. State of Bomaby AIR 1953 Bom. 842; Boney Bhusan Chakravarty v. Gobind Chandra Sharma, AIR 1955 NUC 1780; C B Muthamma v. UIO, AIR 1979 SC 1868; Neera Mathur v. LIC, AIR 1992 SC 392; Utrakahand Mahila Parisad v. UP, AIR 1992 SC 1635

¹¹See, Jurisprudence and Fundamentals, by Dr S N Dhyani, Central Law Agency

¹²Hindu Marriage Act 1955; Hindu Succession Act 1956; Hindu Adoption and Maintenance Act 1956; Hindu Minority and Guardianship Act 1956; Dowry Prohibition Act 1961; Hindu Minority and Guardianship Act 1956; Dowry Prohibition Act 1961; Indecent Representation of Women (Prohibition) Act 1986; Commission of Sati (Prevention) Act 1987; Criminal (Amendment) Act 1983; The Minimum Wages Act 1948; Factories Act 1948; Maternity Benefit Act 1961; The Mines Act 1990; Equal Remuneration Act 1974; and the National Commission for Women Act 1990

¹³Valsamma Paul v. Cochin University AIR 1996 SC 1011 at 1020-21.

¹⁴Kelly, Alferd H, Harbison; The American Constitution-Its origin Development 715 (ed 6th Tata McGrowhill, New Delhi 1986)

¹⁵Ibid 12

¹⁶Burning of Roop Kanwar (Rajasthan) Indian Express Oct. 13, 1996

¹⁷Paniben v. State of Gujarat, AIR 1992 SC 1817

¹⁸Womens Resource Centre v. Commissioner of Police, AIR 1990 SC 513

¹⁹State of Maharashtra v. Narayan Mardikon, AIR 1991 SC 207; Delhi Domestic Working Womens Forum v. Union of India 1995 SCC 14; Bodhisatta Gautam v. Subhra Chakraborty, AIR 1996 SC 922; Ranvir Singh v. State of Madhya Pradesh 1996

²⁰Bodhisatta Gautam v. Subhra Chakraborty, AIR 1996 SC 922

²¹Ibid 12

Copyright Law Protection for Fashion Design - Interfaces Between Copyright Act 1957 and Design Act 2000: An Appraisal

Shikha Chantia* & Dr. Anoop Kumar Singh**

Abstract

The fashion industry is a global industry, generating trillion in revenue. Consequently, the question of whether—and to what extent—fashion designers can protect their works under the intellectual property laws of their country is hotly debated. In India fashion designers can protect their creations under the Indian Copyright Act of 1957 and the Designs Act of 2000. India presently affords very limited copyright protection to fashion designs under its Intellectual Property Right Law Regime because designs must pass a stringent “separability” test to distinguish elements that can be copyrighted from elements that are utilitarian in their function. Present paper makes an analysis of the present law for the protection of fashion design and argues that, to attract new talent and to keep its fashion industry booming, India should strengthen its protection for designers' original works.

“Fashion is not about looking back. It's always about looking forward.”

-Ms. Anna Wintour

Introduction

The global fashion industry includes apparel, accessories, and luxury goods, and has a market value of trillion. Almost two-thirds of the industry's revenue comes from the Asia-Pacific region. Copyright is a form of intellectual property protection granted under Indian law to the creators of original works of authorship such as literary works (including computer programs, tables and compilations including computer databases which may be expressed in words, codes, schemes or in any other form, including a machine readable medium), dramatic, musical and artistic works, cinematographic films and sound recordings. Fashion is an emerging business in India, clothing manufacturing has been one of the nation's major industries for a number of years. Fabric and textiles represent about one third of the country's exports. However, these exports are “largely lower-end products for big Western retailers.” The exportation of textiles consequently employs a large portion of India's population of 1.2 billion people. While textile exports account for a large portion of business in India, fashion design is still a relatively small fraction of the country's economy. Overseas retail buyers are attracted to the unique textiles and exceptional fabric colours that India manufactures, and young Indian designers have the potential to be the future of India's emerging fashion industry. Many believe that the blending of Indian craftsmanship and Western silhouettes will create a huge opportunity for Indian designers to become worldwide fashion leaders in the future. However, globalization could create complications in determining the intellectual property rights of the designers. India's law is already prepared for the emergence of this new fashion industry.

The fashion industry is primarily based on creativity, but in general, creative derivation is an accepted premise of fashion. Ideas arise, evolve through collaboration, gain currency

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through exposure, mutate in new directions and diffuse through imitation. The constant borrowing, repurposing and transformation of prior works are all integral elements of creativity in fashion.

Creativity is considered to be fundamental in nature and impossible to own outright as a property. Creativity is too expansive and changeable for it to be owned as a legal entitlement. Designs are not standard outputs, but one-offs, yielding unique works which are strictly bound up with individual talent. In the 1960s the French designer Yves Saint Laurent (YSL) presented a collection called “Mondrian”, openly drawing inspiration from the famous Dutch painter's works. This raised many questions with respect to IP rights. The main issue was whether Mondrian's paintings were a part of common heritage and were therefore free to be used as a source of inspiration. If not, where was the overlap between Mondrian's creativity and YSL's creativity? The way that creativity is characterized makes it difficult to define, entitle, legitimize, enforce, evaluate and exchange Intellectual Property Rights.

In 1994 YSL famously sued Ralph Lauren in Paris for the “point-by-point” copying of a YSL dress design. YSL's successful lawsuit is in many ways the exception that proves the rule that fashion designs are “free as the air to common use”. According to YSL: “It is one thing to take inspiration from another designer, but it is quite another to steal a model point by point, as Ralph Lauren has done.”

The modicum of creativity seems to influence the fashion industry. The introduction of an element of creativity in establishing originality for copyright protection may raise concerns about the basic concept of creative derivation upon which the fashion industry operates. The issue lies in deciding the point at which the creativity of opposing parties is determined as sharing common characteristics. The Indian perspective on the protection of Intellectual Property Rights is still at a nascent stage, with few precedents available.

“The aim of art is to represent not the outward appearance of things, but their inward significance”. Textile Designs are also considered as a form of art which is an inception of mind and soul of an Artist. When an artisan spends enormous amount of time and energy in putting a design into an outfit in the textile industry, it is the duty of the owner of such precious works to protect his right legally so that no one can copy and take a readymade benefit for such work. An Artistic work connected to textile design can be protected under the Copyright Act, 1957 and the Designs Act, 2000.

Current Legal Protection Available to Designers in India

The two legal instruments in India's current legal doctrine that fashion designers can use for protection are the **Indian Copyright Act of 1957** and the **Designs Act of 2000**. The Indian Copyright Act of 1957 affords comprehensive protection to musical, dramatic, literary, and artistic works. The definition of “artistic work” includes drawings, which also accommodates drawings of fashion apparel. The accommodation of drawings of fashion apparel into the definition of “artistic work” came in 2008, when the Delhi High Court held that garments and accessories as well as printed patterns and embroidery on the fabric are “artistic works” protected under section 2(c)(i) of the Indian Copyright Act of 1957. Under the Indian Copyright Act, a copyright exists for the lifetime of the copyright holder and for sixty years after the holder's death. The author or creator of the work is the first owner of the copyright in a work. The owner of a copyright may also assign the copyright to any person, either in whole or in part.

In India, a copyright comes into existence as soon as a work is created. Under Indian law, the

copyright owner may request a certificate of registration. A derivative work is referred to as an “adaptation” and is protected under the Copyright Act. Only a creator of copyrighted work, however, has the exclusive right to prepare an adaptation of the original work. The other legal instrument Indian designers look to for copyright protection is the Designs Act of 2000. The Designs Act protects the non functional aspects of a design including the shape, pattern, composition of line, and colour and ornament. To receive protection under the Designs Act, a designer has to register the design with the Controller General. Once a government examiner approves a design, the owner of the design has a copyright in the design for ten years after the date of registration. The design owner has a right of action against any person who sells, imports for the purpose of sale, or publishes “the design or any fraudulent or obvious imitation thereof.” A successful suit may entitle a designer to monetary damages and injunction. India affords intellectual property protection to fashion designers through its domestic copyright laws, while other countries lack similar protection for the business of fashion.

India's Copyright Act of 1957 and its Designs Act of 2000 protect the new designer's line of dresses, including the sketches of the dress and the cut of the garment Certain aspects of the hypothetical designer's line of dresses are protected under the Indian Copyright Act of 1957 and the Designs Act of 2000. These two legal instruments provide protection for the designer's garment sketches, pattern of the garment, and the garment's overall appearance. Fashion designers in India have frequently turned to the Indian Copyright Act for protection. The Indian Copyright Act of 1957 and its amendments protect literary, dramatic, musical, and artistic works. Artistic works include “drawing[s] (including a diagram, map, chart or plan)” as well as “any other work of artistic craftsmanship.” Under this definition, the dress designer can start copyrighting her creation at the beginning stages of design creation. Many designers sketch their ideas to help them envision their work. If the designer starts his/her design career in India, he/she can protect his/her dress sketches under the Indian Copyright Act, because the sketches fit within the definition of “drawings.” Under the Indian Copyright Act, a copyright exists for the lifetime of the copyright holder and for sixty years after the holder's death. Indian law allows a copyright to come into existence as soon as a work is created, and acquisition of the copyright is automatic. However, during a copyright infringement suit, an Indian court treats a certificate of registration as prima facie evidence that a party owns the copyright. Consequently, the hypothetical designer's dress line is ready to receive copyright protection as soon as the dress sketches are in existence. A derivative work is a work that clearly borrows from a copyrighted work and is referred to as an “adaptation” under Indian law. The Copyright Act states that a creator of copyrighted work has the exclusive right to prepare derivative works based on the original work. This means that our designer is the exclusive rights holder and receives protection under copyright law, which enables him/her to bring an infringement claim against any work that recognizably, or substantially, copies her line of dresses. However, a copyright is assignable under Indian law. The designer may also assign her copyright over to a national retailer. If the designer assigns the copyright over to the retailer, she must specify the specific work, the rights assigned, the duration, and the territorial extent of the assignment. This allows the designer to control when and where her design may be sold and to what extent her design may be changed. Once the garment is in three-dimensional form, the shape and the ornaments of the designer's dress can be protected under the Indian Designs Act of 2000. **Under the Designs Act, a design's “shape, configuration, pattern, ornament or composition of lines or colours applied to any article”** is protected as long as it is original. This means that the designer's three-dimensional line-by-line design of the dresses could be protected. However, unlike the

Indian Copyright Act where a copyright exists at the mere start of the artwork, the Indian Designs Act requires a person to register the design with the Controller General of Patents, Designs and Trade Marks. It should be noted that the designer's sketch would not be afforded protection under the Designs Act because artistic works as defined under the Indian Copyright Act are excluded from protection under the Designs Act. Nonetheless, there are limitations to which designs may be afforded protection. A design that is not new or original, meaning a design that is not wholly unique is not protected. Perhaps the most important limitation on registering a certain design is the prohibition on registering a design that has been disclosed to the public anywhere in India, or in any other country, prior to the filing date. This limits our designer severely because if he/she does not register his/her new design before disclosing his/her dress line, he/she will be prohibited from registering his/her line and will thus lose protection for his/her new creations.

Interfaces between Copyright Act 1957 and Design Act 2000

The decision in *Rajesh Masrani v Tahiliani Design Pvt Ltd* 2009 (39) PTC 21 (Del) is a Division Bench decision which will have significant impact on fashion industry. The defendant in this case appealed against the decision of the learned single judge restraining them from reproducing, printing, publishing and distributing, selling and offering for sale prints in any form whatsoever that are colorable imitation or substantial reproduction of the plaintiffs fabric prints including underlying drawings, sketches.

The facts of the case are:

The plaintiff (respondent in this appeal) *M/s Tahiliani Design Pvt Ltd* is a private limited company under the creative leadership of Mr Tarun Tahilliani. It claims to have a major presence in fashion industry in India enjoying global reputation with over 80 outlets in 20 countries. He was the first Indian to showcase his work at the prestigious Milan Fashion Week and has won several prestigious awards.

The plaintiffs claimed that the drawings which are made in the course of developing garments and accessories are artistic works within the meaning of the artistic works under Section 2(1) of the Copyright Act, 1957. The patterns that are printed or embroidered on the garment are also artistic work in their own right and are developed by the plaintiff. The garments or accessories are works of artistic craftsmanship. The plaintiff does its creative work on computers and claims to be the author under Section 2(d)(vi) of the Copyright Act. The plaintiff also claimed to be the first owner of copyright of all products of the company under Section 17(c) of the Copyright Act.

The plaintiff alleged infringement of copyright by defendant on the ground that there is colorable imitation or substantial reproduction of the plaintiff's fabric prints including underlying drawings or sketches, The learned single judge had given an *ex parte ad interim* injunction against which this order has been filed.

The defendant contended that the plaintiff is not registered under the Designs Act, 2000, which is mandatory for seeking protection under it, forfeiting its right to claim protection under the Designs Act. The plaintiff is also not the registered owner of copyright and hence cannot claim protection under Copyright Act, 1957. They also claimed that the textile design is not covered The plaintiff is claiming copyright protection of a work which is actually a design which comes under the purview of Designs Act, 2000 and since the works are not registered under the Designs Act, the plaintiff is not entitled to protection under that Act.

The plaintiff responded that the prints, which are the subject matter of the present suit, belong to the couture line and not more than twenty or possibly fewer copies are made of any single costume. Artistic work is distinct from design and remains artistic work *per se* distinct from the garment to which it is applied and, therefore, is covered under the exclusion contained in Section 2(d) of the Designs Act, 2000. In order to get protection under the Copyright Act, there is no condition that copyright must be registered under the Copyright Act, 1957. In case the subject matter of the product is covered within the definition of Section 2 of the Copyright Act which is original artistic work, the case for infringement of copyright is made out within the meaning of Sections 13 and 14 of the Copyright Act.

The Court summarized main controversies involved in the case as below:

Whether the

- (a) pattern made by the plaintiff on the fabric is design or artistic work;
- (b) product in question is the subject matter of artistic work within the meaning of Copyright Act, 1957 as alleged by the plaintiff;
- (c) copyright subsists in the plaintiff's agreements in view of Section 15 of the Copyright Act, 1957;
- (d) registration of the work under the Copyright Act is compulsory or registration is not a condition precedent for maintaining the suit for infringement of copyright.

To analyse the contention of the parties, the Court dealt with the provisions of the Copyright Act, 1957, Designs Act, 1911 and Designs Act, 2000. Section 15 of the Copyright Act, 1957 which is relevant in the present case deals with the special provision regarding copyright in designs registered or capable of being registered under the Designs Act, 1911. As per this section, copyright shall not subsist in any design which is registered under the Designs Act, 1911 or which is capable of being registered under the Designs Act, but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.

It is the admitted case of the parties that plaintiff is not holding any registration under the Designs Act, it is clear that Section 15(1) as referred above is not applicable in the facts and circumstances of the present case. Section 15(2) of the Copyright Act is applicable to copyright in any design capable of being registered under Designs Act, 1911 but has not been registered and copyright in the said design ceases to exist as soon as any article to which the design has been applied has been reproduced more than 50 times by an industrial process.

In the present case, as per the averments made by the plaintiff, not more than 20 pieces of any single costumes have not been produced by the plaintiff due to the fact that the said costume are exclusive and element of this mode of business is very limited and only handful copies are made by the plaintiff. In view of this fact which could not be controverted by the defendant, it appears that the subject matter of the work in dispute does not cease to subsist by Section 15(2) of the Copyright Act, 1957.

The next question the Court addressed was whether the work in question is covered within the meaning of Section 2(c) of the Copyright Act or whether it is a design, or capable of being a design, within the meaning of Designs Act, 2000. To deal with this issue, the Court referred to certain definitions in Designs Act and Copyright Act.

Section 2(1)(5) of Designs Act, 1911 define designs as: Design means only features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trademark as defined in clause (v) of sub Section (1) of Section 2 of the Trade and Merchandise Marks Act, 1958 or property mark as defined in Section 479 of the Indian Penal Code.

Section 2(d) of the Designs Act, 2000 reads: design means only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by an industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trademark as defined in clause (v) of sub-Section (1) of Section 2 of the Trade and Merchandise Marks Act, 1958 or property mark as defined in Section 479 of the Indian Penal Code or any artistic work as defined in clause (c) of Section 2 of the Copyright Act, 1957.

The Court noted that the definition of designs under the Designs Act, 2000 is different from the definition in the 1911 Act. Section 2(d) of the Designs Act, 2000 does not include any artistic work as defined in clause (c) of Section 2 of the Copyright Act. It is clear from the meaning of the design under the Designs Act, 2000 that the artistic work as defined in Section 2(c) of the Copyright Act, 1957 is excluded. Hence, the Court concluded that if any party is able to bring his case within the framework of Section 2(c) of the copyright Act, 1957 while claiming a copyright, then the suit for infringement of copyright is maintainable.

The Court reproduced Section 2(c) of the Copyright Act:

Artistic work means:

- (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;
- (ii) a work of architecture; and
- (iii) any other work of artistic craftsmanship.

The Court then compared the mode of creation and execution of the artwork on a finished garment. The steps involved are:

- (a) First the pattern is created on the computer by Mr Tarun Tahiliani and/or other designers employed by the plaintiff. This stage continues till the finalization of the pattern to make it print-worthy.
- (b) Secondly, the print is sent for swatching i.e. preliminary printing in actual size.
- (c) The third stage commences with the evaluation of swatches. If the results are not satisfactory, changes are made which are tested on further swatches. The team then freezes the final, satisfactory outcome, and a master file is generated.
- (d) Fourthly, after further processing, samples are made for the purpose of showing to buyers. It is on the basis of these samples that orders are taken.

- (e) The fifth stage involves making of production files, which are sent on DVD to the production department which in turn sends them to a specialized printer.
- (f) In the sixth stage, the specialized printer reproduces the final print on the fabric.

The Court concluded that the plaintiffs work is an original artistic work entitled for protection under Section 2(c) of Copyright Act. Since the work is not an artistic work which is not covered under Section 2(d) of the Designs Act, 2000, it is not capable of being registered under the Designs Act and Provisions of Section 15 (2) of Copyright Act is not applicable.

On the plea that the artistic work are not registered under the copyright act and hence are not entitled for protection, the Court observed that it is settled law that registration of the work is not compulsory and is not a condition precedent for maintaining a suit for damages for infringement of copyright. Registration of such right under Section 44 of the Act is not a condition precedent for availing the remedy, such as suing for an injunction restraining infringement of the right, damages and for accounting. Provision for registration under Section 44 is not mandatory but only intended to provide for *prima facie* proof of the particulars regarding right as stated in Section 48. It was therefore held that the plea of plaintiff that to claim protection under Copyright Act, registration is compulsory is, therefore, untenable.

This case is important for Indian fashion industry as it clearly lays out the interfaces between Design Act 2000 and Copyright Act 1957. The provision of Section 15(2) used to be an area where copyright protection used to be forfeited by many designs. But this decision shows that in the cases of real fashion designers who make exclusive lines, where reproduction is limited, copyright law acts as a powerful tool of protection.

Conclusion

The Designs Act and Copyright Act provide an umbrella for the protection of artistic conceptions. One can design and create, and build the most wonderful designs in the world. But it takes intellectual property rights to enlarge its monopoly and prevent it from plagiarism.

A designer an Artist knows he has achieved perfection not when there is nothing left to add, but when there is nothing left to take away and Industrial Design Act ensures that your inceptions of your soul and intellect are not plagiarized. When an artisan seeks exclusive protection for his work then he should register it under the Design Act, 2000. But the criteria to register a work under the Design Act, 2000 is that your work must be new without any prior publication and the novelty of the artist must be reflect from the design to get its registration. In case an employee is attached to the creation of a design during his course of employment, the employer can only apply for the registration of such design. When the reproduction of an original artistic work is conducted by employing an industrial process, which resulted in a finished article and possessed appeal to the eye then the industrial process constitutes a "design", within the purview of the Designs Act. Original artistic work falls under original artistic work but its derivatives falls under the purview of Designs.

The fashion industry is at a pivotal point in its history. It has become a trillion dollar industry that employs a significant portion of citizens and is vital to the world economy. Designers play a major role in the fashion industry by constantly innovating new designs to help the business of fashion maintain its share of the world economy. India should abandon its

precedent of not protecting fashion designs and afford intellectual property protection to these critical players so that it can keep, and even expand, its current market share.

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“Until justice rolls down like water and righteousness like a mighty stream.”

- Martin Luther King Jr.

Nature of Human Rights Violation of Women in India: Critical Appraisal

Dr. K. K. Bajpai* & Dr. Vivek**

Abstract

Though the constitution has provided equality of both the sexes man and women but biological condition of the female and developed sense of subordination demand extra protection for them. The exalted status of Indian women in ancient days suffered a setback in the medieval period. Social economic and political factors played a major role in their suppression. Social inhibitions and discriminatory practices against them continue to exist even today. The weak law enforcement and gender insensitivity of the various functionaries fail to check the growing violence against women. At the same time, the extremely poor levels of awareness amongst women themselves on their rights also perpetuate violence against them. Paper concludes with the suggestion that women themselves need to be made aware of the special legislations that are available for their protection and rights. For this purpose, awareness generation and dissemination of information on a sustained basis will need to taken up with special modules based on the region and group targets.

"Woman does not possess the image of God in herself but only when taken together with the male who is her head, so that the whole substance is one image. But when she is assigned the role as helpmate, a function that pertains to her alone, then she is not the image of God. But as far as the man is concerned, he is by himself alone the image of God just as fully and completely as when he and the woman are joined together into one."

-Augustine

Women human rights defenders put themselves on the front line in the promotion and protection of human rights. In doing so, they face risks that are specific to their gender and additional to those faced by men. Frequently, the violence or threat against them is sexual in nature, or they face restrictions in their work on account of their gender. Furthermore, prejudice, exclusion and public repudiation by both state forces and social actors weigh heavily in their lives. Harassment and attacks against them may themselves take gender specific forms ranging from verbal abuse directed exclusively at women because of their gender, sexuality or gender identity to sexual harassment and rape. Indian civil society organizations have long called for laws on sexual assault to be reformed. Indian law does not recognize the offense of marital rape. It is especially difficult to prosecute members of the security forces implicated in sexual assault and other human rights violations. The Armed Forces Special Powers Act provides effective immunity to members of the armed forces who are accused of sexual assault and other abuses. Section 197 of the Criminal Procedure Code provides effective immunity to police and other security forces by making it mandatory for a prosecutor to obtain permission from the government to initiate criminal proceedings against public servants. Domestic violence is most common of our society. One of the reasons for it being so prevalent is the orthodox and idiotic mindset of the society that women are physically and emotionally weaker than the males. Though women today have proved themselves in almost every field of life affirming that they are no less than men, the reports of

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violence against them are much larger in number than against men. The possible reasons are many and are diversified over the length and breadth of the country. According to United Nation Population fund Report, around two-third of married Indian women are victims of domestic violence and as many as 70% of married women in India between the age of 15 and 49 are victims of beating, rape or forced sex. In India, more than 55% of the women suffer from domestic violence, especially in the state of Bihar, U.P., M.P. and other northern state.¹

Considering the role played by women that of a mother, a wife and a daughter, they deserve to be treated as partners and not viewed as competitors. The Constitution of India, under Article 14, 15, and 16, might have guaranteed women equality before law, protection and opportunity to work without discrimination on the grounds of religion, caste, creed, and sex. This cannot happen if both men and women are reluctant to change their attitudes. Women have proved, time and again, that they are in no way inferior to men in all walks of life. The male dominated society is not yet ready to accept it. Women just need the necessary support and encouragement of the family and the society. Historically, women have been playing a paramount role in the socio-economic development of any country across the World. The high status that women enjoyed during the Vedic period gradually started deteriorating in the late Vedic period. The daughter was not greeted as was the son. The birth of a girl child, even today, is considered as an ill omen and the news papers are promptly reporting the killing of female infants. Even though women did challenge the world view of their periods, their immense contributions have not been recognized.² "Equal pay for equal work for both man and woman" has been accepted as a 'constitutional goal' capable of being achieved through constitutional remedies. Article 39 (d) of the constitution proclaims "equal pay for equal work". This Article and other like provisions in the Directive Principles of State Policy are "conscience of our Constitution". They are rooted in social justice. They were intended to bring about a socio-economic transformation in our society."

The exalted status of Indian women in ancient days suffered a setback in the medieval period. Social economic and political factors played a major role in their suppression. Social inhibitions and discriminatory practices against them continued to exist during 'enlightened' and 'civilized' imperial rule. The leadership of independent movement was, however, committed to accord an equal status to women and give them a place of honour, and dignity in the society. Accordingly the constitution - the fundamental law- as emerged out of the constituent assembly, treated both men and women equally and also provided for protective discrimination for women in view of their peculiar position in the human society. Though the constitution has provided equality of both the sexes man and women but biological condition of the female and developed sense of subordination demand extra protection for them. The reason is that "women's physical structure and the performance of certain functions place her at a disadvantage in the struggle for subsistence and her physical well-being becomes an object of public interest and care in order to preserve the strength and vigour of the race. Thus the law and justice demands additional privileges and safeguards for maintaining proper socio-legal status of women in the society."³

The process of women's emancipation has gradually shifted the boundary between the two worlds. Not only have women gone out to work and study, but progress with human rights has led to standards and institutions concerning themselves with the private sphere so that they now regulate conjugal life, birth rates, gender violence and innumerable other aspects that have brought the rights principle into the heart of the family. Similarly, changing family structures —the shift from the extended to the nuclear and one-parent family— have altered economic and political arrangements and affected the organization of labour. Changes in

women's aspirations, as they increasingly seek greater economic, physical and political autonomy, need to be treated by policymakers as a genuine long-term shift since, for all the discrimination in the labour market, the region's women show no sign of wishing to go back to their traditional roles. The main concern of governments has been to change the way the market (including the labour market) functions and to find ways of promoting productive development and growth. In this context, unpaid female work has received no consideration other than a bare acknowledgement of its existence as a factor associated with an instinct for altruism or care. According to the data available, women in the labour market have mainly gone into care-related activities such as paid domestic work, which employed an average of 13.5% of women in urban areas and 10.7% in rural areas of the region around 2005 (ECLAC, 2007), followed by health services, education and, to a lesser extent, productive activities.⁴

The Constitution of India being the paramount law of the country, has declared fundamental rights e.g. Right to Equality and mandated the State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Though the Constitution has provided equality of both the sexes, biological inferiority of the female and developed sense of subordination demand extra protection for women. The reason is that "Women's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence and her physical well-being becomes an object of public interest and care in order to preserve the strength and vigor of the race."⁵ Thus justice demands additional privileges for maintaining proper socio-legal status 'of women to give dignity in the society. 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 favours of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women.⁶

Randhir Singh Vs. Union of India,⁷ The S.C. held that the principles of equal pay for equal work, is not expressly declared by our constitution to be a fundamental right but it certainly is a constitutional Goal which must colour the interpretation of Art. 14 and 16 so as to elevated to the rank of fundamental rights, denial of which must result in an 'irrational classification'.

Bhagawandas Vs State of Haryana,⁸ the view of the Supreme Court was that, (i) persons doing similar work cannot be denied equal pay on the ground that mode of recruitment was different: and (ii) a temporary or casual employee performing the same or similar duties and functions is! entitled to the same pay as that of a regular or permanent employee. Keeping in line with the combined spirit of juridical equality plus protective legislation for women, and ideal set forth in Art. 14 plus Art. 15 (3), are the other secular laws applicable to all citizens, enacted for eradicating various social evils working against women in general. There is a long list of such benefit provisions in various social reform legislations and penal enactments which confer special rights on women discriminating them favourably against men folk. These are meant for protecting the fair sex from social, economic, physical exploitation which is the demand of the day in our present custom bound transitional society. An analysis of such legal measures in social reform and penal laws, All Indian Women are the beneficiaries under the provisions.

1. Child Marriage Restraint Act, 1929; This Act prescribes punishment for contracting child marriages makes an exemption that no women can be punished under this Act.

2. Section 497 I.P.C.: Under section 497 of the I.P.C. a man having sexual intercourse with a married woman without the consent or connivance of her husband is guilty of the offence of adultery and, therefore, punishable in such cases, however, the woman is not punishable as an abettor. Special treatment for women was justified on the basis of constitutional protection under Article 15 (3) of the constitution.⁹

Coralie Mullin Vs. Union Territory Delhi,¹⁰ Administrator, and the Supreme Court stated, any act which damages or injures or interferes with the use of any limb or faculty of a person, either permanently or even temporarily, would be within the inhibition of Article 21. This right is incorporated in the Act through the definition of physical abuse, which constitutes domestic violence (and is hence punishable under the Act). Physical abuse is said to consist of acts or conduct of such nature that they cause bodily pain, harm, or danger to life, limb or health, or impair the health or development of the aggrieved person. Apart from this, the Act also includes similar acts of physical violence and certain acts of physical violence as envisaged in the Indian Penal Code within the definition of domestic violence. By adoption of such an expansive definition, the Act protects the right of women against violence.

Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan,¹¹ the Supreme Court emphasized the fact that the right to life included in its ambit the right to live with human dignity, basing its opinion on a host of cases that had been decided in favour of this proposition. The right to dignity would include the right against being subjected to humiliating sexual acts. It would also include the right against being insulted. These two facets of the right to life find mention under the definitions of sexual abuse and emotional abuse, respectively. A praiseworthy aspect of the legislation is the very conception of emotional abuse as a form of domestic violence. The recognition of sexual abuse of the wife by the husband as a form of violation to the person is creditable, especially as such sexual abuse is not recognized by the IPC as an offence. These acts would fall within the confines of domestic violence as envisaged by the Act, though the definition would not be limited to it.

Pannalal Pitti Vs. State of A.P.¹² This case dealt with validity of provisions of A.P. Charitable Hindu Religious and Endowments Act, 1987 and the argument was that laws should be made which are uniformly applicable to all religious or charitable endowments run by persons professing all religions. It was in this context that the Supreme Court observed that in a pluralistic society like ours making uniform laws cutting across religions could only be achieved in a phased manner and it was inappropriate to think "all laws have to be made uniformly applicable to all people in one go." **Madhu Kishwar Vs. State of Bihar.**¹³ Certain provisions of Chotanagpur Tenancy Act, 1908 were challenged as being discriminatory towards women. While Court in this case refused to declare tribal customs en masse offending fundamental rights it kept the doors of such challenge open by holding, "...under the circumstances it is not desirable to declare the customs of tribal inhabitants as offending Articles 14, 15 and 21 of the Constitution and each case must be examined when full facts are placed before the court." In this case, the Court went into the Constitutionality of the law and read down the provisions so as to bring them in line with women's' right to livelihood under Article 21 of the Constitution.

The Delhi Case¹⁴

The recent gang rape and death of a young student in Delhi has raised the discussion on the question of sentencing and punishment yet again. The first set of questions had to do with the nature and quantum of punishment. Treading this issue with care, the committee enhances

the minimum sentence from seven years to 10 years, with imprisonment for life as the maximum. On the death penalty, the committee has adopted the abolitionist position, in keeping with international standards of human rights, and rejected castration as an option. The second question had to do with the reduction of age in respect of juveniles. Despite the involvement of a juvenile in this incident, women's groups and child rights groups were united in their view that the age must not be lowered, that the solution did not lie in locking them up young. Given the low rates of recidivism, the committee does not recommend the lowering of the age, recommending instead, comprehensive institutional reform in children's institutions.

The report contains comprehensive recommendations on amendments in existing criminal law, which cannot be detailed here except in spirit. The significance of the report lies, not so much in its immediate translation into law or its transformation of governance (although these are the most desirable and urgent), but in its pedagogic potential — as providing a new basis for the teaching and learning of the Constitution and criminal law and the centrality of gender to legal pedagogy.

Women in all cultures need to have their voices heard and their views of their cultures recognized and taken seriously. In this way, universal standards can be made truly universal by being defined in a way that encompasses all the members of society. When women choose, for example, to dress in a particular way that reflects their cultural and national heritage, while at the same time having complete and autonomous access to all aspects of their society, cultural differences are celebrated while fundamental rights are protected. Though a large number of women related legislation are in place, it is seen that the efficacy of these laws are not satisfactory primarily on account of poor implementation. A major reason for this is the lack of adequate knowledge regarding these special legislations and also absence of gender sensitivity on part of the functionaries such as law enforcement, police, prosecution, medical profession, judiciary etc. The eleventh plan needs to give a very high priority to training and capacity building of these stakeholders not only to educate them about the nuances of the laws but also to inculcate gender sensitivity in the system. The women themselves too need to be made aware of the special legislations that are available for their protection and rights. For this purpose, awareness generation and dissemination of information on a sustained basis will need to be taken up with special modules based on the region and group targets. The changing socio economic scenario and the phasing out of the joint family system along with poor community based protection systems are some of the reasons why women are becoming increasingly prone to violence and abuse. The weak law enforcement and gender insensitivity of the various functionaries fail to check the growing violence against women. At the same time, the extremely poor levels of awareness amongst women themselves on their rights also perpetuate violence against them. The lack of adequate rehabilitation and reintegration facilities is another crucial factor that finds victimized women further victimized or ostracized by the community. The media too does not reflect gender issues with sympathy and sensitivity; instead there is a tendency to glorify patriarchal traditions or to depict women as objects of sexual entertainment.

Notes & References

¹*Final Report BVO 1998 "Violence Against Women in Developing Countries" –ICRH (International Centre for Reproductive Health)- August 1999*

² S. Balasubramanyam “Problems and Concerns Status of Women in India” Mar 2012 SME WORLD Magazine.

³ Dr. C. L. Patel “Empowerment Of Women and Law” (2012) p. no. 52-551.

⁴ In Argentina, the health sector provides about 8% of all female employment and 65% of all health workers are women (Pautassi, 2006). In the productive sector, women make up the bulk of unpaid family workers. In Latin America, 18% of female workers in the agriculture and fishing sectors were unpaid in 2004, as compared to 5.5% of men (Rico and Marco, 2006).

⁵ Muller Vs. Oregon, 52 LEd.551.

⁶ mospi.nic.in/Mospi_New/upload/women_man_p.../Rights.doc

⁷ AIR 1982 SC 879.

⁸ AIR 1987 SC 2049

⁹ Yusuf Abdul Aziz Vs. State of Bombay AIR 1954 SC 321, also see Smt. Soumithri Vlshnu vs. Union of India (1985) 1 SCC 360.

¹⁰ (2006)1 SC 2010

¹¹ (2007) SCC 7735

¹² (1996) 2 SCC 498

¹³ (1996) 5 SCC 125

¹⁴ 16 December 2012

“Before God we are all equally wise - and equally foolish.”

- Albert Einstein

Tribe, Forest and Law: The Development Debate

Dr. Bir Pal Singh*

Abstract

Forests have been the major source of livelihood for human beings since time immemorial. So far the tribal people of India are concerned, they have developed a symbiotic relationship with the forest due to their close proximity with the forest as the natural habitation for these people. The tribal communities live in about 15% of the country's areas in various ecological and geo-climatic conditions ranging from plains, forests, hills and inaccessible areas. The collection and marketing of Minor Forest Produce have been a major source of livelihood for the most tribal families contributing around 70% of their total income. Forest can be better protected by the people living in the forest and depending for their survival on its natural wealth. However, once the deprivation of right to live in the forest started way back in 1865 when the first Imperial Forest Act was enacted and Imperial Forest Department was established. That continued even after the six decades of independence. It resulted into conflict and tension between the forest officials and forest dwellers especially the tribal people.

Introduction

The nature and man relationship is very old. Since the beginning of the human era, man made forests as his living life from which he not only fulfills his various needs related to his survival but also various social and religious obligations. Thus there exists a special relationship between tribals and biological resources in India. It is a known fact that forests are much enriched in biological resources. Most of the ancient civilization also flourished in forest or near the forest highlighting the deep rooted relationships between man and nature. Many of these biological resources existing in India have been recognized as hot spots of biodiversity by the apex authority of International Union for Conservation of Nature, a component of United Nations Organization.

The majority of tribal people are having their inhabitation in forests across the country. Justice G.S. Singhvi (Nature Lovers Movement v State of Kerala and Ors., decided 20.03.2009-SC) has noted the importance of forest in the life and living of the human beings. He says:

The Indian society has, for many centuries, been aware and conscious of the necessity of protecting environment and ecology. Sages and Saints of India lived in forests. Their preaching contained in Vedas, Upanishads, Smiritis, ect. are ample evidence of society's respect for plants, trees, earth, sky, air, water and every form of life. The main motto of social life is to live in harmony with nature. It was regarded as a sacred duty of every one to protect them. In those days, people worshiped trees, rivers and sea which were treated as belonging to all living creatures. The children were educated by elders of the society about the necessity of keeping the environment clean and protecting earth, rivers, sea, forests, trees, flora fauna and every species of life.

The National Commission on Agriculture (1976:25) observed that free supply of forest produce to the rural population and their rights and privileges have brought destruction to the

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forests and so it is necessary to reverse the process. The rural people have not contributed much towards the maintenance or regeneration of the forests. Commenting on the observation made by the National Commission on Agriculture Chaudhury (1997:236 quoted by Kulkarni 1988:14) notes:

The Commission speaks of the needs of the rural population, but does not appear to take into account the Adivasi's need of minor forest produce.....Surprisingly, the Commission does not consider the Adivasi's need for timber for houses, leaves for thatching roofs, fruits, flowers and roots which are used as food, or seeds which are collected from forests to extract edible oil... The emphasis of the Commission is on man-made forests, also called production forests.

Forests have always been a place for many social and religious practices for tribals in India. Most of the rituals and fairs take place in forests having the notion of deities related to particular plants and trees. Many of the totem clans among the different tribal communities are derived from plants and animals whom the concerned group always try to protect. Thus many of the species in nature are protected from random exploitation as the tribals traditionally protect them. (ibid, 1997:239). The forest and tribal people are alike the same as two aspects of the same coin. They are inseparable to each other. Roy Burman (1989) has noted that directly or indirectly in the tribal mind forest symbolizes life in its manifold manifestations, i.e. home, worship, food, employment, income and entire gamut. Tribals can, in fact, be regarded as children of the forest. With the passage of time, the tribal India witnessed many changes in its function, structure and societal standing.

The rapid processes of change in the name of industrialization, urbanization, liberalization and globalization have changed the total outlook of tribal people so far their core and unique cultural identities are concerned. The development measures adopted in the tribal areas have more deterioration than updating of tribal culture and resultant of which that lacs of tribal people, every year displaced in the name of development plans. The process of industrialization and protecting the forest in the name of eco-balance has adversely and mostly affected the tribal folks of the country. Nirad C. Chaudhuri (1965 quoted in Christoph, 1982:313-322) has aptly remarked:

In an industrialized India the destruction of the aboriginal's life is as inevitable as the submergence of the Egyptian temples caused by the dams of the Nile....As things are going there can be no grandeur in the primitive's end. It will not be even simple extinction, which is not the worst of human destinies. It is to be feared that the aboriginal's last act will be squalid, instead of being tragic. What will be seen with most regret will be, not his disappearance, but his enslavement and degradation.

The exploitation of tribal people had resulted in mass protest which took the shape of movements by different tribal groups in the country. The relation of tribal people with that of forest official has not been a fair affair. The tribal people provide all kind of necessary support to forest guards in the name of getting wood and grass. Singh (2007) has noted that the Tharu tribal of Kheri district of Uttar Pradesh provide labour to forest official in the form of *ugahi* which includes ghee, wheat and paddy from each Tharu family living near by Dudhwa National Park. Tribal women in particular face daily harassment by forest guards in the collection of minor forest produce. For example it was reported before the Joint Parliamentary Committee that in Orissa alone there are as many as 11,000 cases pending in

the courts against tribals for the “crime” of collecting forest produce, the value of which is less than 100 rupees. (Karat, 2008).

Development has caused displacement, increased poverty, damaged environment, destroyed traditional cultures, and threatened tribal life world. Paul Routledge (1999: 76) explains:

Capital-intensive schemes have displaced traditional and subsistence economies which are labor-intensive and Western values (of capitalist production, economic growth) have been emphasized at the expense of indigenous and traditional system of knowledge, economy and culture.... In the process, traditional subsistence economies and their associated cultures are destroyed; people face displacement from their homes and lands, lose access to their resources, and become economically marginalized.

The judicial activism has also far reaching and fruitful benefits in protecting the rights of the forest dwellers especially the tribals. In *Fatesang Gimsa Vasava v State of Gujarat* (AIR 1987 Guj 9) the Gujarat High Court ruled that Adivasis have right over the use of bamboo chips as it did not constitute a produce from nature and hence was not a violation of Indian Forest Act, 1927. The World Council of Indigenous Peoples (Quoted by Bhat, 2009 :424) that for a primarily agro based economy like tribes, land is an invaluable resource. Earth is provider of food, medicine, shelter, and clothing; it is the seat of the spirituality, the foundation of culture and language; it is the keeper of history, identity and memory of forefathers. The Apex Court in *Sri Manchegowda v State of Karnataka* (AIR 1984 SC 1151) and *Lingappa Pochanna Appelwar v State of Maharashtra* (AIR 1985 SC 389) ruled in favour of *adavasi* lands; in the former case it nullified private purchase of *adivasi* land and in the latter case upheld state legislation aimed at restoring lands to *adivasis*.

The *Samatha v State of A.P. and Others* (AIR 1997 SC 3297) is the famous case in this regard. Justice K. Ramaswamy observed in this case that 90 per cent of the Scheduled Tribes predominantly live in forest areas and intractable terrains; 95 per cent of them are below poverty line and totally depend upon agriculture or agriculture based activities; and some of them turn out as migrant construction labour due to their displacement from hearth and home for the so –called exploitation of minerals and construction of projects. A reply of the Indian Seattle chief to the white chief of Washington for his offer to buy the land of Red Indians in 1854 becomes more relevant here to understand the bonding of sons of the soil as quoted by Justice Chinnappa Reddy in *Sachindanand v State of W.B.* (AIR 1987 SC 1109).

...our dead never forget this beautiful earth. For it is the

Mother of the red man .We are part of the earth and it is a part of us. The perfumed flowers are our sister. The horse, the great Eagle these are our brothers....

You teach your children that the ground beneath their feet is the ashes of our grand father so that they will respect the Land .Tell your children that the earth is rich with the lives of our kin. Teach your children what we have taught our children.

That earth is our mother, whatever, befalls the sons of the earth. The earth does not belong to man: man belongs to earth. This we know: all things are connected like the blood which unites one family, all things are connected.

...man did not weave the web of life: he is merely a strand in It: whatever he does to the web he does to himself.”

Various measures have been adopted by the planners of country for the mainstreaming of tribal people beginning from the planning eras. Adequate funds have been allocated under various five year plans to run the proper administration of tribal people related to their development while at the same time every efforts must be taken to preserve their social and cultural rights by following the guidelines of Five Principles as given by the late prime minister Pt. J.L. Nehru. Development of forest villages having about 2.5 lakh tribal families was one of the thrust areas of tribal development during the 10th Five Year Plan. Accordingly, Planning Commission allocated Rs. 450.00 crore to the Ministry of Tribal Affairs in the 10th Five Year Plan for Development of Forest Villages at an average allocation of Rs. 15 lakh per village.

The Ministry of Tribal Affairs started the programme for Development of Forest Villages as an extension of the Special Central Assistance to Tribal Sub- Plan (SCA to TSP) and provision of Rs. 230.00 crore, Rs.220.00, Rs.150.00 crore and 150.00 respectively have been made in the Budget of 2005-06, 2006-07, 2007-08, and 2008-09 of the Ministry. Towards the end of Tenth Plan, a considered view was taken that the programme may be continued for a limited period during the XI Plan also, keeping in view the need for adequate developmental activities to be undertaken in these villages pending conversion into revenue villages. It was also decided that an additional funding upto Rs.15 lakh would be provided to all those forest villages that have availed the first phase funding during the X Plan. Proposals have accordingly been received from many States Governments for this also. During 2008-09, Committee meant for appraising the proposal strongly felt to continue this programme during XI Plan period also for bringing it to logical conclusion.

Demographic Profile

According to the 2001 Census, the population of Scheduled Tribes in the country is 8.43 crore, which is 8.2% of the total population of the country. Out of the total population in the country, 91.7 per cent were living in rural areas, whereas, only 8.3 per cent from the urban areas. The population of Scheduled Tribes has been on the increase since 1961. The decadal population growth between the Census Year 1981 to 1991 in respect of the tribal population has been higher (31.64%) than that of the entire population (23.51%). Similarly during census years 1991 to 2001 it has been 24.45% against the growth rate of 22.66% for the entire population.

The Scheduled Tribes population in the State of Karnataka has witnessed the highest growth rate of 80.82% followed by Nagaland (67.23%). The increased rate of population growth, in some cases, however, is as a result of addition of new communities to the Scheduled Tribes list. The lowest growth rate in respect of Scheduled Tribes population as per 2001 census was recorded in Andaman & Nicobar (10.08%) followed by Himachal Pradesh (12.02%). In Haryana, Punjab, Chandigarh, Delhi and Pondichery, no Scheduled Tribe is notified.

Constitutional Safeguards

After independence, the country adopted the uniform planning of the development with the recognition of priority areas and people especially the Scheduled Castes and Scheduled Tribes under the Constitution. Various rights have been given under the different provisions of the Constitution to these weaker sections of Indian society for their updation with the main stream of the nation. Recognizing the special needs of various weaker sections including Scheduled Tribes, the Constitution of India not only guarantees equality before the Law for all (Article 14), but also enjoins upon the State to make special provisions of affirmative

discrimination for the advancement of any socially and educationally backward classes in the area of education (Article 15(4)). It also empowers the State to make provisions for reservation in appointments or posts in favour of any backward class citizens which in the opinion of the State is not adequately represented in the services under the State (Article 16(4)). Further, it enjoins upon the State to promote with special care the educational and economic interests of the weaker sections of the people and, in particular the Scheduled Castes and the Scheduled Tribes and promises to protect them from social injustice and all forms of exploitation (Article 46).

For promoting the welfare of Scheduled Tribes and for raising the level of administration of the Scheduled Areas to that of the rest of the State (Article 244), and special financial assistance is ensured under the Constitution (Article 275 (1)). In a democratic country, the involvement of every section is more important in policy making and development planning so far the power of decision making is concerned. Thus the reservation of seats for the Scheduled Tribes in the House of the People and in the State Legislative Assemblies; educational institutions; and in services is another measure of positive discrimination in favour of one of these weaker sections of Indian society (Articles 330, 332, 335). Article 339 of the Constitution relates to control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes. It also empowers the State to appoint a Commission to investigate the conditions of the socially and educationally backward classes (Article 340) and to specify those Tribes or Tribal Communities be deemed to be as Scheduled Tribes (Article 342).

Further, the Fifth Schedule to the Constitution refers to the administration and control of the Scheduled Areas and the Scheduled Tribes in any State, other than the States of Assam, Meghalaya, Tripura and Mizoram by ensuring submission of Annual Reports by the Governors to the President of India regarding the Administration of the Scheduled Areas and setting up of Tribal Advisory Council to advise on such matter pertaining to the welfare and advancement of the Scheduled Tribes (Article 244(1)).

The Sixth Schedule to the Constitution refers to the administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram by designating certain tribal areas as Autonomous Districts and Autonomous Regions and also by constituting District Councils and Regional Councils (Article 244(2)). It enables Autonomous District Councils and Regional Councils to be constituted in those areas with a fair amount of legislative and executive powers.

To ensure effective participation of the tribals in the process of planning and decision making, the 73rd Amendment of the Constitution have been extended to the Scheduled Areas through the Panchayats (Extension to the Scheduled Areas) Act, 1996. This Act seeks to extend the provisions of Part IX of the Constitution as referred to in Clause (1) of Article 244 and calls for the Legislature of a State not to make any law under that Part (i.e. Part IX) which is inconsistent with any of the features given under Section-4 of the Act. Every Gram Sabha should be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of disputes resolution.

Legislative Journey of Forest Policy

It is the known fact that not only the tribals but general population of the country also sees the images of god and goddesses in nature. Forests have not only the economic importance for the tribal people but these also reflect the social and cultural importance. Many trees and

plants have religious importance related to customs and rituals of these people. The tribal villages coming under the forest areas are not enjoying the benefits as enjoyed by the tribal villages falling in revenue areas. Even the legislative journey of the law that is Forest Act, 2006 has many lessons to give. Before the advent of British in India, the tribal people enjoyed the total autonomy in utilizing the forest resources as their survival and life activities all were based on the forest.

The British realized the commercial value of forests and started imposing various kinds of restrictions over the people basically the tribals and other forest dwellers people for use of forest produce. The informal autonomy of the tribal people over the forest had been challenged by the enactment of certain formal laws restricting the access of the people based on forest livelihood. The first systematic effort by the British India was done in this regards by enacting the Forest Act 1865. Through this act, the government was given the power to declare any land covered with the trees as government forest.

The Forest Act 1878 aimed to further curtail the rights of the people with more stringent action by dividing the forest into three categories seeing the commercial use i.e. reserved forests, protected forests and village forests. The first official move towards the forest policy was taken in the year 1894 and major issues were:

- i) The sole object with which state forests are administered is public benefit in general the constitution and conservation of the forest involves the regulation of rights and the restriction of the privileges of the user in the forest by the neighbouring population.
- ii) Forests situated on hill-slopes should be maintained as protected forests to preserve the climate.
- iii) Forests which are reservoirs of valuable timber should be managed on commercial lines as a source of revenue to the states. (Quoted by Chaudhuri, 1997).

To give concrete teeth to forest policy and control over, the two other laws on forest i.e. Forest Act, 1878 and Forest Act, 1927 were enacted during the British India. Under the Forest Act, 1935, the subject of forest was included in the provincial list. The free India introduced a new National Forest Policy in 1952 with broad guidelines to protect the rights of forest dwellers in one hand but more to serve the economic purpose of the Governments. The National Forest Policy of 1988 stipulated that all agencies responsible for forest management should ensure that the tribal people are closely associated with the regeneration, plantations, development and harvesting of forests so as to provide them gainful employment. The salient features of this policy were the followings:

1. The holders of customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive benefits.
2. The rights and concessions from forests should primarily be for the bonafide use of the communities living within and around forest areas, specially the tribals.
3. Rights and concessions enjoyed by them should be fully protected. Their domestic requirement of fuel wood, fodder, minor forest produce and construction timber should be the first charge on forest produce. These and substitute materials should be made available through conveniently located depots at reasonable prices.

4. Having regard for the symbiotic relationship between the tribal people and forests, the primary task of all agencies responsible for forest management, including the Forest Development Corporation, should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to the people living in and around the forest, while paying special attention to the following:-
- i. Protection, regeneration and optimum collection of minor forest produce along with Institutional arrangements for the marketing of such produce;
 - ii. Development of forest villages on par with revenue villages;
 - iii. Family-oriented schemes for improving the status of tribal beneficiaries;
 - iv. Undertaking integrated area development programmes to meet the needs of the tribals' economy in and around the forest areas, including the provisions of alternative sources of domestic energy on a subsidized basis, to reduce pressure on existing forest areas.

However, the Steering Committee on Empowering the Scheduled Tribes (2002-2007) has observed that despite these special safeguards, tribals continue to struggle for mere survival as they face formidable problems such as possession of land/house with no rights; restrictions in the collection of minor forest produce; exploitation by middlemen; displacement from national parks and wild sanctuaries, lack of any development in forest villages etc. The meager situation of tribal people has been further highlighted by the Committee especially in case of tribal people who have been their inhabitation as the part of forest villages.

Development of Forest Villages inhabited by the tribal population has been a neglected area in the process of developmental planning. Although, the development of Forest Villages and the tribals living therein, has been identified as an area of priority but the same has never received any attention of the Government. At present, there are about 5000 Forest villages in the country which are under the control of the Forest Department. While Maharashtra, has the maximum number of 3500 forest villages and holds the credibility of converting all those into Revenue Villages, the two States of Madhya Pradesh and Chhattisgarh account for about 2000 Forest Villages. The rest of the States account for varying numbers, with the majority of the forest villages being concentrated in Orissa; Bihar; Jharkhand; Andhra Pradesh and Tamilnadu, besides some of the North Eastern States (Assam-524; Meghalaya-26; and Nagaland-1). Arunachal Pradesh, Manipur, Mizoram and Tripura States have also reported to have converted all their Forest Villages into Revenue Villages.

As the Forest Villages are located in the interiors of the forests and not being declared as revenue villages, the inhabitant of these villages who are around 2.50 lakh families are complete by deprived of even the basic minimum services that are otherwise made available to the people in the Revenue Villages. While the forest resource base on which village 112 inhabitants traditionally subsisted upon is fast eroding and adversely affecting the very survival of the tribals living therein, the alternative sources of income extended through the implementation of various Social Forestry activities by the Forest Department are also not ensured of through out the year. Mehta (1968:193) has vividly described:

The primary aims of the Forest Department seem to have overlooked the fact that human communities have lived in or near forests for innumerable centuries. Certain

human rights follow such historical association of man with his habitat. Legislation can not overlook history, and the natural rights of people, that were, for example, recognized by the Magna Carta when a feudal King in England was surrounded by simple and illiterate subjects, led by some intelligent leaders. The urban occupiers of houses are protected by the Rent Act against eviction but the Forest Law turned the original dwellers of forests into second class and almost helpless citizens.

Although, each family living in a forest village is allotted some land for cultivation, no tenancy rights are conferred on the tillers. Neither *Patta* is given to this effect nor can they enjoy any permanent right to cultivate the land. Jhum cycle depends upon the density of population of a particular area and availability of suitable hill slopes. As population increases, a vicious cycle stands. In Orissa, of late, with the increase in the pressure of population, the Jhum cycle which was about 10 to 22 years in Keonjhar district has reduced to 5 to 12 years now. In Koraput district, it was 8 to 12 years. It came down to 4 to 6 years in 1973. With further decrease of the period it stands at 2 to 5 years now. Similar is the trend found in other parts of India.

The Jhum cycle which was 30 to 40 years previously have shrunk to 1 to 17 years in Arunachal Pradesh, 4 to 5 years in Meghalaya, Mizoram and Tripura, 5 to 10 years in Assam hills, 6 to 8 years in Manipur and 6 to 15 years in Nagaland. The immediate consequences of rapid rise in population are extension of areas of Jhum cycle resulting in low productivity, out migration to some rich villages in search of jobs as hired labourers at low wage and indebtedness. There are 109 tribes in India alone who practice shifting cultivation. (Panda, 2006).

The inadequate implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, by non-transfer of control/ownership over the natural resources, including the Minor Forest Produce to the local communities and by non-extension of PESA Act to the entire scheduled areas, including forest areas, have further compounded their miseries. Although the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) gives the rights of ownership of MFP to the respective local communities, the collection and trade of most of the high value MFP is largely monopolized by the Corporations of the Forest Department of the States and poor FDSTs are just employed by the contractors only as wage earners.

The poor state of affairs of tribal development has critically mentioned by the Report of Working Group on Empowerment of Scheduled Tribes for the 11th five year plan:

Notwithstanding the patently pro-tribal cum legislative- cum constitutional frames adopted by the State from time to time, the measures have been kin deep, without the will to implement and enforce them. By and large, the planned development process has not achieved its objectives. Since many decades and particularly in the recent past, apart from socio-economic deprivation, the rising tempo of general development (i.e. Planned development process across all sections of the people) has caused steady erosion of tribal rights as well as command over the basic livelihood resources. i.e. Land, forest, water, air etc.

The voices raised by tribals and non-tribals (who are also directly related to forest for their survival) and other well wishers of these people, compelled the Govt. of India to make such a comprehensive law which can be beneficial to these people by protecting their ownership rights on forest and other related issues. Thus after much heated arguments and debates

between the Ministry of Tribal Affairs and Ministry of Environment and Forest regarding their claim on forest, the New Act 'The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 came into existence on January 1, 2008. The purpose of the Act is to recognize the rights of forest-dwelling communities and to encourage their participation in the conservation and management of forests and wildlife. The Act will be implemented by the respective *Gram Sabhas*. The *Gram Sabha* would elect Forest Rights Committee who would invite claims on forest land as detailed in sec 3 (1) of the Act. Some of the important rights mentioned are

1. Right to hold and live in the forest land under individual or common occupation for habitation or self cultivation for livelihood.
2. Community rights.
3. Right of ownership, access to collect, use and dispose of minor forest produce.
4. Rights for conversion of *pattas* or leases or grants on forest land to titles.
5. Conversion of all forest villages into revenue villages.
6. Right to protect, regenerate or conserve or manage any community forests resource which they have been traditionally protecting and conserving for sustainable use.
7. Right of access to biodiversity or community right to intellectual property.
8. Right to *in-situ* rehabilitation including alternative land where scheduled tribes or traditional forest dwellers have been illegally evicted without receiving legal entitlement to rehabilitation prior to 13th day of Dec 2005.

The Forest Right Act, 2006 has come a major rescue for the majority of tribal people who have been denied their ownership rights on forest land. The Act has also given rights to fill the gender gap. Thus women will also be the beneficiaries of *Patta* rights with their men in tribal society. But the tardy progress related to the implementation of this Act is as usual where it has been found that even after the coming of the Act into force, many of the States have not implemented the Act in applied way. The efforts taken by the Central Government for the implementation of this Act related to settlements of the claims on forest rights have not been seriously taking shapes. As per the information collected by the Ministry of Tribal Affairs, Govt. of India till 28 February 2010, more than 27.16 lakh claims have been filed and more than 7.59 lakh titles have been distributed. More than 36 thousand titles were ready for distribution. Some of the State-wise synopsis of claims disposed of, as on 28.02.2010, with respect to the total number of claims received up to May 09, the month of announcement of special drive, is as below (Table-1).

Table- 1

State	No. of claims received at Gram Sabha		No. of claims disposed of by 28.02.2010			Percentage of the claims disposed of up to 28.02.2010 w.r.t. no. of claims received up to May, 09, observation
	Up to May 09	Up to Feb. 10	No. of titles distributed	No. of claims rejected	Total no. of claims disposed of	
Andhra Pradesh	3,29,101	3,25,818	1,73,334	1,31,480	3,04,814	92.62%

Assam	-	1,01,454	12,056	-	12,056	-late start
Bihar	495	788	Nil	-	Nil	Nil
Chhattisgarh	4,00,000	4,86,101	2,14,633	2,71,468	4, 86,101	100%
Gujarat	1,63,675	1,86,334	14,562	3,106	17,668	10.79%.poor performance
Jharkand	878	25,220	2,505	3,036	5,541	-no.Of applications called up to May,09 was very low
Karnataka	1,412	45,801	-	-	-	Nil
Kerala	-	36,822	3,958	1,107	5,065	-late start
Madhya Pradesh	3,43,148	3,84,466	72,485	2,40,795	3,13,280	91.29%
Maharashtra	2,39,542	3,17,322	7,480	422	7,902	3.30%, poor performance
Orissa	2,91,107	3,55,698	1,32,868	61,294	1,94,162	66.70%
Rajasthan	34,535	59,900	14,277	30,029	44,306	100%
Tamilnadu*	4,876	10,766	(2,104 titles are ready)	-	(2,104 titles are ready)	43.15%
Tripura	1,60,046	1,64,726	84,750	73,697	1,58,447	99.00%
Uttar Pradesh	-	73,143	9070	57,507	66,577	-late start
Uttarakhand	-	182	-	1	1	-late start
West Bengal	1,39,494	1,41,783	18,001	55,990	73,991	53.04%
Total	21,07,719	27,16,324	7,59,979	9,29,932	16,89,911	80.18%

* In the State of Tamilnadu, titles could not be distributed due to restrictive High Court's order.

Source: Govt. of India, Ministry of Tribal Affairs.(FRA. 2006-Status Report)

Conclusive Remarks

Though some the States are very prompt in implementing the said Act. There are many States and Union Territories which have not even uploaded the web-site <http://forestrights.gov>. for the general information to people. The States/UTs like Arunachal Pradesh, Bihar, Goa, Himanchal Pradesh, Karnataka, Manipur, Meghalaya, Mizoram, Sikkim, Tamilnadu. Uttaranchal, Daman & Diu and Dadra & Nagar Haveli have not distributed any titles so far. Thus the object of the present Act is far away from the tribal as well as other forest dwellers. There is a strong need and will power of the enforcement agencies to provide justice. The combined efforts of the Governments and NGOs working in the areas become necessary imperatives for the policy execution of tribal rights.

Development should be people oriented seeing the social and cultural boundaries of the tribal people. The loss of cultural identity in the name of development is creating confusion among

the tribal people. There is a strong need to look the tribal affairs from the perspectives of tribal people for the sustainable development in the country. The project which are launched in tribal areas, are supposed to take labour force from tribal people itself for the purpose of livelihood of project affected tribal people and also as an approach related to employment generation for the natives to curb the problem migration among the tribal youth. The future seems bright but road is still far ahead.

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Woman's Right to Control their Reproductivity- A Human Right Dimension

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Abstract

The voluntary limiting of human reproductivity is one of the very few topics that have been recognized as a topic of immense importance and controversial since the very beginning of human civilization. Reproductivity refers to the ability of a woman to give birth. Reproductivity control or Birth control encompasses the wide range of rational and irrational methods that have been used in the attempt to regulate fertility, as well as the response of individuals and of groups within society to the choices offered by such methods. In this paper we are disused history and international provisions regarding to the Reproductivity. A The twenty year "Cairo Programme of Action" was adopted in 1994 at the International Conference on Population and Development (ICPD) in Cairo and we are also found some General Women's Right that impact on reproductivity .Women are treated as equals in the eyes of law and as they are entrusted with several rights and possibilities relating to equality, empowerment etc, by our Constitution of India, they are also given the right to control the reproductivity. Along with the consent of the man, there should also be the discretion on the part of the woman to plan, determine and also control reproductivity. This will surely ensure that in the democratic country like India, women are treated as equal to men.

Introduction

The voluntary limiting of human reproductivity is one of the very few topics that have been recognized as a topic of immense importance and controversial since the very beginning of human civilization. Reproductivity refers to the ability of a woman to give birth. Reproductivity control or Birth control encompasses the wide range of rational and irrational methods that have been used in the attempt to regulate fertility, as well as the response of individuals and of groups within society to the choices offered by such methods.

Talking about the modern days we have some well defined laws now with our hand. The World Health Organization defines reproductive right as follows---“Reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health.

This topic is always disputed because of some of its inherent questions. Some of them I will like to quote here

1. Why we should interfere with a normal biological system of human body?
2. How much safe are these procedures?
3. Why woman's only? (though now a days contraceptives are available for male also, it was not before) etc.

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What are "Reproductive Rights"?

Many efforts have been made to ensure certain rights for the women of India relating to reproduction which may include:

- ↗ become pregnant and have a child
- ↗ adopt a child
- ↗ decide not to have a child
- ↗ have access to abortion clinics
- ↗ refuse forced sterilization
- ↗ know about birth control and its side effects, and
- ↗ have access to the health care system

Reproductive rights began to develop as a subset of human rights at the United Nation's 1968 International Conference on Human Rights. The resulting non binding Proclamation of Teheran was the first international document to recognize one of these rights when it stated that: "Parents have a basic human right to determine freely and responsibly the number and the spacing of their children. States, though, have been slow in incorporating these rights in internationally legally binding instruments. Thus, while some of these rights have already been recognized in hard law, that is, in legally binding international human rights instruments, others have been mentioned only in non binding recommendations and, therefore, have at best the status of soft law in international law, while a further group is yet to be accepted by the international community and therefore remains at the level of advocacy. According to pro-choice activist. Issues related to reproductive rights are some of the most vigorously contested rights' worldwide, regardless of the population's socioeconomic level, religion or culture.

Here I would like to bring out a brief history about the starting of reproductive right and some of its important aspects-

History:

1. Proclamation of Teheran

In 1945, the UN Charter included the obligation "to promote... universal respect for, and observance of, human rights and fundamental freedoms for all without discrimination as to race, sex, language, or religion". However, the Charter did not define these rights. Three years later, the UN adopted the Universal Declaration of Human Rights (UDHR), the first international legal document to delineate human rights; the UDHR does not mention reproductive rights. Reproductive rights began to appear as a subset of human rights in the 1968 Proclamation of Teheran, which states: "Parents have a basic right to decide freely and responsibly on the number and spacing of their children and a right to adequate education and information in this respect".¹

This right was affirmed by the UN General Assembly in the 1974 Declaration on Social Progress and Development which states "The family as a basic unit of society and the natural environment for the growth and well-being of all its members, particularly children and youth, should be assisted and protected so that it may fully assume its responsibilities within the community. Parents have the exclusive right to determine freely and responsibly the number and spacing of their children."The 1975 UN International Women's Year Conference

echoed the Proclamation of Teheran.

2. Cairo Programme of Action

The twenty year "Cairo Programme of Action" was adopted in 1994 at the International Conference on Population and Development (ICPD) in Cairo. The non binding Programme of Action asserted that governments have a responsibility to meet individuals' reproductive needs, rather than demographic targets. It recommended that Family planning services be provided in the context of other reproductive health services, including services for healthy and safe childbirth, care for sexually transmitted infections, and post-abortion care. The ICPD also addressed issues such as violence against women, sex trafficking, and adolescent health. The Cairo Program is the first international policy document to define reproductive health stating:

Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed [about] and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.

Unlike previous population conferences, a wide range of interests from grassroots to government level were represented in Cairo. 179 nations attended the ICPD and overall eleven thousand representatives from governments, NGOs, international agencies and citizen activists participated. The ICPD did not address the far-reaching implications of the HIV/AIDS epidemic. In 1999, recommendations at the ICPD+5 were expanded to include commitment to AIDS education, research, and prevention of mother-to-child transmission, as well as to the development of vaccines and microbicides.

The Cairo Programme of Action was adopted by 184 UN member states. Nevertheless, many Latin American and Islamic States made formal reservations to the programme, in particular, to its concept of reproductive rights and sexual freedom, to its treatment of abortion, and to its potential incompatibility with Islamic Law.²

3. Beijing Platform

The 1995 Fourth World Conference on Women in Beijing, in its non-binding Declaration and Platform for Action, supported the Cairo Programme's definition of reproductive health, but established a broader context of reproductive rights:

The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behavior and its consequences. The Beijing Platform demarcated twelve interrelated critical areas of the human rights of women that require advocacy. The Platform framed women's reproductive rights as "*indivisible, universal and inalienable human rights.*"³

4. The Yogyakarta Principles

The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, proposed by a group of experts in November 2006 but not yet incorporated by States in international law, declares in its Preamble that "the international community has recognized the rights of persons to decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free from coercion, discrimination, and violence." In relation to reproductive health, Principle 9 on "The Right to Treatment with Humanity while in Detention" requires that "States shall provide adequate access to medical care and counseling appropriate to the needs of those in custody, recognizing any particular needs of persons on the basis of their sexual orientation and gender identity, including with regard to reproductive health, access to HIV/AIDS information and therapy and access to hormonal or other therapy as well as to gender-reassignment treatments where desired"⁴

Nonetheless, African, Caribbean and Islamic Countries, as well as the Russian Federation, have objected to the use of these principles as Human Rights standards.⁵

General Women's Right that impact on reproductivity

The United Nations Population Fund (UNFPA) and the World Health Organization (WHO) advocate for reproductive rights with a primary emphasis on women's rights. In this respect the UN and WHO focus on a range of issues from access to family planning services, sex education, menopause, and the reduction of obstetric fistula, to the relationship between reproductive health and economic status.

The reproductive rights of women are advanced in the context of the right to freedom from discrimination and the social and economic status of women. The group Development Alternatives with Women for a New Era (DAWN) explained the link in the following statement:

Control over reproduction is a basic need and a basic right for all women. Linked as it is to women's health and social status, as well as the powerful social structures of religion, state control and administrative inertia, and private profit, it is from the perspective of poor women that this right can best be understood and affirmed. Women know that childbearing is a social, not a purely personal, phenomenon; nor do we deny that world population trends are likely to exert considerable pressure on resources and institutions by the end of this century. But our bodies have become a pawn in the struggles among states, religions, male heads of households, and private corporations. Programs that do not take the interests of women into account are unlikely to succeed.⁶

Attempts have been made to analyze the socioeconomic conditions that affect the realization of a woman's reproductive rights. The term reproductive justice has been used to describe these broader social and economic issues. Proponents of reproductive justice argue that while the right to legalized abortion⁷ and contraception applies to everyone, these choices are only meaningful to those with resources, and that there is a growing gap between access and affordability.⁸

Some aspects of reproductive rights that impact on reproductivity of women:

a. Sex Education

In the past, girls and women with disabilities rarely received sex education. However, in the

'90's we saw an increased interest on this issue which resulted in programs and literature being available. For example, the Sex Information and Education Council of Canada (SIECCAN), has published a series of 16 easy-to-read books about sexuality and relationships for adolescents and adults who are users of bliss symbolic.

Many services which provide counseling on sex and sexuality are physically inaccessible. Reading material is not usually accessible for women who are blind or have low vision. Few services have communication devices for women who are deaf and women who are non-verbal.

b. Health Services

The Ontario Medical Association and the Ministry of Health need to encourage doctors to buy low examining tables which can be raised or lowered to accommodate disabled women. Doctors and birth control counselors need to understand how different types of birth control will interact with certain disabilities and medications. Pregnant disabled women need to know how certain medications will affect their fetus. More research is needed in these areas.

c. Sexuality in institutions

Some women live in institutions which tend to deny or restrain sexual activity. Instead of being taught methods of birth control, some women with disabilities have been sterilized without their consent.

Whether women with disabilities are lesbian, bi-sexual or heterosexual and are living in an institution, their right to express their sexuality needs to be recognized. Furthermore, women with disabilities must not be denied the right to control their reproduction and their bodies.

d. The disaster of Depo Provera

Depo Provera (DP) is a form of birth control given by needle. Partly because of a strong lobby of consumer groups in Canada, DP has not been approved for use as a contraceptive. Studies have shown a link between DP and cancer, and have shown dangerous long-term side effects.

However, because of a loophole in federal legislation, DP has been administered for many years to women with disabilities. Other women who have received DP include: Aboriginal women, poor women, teenagers and ethno-racial women. Physicians and institutional staff have administered DP to women with mental or physical disabilities, rarely informing them of the drug's side effects.

Some disabled girls as young as twelve have been given the drug without being told of its harmful side effects. Girls and women with disabilities are given DP to stop periods and prevent pregnancies for no other reason than for the convenience of institutions and caregivers. These caregivers may believe that they are helping these girls by giving them DP.

The results have been alarming. Donald Zarf as of the University of Western Ontario conducted a study in 1981 which showed that the death rate among women who have taken DP is much higher than normal. Reported side effects include: abdominal discomfort, depression, vision impairment, irregular menstrual flow, blood clotting problems, and suppression of sexual drive (it is used on male sexual offenders to suppress their sexual drive).

e. Population Control

Population control advocates on the other⁹ At the 1984 UN World Population Conference in

Mexico City population control policies came under attack from women's health advocates who argued that the policies' narrow focus led to coercion and decreased quality of care, and that these policies ignored the varied social and cultural contexts in which family planning was provided in developing countries. In the 1980s the HIV/AIDS epidemic forced a broader discussion of sex into the public discourse in many countries, leading to more emphasis on reproductive health issues beyond reducing fertility. The growing opposition to the narrow population control focus led to a significant departure in the early 1990s from past population control policies.¹⁰ In the United States, abortion opponents have recently begun to accuse reproductive rights advocates of advancing a racist agenda of eugenics, and of trying to reduce the African American population of the US.¹¹

Directive Principle of State Policy and woman

Women's' right to make reproductive choice: The Apex Court in *Suchita Srivastava & Another v. Chandigarh Administration*,¹² observed that a woman right to make reproductive choice is also a dimension of "personal liberty" under Article 21 of the Constitution of India 1950. However, reproductive choice can be exercised to procreate. As well as abstain from procreating. There should be no restriction whatever n exercise of reproductive choice such as woman's right to refuse participation in sexual activities or alternately the insistence on use of contraceptive method. The Court ruled that reproductive rights include a woman's entitlement to carry a pregnancy to its full terms, to give birth and subsequently raise children. Further, the Medical Termination of pregnancy Act, 1971 can also be viewed as reasonable restrictions that have been placed on exercise of reproductive choice.

Concluding Observation

Modern mankind can never return to the way of life that characterized most of human evolution. Settled agriculture and, to an even greater extent, urban living have irrevocably altered natural, finely tuned patterns of human reproduction. New social and artificial restraints on fertility must replace high infant mortalities and the invisible but important physiological controls that once limited family size. The variables that encourage small families are still not fully understood, but they include urbanization, educational and employment opportunities for women, and easy access to family planning services. In a traditional agricultural society children bring hope of economic rewards to their parents at an early stage by sharing in the work that is necessary to support the family, whereas in modern industrial societies the care and educating of children represent long years of heavy expenditure by the parents. This switch in the cost of children may be the most important factor determining the adoption of family planning.

Western societies took more than a century to reach zero population growth and adjust to the rapid expansion of population that accompanied their industrialization. Most of the changes that occurred in patterns of family planning took place before public family services were established and at considerable emotional and physical costs to many couples. By contrast, the majority of the governments of contemporary Third World countries has established national family planning policies and actively encourages the use of public family services. The World Fertility Survey shows that more couples in developing countries desire small families than actually achieve their goals.

The significance of the choices facing policymakers and individual families can be illustrated by reference to trends in family planning in the People's Republic of China. For a generation after the Revolution of 1949 national leaders maintained that a Communist

economy could accommodate any rate of population growth, and family planning services, while available, were not emphasized. As a result of the rapid population growth in the 1950s and '60s, however, the number of marriages in China exceeds by 10,000,000 each year the number of fertile partnerships broken by death or by the onset of the woman's menopause. In order to try to stabilize the population, the Chinese government has recommended that 50 percent of rural couples and 80 percent of urban couples have only one child. The application of this type of policy can have an ironic effect on individual women: older women belong to a generation that could not always obtain birth control services, and younger women may be encouraged or, in some cases, even forced to abort pregnancies they would like to keep.

Although consensus has not been reached on the range of birth control methods society should offer to individual members, the right of couples to determine the number and spacing of their children is almost universally endorsed, while the possibility of coercive family planning is almost as widely condemned. Throughout the world, awareness of the advantages and disadvantages of specific methods of birth control, thoughtful judgments about ethics, and further evolution in medical and scientific knowledge will continue to be important to the welfare of the family, of individual nations, and of the entire globe.

Women are treated as equals in the eyes of law and as they are entrusted with several rights and possibilities relating to equality, empowerment etc, by our Constitution of India, they are also given the right to control the reproductivity. Along with the consent of the man, there should also be the discretion on the part of the woman to plan, determine and also control reproductivity. This will surely ensure that in the democratic country like India, women are treated as equal to men.

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“Poverty cannot be accepted as a pretext and justification for the exploitation of children. It does not explain the huge global demand with, in many instances, customers from rich countries circumventing their national laws to exploit children in other countries. Sex tourism has spread its illicit wings wide, and paedophiles search for their victims in all parts of the globe. The problem is compounded by the criminal networks which benefit from the trade in children, and by collusion and corruption in many national settings.”

-Vítit Muntarbhorn, the Special Rapporteur on the sale of children, child prostitution and child pornography until 1995

Adivasi Women In An Industrial Milieu

Esha Ghosh*

Abstract

To study the dynamics of displacement as a result of development projects and analyze its impact on the social, cultural and economic condition of the displaced tribal, a case study of the Oraon tribe, whose members were displaced by the installation of the Rourkela Steel Plant in the Sundergarh district of Odisha, was undertaken. With a sample size of 300 respondents, the area of study comprised two resettlement colonies and two villages in and around Rourkela. Separate interview schedule were devised for respondents below 60 years and above 60 years of age. This particular paper focuses on the educational and economic changes in the status of displaced adivasi Oraon women who were gradually exposed to forces of industrialization and urbanization.

Tribal societies are usually assumed to be egalitarian where men and women have same rights. But this is more of a generalization than a well surveyed fact. The values, socio-economic structures and life styles are shaped by their economic histories which are unique to each tribe. Therefore power and gender relations in a tribe practicing settled agriculture differs from that of the hunting and gathering tribe. In pre-industrial tribal societies, like many non-tribal rural communities, the women bear the major burden of providing food to the family and they are the pillars of pastoral and shifting cultivation households

As industrialization sweeps through countries across the globe, its repercussions on the status of women has become an emerging field of study among the intellectuals. This new interest has been voiced during the Beijing World Conference on Women, in which large number of NGOs from across the globe participated. The conference offered a 'south-based' model of women and development under the 'NGO Declaration'. It said, "Dominant development models have been based upon the appropriation of resources from the South by the North and the transfer of ideas, technologies and methodologies from the North to the South. We must build upon alternative models that currently exist in both South and North, which are based on equality, mutual respect, true participation and accountability to all women. These models must be economically and socially equitable and environmentally sound. All development projects must take into account their effects on women, including the additional workload imposed on women by unsustainable and inappropriate technology." (Jain 2005: 144)

This paper is a part of a study conducted on the Oraons of Sundergarh district in Odisha, who were displaced due to the installation of Rourkela Steel Plant. A sample size of 300 respondents spread over the residential sectors of Rourkela, two resettlement colonies and two villages were chosen. One of the villages was a reclamation camp and the other a partially displaced village. The objective of the study was to understand the economic changes that have taken place within the tribe and its impact on the cultural life of the *adivasis*. This particular paper focuses on the educational and economic changes in the status of displaced *adivasi* Oraon women who were gradually exposed to forces of industrialization and urbanization.

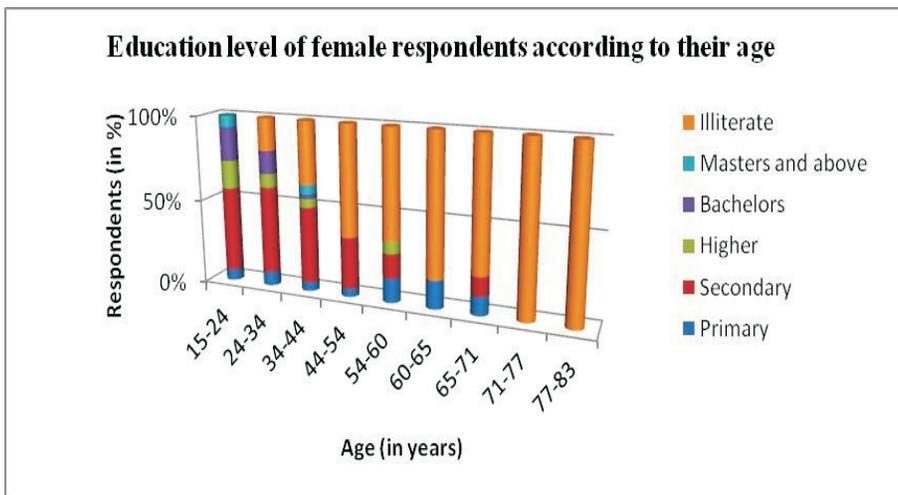
The Oraons practiced subsistence agriculture before displacement. Though women also

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played important role, agricultural activities were pre-dominantly carried out by the men. Collection of minor forest produces like *mahuli*, firewood, *kurunj* seeds and roots etc was the majorly carried out by women. Usually these produces were used for household consumption, but during times of distress like drought or famine, these were sold for cash or kind. Apart from collection of minor forest produce, women also made handicraft items like rags, brooms, baskets, umbrellas etc. These items were also used for household consumption. All these work the women did along with the daily household chores. But the contribution in the household did not necessarily accrue more decision making power to the woman. According to the customary laws of the tribe Oraon women do not have right to property. Their society is patriarchal, patrilineal and patrilocal. Before displacement, lack of infrastructure and traditional values did not allow Oraon women to move outside their villages, without being accompanied by their male counterparts. According to the Oraon traditions women were not allowed inside the Sacred Grove or *saran*, as it is considered inauspicious.

Widespread illiteracy was found among female respondents who were born and attained their schooling age before displacement and were witness to the immediate changes in their societies after eviction. During the survey all the female respondents above seventy two years of age admitted that they never went to any educational institution. Though it could be presumed that lack of education might be due to the absence of schools and infrastructure, a look at the status of education among the male respondents above seventy two years of age raises a question. Although majority of the seventy plus male respondents were illiterate, couple of them received schooling till senior secondary level (6th -10th std) while one of them even acquired a bachelors degree. Therefore existence of discrimination against girls regarding education cannot be ruled out. After displacement and industrialization there is a gradual increase of educational status as we move towards the younger age groups, that is, those who were born and brought up after displacement in an industrial setting, as is shown in the table given below.

Chart 1



As shown in **chart 1**, all the female respondents belonging to 72-83 years of age groups were illiterate. In the 61-71 age groups, though illiteracy predominates there were close to twenty

percent (20%) of the respondents who had primary and secondary level education. In the 55-60 age group, literacy level rose to thirty four percent (33.7%) and few respondents even reached 11th or 12th standard. There was a slight increase in the literacy level (35%) in the 45-54 age group. But the literacy level shoots up to sixty percent (60.6%) among the 35-44 year old female respondents, and touching eighty percent mark among the 25-34 years old and finally reached hundred percent literacy rate among the 15-24 year old girls. The gradual rise in the literacy level of women is the result of industrialization and the consequent urbanization. The availability of educational infrastructure coupled with the various Government policies for spread of education played a major role in the rise of literacy level among the Oraon girls. Although we can see a gradual spread of literacy, only few respondents had managed to go beyond 10th standard. There was a high drop out rate in both the rural and urban areas. The number of illiterate respondents was more in rural areas as compared to the urban and semi-urban region. In Tangarpalli seventy one percent of the female respondents and in Sili Kata seventy percent of the respondents were illiterate, while in Jalda twenty five percent and in Jhirpani twenty one percent of the female respondents were illiterate.

Spread of education among the women also led to increase in the age of marriage. Although prohibited by the customary Oraon laws child marriages was a common phenomenon before displacement, as told by the respondents during FGDs and personal interviews. After displacement a rise in the age of marriage among the girls was noticed. The main reason for this change was the spread of education, which is gradually being seen as a status symbol. One of the respondents said, *“Nowadays education is of foremost importance and a girl should complete her education up to post- graduation level before getting married ...only after that one should start looking for a groom.”* This statement sums up the general feeling among the respondents regarding a girl's marriageable age and her education. The data supports the fact. No female respondent below 18 years of age was married. Only eight out of the twenty five respondents aged 18-24 year old were married, while among twenty seven respondents aged 24-30 years, nineteen were married. The number rose to twenty two married women out twenty four female respondents in the 30-36 years age group. There was one widow and an unmarried respondent in this group. On being asked to enumerate the changes due industrialization which they felt were positive, eighty eight of three hundred respondents chose spread of education out of nine options, while twenty respondents pointed out the gradual rise of marriageable age for girls.

Education has empowered these women to such an extent that many of them are now questioning the age old Oraon tradition to restrict a women from entering places of worship. A *sarna* in the middle of Rourkela have become the center of their movement. Oraon women from all spheres of life worship inside this *Sacred Grove*. The head priest of the *sarna* is also a woman. Certain other religious traditions like animal sacrifice, witchcraft, and offering and drinking of rice beer is also questioned by these women.

Industrialization opened a number of avenues for income generation. But unfortunately very few women could avail this opportunity. Although during the survey two hundred and ninety nine respondents out of three hundred respondents said that women should be allowed to earn, but the data shows a contrasting picture. While sixty nine (68.59%) percent of the male respondents in the 15-60 years age group were employed, only twenty six (25.89%) percent of the female respondents were earning. It is startling to see that of the thirty six female respondents (out of 139) in the 15-60 years age group only five were engaged in organized sector and the rest of them worked in unorganized sector.

In the two resettlement colonies and the partially displaced village situated close to the Steel Plant, most of the earning female respondents worked as casual labourers, either inside or outside the Plant. Apart from this, few women run small shops, jointly or solely owned by them. A couple of women also worked as housemaids in the resettlement colonies.

In all the areas studied by the researcher except Sili Kata, the income level of women was much below that of men. In the two urban resettlement colonies monthly income of the female respondents hardly went beyond Rs 6000/-. In Jhirpani, a resettlement colony located right in the middle of Rourkela city, only twelve female respondents were earning, out of whom nine respondents earned below Rs 3000/- a month.. On the other hand, out of the thirty three male respondents who were employed, fifteen of them earned above Rs 20,000/- a month. In Jalda, which is another resettlement colony, agriculture was the main occupation. Only four female respondents were involved in income generating activities and their monthly income was below Rs 6000/-. Although only nine male respondents were employed in Jalda, their monthly income ranged till 25000/-. In Tangarpalli, a partially displaced village, it was found that very few female respondents were employed as compared to male respondents. Only three female respondents as compared to sixteen male respondents were employed. All the respondents in Tangarpalli, irrespective of their sexes, worked in unorganized sector. The monthly income level of the female respondents was below Rs 6000/- , but amongst the male respondents the monthly income reached Rs 6000-9000 bracket. In all these three areas participation of women in income generating activities is usually imposed on them by their poor economic conditions, which leaves them with no choice but to take up employment under exploitative work conditions to make both ends meet. This type of employment cannot lead to self-reliance. Lodha, who had studied the tribals in Udaipur observed that, “proximity to urban centers had the impact on the opportunities available to women. Technological advancement and infrastructural facilities offered better job oppurtunities of permanent nature to few women...Inhabitants of urban areas suffered from a sense of alienation and various types of exploitation. Economic necessity arising out of desertation by husband, his unemployment, indebtedness, inadequate family earnings etc. compelled woman to work as wage labourer”. (Lodha, 1997:366)

Maximum number of the female respondents engaged in unorganized sector lived in Sili Kata, a reclamation camp studied by the researcher. Subsistent agriculture was the way of life in the village. Collection and sale of minor forest produces (MFPs) was the only source of income. While agricultural activities were carried out by the men, the collection and sale of MFPs was usually carried out by the women. In Sili Kata all the female respondents were involved in the collection and sale of Minor Forest Produce, primarily *kendu* leaves. Sili Kata was surrounded by dense hill and forest ranges. Hence forest produces was in abundance in the area. One kilogram of kendu leaves, which they deposited in a storehouse, earned them Rs 35/- from the middleman. But this source of income was only available from April to July, as the *kendu* is a seasonal plant. Thus, a major share of income in the household was contributed by the women. Also unlike in the urban and semi-urban areas, the family in the village depends on the women for other items like handicraft for daily use. Because of their pre-dominant contribution in the household economy, women have more decision-making power in the family. Lodha points out in her study that in “backward region economically active women tended to exercise a greater role in decision-making than in the advanced region. This was an outcome of the locational benefits to the women as in backward region they had a sense of socio-psychological security. They do not suffer from the feeling of being

uprooted from their traditional locale and milieu. Those who are forced to migrate to advanced region or get settled there suffer from 'cultural' as well as 'knowledge' shock and are unable to adjust to individualistic life patters in such areas” (Lodha, 1997:367).

But one cannot ignore the problems that these rural women had to face while carrying out their production activities due to lack of basic infrastructural, educational and medical facilities. The overdependence of the family on the women also increases their work burden. Also compared to women in resettlement colonies, the economic life of the women in this remote rural area is very uncertain. Their life depends on agriculture. But there was no irrigation facility in the village. Therefore they had to depend solely on the monsoon showers, which is erratic. This exposes them to hunger. Being at the bottom of the hierarchy regarding fulfillment of basic needs, women are the worst sufferers.

Industrialization therefore has both its side effects and benefits on the displaced. As one can see that though there is a spread of education, but the economic condition of women is still precarious. The need of the moment is a rehabilitation and resettlement policy which does not just focus on providing economic compensation to the displaced but should have the goal to ensure inclusive development. The policy should focus on providing a safety net for the women, who were uprooted from their traditional set up and get exposed to forces of industrialization. Implementation of Government schemes like NREGA and NRLM can provide them with such support. No resettlement policy up till now gave due attention on the cultural changes that takes place after displacement in a tribal society. In many tribes women enjoy property rights under customary laws, but after displacement, when land is allotted as compensation in favour of the male members, hence refusing women their customary right to property. Finally it could be said that women act as pillars to a society, therefore to strengthen them will result in the strengthening of the society.

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Can Expressive Therapy Influence the Functioning of Neuropsychological Variables Among Children with Intellectual Disability?

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Abstract

Neuropsychology is a scientific discipline, directed at the study of brain behavior relationships. Behavior denotes a general concept and includes cognitive functions, affect, emotional functioning and observable / adaptive behavior. Language, attention, memory, visuo-perception, visuo-spatial ability, problem solving, reasoning and planning all belong to the domain of cognitive functioning. A fundamental assumption in developmental neuropsychology is that the overt behavioral difficulties involved in different developmental and learning disorder result from dysfunction of specific areas and systems of brain. Expressive Therapy is the therapeutic use of expressive and creative modalities (art, music, group chanting, poetry, drama, storytelling, movement/dance, sand play etc.), to address various mental health issues and to promote personal growth and wellness. Expressive Therapy is coordinated collections of personal growth method developed specifically to help children and adults neuropsychologically who are in need. Expressive therapies add a unique dimension to psychotherapy and counseling because they have several specific characteristics not always found in strictly verbal therapies. Out of all types of disabilities, intellectual disability poses greater challenges than the other types do. Present paper analyses whether Expressive Therapy influence the functioning of neuropsychological variables among children with intellectual disability?

Introduction

Historically, in India, persons with disabilities enjoyed co-existence with the general mass, though at different times, the treatment and attitude were at variance. In other words, they were never excluded from society by confinement to institutions. Rather, they lived with their families. As far as, education was concerned, even the Gurukula Ashram promoted the basic educational principles just like special education where individualized teaching was practised to meet the abilities and needs of each pupil.

Out of all types of disabilities, intellectual disability poses greater challenges than the other types do. Persons with intellectual disabilities have a condition of arrested or incomplete growth and development of brain which is characterized by low level of intelligence thus, partially or totally restricting the person's ability to perform certain significant activities in his life. This is owing to impairment in cognitive, behavioural or emotional aspects. Now, it is an accepted fact that, all the children, whether they are disabled or not, have equal rights to avail educational facilities as they are the future citizens of the country. Some children with special needs may not benefit from regular classroom education due to various reasons including disability. Children with intellectual disability seem to have cognitive deficits such as deficit in thinking, attention, memory and adaptive behavior. This leads to disorganized manner in which they handle tasks and situations. Teachers, peer group, parents and others thus find them 'strange'. They also have difficulty managing their academic tasks. In general, the school environment provides opportunity for the students to learn under the guidance of the teacher. But the children with disabilities may not get benefitted with the existing school

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system. It is important that all the students should become independent learners, which helps them in applying learnt skills in practical aspects as well as prepare them for their future lives.

This entails changes in curricular decisions and classroom arrangements, provision of aids and appliances, arrangements for finances and above all, preparation of alternative strategy to achieve expected learning outcome.

As far as, instructional strategies are concerned, different innovative approaches have been practiced from the beginning of the educational system itself. But, very few individuals with intellectual disability get benefit through so called instructional strategies for enhancing their learning outcome. Despite sporadic attempts made by educationists, very few have been achieved in the field of intellectual disability. Much has been done but much remains to be done as many milestones have been left behind in the path.

Global Scenario

A survey on the situation of educational provision for children with special needs by UNESCO illustrates the types of programs offered in different parts of the world. The analysis of information from 63 countries that responded to the survey shows that special day schools, special classes in regular schools and residential schools, in that order, provide special education. Integrated and inclusive educations are emerging trends practiced in very few countries, in the form of support teaching in regular classes and establishment of resource room facilities. Especially in the very area of teaching learning process, there is a large scope to make experiments with emerging therapies and trends.

Expressive Therapy

Expressive Therapy is the therapeutic use of expressive and creative modalities (art, music, group chanting, poetry, drama, storytelling, movement/dance, sand play etc.), to address various mental health issues and to promote personal growth and wellness.

Expressive therapy is predicated on the assumption that people can heal through use of imagination and the various forms of creative expression. The foundation of expressive therapy is based on the fact that through creative expression and the tapping of the imagination, a person can examine the body, feelings, emotions and his or her thought process. However, expressive therapy is its own therapeutic discipline, an inter-modal discipline where the therapist and client move freely between drawing, dancing, music, group chanting, drama, poetry, etc. according to the National Coalition of Creative Arts Therapies Association (2004). Expressive Therapy is coordinated collections of personal growth method developed specifically to help children and adults neuropsychologically who are in need.

Unique Characteristic of Expressive Therapy

While expressive therapies are considered as a unique domain of psychotherapy and counseling, within this domain exist a set of individual approaches, defined as follows:

- ↳ Art therapy uses art media, images and creative process and respects client's responses to the created products as reflections of development, abilities, interests, concerns and conflicts.
- ↳ Music therapy comprises music (vocal /instrumental) and group chanting to effect positive changes in the neuropsychological, physical, cognitive and social functioning

of individuals with health, cognitive and educational problem.

- ↳ Drama therapy is the systematic and international use of drama / theatre processes, products and associations to achieve the therapeutics goals of symptom relief, emotional and physical integration and personal growth.
- ↳ Dance therapy is based on the assumption that body and mind are interrelated and is defined as the psychotherapeutic use of movement as a process that furthers the emotional, cognitive and physical integration of the individual.
- ↳ Play therapy is the systematic use of a theoretical model to establish an interpersonal process wherein trained play therapists use the therapeutic powers of play to help clients prevent or resolve psychological difficulties and achieve optimum growth.
- ↳ Sand play therapy is a creative form of expressive therapy that uses a sand box and a large collection of miniatures to enable a client to explore the deeper layers of the psyche in a totally new format.
- ↳ Intermodal therapy involves two or more expressive therapies to foster awareness, encourage emotional growth and enhance social relationships.

Expressive therapies add a unique dimension to psychotherapy and counseling because they have several specific characteristics not always found in strictly verbal therapies, including, but not limited to, (1) self-expression, (2) active participation, (3) imagination, and (4) mind–body connections.

In view of Swami Vivekananda, while chanting, if the person is not able to understand the meaning, when he sits for prayer with the feeling that he is doing something virtuous and not sinful, then that itself is enough to yield good results

As Chanting is concerned, brain uses more oxygen than any other organ in the body. Efficient brain function is vitally dependent on an adequate supply of oxygen. The deep rhythmic breathing systematically oxygenates the entire body, specially the brain, sharpening focus and attention. The sound does not have any particular intellectual meaning, but it can be measured in terms of frequency, low or high, volume or power, speed and movement. But if the intellect cannot grasp a sound, the body can, experiencing sensations, through not only audition, but also kinesthetic perception like inner rhythm, pulsation and movement.

Neuropsychological Functions

Neuropsychology is a scientific discipline, directed at the study of brain behavior relationships. Behavior denotes a general concept and includes cognitive functions, affect, emotional functioning and observable / adaptive behavior. Language, attention, memory, visuo-perception, visuo- spatial ability, problem solving, reasoning and planning all belong to the domain of cognitive functioning (Derix, 1997). In a neuropsychological assessment, the most clinically relevant domains of functioning that are assessed are: (a) attention and concentration; (b) executive functions; (c) learning and memory; (d) language; (e) visuospatial (f) executive functions. There are many systematic investigations of **attention abilities**, although psychologists suggest that children with intellectual disability are inattentive. Vigilance and selective attention are often impaired in these children. Deficits in **verbal as well as non verbal memory** for newly acquired information have often been reported, especially reduced immediate and delayed recall. Children with intellectual disability have also been shown in various studies to manifest deficits in retrieval of information from semantic memory, for instance as examined with the controlled word

association test. The memory deficits in children with intellectual disability are directly related to inattention and distractibility which leads to poor organization and encoding of information to be processed. **Speech latency** is often increased in these children so as, consistent findings of formal language impairment have been reported. Children with intellectual disability often experience difficulties on complex language tasks, in which attention, memory and cognitive efforts also play important role.

A fundamental assumption in developmental neuropsychology is that the overt behavioral difficulties involved in different developmental and learning disorder result from dysfunction of specific areas and systems of brain. Brain is considered to be highly differentiated organ comprised of numerous systems or neural networks that are specialized to mediate a particular domain of behaviors while acting in a dynamic integrated way. These neural systems sub-serve different roles in the acquisition, organization and use of information. Anatomically distinguishable networks have been identified that mediate aspects of behavior / functions such as language expression and comprehension, spatial abilities, attention, memory and general behavior. Following is the list of areas or domains:

1. **Organizational And Executive Functions**

- ↪ Vigilance and selective attention
- ↪ Mental tracking and cognitive flexibility
- ↪ Organized systematic functioning (e.g. visual search, planning / acting impulsively, problem solving – adaptive behavior)
- ↪ Initiating, sustaining and shifting of attention
- ↪ Dynamic motor coordination and integration
- ↪ Motor persistence and modulation

2. **Memory Functions**

- ↪ Verbal memory
- ↪ Visual memory
- ↪ Memory and learning

3. **Language Related Functions**

- ↪ Auditory processing
- ↪ Phonological production and speech
- ↪ Language comprehension
- ↪ Expressive language

4. **Visual Related Function**

- ↳ Visual perceptual function

- ↳ Visual spatial function

- ↳ Visual cognitive function

5. **Affect Sensitivity**

- ↳ Visual, vocal contextual processing

6. **Academic Functioning**

- ↳ Performance on spelling, reading, mathematics and writing measures including analysis of the impact that specific neuropsychological weaknesses

7. **Social – Emotional / Personality Functioning**

- ↳ Performances on projective measures, standardized questionnaires, clinical observations

Expressive Therapy uses a range of self-discovery processes to bypass the logical mind and tap into that world we know exists but cannot seem to comprehend consciously. This allows clients to not just express in words a particular issue, but to then feel the energy of their inner experience. When we connect with and really feel this energy we become open to new ways of understanding the problem. This method allows a feeling of release, insight, increased energy and a sense of well being and resolution.

Ghaligi et al. (2006) conducted a study to see the effect of Vedic chanting on memory and sustained attention. Matched group experimental design was used to find out the effectiveness of Vedic chanting on memory and sustained attention. Baseline data score of memory and attention were collected from the sample (35 in number) by using delayed recall test and cancellation test respectively. Data was analyzed by using Mann Whitney U test. The experimental group showed significant increased score in both the memory tests and considerable reduction in total error and total time taken for the cancellation test compared to non chanting group. He suggested that chanting influences both the hemisphere of the brain resulting in good memory and attention. Even though sound is the gross form of chanting, its effect can be seen in the subtle areas like brain cells. As chanting remains a sought-after psychosomatic route to physical and intellectual wellness. Regular chanting of mantras wipes out fear, anger and depression, and helps relieve disorders of the respiratory, digestive, circulatory, speech, intellectual and cognitive systems. Vedic chanting has been proved to help develop one's mental powers, strength and take one to a higher level of consciousness. Hence, the practice of Vedic chanting in a traditional way can be used as one of the powerful means to acquire and enhance attention and memory. Studies related to this line have not been conducted so far with respect to individuals with intellectual disabilities.

Traditional strategies like chanting mantra, undergoing meditation and Pranayama have been followed in the institutions to enhance learning outcomes of the children. D. Govinda (2011) successfully defended his thesis, entitled “Effects of the Hare Krsna Maha mantra on stress, depression and the Three Gunas”, for Ph.D at Florida State University. The author conducted a 3 group study on the effects of chanting Hare Krsna Maha mantra on stress, depression and the Three Gunas, described in Vedas as the basis of human psychology. 62 subjects self selected through newspaper advertisement in Southeastern University,

completed the study. Average age was 24.63 years, with 31 male and 31 female participating. Stress was measured with the index of clinical stress, depression was measured with the Generalized Contentment Scale and the modes of nature / Three Gunas were measured with the Vedic Personality Inventory. Subjects were tested at pretest, post test and follow up with testing items separated by four weeks. Participants were randomly assigned to Maha Mantra group, an alternate mantra group and a control group. Subjects in each of the chanting groups chanted their mantra approximately each day. The investigator concocted a mantra as the alternate mantra, though subjects in the alternate group thought it was a genuine Vedic Mantra. Primary hypotheses of the study was based on Vedic Theory and stated that the Maha Mantra group would increase *sattva* and decrease stress, depression, *rajas* and *tamas* significantly more than the other two groups. ANCOVA results, controlling for gender and age, supported the hypotheses at $p < .05$ for the dependent variables except *rajas*, with effect sizes (η^2) for the four variables whose result supported the hypotheses ranging from .21 to .33. The investigator suggested that the Maha Mantra has its own potential in clinical areas similar to those where other interventions of Western origin have been still making efforts.

Conclusion

Though the available literature covers a wide variety of expressive therapy, the theme which emerges out as the gist, advocates to provide a strong and universal channel applicable to all regardless of their abilities and disabilities for releasing emotions and creating a bond of oneness with nature. The philosophy of expressive therapy mainly encompasses the psychological integration of all human beings. It facilitates stress tolerance level and inner peace. The persons get benefitted with a strong feel of being heard and it firmly enters into their subconscious level. It is viewed as an integral part of psychotherapy also which gives maximum relief resulting in increased level of contentment and inner discipline.

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“Freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights and keep them. Our strength is our unity of purpose. To that high concept there can be no end save victory.”

— Franklin D. Roosevelt

Assessment, Evolution and the Politics of Reservation in Jammu and Kashmir

Javeed Ahmed Bhat*

Abstract

Jammu and Kashmir is a pluri-cultural, pluri-lingual and pluri-religious State of India. In a sense, it represents sub continental diversity. The diverse social groups are dispersed in diverse regions of the State. To a larger extent, Kashmir region represents a heterogeneous, ethno-culture, religious and linguistic identity, although there are some distinct linguistic and cultural groups also dispersed in different parts of Kashmir. The criteria for reservation has remain always been controversial and debatable. Either it has been adopted on caste basis, area basis or profession basis. While the criteria for the other backward classes have been based on the socio-economic and educational profile of the particular community, contrary to it, in the State of Jammu and Kashmir the RBA category has been included in the OBC list of the State. The Government of Jammu and Kashmir has appointed a number of commissions and committees to sort out the issues but yet the reservation policy is being amended day in and day out in their own way. Somewhere the reservation is being demanded on caste basis, which is antithetical to the State of Jammu and Kashmir, as it is a Muslim majority State. Islam believes in an egalitarian society, which does not recognize the caste system, but still the caste based reservation policy continues to exist, which does not differentiate between the millionaires and the poor of the same caste. The aim of this paper is to critically assess and evaluate the policy of reservation in the State of Jammu and Kashmir as well as to discuss the present politics in the State.

Introduction

Reservations are now been driven by vote bank politics. This has become soft options for political parties and has assumed the role of vote gathering devices. The whole purpose of bringing about an egalitarian society has got distorted and, often the problems of the genuinely poor and disadvantaged do not get addressed in real terms. The main objective of reservation has been, and is to redress inequality so that all citizens who surely require equality are assured, “the provision of a social minimum” or in other words, in the total social, cultural and economic milieu of the country “all boats are enabled to float” that, in real terms would imply moving towards inclusive growth. However, reservation has been increased in proportionately, the overall limit, as laid down by the Supreme Court of India, is 50 percent for all types of reservations put together. Various States have exceeded the limit considerably by various legal and administrative strategies. Political parties suggest measures, as devices for improving their election prospectus and often use it as a path to gain power and influence. It directly or indirectly encourages reservation agitations and utilizes such mechanisms in a way that the issue of reservation becomes surrogate for caste politics.

Criteria for Reservation

The practice has been there since the independence of the country, for which the pretext is given to up lift the economically weaker sections of the society. As per the statics, about 40 percent of total population of India is enjoying reservation on various grounds. The criteria for reservation have always remained controversial and debatable. Either, it has been adopted on caste basis, area basis or profession basis. On caste basis, entire population of

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scheduled castes of the country has been given the status of reserved category, keeping in view their bad economic condition in general and their social exclusion in particular. Similarly, some sections/tribes have been included in the list of schedule tribe categories and they have been also identified with their caste like Meena community of Rajasthan and Gujjar Bakkarwal of Jammu and Kashmir etc. While as some communities have been identified with their professions like Cobblers, Barbers, Carpenters etc., and these sections have been given reserved category status in the name of social castes in Jammu and Kashmir. Not only this, another formula has been adopted in the State of Jammu and Kashmir on the basis of geographical area, which is called Resident of Backward Area (RBA) or the area adjoining actual line of control. The irony of the fact is that while including these groups in the list of reserved categories, no barrier has been put between millionaires and the poor of the same group which was given the status of reserved category. Result, the poor of the group is still at the worst end while the millionaire of the community is enjoying the benefits of reserved category. While the criteria for the other backward classes have been based on the socio-economic and educational profile of the particular community, contrary to it, in the State of Jammu and Kashmir the RBA and ALC category has been included in the OBC list of the State.

Evolution of Reservation Policy in the State

The life of the common man in the State of Jammu and Kashmir has been worst hit itself from the beginning because the State was always in the clutches of slavery of rulers. Gradually people revolted against such atrocities by organizing certain movements. The rulers were pressurized by the agitations and were compelled to take cognizance of the problem of the people. So in the beginning of the first quarter of twentieth century, the government had to take steps by way of constituting committees and commissions from time to time. Firstly, it was in November 1931, Maharaja Hari Singh appointed a commission known as Glancy Commission to look into the matters of complaints and disabilities particularly the problems related to education and employment.¹ The Commission undertook a detailed exercise and observed that Muslims were inadequately represented in the services of the State. The Commission also recommended that there should be uniform standard for a particular job keeping in mind the legitimate interest of every community. The above recommendation provided a way for establishing a Recruitment Rule Committee in 1938 which recommended for holding a competitive examination for selecting the deserving candidates. But for higher ranks it was in October 1953 the Jammu and Kashmir Public Service Recruitment Board was constituted.²

The Constitution of India enshrined various provisions for adequate representation of every community.³ Special care has been given to socially and educationally backward sections of the society under the Constitution of the State of Jammu and Kashmir as well.⁴ Initially, not a single tribe of the state of Jammu and Kashmir was recognized as scheduled tribe under the Constitution of India. The State Government also could not device definite or clear cut criteria for identification and classification of backward classes. It was only in February 1956, that a notification was issued for certain classes recognized as backward classes which have been amended from time to time. It was in June 1956, the State Government issued the Jammu and Kashmir Civil Services (Classification and Appeal) Rules for making the reservation in Government services for backward classes which are inadequately represented in the services. In the same year a writ petition was filed in the Supreme Court for challenging the constitutionality of the above rule. The State Government submitted before the court that 50 percent posts are to be filled by muslims of the State because they are

inadequately represented and formed backward class and 40 percent posts are to be filled by Jammu hindus because hindus also formed a backward community in Jammu region and 10 percent were reserved for laddakh. The rule was declared unconstitutional on the basis of community wise distribution of posts and was whittled down by the Supreme Court of India in the case of *Triloki Nath v. State of Jammu and Kashmir and others*.⁵

The first Backward Class Commission was appointed in Mach 1955, which attempted to lay down criteria for the identification of backward classes but due to the diversified nature of the country a uniform formula was not possible so it was turned down in the *Balaji case*⁶ in which the Supreme Court held that the States are competent enough to classify the classes of backward people in their respective States. The State Government was stalking high for the formulation of concrete policy, so it was in 1967, that a commission of inquiry headed by Dr. P. B. Gajendragadkar was constituted to examine the recruitment policies and policy of admission to higher educational institutions and suggest measures for equitable distribution as well as equitable share of employment to various regions and communities.⁷ The Commission recommended that multiple criteria should be adopted for the determination of backward classes on the basis of economic, occupation, habitation and caste. It also recommended for constitution of a high powered committee for determining an identification of the classes on the basis of above mentioned multiple criteria. Pursuant to this recommendation the Government constituted a Committee under the chairmanship of Justice J.N.Wazir to consider the observation and recommendation of Gajendragadkar Commission.⁸ The committee undertook an extensive tour throughout the State and submitted its report on November 29, 1969. In its report the Committee identified and classified in explicit terms: a) weak and underprivileged section, b) residents of backward areas- i) bad pockets and ii) areas within eight kilometers of actual line of control.⁹ The State Government considered the suggestions of the Committee and framed two sets of rules.¹⁰ Under these rules the scheduled castes were provided 8 percent reservation and the backward classes were provided 42 percent reservation in the matter of appointment and promotions. The lacunas in the above mentioned rules have been challenged in the Supreme Court in the case of *Janki Prasad Parimoo and others v. State of Jammu and Kashmir and others*¹¹ wherein the court directed the State Government that the rules should not be given effect to till the defects were not cured.

The State Government reviewed the total gamut of things and decided to constitute a committee under the chairman ship of Justice A.S. Anand on 24th August 1976.¹² The Committee observed that the six categories made by the Wazir Committee could be cut down to two broad categories namely; a) 22 weak and underprivileged class and b) residents of bad pockets and areas near line of actual control. The Committee supported preferential representation for the backward classes without compromising the administrative efficiency. Finally the Committee submitted its detailed report in 1977, and on recommendation of the committee a notification¹³ was issued by the Government to provide following percentage of reservation: 1) Scheduled Castes - 8 percent, 2) Socially and educationally backward classes: a) Weak and underprivileged classes. i) Gujjar and Bakerwal- 4 percent ii) Other social castes 2 percent, b) Residents of backward areas: i) District Leh- 2 percent, ii) District Kargil 2 percent, iii) Other backward areas excluding Leh and Kargil districts 20 percent, iv) Areas near the actual line of control- 3 percent, 3) Children of freedom fighters- 2 percent, 4) Children of permanent residents of defence personals- 3 percent, 5) Candidates possessing outstanding proficiency in sports- 3 percent.

Due to the regional imbalance in employment the Government of the State was compelled to constitute another committee under the chairmanship of Justice S.M.Sikri in 1978, to review and examine the recruitment policy and recommend measures for equitable share to various regions and to ensure the equitable distribution of posts and the Committee submitted its report on August 25, 1980 and recommended that the reservation for scheduled castes should be made on the basis of population of the whole State not on the particular district.¹⁴ Meanwhile in the year of 1989, the president of India declared certain tribes of the State as scheduled tribe¹⁵ and consequently the state Government framed the rules¹⁶ for reservation of these tribes of the State.

At the national level with a view to determine the more comprehensive criteria for socially and educationally backward classes the Government of India appointed Mandal Commission under the chairmanship of B.P. Mandal on 1st January 1979. The Commission undertook a detailed study of the State also and identified 63 castes as socially and educationally backward in the State of Jammu and Kashmir and suggested 27 percent reservation for these castes. It is worth to mention here that Mandal commission had not recommended any reservation for “residents of backward area” or “area adjoining the actual line of control” in the State or in any part of the country. The recommendations of the Commission were challenged before the Supreme Court in the case of *Indira Sawhney v. Union of India and other*¹⁷ in which the Supreme Court directed the State Governments to constitute a permanent body within four months for entertaining, examining and recommending upon requests for inclusion and complaints of over inclusion in the list of other backward classes.

With a view to implement the above judgement the State Government reviewed its earlier policy and also amended the list of backward areas and also appointed a commission headed by Justice K.K.Gupta for identifying the creamy layer for purposes of disentitlement for reservation. On the basis of its recommendation the Government vide notification dated 28-6-1994 had framed the Jammu and Kashmir Reservation rules 1994.¹⁸ The modified reservation policy under this rule is as follows: a) Scheduled Castes- 8% , b) Scheduled Tribes-10%, c) Socially and Educationally Backward Classes- i) Residents of Area Adjoining Line of Actual Control- 3%, ii) Weak and Under Privileged Classes (social castes)- 2%, ii) Resident of Backward Areas-20%, a) Handicapped person- 2%, and b) Ex. Servicemen and Children of Defense Personnel- 5%.

In the year 1997, the State Government acted over the directions of the Supreme Court and framed the Jammu and Kashmir State Commission for Backward Classes Act. To implement the provisions of the Act, the Government appointed a permanent commission known as the State Commission for Backward Classes to examine the requests for inclusion of any backward class of the State and to hear the complaints of over-inclusion and under-inclusion in the list of backward classes and made a periodic revision of the list.¹⁹ The commission has submitted a report in 2006 for enhancement of reservation from 2 percent to 27 percent for other backward classes but till date no action has been taken by the State Government to include the other social castes in the list.

Finally, in 2004 the State Government passed the Jammu and Kashmir Reservation Act 2004 for reservation in appointment, admission in professional and educational institutions for the members of scheduled castes , scheduled tribes and other socially and educationally backward classes.

The Jammu and Kashmir Reservation Act, 2004

Further, in 2004, in order to ensure upliftment of the reserved categories by proper and effective compliance the State Government passed The Jammu and Kashmir Reservation Act, 2004²⁰ with an objective to provide for reservation in appointment, and admission in Professional Institutions, for the members of Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes. With the making of this Act the State of Jammu and Kashmir has achieved a rare distinction of being among the few States of the country that has a statutory cover for reservation policy that would go a long way in its effective implementation.

Chapter II of this Act make provision for reservation in appointment by direct recruitment. *The vacancies notified by the Government from time to time shall be reserved for appointment by direct recruitment from amongst the person belonging to Scheduled Castes and the Scheduled Tribes which shall not exceed the ratio and proportion as the population of each such category bears to the total population of the State as per the latest available census; and Socially and educationally backward classes, provided that the total percentage of reservation shall in no case exceed 50%, provided further that the Government shall exclude the services and posts, which, on account of their nature and duties are such as call for highest level of intelligence, skill and excellence, from operation of the Act.*²¹

Chapter III of the Act provides for reservation in Government service by promotion. The available vacancies notified by the Government from time to time, shall be reserved in any service, class, category or grade carrying a pay scale the maximum of which does not exceed the pay scale of the post of Deputy Secretary to Government, for promotion from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes, provided that total percentage of reservation shall not exceed 1[31%] of the available vacancies, provided further that the Government shall exclude the services and posts, which on account of their nature and skill are such as call for highest level of intelligence, skill and excellence, from the operation of the Act.²²

Further, chapter IV of the above Act provides for reservation in professional institutions. The Government shall reserve seats in the Professional Institutions for candidates belonging to reserved categories and such other classes and categories as may be notified from time to time, provided that the total percentage of reservation shall in no case exceed 50% and the Government shall prescribe the percentage for each category in admission in the Professional Institutions, provided that different percentage may be prescribed for different courses, provided further that 50% of the seats in each category including open category for admission to MBBS and BDS, shall be selected from amongst female candidates belonging to such category, provided also that the seats in any reserved category, which cannot be filled for want of candidates belonging to that category, shall be filled from amongst the candidates belonging to open merit category.²³

Jammu and Kashmir Reservation Rules, 2005

Consequently, in exercise in exercise of the powers conferred by section 23 of the Jammu and Kashmir Reservation Act, 2004, section 22 of J&K Persons with Disabilities Act, 1998 and all other relevant provisions of the law in this behalf, the State Government framed the Jammu and Kashmir Reservation Rules, 2005.²⁴ Rule 4 provides for Reservation in Direct Recruitment. It says that the available vacancies shall be reserved for direct recruitment in each service, class, category and grade in favour of permanent residents of the State

belonging to any of the below mentioned categories which shall, as nearly as possible, constitute the percentage of available vacancies shown against each: -

- | | |
|---|-----|
| (a) Scheduled Castes: | 8% |
| (b) Scheduled Tribes | 10% |
| (c) Socially and Educationally Backward Classes (other than Scheduled Castes and Scheduled Tribes): | |
| i) Weak and under privileged Classes (social caste) | 2% |
| ii) Residents of areas adjoining Line of Actual Control | 3% |
| iii) Residents of backward areas | 20% |
| (d) Ex-servicemen | 6% |
| (e) Physically Challenged Persons | 3% |

Rule 9 provides for Reservation in Promotion. Under this rule the available vacancies shall be reserved in any service, class, category or grade carrying a pay scale the maximum of which does not exceed the pay scale of the post of Deputy Secretary to Government, for promotion from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes and other socially and educationally backward classes:

- | | |
|--|-----|
| (a) Where the direct recruitment to a particular post is at 25% or less, the reservation shall be; | |
| i) Scheduled Castes: | 8% |
| ii) Scheduled Tribes | 10% |
| iii) Socially and Educationally Backward Classes | |
| a) Weak and under privileged Classes (social caste) | 1% |
| b) Residents of areas adjoining Line of Actual Control | 2% |
| c) Residents of backward areas | 10% |
| (b) Where the direct recruitment is more than 25% the reservation shall be: | |
| i) Scheduled Castes: | 4% |
| ii) Scheduled Tribes | 5% |
| iii) Socially and Educationally Backward Classes | |
| a) Weak and under privileged Classes (social caste) | 1% |
| b) Residents of areas adjoining Line of Actual Control | 2% |
| c) Residents of backward areas | 10% |

Rule 13 provides for reservation in professional institutions. It says, seats shall be reserved for Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes in each course of professional institutions which shall, as nearly as possible, constitute such a percentage of the available seats in that course as shown against each category or group hereinafter: -

- | | |
|---------------------|----|
| i) Scheduled castes | 8% |
|---------------------|----|

- ii) Scheduled tribes
 - a) Gujjars and Bakkarwals 6%
 - b) Residents of District Leh 2%
 - c) Residents of District Kargil 2%
 - d) Other than (a), (b) and (c) above 1%
- iii) Socially and Educationally Backward Classes (other than Scheduled Castes and Scheduled Tribes)
 - a) Weak and Underprivileged classes (social caste) 2%
 - b) Residents of area adjoining Actual Line of Control 3%
 - c) Residents of Backward areas 20%

Rule 14 provides for Other reservation. It provides that in addition to the reservations specified in rule 13, the following reservation is also made in favour of the following categories of the permanent Residents of the State to the extent shown against each:

- a) Children of Defence Personnel 3%
- b) Children of Para-Military Forces 1%
- c) Candidates possessing outstanding proficiency in sports 2%

In this context it is significant to note that the report of Commission for Backward Classes submitted in the year 2005-06 recommended for enhancement of reservation quota of social castes from 2 percent to 27 percent as per the judgment of the Supreme Court on Mandal Report.

Jammu Kashmir Civil Services Decentralization and Recruitment Act, 2010²⁵

On 9 April 2010, the State Assembly passed a controversial Bill which bans inter-district recruitment and provides a quota for Scheduled Castes in government jobs in all districts. With the passage of the Inter-District Recruitment Bill, a person can now apply for government jobs only in his own district while a person belonging to the Scheduled Castes community can apply in any of the 22 districts in the state, including the Kashmir valley. It says that person shall be deemed to be resident of a particular District or Division if he/she has resided in such District or Division, as the case may be, for a period of not less than 15 years before the date of applying for a particular post and is actually residing in the said area. But if the candidate is applying under Scheduled Caste category for any post in the Divisional or District cadre shall, irrespective of their place of residence in the State, be eligible for selection against the posts reserved for the said category at such selection.²⁶

Politics of Reservation

At the time of the partition of the subcontinent of India there has been a systematic division on regional, ethnic and communal lines in the State of Jammu and Kashmir suiting the political interests of the government of the time. Today the division has trickled down to Mohalla and village level. Firstly the divisions at province level are now significantly visible within the state. Jammu's Dogras and Laddakhi Buddhists stand against the Kashmiri speaking people of the valley. Muslim Paharis against Muslim Gujjars and Bakkarwals.

Sunni Musmils against Shia Muslims. Hindu Dogras against Hindu Rajputs. Hindus of Jammu Kuthwa against Muslims of Rajori Poonch-Doda. Buddhists of Leh district against Muslims of Kargil district. Kashmiri speaking Muslims of Doda Baderwah Rajori Poonch against Pahari-speaking Muslims of the same area. Another significant division is between well developed urban Srinagar and rest of the rural Kashmir.²⁷ The divisions are now deeply embossed in the mind of people. Now they are demanding autonomy which further had facilitated such divisions. The nefarious designs of such people got vent with the creation of Laddakh Autonomous Hill Development Council in 2003. In addition to it the State government were compelled to appoint a Regional Autonomy Committee for Jammu province. Recently, a new wave of division started for the creation of new district and Tehsils. The sole reason of the above divisions is the preference of exclusive party agendas over genuine decentralization model. The regional tension, divisiveness and the disparity existing in the State of Jammu and Kashmir is not new. It was way back in 1961 when some grievances arise in Jammu that led to the constitution of Gajendragadkar Commission which were also politically influenced, recommended the establishment of Regional Development Boards which sowed the seed of the communalism in the State.²⁸ To the end of 80's, almost all the State Government departments were bifurcated or trifurcated. Most of the state level posts were replaced by divisional level posts. The reservation for socially backward classes and ethnic groups created further social, regional and political divisions.

The issue of SCs

The introduction of the Inter-District Recruitment (Amendment) Act 2010 was the best example of the politically motivated action of the State Government. Despite enjoying the numerical majority in the State Assembly, the National Conference (NC) chooses to go by the Congress Party stand on the Bill. It shows how the State's politics is subservient to the preferences of Congress Party. The message conveyed was clear that State political parties can compromise their mandate for the sake of their bosses at the centre.

The Act in its amended form is bound to divide communities and groups on geographical lines. The Act is also unjust to the State's Muslims particularly those belonging to the Kashmir Valley. As per the amended Act, the scheduled castes that comprise of certain Hindus particularly of Jammu region will now enjoy 8 percent reservation in all the districts of the State. Whereas there are no scheduled castes in the ten district of the valley but they will enjoy their reservation too.²⁹ This is the best example of vested interests of the national parties in the State of Jammu and Kashmir who motivate to consolidate their vote banks in Hindu dominated areas at the expense of Muslims. The Act is not only against the Muslims of the State but also it has a potential to further divide the State on ethnic, religious and geographical lines. This Act raises some serious questions on the basic idea of reservation applicable to the State of Jammu and Kashmir.

The issue of RBA

The State of Jammu and Kashmir seemed to take reverse turn on the developmental path because more and more people are demanding the backward status for their areas. It is again the issue of misnomer work of the policy makers. It is only in the State of Jammu and Kashmir that geographical area had been made the criteria for granting reservation quota to backward and underprivileged classes. Besides it, in this backward area category there has been no ban or barrier between the poor and the millionaires but the only criteria is to be a resident of that particular area. Revenue records are sufficient to claim for resident of backward area (RBA) category. No matter, whether they are living in the cities or the posh

colonies of the metropolitan cities. We have hundreds of examples where the wards of high ranking officers are snatching the rights of those poor people who deserved to be given to special chance to excel but unfortunately the creamy layer of the community is only the beneficiary of the area based reservation policy. It has been established that granting the reserved category status is a major aim to bring underprivileged section of the society at par with advanced category but the “benign discrimination” has been misused or moulded to suit vested interests, as RBA status has been extended to areas which enjoy educational and other facilities at par with people of advanced categories. As a result, the State has been consigned to the hands of an incompetent administrative officers, undeserving doctors and unqualified engineers. The State Commission for Backward Classes is flooded with thousands of requests for inclusion and complaints of exclusion. In the State of Jammu and Kashmir a number of villages with all necessary educational facilities and high social status are enjoying the fruits of RBA status. The irony of the fact is that the tehsil headquarters with all facilities have been listed in the RBA category due to vote bank politics.

Implementing the Mandal Commission Recommendations, like all the States, Jammu and Kashmir too appointed a permanent body in order to include and exclude the areas and categories from the list of reserved categories. The Jammu and Kashmir State commission for Backward Classes (SCBC) was constituted in 1997.³⁰ The Act says that the Government should revise the list contemplated under section 2 (d) of the Act after expiration of every succeeding ten years period. The objective is to exclude from such lists those classes who have ceased to be backward or for including in such lists new backward classes.³¹ Fifteen years have passed when the Act was promulgated but there has been no exclusion of any area from the RBA list. According to justice Bhat, Chairman SCBC, in an Article published in *Kashmir Life*, “Upto March, 2009 there were 1755 representations pertaining to grant of RBA or reserved category status pending with the Commission. Out of it 1154 are from Kashmir and 601 from Jammu division”.

The Jammu and Kashmir Reservation Act, 2004³² says that the children of any person whose annual income from all sources exceeds Rs. 3 lacs or such amount as may be notified by the Government from time to time in accordance with the prescribed norms shall be excluded from the category of socially and educationally backward classes. However, the Jammu and Kashmir Reservation (Amendment) Bill, 2009 proposed that “the income ceiling shall not apply to a person who has lived and contemplated entire school education from an area identified as Backward or areas adjoining Actual Line of Control, as the case may be, and in case such schooling is not available in such area, from the nearest adjoining area.”

The issue of OBC

Another major issue confronting to the State of Jammu and Kashmir pertains to the other backward classes who always remain the matter of debate from the beginning. Due to persistent and stringent demand of the neglected socially and educationally backward classes, the Government of India appointed the first backward class commission “Kakasaheb Kalelkar Commission” on 29 January 1953. After a detailed ground work the Commission submitted its report on 30th March 1955, listed 2399 castes as socially and educationally backward class.³³ Pursuant to its criteria, the Government of Jammu and Kashmir also appointed a committee which recommended 50 reservations for Muslims of Kashmir, 40 percent for Jammu Hindus and 10 percent for Kashmiri pundits. This decision itself was flawed as it was done on communal lines, which was antithetical to the Constitution on India and was subsequently struck down by the Supreme Court in the case of

Triloki Nath v. State of Jammu and Kashmir.³⁴

The backward classes of the State were constantly ignored and discriminated. Notably first time the Gajendragadkar Commission in 1967, made some recommendations for determining the multiple criteria for backward classes like economic backwardness, occupation, place of habitation, student ration and caste in relation to Hindus.³⁵ It also recommended the fresh revision of reservation policy based on the above mentioned multiple criteria. So the Government of Jammu and Kashmir appointed a high powered committee (J.N.Wazir Committee) which took fresh revision. On the basis of its report, the new rules were framed, which provided for 8 percent reservation for Scs and 42 percent for backward classes including 2 percent reserved for Laddakh District. While the scrutiny of these rules, the Supreme Court while pointing out certain defects directed the State government to cure these defects. So again a committee under the chairmanship of Justice A.S.Anand was constituted in September 1976. The Committee submitted its report in September 1977, and recommended 2 percent reservation for social castes, and inclusion of RBA and ALC categories with 27 percent reservation in the broad category of socially and educationally backward classes. The atrocious system of reservation was followed by Mandal Commission in 1980. The Mandal Commission in its report submitted on 12 December 1980 identified 63 castes, communities as “socially and educationally backward classes” and recommended 27 percent reservation for them. The Commission had not recommended any reservation for “residents of backward area or areas adjoining the line of control” in the State of Jammu and Kashmir or in any other part of India.

Subsequently, the Mandal Commission recommendations were challenged before the Supreme Court in the case titled *Indira Sawhney v. Union of India*³⁶ in which the Court held that the States and Union Territories under section 123 (A) provides for constituting a permanent body within four months for entertaining, examining and recommending upon requests for inclusion and under inclusion in the list of backward classes.

Following the judgment of the Supreme Court, the Jammu and Kashmir Government which was under Governor rule at that time also appointed retired justice K.K.Gupta Commission, which prove mere an eye wash as the said commission worked only on the report of over ruled Anand Committee of 1977 whereas this fraud can very well be judged from the below :

a) SC-8%, b)ST-10%, c) socially and educationally backward class: 1) RBA-20%, 2) ALC-3%, 3) weak and underprivileged classes (social castes)-2%, d) handicapped person-2%, e) ex-servicemen and children of defense personnel-5%.³⁷

Formally, the State Government appointed a permanent State Commission for Backward Classes in 1997,³⁸ with eminent retired jurists but the Commission even after the passage of 15 years failed to provide 27% reservation to socially and educationally backward classes identified by Mandal Commission. The inclusion of backward area and area adjoining to actual line of control under section 2(o) of the Act and Rule 4(c) of the SRO of 2005 is against the provisions of Article 15(4), Article 16 (4) and Article 340 of the Constitution of India. The RBA and ALC people does not carry the stigma of social backwardness. In addition to it, Mandal Commission nowhere mentioned the area wise reservation on geographical basis. Further, the National Commission for Backward Classes, New Delhi, also does not accepted RBA and ALC reservations for central government services. Thus the backward classes not only discriminated in State but also are debarred from the reservation by the central government also because of the ambiguous policy of the State. Only mere 2% social castes of the State of Jammu and Kashmir get reservation in the centre under 27 percent reservation

quota meant for other backward classes.

The Gujjar-Pahari issue

As far as the contemporary internal conflicts in Jammu and Kashmir is concerned, the political and social clashes between the Gujjars and Paharis are perhaps one of the most serious challenges to internal peace at the micro-level and an emerging impediment to solving the Kashmir issue at large. This conflict between the Gujjars and the Paharis, transcends all regional boundaries and religions within Jammu and Kashmir and beyond. Historically, this fault line erupts several decades ago but the issue becomes sharpened in 90's when Gujjars have been included in the scheduled tribe list of the State. The situation has worsened when a similar demand had been made by number of ethnic groups and castes from muslims, hindu and sikh groups congregate under a pahari speaking community.

The controversy is taking much heat day by day on a large scale because the political parties extend selective patronage to one community against other for vote bank politics. It is only the political parties and the Government of the State who helped, directly or indirectly in escalating conflict between the two communities from time to time. This resulted in the tension between Gujjars and Paharis who nurse huge contempt for each other. In Rajori and Poonch district of Jammu provine and some parts of Baramulla, Kupwara, Bandipora and Badgam district of the Kashmir provine where these communities are predominant, the Gujjar Pahari divide becomes a dominant factor in all decisions- political and administrative, from selection of candidates for assembly elections, appointment of ministers in the cabinet, nominating office bearers of political parties to posting of Government officers at different levels in the districts, even identifying Government projects like schools, dispensaries, roads and bridges etc., is a major determining factor. Instead of resolving the issue, the political parties are playing the Gujjar and Pahari cards which further aggravate the situation and sharpen the conflict.

The issue of multiple ethnicities and diverse languages, which should have been a source of strength for the State, has become a disadvantage as it has become a constant point of friction among the diverse identities in the State. There are several historical facts behind the Gujjar-Pahari issue. In the early years of their arrivals the Gujjar of Jammu and Kashmir took direct confrontation with Rajput clans for political and strategic reasons. Rajput being the Zamindars employ Gujjars and tillers, domestic help and casual labourers for centuries. The tussle between Zamindars and tillers is an old story. Even today the social differentiation continues to be a major factor for the gap between Gujjar-Pahari inhabited areas. Thus there seems a huge potential for social unrest which is being proliferated by the political parties. The only possible solution for this conflict lies in the capabilities of the Government to alleviate the socio-economic profile of the two communities. Giving the ST status to Paharis would further aggravate the situation. It also warns of the risk of opening a Pandora's Box of similar demands from other ethnic group. It is strange to analyse that besides the demand of Paharis for ST quota, they already are the major stakeholders of 20 percent RBA category and 3 percent ALC category. Though, the reservation policy needs a fresh review in the light of the above burning issues, ranging from ethnic, regional, linguistic, communal social and political.

Conclusion

The reservations, though express some different perspective, but marked some purpose and objective is known by different names; benign discrimination, contemporary discrimination,

positive discrimination, protective discrimination, affirmative action and reverse discrimination. The only aim of the reservation is to ensure that no section of the society is deprived of its rightful place in a true democracy. Reservation is a right for participation in education, service and politics etc., but it is now easily available as soft option for political parties as their vote gathering device. Political parties use reservation as a device for improving their election prospectus to influence and gain power. The State of Jammu and Kashmir is not an exception to it, where reservation policy has always remained a tool in the hands of political parties to suit their vested interests. Every political party in power has amended the policy through their own unique criteria ranging from caste base, area base to profession base, ignoring the fundamental provisions meant for reservation enshrined in the Constitution of India. This negligence on the part of policy makers sowed the seeds of division at regional, linguistic, ethnic and communal lines which proved to be a tower of Babel in the State.

The Government of Jammu and Kashmir has appointed a number of commissions and committees to sort out the issues but yet the reservation policy is being amended day in and day out in their own way. Somewhere the reservation is being demanded on caste basis, which is antithetical to the State of Jammu and Kashmir, as it is a Muslim majority State. Islam believes in an egalitarian society, which does not recognize the caste system, but still the caste based reservation policy continues to exist, which does not differentiate between the millionaires and the poor of the same caste. The unconstitutional/illegal pattern of reservation resulted in a race in which every section and group is demanding reservation on self defining criteria aggrandized by the political parties sidelining the very purpose of reservation. In a diversified State of Jammu and Kashmir the only solution to all the above mentioned issues is the socio economic amelioration of the disadvantaged masses.

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Plea for A Revamp In Human Rights Education

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Abstract

It has been rightly identified that man has been a victim of violence unfortunately though at the hands of man himself. Be it vulnerable groups like women, children, slum dwellers or refugees or it might be a terrorist attack shaking up the sense of security of the victims as well as the society. Question therefore arises as to what would be the future of the human rights situation? Why do all efforts go waste? This paper presents the view that the answer lies in improving human rights education. The objectives of the courses purporting to teach human rights in most cases are ill defined and the methodology inadequate. Moreover students read it from the point of view of exams only. But human rights education cannot be confined to books and class rooms. It extends to sensitizing the minds of the students by teaching values of love, peace and compassion that will inspire them to work for a better and an orderly society.

Introduction

*“Where the mind is without fear and the head is held high;
Where knowledge is free;
Where the world has not been broken up into fragments by narrow domestic walls;
Where words come out from the depth of truth;
Where tireless striving stretches its arms towards perfection;
Where the clear stream of reason has not lost its way into the dreary desert sand of dead habit;
Where the mind is lead forward by the ever widening thought and action;
Into that heaven of freedom my Father, let my country awake.”*

- Rabindranath Tagore

This is the dream of a beautiful and a successful India which our forefathers had dreamt and strived for, and it is our pious duty to live up to that dream. We need to build an India rich in values and wisdom. This dream will materialize when every citizen is educated to solemnly resolve to observe the Preamble of the Constitution of India and follow the ideals laid down therein, and to discharge with all wisdom and might the Fundamental Duties enshrined in article 51 A of the Constitution of India. For this there should be a burning desire to act immediately in the requisite direction. This urgency is well depicted in the following paragraph.

Urgency to Bring Reforms

1995-2004 had been declared by the United Nations as the Decade for Human Rights Education.¹

To quote United States Chief Justice Warren E. Burger's, “My mother taught us that the time to fix the cracks in the plaster is when you see first move into the house. Later on you do not

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pay attention to them.”

Chief Justice Ahmadi sounded almost the same note of caution when he said in a lecture—“I think we have waited long enough to repair the cracks in the legal education system of this country and it is high time that we rise from our armchairs and start the repair work in the right earnest.”

Frankly speaking legal education plays a vital role in the maintenance of Rule of Law. Advocates are the pillars of the justice delivery system. Advocacy is a profession and not a business. It is a branch of administration of justice and not a mere money making occupation. The essence of a profession is that though men enter it for the sake of livelihood, a measure of their success is the service, which they perform to promote their health, safety and good of the society and not the gains which they amass.²

Purpose of Human Rights Education

If the goals of legal education and particularly human rights education are formally and thoughtfully laid down then all can work together and bring about success. Infusing a sense of social obligation on the part of legal service providers is the responsibility of legal education.

For that we need to analyse the purpose of legal education and the purpose would in turn guide the method of imparting legal education. Before Independence the scope of legal education was comparatively narrow. The only purpose subserved by the legal system was maintenance of law and order, punishment of crimes and adjudication of civil disputes. Subsequently legal education became an instrument for providing the requisite personnel to the legal profession.³

One purpose might be to create legal professionals and hence legal education would be treated as professional education. As a professional education, legal education would equip students with the necessary skills needed to fill up certain roles as for e.g. administrators, policy makers, lawyers, law teachers, judges, LPO executives and the list keeps on growing according to the times. So when a student entered the college with one or the other of the above aims then what he received was professional education which tried to equip him with the necessary skills required to fulfill his goals. He received information devoid of critical understanding. Overall, 'legal education in India' has been unable to respond holistically and meaningfully to contemporary challenges.⁴

According to Arthur von Mehren, before Independence the Indian legal profession and legal education had not developed “a rationally functional approach to the problems of law and legal order” and the “Indian legal education inevitably tended to evolve in patterns that emphasized rote memory.”⁵

But the times have changed. The society today looks to ameliorate its socio economic difficulties by peaceful means. It is understood that law has a crucial role to play in a democratic society where law serves as an instrument of social change. Respect for democratic values and rule of law can be best conveyed through legal education. That has influenced the purpose of legal education. The purpose of legal education today is not just professional education but is education that is aimed at producing lawyers with a social vision. These lawyers then can build an India fortified with values enshrined in the Constitution of India.

If the former would be the purpose of legal education, where we must train our students to fill

in certain roles then we need to train them in aptitude, the provisions of the law, articulation of thoughts and good presentation skills. And if the latter be the purpose of legal education then training would be with the view to sensitizing the students with the problems of the society so that they are able to give some innovative solutions to the present day problems.

The most worthwhile and surely the most representative, approach for the curricular would be to address some vital questions of ethics, human rights, and value by means of a dialogue between law and literature.

The Constitution of India in the preamble mentions that it must be the endeavour to create a social order in the country in which justice in all its phases i.e. social, economic and political must be secured without discrimination to all its citizens. Hence, justice must be the core value that needs to be inculcated through legal education. In view of the Constitutional contemplation towards sensitizing the operation of legal systems to promote human rights and justice, legal education which prepares persons to shoulder these responsibilities, should undergo these refinements. A legally conscious civil society free from corruption and prejudice can be built well only on the sound foundation of legal education.⁶

Defining the Objective Of The Course

To inculcate these values should be the objective of legal education, and more so the purpose of human rights education, since these values are essential to the propagation and the promotion of human rights. The objective for the study of the course should be laid down with due care. The sensitizing of the student in human rights must find mention.

The Preamble of the Universal Declaration of Human Rights states-

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all

peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.⁷

Realisation of these goals should be the aims for teaching human rights to the students. Having said that, it is necessary, to look into the methods that may be employed for teaching the subject effectively.

Methodology of Teaching Human Rights

1- Lecture Method

Legal Education is no longer a one way process of transmission of knowledge. Lecture method is seen as requiring 'little intellectual effort' reducing student involvement to the taking of notes leaving virtually no scope for the learner to think. Hence this method is not adequate.⁸

2- Interaction and Discussion Method

Because of the intensive involvement of the students, the content of the lecture becomes more meaningful to the students. It is a two way communication wherein both the teacher and the students are involved in the learning activities. Discussion elicits higher levels of reflective thinking and creative problem solving.⁹

3- Case Study Method

Case study method is built upon certain premises. It consists of learning certain principles and doctrines. The growth of the law can be traced through a series of cases. Cases will enable the students to develop the power to analyse complicated state of facts. By the study of cases students can acquire a habit of legal thought.

1- Moot Courts

Moot Courts are nothing but mock courts wherein a fictitious case is given and students have to take up the role of advocates and prepare both sides of the matter. This improves their analytical skills when they analyse the given problem. They apply the laws to the factual situations given. While so doing innovative ideas come up and new arguments come up to deal with a given problem and these ideas indirectly go a long way in finding solutions to current problems and later by developing the law towards that end. Through application of law they come across also the deficiency in the law and thereby are familiarized with the need for reforms. For teaching human rights moot problem may be set up depicting the conflicting interests of various groups or the conflicting individual and community interests or the shortcomings of municipal law and the realization of rights guaranteed under the International Covenants that are not expressly guaranteed under the municipal law.

2- Conducting fieldwork

It is said that travelling is the best educator. Identifying and visiting sites where there are human rights violations, and doing whatever one can to ameliorate such difficulties is a good way to instill care and social responsibilities, in the minds of young students. This is the best way of sensitizing them with current social problems. Perceiving a problem directly through ones own eyes initiates in the minds of the young a sense of responsibility towards fellow

citizens. To help them out students can contact local authorities, the State Human Rights Commission or the National Human Rights Commission as the case may be. They can also take steps to bring to the notice of the statutory authorities for e.g. the National Commission for the Protection of Child Rights (NCPCR) or the commission for Women's Rights or the Commission for the Minorities Rights. This will give them a first hand experience of how problem solving can be done through the constitutionally appointed means.

3- Organising students seminars and workshops

Students enthusiastically take part in seminars. If class seminars are organized on topics from the curriculum then, in the anxiety to perform well the student will prepare all aspects, even those that are very slightly related to the matter. This will ensure good and thorough learning of the subject. It is said that self learning is the best learning. It also ensures personality development. More reading sensitizes them on human rights issues. Workshops similarly go a long way in practically familiarizing them with the subject at hand.

4- Use of Audio Visual Techniques

Use of power point presentations, while teaching leaves an impact on the minds of the viewers. There is actually scientific reason behind it. Perceiving a subject just through the ears and perceiving it through ears and the eyes makes a difference in the grasping of the subject. In this case the latter scores higher in reaching the audience. Use of blackboard is another way of driving in a point. But audio visual techniques certainly score higher as many colours may be used in it. There are certain colour combinations for e.g. yellow and black or certain colours for e.g. red which if used in making presentations, is remembered by the audience for a considerably long length of time.

5- Clinical Legal Education

Amos's technique was throwing the student in at the deep end.¹⁰ His lectures would be largely clinical. Clinical experiences involve Lok Adalat, Legal Aid Camps, Legal Literacy Projects and Public Interest Litigations. We need to learn the law through experience. It is directed at familiarizing the student with the theoretical and operational parameters of legal doctrines and statutory principles and the techniques of applying them in actual practice and real life situations. Students will develop critical and contextual understanding of law as it affects people in the society.

6- Education utilizing Mass Media resources

Collecting paper cuttings and making scrap books on topics from the curriculum helps learning while enjoying the learning process. Since it is not forceful it is easily accepted by the taker. Newspapers, magazines feed the thirst of the student to learn the day to day progress on a particular case. Following that and making content analysis of the subject helps in deeper understanding of the subject. The student can also visit various libraries and read the opinion of various authors and activists in the subject.

7- Use of Computers and Internet

The next generation is the generation of computers. No serious lawyer, law teacher or legal researcher can do without the use of computers.¹¹

Net connectivity during instructions helps the student access the relevant sites and get first hand information. For e.g. while teaching International Human Rights Commission student can directly access the website and have a look at the pictures and also the working of the

commission. Same is the case, when the role of the National Commission for the Protection of Childs Rights is taught. The student can access the website for the NCPCR where abundant information is given on the working of the commission, the steps it has taken to on various problems at hand, their success in settling earlier disputes etc.

Course Content

Today learning the traditional norms of human rights are grossly inadequate in the study of the subject. Agricultural biotechnology, pharmaceutical biotechnology, industrial biotechnology, cloning, Cyber technology, genome mapping and similar advances in technology leave the traditionally drafted courses far behind. These developing techniques pose a serious challenge to human rights education.

Conclusion and Suggestions

Human Rights Education must not only be accepted as an indispensable socio economic asset in catering to the human capital but also as an effective force for a sustainable peace, by the cultivation of values essential to the maintenance of peace order and growth in the society. The obligation of Man to Man must be clearly spelt out. The object should be to teach human rights must be redefined to bring about social change and also to bring legal literacy to the doorsteps. The methods of teaching must be revamped. The student must be sensitized to the values laid down in the Constitution and in the Bill of human rights. The course content must also be revamped to include human rights protection for violations that arise out of misuse of technological developments. Then only can real HUMAN RIGHTS EDUCATION be achieved.

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“You must not lose faith in humanity. Humanity is an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty.”

-Mahatma Gandhi

Role of Human Right Education in Global Era

Dr. Sandeep Srivastava*

Abstract

A worldwide human rights regime has emerged, expanded, and intensified throughout the twentieth century, especially in the post World War II era. This regime involves a global system of expanding organizations, social movements, rules, and discourse promoting the human rights of individuals. This regime is universalistic in aspiration: all humans are expected to be covered by the regime. Education seems to have lost its orientation in Western culture and is in disarray all over the globe in time of global transitions. Global transformations and globalizing capitalism are the general headlines for some of the most profound, deep and dramatic developments in our era that education must address. There is an urgent need to address the dramatic changes inflicted on/promised to our era philosophically, sociologically, culturally, ecologically, physically, aesthetically and politically. Any education to be effective needs to be contextualized too. Thus it is not enough to teach abstract principles of human rights taken from United Nations' documents or our Constitutions. Our historical context as nation as well as local contexts needs to be reflected in human rights education. The contextualizing of human rights is essential for nurturing of peace. Creative reflections on local situations from a human rights perspective would help the schools greatly, to become the societies' most important peace makers.

“ Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. ”

Article 26.2 of the Universal Declaration of Human Rights

Introduction

“All human beings are born free and equal in dignity and rights”. So stated Article 1 of the Universal Declaration of Human Rights in 1948. This is what the Indians have been preaching since times immemorial as it has become the immemorial customs of our nation .Human Rights are a fundamental value. There is a long Indian tradition of standing up for the weak against abuse by the strong. Upholding human rights values in every aspect is firmly in our tradition.

Education shall be directed to the full development of human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. The concept underpinning human rights education is that education should not only aim at forming trained, professional workers, but also at contributing to the development of individuals who possess the skills to interact in a society. Human rights education, human rights into education aim at providing pupils and students with the abilities to accompany and produce societal changes. Education is seen as a way to empower people, improve their quality of life and increase their capacity to participate in the decision-making processes leading to social, cultural and economic policies.

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Human rights education cannot be reduced to the simple introduction of human rights content in already overburdened curricula. It brings about a profound reform of education, which touches upon curriculum in-service and pre-service training, textbooks, methodology, classroom management, and the organization of the education system at all levels.

Human rights education implies the learning and practice of human rights. A holistic approach to human rights education means that human rights are implemented at all levels of the education system, and that they are taught through both content transmission and experiences.

Human Rights and Values Education in the Global Context

Increasingly, human rights education (HRE) is viewed as a way to bring coherence to a fragmented and globalized world. Issues of gender equity, cultural diversity, interfaith dialogue, prevention of violence, elimination of stereotypes (racial, ethnic, religious, or based on gender and/or sexual orientation), may all be approached from a human rights perspective through the principles of respect, tolerance and recognition.

Why Human Rights Education?

1. Produces changes in values and attitudes
2. Produces changes in behaviour
3. Produces empowerment for social justice
4. Develops attitudes of solidarity across issues and nations
5. Develops knowledge and analytical skills
6. Produces participatory education

So give human rights education to every one and save the world.

Human Rights Education Models

1. Values and Awareness

The Values and Awareness Model focuses on transmitting “basic knowledge of human rights issues and to foster its integration into public values” based on its philosophical-historical approach. This model is what people commonly think of when human rights are concerned with the target audience being the general public with topics including global human rights and more cultural based matters.

2. Accountability

The Accountability Model is associated with the legal and political approach to human rights in which the learners which the model targets are already involved via professional roles. The model is incorporated by means of training and networking, covering topics such as court cases, codes of ethics, and how to deal with the media.

3. Transformational

This model of education focuses on the psychological and sociological aspects of human rights. The topics towards which this model is effective are those including vulnerable populations and people with personal experiences effected by the topic, such as women and minorities. The model aims to empower the individual, such as those victims of abuse and

trauma. The model is geared towards recognizing the abuse of human rights but is also committed to preventing these abuses

The Need for Human Rights Education

The importance of human rights education hardly requires any over emphasis. It has a crucial role in preventing human rights violations from occurring.

The United Nations proclaimed that human rights education is “training, dissemination and information efforts aimed at the building of a universal culture of human rights through imparting knowledge and skills and the moulding of attitudes”. These efforts are designed to strengthen respect for human rights and fundamental freedoms, facilitate the full development of human personality, sense of dignity, promote understanding, respect, gender equality and friendship to enable all persons to participate effectively in a free society, and further activities for maintenance of peace.

Human rights education, training and public information are, therefore, necessary and essential for the promotion and achievement of stable and harmonious relations among the communities and for fostering mutual understanding, tolerance and peace. Through the learning of human rights as a way of life, fundamental change could be brought about to eradicate poverty, ignorance, prejudices, and discrimination based on sex, caste, religion, and disability and other status amongst the people.

Human Rights Education in India

It may be said that in India that the content of human rights education is not different to what was taught by way of religion, be it Hinduism, Buddhism, Christianity or Islam. There is lot of truth in that statement. The quintessence of human rights is also the basic essence of all religions, Love, compassion, loving kindness are the same. However, while teaching religions we confined the obligations arising from these doctrines only to their followers. Human rights could bring in a universal aspect to moral and ethical education. And we in our divided societies are in great need of this On the other hand in the context of rapid secularization we could still retain a basic common ground for respect for each other. We could still be our brothers' keepers and withstand value systems which only promote selfish ways of life.

Indian textbooks barely mention human rights. Indirect references to human rights are included in the Directive Principles of the Constitution of India and in civics and history textbooks. Most universities in India do not offer human rights education, although some have three-month to one-year postgraduate courses on human rights. Section 12(h) of the Protection of Human Rights Act, 1993, requires the Commission “to spread human rights literacy among various sections of society and promote awareness .The National Human Rights Commission of India and many NGOs have launched a countrywide public information campaign for human rights. It aims to make everyone more conscious of human rights and fundamental freedoms, and better equipped to stand up for them. At the same time, the campaign spreads knowledge of the means which exist at the international and national levels to promote and protect human rights and fundamental freedoms.

Human rights education (HRE) provides knowledge about both human rights values and the mechanisms that protect these values. In addition, it provides the tools for people to apply human rights in their daily lives to combat discrimination, intolerance and other human rights violations. HRE also improves the quality of learning achievements and assures the

full development of the individual's personality by fostering understanding, tolerance and peace.

Conclusion

The world human rights regime is activated in international conferences involving scientists and professionals discussing human rights issues and in the work of transnational experts promoting human rights policies and the standards with which to evaluate their implementation. With the expansion of the human rights regime to cover a range of individuals the world over, women's rights have become most clearly manifested in the "woman's convention." This would mean that to be Indian one has to put up with one's bondage, one must remain submissive, one must eat less and work more. Is that what our women and our children need to believe? Is that what our workers and peasants need to believe while multinational companies with the help of our elite take away the fruit of their labours, and the fruit of our lands? The relativist theory, though couched in nationalist terms is not nationalist at all. It work for the benefit of big companies Western or otherwise.

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"There is no God higher than the truth."

- Mahatma Gandhi

The Implementation of Human Rights: Some Thoughts on Multi-Dimensional Approaches

R.E.S. Tanner*

Abstract

Ethical issues such as human rights can perhaps only flourish in situations which have evolved through their own cultural development or successful national politics overall. They can agree to the implementation but there may be little return other than psychological, political and religious satisfaction as it may be felt that they have already done all that they can in this direction; it may be no more than a face saving exercise. Multi-disciplinary approaches at a non-ethical level are likely to disclose not only the plain facts that abstract human rights do not exist independent of their social environment but that their implementation would create an equally wide range of other barriers to their implementation. Rapid social change whether just occurring from factors independent of human agency or through attempts at enforcement almost invariably raise further issues of corruption and simony quite independent of national interests. The multi-dimensional approach to the implementation of human rights is an ethical necessity but a practical impossibility as the specialisation of professionalism handicaps time-consuming cooperation. Multi-dimensionalism is best applied to the study of small communities in which such implementation might be negotiable.

Introduction

Human rights as a international aim initiated by the United Nations at the end of World War Two are a global hope of Western origin come from the personal understandings of thinkers and politicians about the standards governing their own lives. In this they were no different to religious leaders who have framed codes of hope to be applied to the lives of all believers. In this moral, political and social optimism the problem was and is to extend the realities of its potential coverage beyond this relatively small group with no material worries to the generality of mankind. There are serious inter-disciplinary problems over the realities about any form of universality involving human behaviour.

Firstly there is the problem of the extent to which any general value can be applied to societies ranging from the effectively bureaucratised ones with extensive well-funded and efficient welfare systems to societies which have little existence beyond diplomatic recognition and are divided by civil wars, limited financial independence or ability to implement its own laws.

Secondly the ability to engineer the implementation of such general rights depends on the acquisition of adequate knowledge about their absence and a multi-disciplinary understanding of what is involved.

Thirdly the need for a similar multi-disciplinary approach for the creation of social situations in which human rights can be implemented or enforced.

Fourthly the dimensions of the reality that the majority of mankind live under perennial conditions in which there can be no realistic potential for the fulfilment of human rights except as an ideal.

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We see in this the basis for inter-disciplinary approaches to the problems of such a global issue since it can only be studied and implemented on the bases of many different social and political environments. It would be prudent to keep in the forefront of our minds for any multi-dimensional approach that as recently as 1975 in Cambodia in three years there was the organised political killing of 1.5 million citizens 'no other country has ever lost so great a proportion of its nationals in a single politically inspired hecatomb brought about by its own leaders' (Short.2004:10) and that as well the Ruanda tribal genocide of 1994 in which possibly as many as one million were killed (Mamdani.2001)

A Hierarchy of Possibilities

Maslow (Maslow.1970) developed a hierarchy of individual needs from the lowest one of just being able to stay alive to the fifth and highest state of sophisticated individualism. These levels do not adequately cover the gradations of societies from ones in which overall conditions make human rights an irrelevancy as in Chad and Myanmar to those in which human rights are a possibility beyond a limited number of its political, social and economic elite as in Uganda and Afghanistan.

Each individual and the environment in which they live and in some cases just manage to survive are compositions of every conceivable experience and influence. Probably in all cases there are regular as well as opportunistic issues which are dominant in their influences at different levels and at different times.

Thus in any multi-dimensional approach has to be in terms what is needed to enable the majority of any population whether children, men or women to have practical access to the rights enshrined in the United Nations Declaration of Human Rights Let us look at what is needed in any such approach at various levels of application.

The Fear of Starvation

Many populations of subsistence farmers live on the edge of disaster from natural causes of flood and draught and civil disruptions and even in good years their food may be adequate for the months following harvesting and then progressively declining until the next one. The Gogo of central Tanzania expect one year in five to be disastrous.

There are whole communities handicapped by prolonged droughts in Eastern Africa, floods in Bengal, earthquakes in China and in inaccessible parts of Kashmir as well as hurricanes in Myanmar. The refugees from the Ruanda genocide in Ngara Tanzania created a camp larger than any city in that country In some urban areas malnutrition is common amongst unskilled daily workers and the poor generally.

In such situations a wide variety of professional expertise are required to evaluate the extent of such disasters and the priorities of giving any help; management and logistic specialists who are able to implement the giving of material aid and to control the personnel administering aid.

The Fear of Death

In many societies life has become so insecure that most people live continually in fear. This is the case in Darfur where self-styled Arabs with Sudanese government support have been seeking to drive Africans into Chad. The fearful tensions in Palestine and the Gaza strip which have now lasted for generations as well as civil wars in Chechnya, Eritrea and Yugoslavia.

Here there are the need for experts in political understandings investigating causes and possible as well as probable solutions who have the ability to negotiate with peace keeping forces of many nationalities; economists with an understanding of the arms trade and the prevalence of uncontrolled small-arms ownership as well as the cross-cultural ability to negotiate through interpreters.

There is also the need for psychologists who might mitigate the inter-communal tensions which have gone on for so long as to be almost describable as protogenetic. The hostility in the Balkans between Christians and Muslims and that of Hindus and Muslims which antedate the colonial period. Early 19th century experts refer to the dominance of fear in the Balkans and we have seen its eruption in Chechnya in the break-up of the Soviet Union.

The need for expertise for the understanding of how little can community wide violence be controlled by the reluctant importation of peace-keeping forces so that there is a need for negotiators of local rather than probably ineffectual national agreements.

The Fear for Continuing Livelihoods

Most people would like to have assured futures as far as they might possibly be known and in this the success of the Western societies to reach high standards of average living are the marker for the hopes of many outside their boundaries and the line along which most planned migration takes place; it is there in that stability that the implementation of human rights can become a seeming or at least a possible reality.

This hope is always handicapped by economic fluctuations and there is a need not for more multi-dimensional forecasting but for the development of small scale variability to cope with the social and economic realities of small scale societies reducing their dependence on fluctuating global markets.

We see among the Sukuma of Tanzania the steady destruction of their savanna forest and the progressive enlargement of both the Gobi and Sahara deserts. There is also the problem of overpopulation in both China, India, Egypt and Pakistan for which small scale multi-dimensional studies might be able to work out more local solutions enabling human rights to become established norms.

The Fear of Supra-Family Organisations

As the size of the population unit to be considered for the implementation of human rights continues to expand, it becomes more important to study the social units within the national boundaries whose varying customs make human rights issues more difficult or easy.

Multi-dimensional studies of such endogamous communities as the American Amish and Hutterites have found out what these groups have worked out for themselves. They would only be able to sustain their materially and socially satisfying lives by ensuring that their conformism continued by making life inside better than life outside and certainly not by educating their children to enable them to leave their communities rather than contribute to community needs. Such multi-disciplinary approach to communities such as these might well conclude that any further efforts to implement human rights would disrupt such societies.

National Stability and Accumulated Reserves

Ethical issues such as human rights can perhaps only flourish in situations which have evolved through their own cultural development or successful national politics overall. They

can agree to the implementation but there may be little return other than psychological, political and religious satisfaction as it may be felt that they have already done all that they can in this direction; it may be no more than a face saving exercise. However multi-dimensional research may disclose in even the most developed of contemporary states such as the United Kingdom the United Nations Convention on the Rights of the Child has not been fully implemented (Pawson and Tanner.2005).

Such a multi-disciplinary approach shows that there are several necessary aspects to the care and development of children; the motivation for care, the physical capacity to provide care, the skill of the carer, the responsiveness of care to actual situations and the consistency of care. These will all constantly deviate from the possibilities of any national conformity to this Convention as families and localities will always differ as in the current British concern for the forced marriages of Pakistani and Bangladeshi girls born in Britain. The obvious deficiencies in developing societies catch media attention but there are nevertheless gaps in both the policies and practices of developed nations which are disclosed by research (Saxena et al.1999. Chinn and Rona 2001).

National Stability and the Accumulation of Social Impetus towards Change

Ethical issues can flourish best in situations in which those involved through their own actions or successful national policies, are able to put into practice which may bring little direct return other than psychological and religious satisfaction. The difficulty over human rights is not that we do not know enough about their absence since there has been publicity from multi-dimensional sources might that their implementation is likely to upset social and economic balances.

When families have little access to social welfare support and are dependent on subsistence farming or hand to mouth urban employment, the work of their children is essential to their survival and both they and their families know this. Any multi-disciplinary study of such situations would disclose the almost disastrous results of any changes giving rights to children independent of their parents needs and equality rather than symbiosis for the relationships of men and women.

Such research has found that in some societies men have had to concede equality at middle income levels when they had to depend on their earning capacities although the women had only been educated to the primary level. At higher levels an educated woman brings prestige to her family and this can be used as a useful counter in arranging marriages and as an asset in cross-cultural inter-communication; her earning capacity is not an asset to her husband.

Many countries have legislated against the employment of under-age children for reasons connected with their international standing but with little intention of implementation for which there are neither the resources or political will. In India politicians are dependent on voting for which there would be no popular support, the police have the primary duty to prevent and detect crime and they would see no asset in any such campaign to publically criminalize the employment of children. Finally social welfare agencies cannot provide any alternative support for families deprived of the earnings of their children.

Multi-disciplinary approaches at a non-ethical level are likely to disclose not only the plain facts that abstract human rights do not exist independent of their social environment but that their implementation would create an equally wide range of other barriers to their implementation. Rapid social change whether just occurring from factors independent of human agency or through attempts at enforcement almost invariably raise further issues of

corruption and simony quite independent of national interests.

As the standard of living rises the possibility of children going to school rises but that again relates to what return education brings. Education is no doubt a human right but any multi-dimensional study would show that most children in Korea as much as in Kenya see it not as a valuable asset in itself but as a means of earning more and escaping from the drudgery and uncertainty of their parents' lives. Population growth and the fact that industrial development depends more on reliable machines than on unreliable people makes this no more than a remote possibility. Such multi-dimensional approaches would show that in Kenya as generally development can only take up a very small proportion of people and that education beyond what the Amish have decided long ago as the minimum required for maintaining their existing social system, is a programme for social disarray. Multi-dimensional approaches would show up the disadvantages of any wholesale application of the right to education for children and the prohibition of their employment.

The Use of Multi-Disciplinary Approaches Concerning Human Rights

There are three important aspects to a multi-dimensional approach to the understanding of any problem. Who assesses it as a necessary and reasonable approach to a problem as funds and personnel are always limited and in this there are always short-term immediacies and some long-term internationally acceptable priorities such as food before rights which require the agreement of local political elites.

There are always problems as to what is meant by a multi-disciplinary approach. In medicine those involved would accept the need for cooperation between all the other branches of medicine within the charmed circle of 'hard' science with its widely accepted professional requirements but to go beyond this requires a different mind set and the factor of rationed time which is easier in primary groups than in mass applications.

The disciplinary structure does not promote cooperation except at the abstract ethical level. In previous centuries in many countries there were an elite class of generalists who either financed themselves or worked within the patronage of the powerful and wealthy; they saw themselves as interested in the world around them in a very general way. These multi-discipline generalists no longer exist or when they do they are seen as amateurs and the only way to professional recognition is specialisation. In this there are no advantages in seeking cooperation with those in other specialisations except when it is necessary for their own work.

Increasingly new expertise has become so complicated that it has become divided and sub-divided. There are university departments for various forms of expertise in which it is not that they do not talk to each other but there is no particular advantage in doing so when they are in competition for staff, research opportunities and funds. Each discipline has its own linguistic code, are socially and geographically separated self contained and even marry endogamously. If it takes ten minutes to walk to another department then cooperation is less and less likely. Cooperation between disciplines is time consuming and any specialised field of work is severely handicapped by any diversion which almost invariably leads to time wasting in committee work arguing about possibly insoluble differences rather than on the lowest common denominators of agreements from which they would gain few benefits. Each discipline starts from its own definitions of reality and thus find it difficult to accept the premises on which other disciplines are founded. Professor Karl Popper has stated that 'the triumph of social anthropology is the triumph of a pseudo-observation, pseudo-descriptive

and pseudo inductive generalising methodology and above all marking the triumph of a pretended objectivity and hence an imitation of the methods of natural science' (Banton.1964:99). No doubt harsh words but probably no more than what professionals feel to some degree about the premises on which other disciplines function in any required cooperation.

From the earliest days known historically the division of labour has worked against any holistic approach to the understanding of human behaviour except on a religious level of understandings. Historically the care of human suffering was holistic and as part of mankind's intellectual development aided by literacy, care became more and more specialised and then returning to the multi-dimensional holistic need from which it started.

Are the results of any cooperation between disciplines likely to have any greater influence than each one separately. The heads of universities who have achieved some eminence in their own specialisations no longer have any personal or professional needs, see that over-specialisation may detract from its value from its self-imposed isolation; if it is going to have any general use for the benefit of mankind, it has to interact widely particularly for the seeking of financial support.

The world of donors is not in general seeking to expand specialisations and what might seem to them to be no more than esoteric knowledge and wants to use their money for wider general interests. In this they may be guided by both the intellectual and popular mass media and the collective multi-dimensional sensibilities of the committee deciding the issues.

The seekers for funds whether in the field of humans rights or not are couching their applications in what they anticipate to be the wider results of their research. Donors and universities will take a more distant view of the public interest and will not want money to go too much in one direction.

Power holders and decision makers are always faced with the filtering process of immediate needs and this is not always a rational evaluation. Could we not conclude that human care from its ethological beginnings has always been holistic, so that we have always tried to be multi-dimensional. Perhaps the problem is that a multi-dimensional approach can only be achieved in primary groups and with any increase in the size of populations in which it is employed becomes increasingly difficult; applying human rights to a family of three is likely to be easier than to a community of three hundred and virtually impossible to a community of three thousand.

The Realities of Multi-Dimensional Approaches

There can be no doubt that the implementation of human rights at whatever level requires the involvement of virtually every profession. This obvious need carries with it a number of difficulties.

Professionals whether philosophers or psychologists are brought up by their training to be specialists in their particular work. This is a competitive environment in which each profession is under threat from other professions for both funds and opportunities.

Professions are organised to be distinct and to maintain those distinctions by departmental structures and institutions. In this they are automatically part of the many dimensions of any issue whether the protection of refugees, the rights of women and children or the provision of health facilities. The realities of intellectual life prevent this involvement.

Each profession bases itself on base-line definitions which tend to be consciously or unconsciously exclusive. There is only the theoretical acceptance of the base lines of other professions since their professional and social lives keep them apart.

An expert employed on a project which requires a multi-dimensional approach has to be single-minded in their used of time and funds. Any requirement even as a necessity involving other professions is a potential time waster in committee work to get agreements; there is always a shortage of time and negotiations over professional boundaries is always difficult.

As the range of social and political involvement increases, the status and influence of any multi-disciplinary research may decline. The policy implementers in any society have very little time to read research reports unless they have caught the attention of others members of the political elite. Myrdal's report as an unbiased Swede on the practical effects of colour discrimination in the United States (Myrdal.1944) had an effect on the national conscience and it allied itself to the United Nations Declaration of Human Rights promoted by the winners of World War Two. There are few if any comparable multi-dimensional works on a national scale which have had similar effects.

Indian intellectuals in a multi-dimensional sense recommended that the Indian government should not introduce legislation requiring places in higher education and the public services to be in proportion to caste population totals rather than be determined by merit but the Congress party pushed this through because of its significance for their voting majorities.

The reality must always be that a multi-dimensional approach is an obvious necessity in any approach to the implementation of human rights but its organisation is both complex and difficult. In this reality of competitive differences it might be better for power holders to weld their work together and to make the necessary decisions than to require specialists to reach their own interdisciplinary agreements on some level of parallel equality.

Politicians may have a wider vision of what they want to achieve but unless they are committed ideologues or ego-centric dictators, they are dependent on popular voting support. It seems likely that this will be governed by their immediate needs and they are not likely to have any interest in human rights unless it is to their advantage to do so. From whatever angle political life is approached these power holding men and women live complex over-full lives dominated by their immediate relationships with their colleagues and more distantly with their constituents.

We have established that there is an obvious need for a multi-dimensional approach to any problem including the implementation of human rights but that such an approach varies in its possibilities with the political, social and economic urgency of the environments in which it is to be applied. This involvement is more likely to be successful in its understandings and possibilities when a multi-dimensional approach is circumscribed by smaller objectives.

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“Fourscore and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”

- Abraham Lincoln

International Seminar
on
Future of Human Rights, Humanity and Culture in Emerging
Globalized World

Organizers

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

&

Indian Association of Social Scientists (IAOSS)

Date: 9th and 10th December 2012

Venue: Indira Gandhi Prathisthan, Gomti Nagar, Lucknow

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 their papers in the report does not necessarily mean that All Indian Rights Organization (AIRO) and **Indian Association of Social Scientists (IAOSS)** have accepted their views.*

Human right is not a very new topic for Indian peninsula; its historical evidences are reflection of human rights protection. Ancient historical literature and Dharma talks about live and let live. Hinduism including Jainism, Buddhism has been known for human rights protection and dignified life, but continuous invasions and changing scenario of India due to conglomeration of different alien religions on this country made this country's real philosophy fade and that is why today we talk about Human rights as given in international declarations instead of as prevalent in ancient India where not only human being but also all creatures were under the scanner of right to life which is the sole aim of Universal Declaration Of Human Rights (UDHR) today. So when we discuss human rights, we can't ignore the blue print of ancient Indian Human rights philosophy which can give a new dimension in present world in the era of globalization. The feeling of human right was present even with the evolution of humanity when man was wondering in jungle without having any provision for safety. From the advent of man to modern man, numerous cultures became extinct from this earth due to environmental imbalance, scarcity of resources and natural calamities. But man during his evolutionary process survived due to his adaptation to changes and more so because of use of natural resources. But maximum utilization of resources by different cultures led to conflicts amongst them due to imbalance between shrinking natural resources and increasing population. This cultural crisis caused emergence of human right on the global level.

Human right issues became more significant and drew the attention of International agencies and humanitarian world when thousands of innocent people were killed in Second World War and United Nation Organization (UNO) came in origin to protect human being's life The concept of human right has become more significant in last few decades. The debate on the

relevancy of Human right bears many factors such as population pressure, shrinking natural resources and ultimately life dependency on skilled life, even in agriculture where conventional agriculture is not in capacity to fulfil the needs of its people who depend on it.

Objective of International Seminar

In the present era of Globalization, it has been experienced that without talking about human rights, an equitable society cannot be imagined, human right should be a basic feature of life and everyone should know his/ her right in depth. Culture made armour to protect human being from natural calamities, but it is also well known that culture has also its carrying capacity and limit. When imbalance generated between natural resources and population, other resources including specialized education became important. The aim of education is not only to generate skilled man in the society, but it also helps to cope with basic requirements of life. Education generates awareness for rights among people.

This seminar on human rights is important because, the term human right is an insurance of dignified life. People feel safe and secure when the government agencies maintain rules and regulation and protect human right. It is supposed that human rights regulate the behaviour of an individual and tries to maintain equitable society, but it is only an imaginary or utopian character rather than reality. The term 'Human Rights' is also comparative and it varies from country to country, culture to culture, society to society. Since globalization has enhanced the ability of civil society to function across borders and promote human rights, so it is necessary to find out common points across the globe and country to make a better equitable society.

With this objective and to celebrate International Human Rights Day, All Indian Rights Organization (AIRO) and Indian Association of Social Scientists (IAOSS) organized Two Days international seminar on “Future of Human Rights, Humanity and Culture in Emerging Globalized World” on 9th & 10th December 2012 in Indira Gandhi Prathisthan, Gomti Nagar, Lucknow, the State Capital of Uttar Pradesh, where more than 600 delegates were present from different parts of India and Abroad such as U.S.A, PAKISTAN, BANGLADESH, SRILANKA, ENGLAND etc.

Inaugural Session

Inaugural session of International seminar was overwhelmingly attended by more than 600 participants from India and abroad. Session was inaugurated by Chief Guest and Protocol Minister, Govt. of Uttar Pradesh Prof. Abhishek Misraji by lighting a lamp, He mesmerized the audience with his beautiful and thought provoking exposition on the topic of the International Seminar. Besides Human Rights, he also laid emphasis on the Human Duties and obligations for a better world order. He showered all praise and best wishes for the organizers for doing such a commendable job in the interest of public awareness. Other members present on the occasion were Key Note Speaker from University Of Leeds, United Kingdom Dr. Amrita Mukherjee, Guest of Honour Hon'ble Justice Mahendra Dayal ji from Allahabad High Court, Former IPS DG Police and President of JNPG College Management Committee Sri V.N. Misraji, Naina Dayal Foundation President Mr. Mahavir Pd. Chantia, Organizing Secretary Dr. Alok Chantia and Director of Seminar Dr. Preeti Misra.

The Key Note Speaker Dr Amrita Mukherjee, Director LLM International & International and European Human Rights Law, School of Law, University of Leeds, United Kingdom chose to speak on Human Rights and Climate Change. She expressed her concern that global climate change is one of the most challenging issues facing humankind and indeed the future of the planet. Its wide ranging effects are beginning to be understood

and felt in almost all areas of the world, with impacts on human health, water and food security and the environment. In her deliberation, she examined the linkage between climate change as a violation of universal human rights in the legal sense and also the approach of UN human rights bodies in relation to the issue of justiciability. **Guest of Honour Hon'ble Justice Mahendra Dayal** expressed his hope that present seminar will help in resolving the issues which have arisen recently all over the world, he also gave good wishes for the success of the seminar. **Former IPS DG Police and President of JNPG College Management Committee Sri V.N. Misraji** expressed his hope that all delegates from India and abroad will make a new dimension for Human Rights to make for better understanding in present globalized world. Speaking on the occasion **Naina Dayal Foundation President Mr. Mahavir Pd. Chantia** said that it's a matter of immense pleasure that Naina- Dayal Foudation has made its footsteps in the field of Human Rights by organizing an international seminar on "Future of Human rights, Humanity and Culture in Emerging Globalized World" by its Chapter All Indian Rights Organization (AIRO) He expressed his hope that all delegates from the periphery of India and abroad will make a new dimension for Human right to make a better understanding in globalized world.

Director of International Seminar Dr. Preeti Misra introduced the theme of the seminar and said that the purpose of seminar is to create innovative knowledge, expand limits of human understanding, and contribute towards creating a range of societal benefits, she further said that that the present seminar is an opportunity to facilitate and share experiences of leading academicians, researchers and members of civil society on the current issues in the field of Human Rights Scenario in the globalized world and in India.

Dr. Alok Chantia, Organizing Secretary of International Seminar remarked that After the advent of man on this blue planet, a repulsive action generated with nature to cope with circumstances. But as man moved with culture, he encountered many problems. Other creatures were fighting only for food and natural resources but man for manifold reasons due to increasing population and restricting resources. To avoid any friction amongst men and conflict for resources, concept of state and later on welfare state came into being where people surrendered their interest for the coexistence in the society. In his address he explained the concept of Humanity, Human Rights and Culture along with globalisation. He said, the aim of this seminar to look into the matter of future of human rights in the context of rapid change in culture in the era of globalization.

Mementos were presented to all the guests present on the Dias for gracing the occasion with their dignified presence. Vote of thanks was proposed by Sri Mahavir Chantia, President, Naina Dayal Foundation. Inaugural Session was conducted by Dr. Keya Pandey in a well organized manner After Inaugural Session all the participants, delegates and guests were invited for High Tea with delicious snacks.

Ist Day Technical Sessions

All the selected papers for presentation were divided into 12 Technical Sessions for the sake of presentation extending over 9th & 10th Dec. 2012. The details of sessions held on first day are as--

The Theme of technical Session 1 was Basic Human Needs and Human Rights, the session was chaired by Prof. Amrita Mukherjee, Leeds University, England and Sri O.P. Dixit (Prosecution & Law), UP. In this session 45 papers were scheduled for presentation.

Highlights of this session were Ville Päiväsalo, Professor Global Theology, Worldviews And Ideologies, Department of Systematic Theology, University of Helsinki, Finland, he deliberated upon Dialogical Collaboration For The Human Right To Health. Mrs. Karabi Mitra, Associate Prof. & HOD, History, Bijoy Krishna Girls' College Howrah, West Bengal and Deepti Acharya, Assistant Professor, Department of Political Science from the Maharaja Sayajirao University Baroda presented a paper on Right to Water. In her paper Dr. Chaitali Choudhury from BK Girls' College, Howrah, raised a question whether Human Rights and Human Health are consistent in the present society? Dr. Azra Bano from Dept. of Economics, Nari Shiksha Niketan P.G. College, Lucknow, Gargi Chakrabarti Assistant Professor, School of Law, Christ University, Bangalore, Sonali Roy Choudhury & Priyanka Tripathi from BBAU, Lucknow deliberated on right to food security in India. Dr. Mridul Srivastava, Assistant Registrar (Academics), Dr. Ram Manohar Lohia National Law University, Lucknow talked about right to housing, he said right to housing is not one right but many rights are included in this right. Other presentations were by Ravi Kant Gupta, Asst. Professor, Bundelkhand Vidhi Mahavidhyalaya, Orai (Jalaun) U.P. and Abhishek Shukla Dept. of Political Science, BBAU, Lucknow.

The theme of technical session -2 was Violence, terrorism, Criminal Justice and Human Rights. For this session Panelists were Ville Päiväsalo, Professor Global Theology, Worldviews and Ideologies, Department of Systematic Theology, University of Helsinki, Finland and Dr. Arun Misra from JNPG College, Lucknow. In this session presentations were made by Dr. Raj Bali Jaisal, Associate Professor Faculty of Law, University of Lucknow on Human Rights of Prisoners in the Indian Perspective; by Dr. Rohit P. Shabran H.O.D., School of Legal Studies-B.B.D. University, Lucknow on Criminal Justice Administration And Protection of Human Rights; by Nageen Ahmad, Assistant Professor Dept. of Sociology Karamat Husain P.G.College on Human Trafficking : A Deadly Trap. A joint paper was read by Anand P Singh Dept. of Pol. Science, School for Ambedkar Studies, BBAU & Santwana Pandey, Asst. Prof. Dept. of Pol. Science & Pub. Adm. GGCU, Bilaspur on Violation Of Human Right & Terrorism In Azad Kashmir. Dr. Arti Tiwari (Ph.D. Psychology) Lecturer Amity Institute of Behavioral and Allied Sciences Amity University, Lucknow Campus presented a paper on Strategic Policies to Prevent Human Trafficking; Rishab Garg & Ritwik Sneha, Amity Law School, Noida, New Delhi on Capital Punishment: A Revengeful End To Human Life; Stella Job & Shivam Bajaj School of Law, Christ University, Bangalore on Custodial Violence And Human Rights : The Indian Perspective.

Other presenters were Prashant Chaudhary Dept. of Sociology, SAS, BBA University, Minakshi Varun Bundelkhand University, Jhansi & Ravindra Kumar Department of Human Rights, BBAU, Lucknow. In this session 39 papers were scheduled for presentation.

Technical Session -3 Socio-Economic Justice and Human Rights was chaired by Prof. A.P.Tiwari, Shakuntala Devi University, Lucknow and by Dr. L. Manivannan from Erode Arts and Science College, Tamil Nadu. In this particular session 36 papers were listed for presentation, some noticeable scheduled presentations were by Muhammad Haneef, Department of Social Sciences, University of Management and Technology, Lahore on Poverty and Human Rights: A Sociological View (Ideal and Real Face); by Tikiri Nimal Herath, Department of Economics, University of Sri Jayawardenepura, Sri Lanka on Protection of Human Rights and Promoting Growth through an Intermediate Variable; by Mrs. G. Kalaimani, HOD of Management, Sri Vasavi College, (SFW), Erode Tamil Nadu on A Study On People's Attitude Towards Social & Economical Rights With Special Reference To Erode District. Dr. Saroj Mishra and *Dr. Shweta Mishra* APSM Girls P.G. College,

Lucknow presented a paper on Ensuring Right to Equality as against Socio- economic inequality among Muslims of other backward Classes; Neha Nigam & Gopal Singh, Associate Professor, MCJ, BBAU presented a paper on Women Journalists and Media: An Inquest on Gender Equality Rights. Other important papers were Equality In Every Day Life by Sakshat Bansal And Mayuresh Srivastava, Human Rights and Ethics in Relation to E-Commerce & Cyberspace in the Digital Environments by Shreyali Srivastava, from Chanakya National Law University, Patna.

The theme of Technical Session -4 was Globalization and Emerging Dimensions of Human Rights, this session was chaired by Prof. Kameshwar Chawdhary, Babasaheb Bhimrao Ambedkar University, Lucknow and by Dr. S.D. Sharma, Principal, SJNPG College, Lucknow. 34 papers scheduled for presentation included Geetanjali Gangoli, Senior Lecturer Centre for Gender Violence Research, University of Bristol; Martin Rew IDD, University of Birmingham.UK on gender based violence, women's rights and globalisation; Dr. G K Sahu Assistant Professor & Mr. Shah Alam, AMU talked on Media Globalization: Its impact on the Newspaper Coverage on Violence against Women; Bibi Ishrat Jahan, Senior lecturer, Department of Economics, Karamat Husain Muslim Girls' P.G. College, Lucknow presented paper on Impact of Globalization on the Rights of Women Workers; Dr. Shashi Kumar, Asst. Prof., Dept of Human Rights, BBAU, Lucknow on Globalisation and Protection of Human Rights of Dalits and Tribes: Issues and Concern; Bibekananda Nayak, Assistant Professor- cum- Assistant Director Centre for the Study of Social Exclusion and Inclusive Policy, B. B. Ambedkar University, Lucknow on Globalization and Inclusive Tribal Cultural Rights: A case study of Kondh Tribe of Orissa; Divya Jauhri, National Law University, Orissa on the Black And White Shade Of Globalization: A Human Right Perspective and Shashank Upadhyay from Sri Jai Narain P.G. College, Lucknow on the Effect of Globalization on Human Trafficking and Forced Servitude. This session evoked a very good response from the audience due to increasing influence of globalization on all sectors of life specially on human rights.

Technical Session -5 focussed on Children and Human Rights, 29 papers were listed for presentation and session was chaired by Sri S.V.M. Tripathi, Ex DGP, UP and Dr. Salil Chandra, Commerce Dept. Sri JNPG College Lucknow. Some remarkable papers scheduled for presentation were by Dr. Chandana Bose, Head Department of Education, Shashi Bhushan Balika Vidyalaya Degree College, Lucknow. She presented a paper on Innovative Approach to Foster Human Rights Awareness in Children. Dr. A. G. Sudha, Associate Professor, Department of Management Studies, Velalar College of Engineering & Technology, Thindal and Dr. L. Manivannan, Associate Professor and Research Advisor Dept. of Corporate Secretary ship Erode Arts & Science College, Erode discussed Violation of Children's Rights and Domination of Nurturing Parents. Pradeep Kumar, Assistant Prof., Narvadeshwar Law College, Lucknow & Shivani Shukla, Assistant Prof. Department of History, Shri Guru Nanak Girl's Degree College, Lucknow presented a paper on Protection of Children in India: A Comparative Study with International Humanitarian Law. Tulika Chakravorty, Asst. Professor in Political Science, Bangabasi Morning College, Kolkata deliberated upon female foeticide. Rupali Yadav, Deepali Yadav and Preetika Pandey spoke on Child Abuse in human right perspective. Kumari Sandhya, Rohit Kumar, A.A. Malik P.G. Diploma in Forensic Science, Dept. of Anthropology, Lucknow University presented paper on Female Infanticide, Hina Parveen, PGD forensic science, Lucknow University on Human Rights And Juvenile Delinquency. Brijesh N Pandey & Sudhir Patel, Dept. of Anthropology University of Lucknow spoke on Right to be Safe: An Anthropological Study of Child Abuse.

Ravinath Tiwari, Dept. of Human Rights, BBAU highlighted Human Rights of Girl Child. Other speakers included Deepshikha Singh from Delhi, Vagmi Chaturvedi, School of Law, Christ University Bangalore and Kavita Singh from BHU.

Technical Session-6 Women and Human Rights was chaired by Dr. Majula Upadhyay AP Sen College, Lucknow and Dr. Azra Bano, Nari Shiksha Niketan P.G. College, Lucknow. This session received an overwhelming response more than 40 papers were scheduled for presentation in this session. Roli Srivastava, Head, Dept. of Hindi, Dr. Rajendra Prasad Degree College presented paper on Human Rights and Woman of Local Society, Dr. Kamla Singh, Associate Professor & Dr. Surbhi G. Garg, Asst. Professor, Sh. Guru Nanak Girls Degree College, Lucknow deliberated on Issues in Protection of Human Rights of Domestic Women in India. *Dr. Preeti Misra, Associate Professor, Dept. of Human rights, School For Legal Studies, Babasaheb Bhimrao Ambedkar University criticized gender sensitive laws and threw light on emerging patterns of human right violation.* Dr. Abhishek Tripathi, & Dr. Purna Tripathi from Lucknow University discussed Constitutional provisions for Establishment of Gender Equality and providing Human Rights to women in India. Nasim Basiri from English And Foreign Languages University, Hyderabad highlighted the Role of Media In Afghan Women's Rights and Dr. Jaya Jha, Head, Dept. of Sociology, Navyug PG College, Lucknow discussed Women And Human Rights. Dr. S.S.Das, Asst. Professor in Law Centre for Juridical Studies, Dibrugarh University, Dibrugarh, Assam & Jageshwar Nath Singh, Scholar, Department of Human Rights, BBAU, Lucknow presented a joint paper on Woman's Right to Control Their Reproductivity. Dr Ritu Ghosh, Reader Department of Sociology, JNPG College, Lucknow discussed Human Rights and Woman. Siddhi Soni from M.P. Jinia Kundu, KIIT School of Law, Bhubaneswar, Niteesh Kumar Upadhyay West Bengal National University of Juridical Sciences (WBNUJS) Kolkata, Pradeep Kumar from BBAU also discussed various issues of women's right. Dr Pranjal Boruah, Assistant Professor Dept. of Anthropology, Dibru College, Dibrugarh, Assam , Parul Tripathi, Assistant Professor, Department of Human Development, Banasthali Vidyapith, Rajasthan, Rama Krishna, Assistant Professor Department of Political Science, Tumkur University, Tumkur Karnataka, too, submitted their papers for presentation. Najma Lashkarian Yazd, from English and Foreign Languages University, Hyderabad presented a case study of women's right in Islamic Republic of Iran. Bindu Rani from Dharamshala, Himachal Pradesh, Sarvesh Kumar Shahi from Hydrabad and Tahir Ashraf Siddiqui from Delhi also submitted their paper for presentation.

In the Evening of 9th Dec.2012 a very colourful cultural programme was held depicting rich cultural heritage from all the regions of India followed by dinner with delicacies of Lucknow for all the participants and delegates from India and Abroad.

Ind Day Technical Sessions

Second Day i.e. on 10th Dec. 2012, commemorating Human Right Day, Six more Technical Sessions were held. Theme and presentations for these technical sessions were as--

Technical Session -7 Education and Human Rights was chaired by Prof. D.P. Tiwari from Dept. of History, Lucknow University and Dr. K.K. Shukla, Dept. of Commerce, SJNPG College, Lucknow. In this session 43 papers were selected for presentation, some noticeable ones are—Human right and Value Based Education in Indian Perspective by Dr. Jahan Ara, Head Department of Education, Karamat Husain Muslim Girls College, Lucknow, Human

Rights And Impact of Education by Dr. Aparna Shukla, Associate Prof. from Avadh Girls Degree College, LKO. Dr Sunita Singh, Associate Professor Deptt. Of Education, N.S.N.P.G. College, Lucknow & Dr. Anshu Kedia, Assistant Professor Deptt.of Sociology, A.P. Sen G.P.G. College, Lucknow presented a joint paper on Gender Disparity in Education at the Primary Level: A Study of a Backward District of Uttar Pradesh, India : In The Perspective of Human Rights. Other presentations were by Dr. Mohd. Ahmad, Associate professor, Faculty of Law, University of Lucknow on Right To Education As Basic Human Right-A Study In Indian Perspective. Dr. Sujit Kumar and Jai Shri Shukla, Scholars from Vanasthali Vidyapeeth, Rajasthan submitted a paper on right to education. Mitima sachdeva, Amity University, Lucknow talked about Human Rights and the Teacher. Preety agarwal, Asstt. Prof. from Banda, Dr. Khalida Akhtar and Rasheda Akhtar from Lucknow too presented a paper on human right of education. Dr. Sandeep Srivastava, from Ayodhya Faiazabad spoke on Role of Human Right Education in Global Era, Ms. Soniya and Ms. Swati Srivastava from Allahabad on Human Rights and Impact of Education, Mrs. Anupma Singh from Sitapur on Higher Education. Dr. R.P.Saini and Ram Naresh, Ramnagar (U.K.) emphasised on human rights and education for sustainable development. Reetu Gautam, Ravindra Kr. Keshav Dept. of Anthropology, University of Lucknow, Shaifali Singh & Rambachan Kumar from BBAU too spoke on right to education. Other participants were Devesh Saxena & Mirza Junaid Beg from Christ University Bangalore, Palak Srivastava from Symbiosis Law School, Noida, Dharmmeet Singh from Rajasthan and Rati Verma from Dayalbagh, Agra.

The theme of the Technical Session -8 was Human Rights of Tribes, Marginalized and other Vulnerable Groups. It was chaired by Prof. A.P. Singh, Lucknow University, Lucknow and by Dr. Bir Pal Singh, National Law University, Bhopal. 38 papers were received for this session. Dr. Jayanta Kar Sharma from Sambalpur, Odisha discussed Dalit Women and Human Rights Concerns, Dr SC Hajela from JNPG College, Lucknow presented a paper on Human Rights of Children with Disabilities: A Literary Response from Mahesh Dattani. Dr. Alok Chantia, Assistant Professor (Anthropology) on Population and Human Rights: A Study on Dhankut –An Endogamous Group of Bahraich of U.P., India. Dr. Debashree Dattaray from Jadavpur University, Kolkata submitted a paper on the interface of human rights and gender issues: a socio-cultural study of indigenous communities. Dr. Seema Sarkar, Asstt. Prof. in English presented a paper on An Outcry For Equality of A Black Girl In 'The Bluest Eye' Of Toni Morrison, Dr. Rahul Patel from Deptt. Of Anthropology, University Of Lucknow on Knowledge and Awareness for Human Rights among the Musahars: a case study in Jaunpur district of eastern Uttar Pradesh. Dr. Bir Pal Singh from National Law Institute University, Bhopal presented a paper on Jurisprudence of Human Rights relating to Health of Indigenous People: A Specific Reference to Tribal India, Dr. Sangeeta Krishna and Jayant kumar on Dalit Women, Human Rights and Violence : A Story of Unheard Voice, Dr Rahul Patel, Asst. Prof., Dept. of Anthro., University of Lucknow discussed Knowledge and Awareness for Human Rights among the Musahars. Narendran Thiruthy from Kochi submitted a paper on Recognizing Tribal People's Human Right for Bio-cultural Resource Protection: Rethinking Indigenous Rights Jurisprudence, *Madan Meher* from Jawaharlal Nehru University, New Delhi on Discourse on Tribal Development In Odisha *From Human Rights Perspective* and Siddaramu from Noida on Human Right Violations against India's Dalits in contemporary India. Other participants were from Hyderabad, Maharashtra and Gujrat who contributed valuable thoughts on the topic of the session.

Technical Session -9 was on the theme Democracy, Good Governance and Human Rights. It was chaired by Sri Mahendra Modi, Addl. Director General, Vigilance and Dr. DNNS Yadav, Faculty Law & Director Legal Cell Lucknow University, Lucknow. In this session 24 papers were listed for presentation. In this session Dr Vivek Kumar Singh from Dr Shakuntla Misra University Lucknow presented a paper on role of judiciary in the protection human rights. Rachana Shrivastava, A. P. Sen Memorial Girls College, Lucknow expressed her thoughts on the concept of human rights in the new world order, and explained a paradigm shift in this context. V. Rama Krishna from Karnataka & Parul Tripathi from Banasthali Vidyapith, Rajasthan submitted papers on Democracy and Human Rights. Dr. Samar Kumar Mondal from Jadavpur University, Kolkata spoke on Problem of Democracy and its effects on Human Rights and Dr. Haider Mehdi, Lecturer Shia P.G. College, Lucknow on Human Rights And Role Of The Society. Other speakers of the session were Dr. Alok Kumar Mishra & Mr. Ashish Kumar Tiwari, from Teerthanker Mahaveer University, Moradabad, they presented a paper on Corruption: A Human Rights Issue. Ms. Priyanka Manoj Jawale from University of Pune spoke on Philanthropic Foundation For Democracy Though Perception Lading To The Sources Of Human Rights; Sanjay S. Bang on Judicial Review: A Step of Judiciary to Protect Human Rights with Reference to Indian Scenario and Maulishri Shukla & Reetu Gautam on Dominant Caste and Violation of Human Rights in Rural Population of Rudahi Village. Prem Chandra & Raj Kumar from the Dept. of Human Rights, Sony Singh from Dept. Of Law, BBAU also presented their papers in the session.

Humanity, Humanitarian Law and International Human Rights Law was the theme of Technical Session -10. This session was chaired by Prof. Anthony Cullen, Leeds University, England. 32 papers were listed for presentation in this session. Prof. D.M. Ravi Prasad from the Dept of Social Work, Kakatiya University, Warangal expressed his thoughts that how innovative subject opens doors of humanity in the present society. Rup Kumar Barman from Jadavpur University, Kolkata presented a paper on Human Rights and Stateless citizens: A Study on the violation of Human Rights of the Enclave (Chhitmahal) dwellers of India and Bangladesh. Dr. K. K. Bajpai from KSSPG College, Ayodhya, spoke on human rights and law, Kalindri from Lucknow University talked about improper implementation of laws-violation of human rights. Rajesh Kr. Dube from DAV, Deharadun criticized human rights and law in India. *Chairperson of the session Prof. Anthony Cullen summarized the session and also expressed his thoughts on equality, non-discrimination and the future development of international human right law.* Mehdi Mokhtari Adjunct professor of public law; Bizhan Abbasy Assistant professor; Rahim Alesheikh from International Campus of the University of Tehran, Iran also submitted their thoughts on the subject of the theme. Dr. Tasneem Kausar Chishti, Head Department of Persian, Karamat Hussain P.G. College said that Persian has been the strong supporter of human rights, humanity & universal brotherhood. Dr. Lily Srivastava, Reader, Dept. of Law, S.J.N.P.G College, Lucknow submitted her thoughts on Biomedicine And International Human Rights Law. Dr. Rashida Ather, Asst. Professor Department Of Human Rights, BBA University, LKO spoke on the concept, context and scope of reinventing third generation of human rights. Bhanu Pratap, Asstt. Prof. Amity University, Lucknow gave his exposition on the emerging power of human rights with special reference to humanitarian intervention in the 21 century. Dr. Harishchandra, University of Lucknow, Lucknow presented a paper on the international human rights law and Jammu & Kashmir genocide; Mr. Bhushan A. Mehare from University of Pune on individualistic approach of intercultural communication studies; Manishi Srivastava, Akash Saha, Abhishek Basu and Namitha Nambiar from Christ University, Bangalore, presented a paper on International Humanitarian Intervention.

Technical Session -11 consisted of Culture, Caste, Religion and Human Rights. Chairpersons for this session were Prof. Ville Päivänsalo, University of Helsinki, Finland and Dr. S.C. Hajela, Dept. of English, SJNPG College, Lucknow. This session too received an overwhelming response and 49 papers listed for presentation in this session were Right To Preserve Cultural Heritage by Madhuri Misra A.P.Sen Memorial Girls P.G. College, Lucknow; Victims of gender-specific violence: Women in Tehmina Durrani's 'My Feudal Lord' and 'Blasphemy' by Dr. Sangeeta Kotwal, Navyug Kanya Mahavidyalaya Lucknow, U. P.; The Rights of the Chakmas of Arunachal Pradesh vis-a-vis the Indigenous Peoples' Rights. A Political and Legal Study by Nani Bath Department of Political Science, Rajiv Gandhi University Rono-Hills, Arunachal Pradesh; Human Right violation in the name of secularism and modernization-The great culture v/s little custom in Arunachal Pradesh Human Right violation in the name of secularism and modernization-The great culture v/s little custom in Arunachal Pradesh by Dr. Nabam Nakha Hina & Smti Techi Jiri, Rajiv Gandhi University Arunachal Pradesh Dr. Ram Bilas, Associate Professor and Dr. Usha Devi, Sr. Assistant Professor Deptt. Of History, D.S.N. P.G. College Unnao, U.P. and Dr. Usha Devi, Deptt. of History, V.H.D.College, Lucknow, too, submitted their papers for presentation on culture and religion. Kamal Ahmad Khan, Faculty of Law, University of Lucknow made a critical analysis of Human Rights And Islam; Dr. Kishori Lal, Faculty of Law, University of Lucknow on Impact of Civilization and Culture on Human Rights; Dr. Santosh Upadhyay Faculty Member, Department of Anthropology, University of Lucknow on Personal Relativism. Rekha Rani, Assistant Prof., Navyug Kanya P.G.Degree College, Lucknow spoke on Techno culture as Emerging culture of youth globally. Rashwet Shrinkhal Assistant Professor, Central University of Jharkhand & I. K. Singh Assistant Warden Dr. Ram Manohar Lohiya National Law University, Lucknow submitted a joint paper on Challenges of Intellectual Property Regime to Indigenous Culture. Shikha Chantia & Sanjay Saxena, Lecturers from Fashion Technology, Amity University , Lucknow presented a paper on Material Culture And Right To Life: A Study On Chikankari In Lucknow. Dr. Upendra Nath Tiwari Lucknow Law College expressed his thoughts on Religious Violence and Secular Fabric of India : A Theoretical Approach; Dr. Saman Khan , Lecturer Sri JNPG College, Lucknow & Ms. Deepshikha Lawania Isabella Thoburn College, Lucknow Dr. Vinod Mohan Mishra & Dr. Abhay Kumar Srivastava, Department of Military Studies, D.A.V. College, Kanpur too expressed their thoughts on Human Rights.

Human Rights, Society and Social Movements was the theme of Technical Session -12. It was chaired by Prof. D.R. Sahu, Dept. of Sociology, Lucknow University and Dr. BB Malik, Associate Prof. & Head Dept. of Sociology, Babasaheb Bhimrao Ambedkar University, Lucknow. 39 papers were selected for presentation in this session. Some highlighted presentations are by Dr. Shobha Bajpai, Associate Professor, BSNV PG College, LKO An Apostle of Human Consideration: Revalidation of Ram Mohan Roy's Ideology; Dr. S.K. Singh, Associate Professor T.D. P.G. Law College, Jaunpur Concept, Evolution and Protection of Human Rights in India; Manju Singh, Department of Political Science, University of Rajasthan A Study of Human Rights in North East India; Dr. Vandana Upreti, N.S.N.P.G. College, LKO Human Rights and Social Development; Kirti Vikram Singh, Assistant Regional Director, IGNOU Regional Centre Varanasi, Social Work Practice & Realization of Human Rights; Shweta Mishra F.A.A. Govt. P.G. College, Mahmudabad, Human Right And Right To Be Human. Dr. Archana Bahadur Zutshi, Lecturer, IGNOU, KKC Lucknow presented a paper on Human Rights issues in 'Gone With the Wind'; Dr. Sayed Mashiyat Husain Rizvi, Centre of Excellence, Department of Anthropology, University of Lucknow on Social Movements and Human Rights in the Indian Context; Mrs.

Nikki Saxena Asst. Prof. Dept. of Home Science & Dr. Mahima Devi Asst. Prof. Dept. of Anthropology, Dr. R.P.M. Degree College LKO presented a paper on Human Rights and Society. Dr Vijay Kumar Verma, Lecturer Dept. of Sociology, Dr Shakuntla Mishra University elaborated on the concept of Human Rights; Smt. Mamta Bhattacharjee Goswami from Rajasthan on the protection of human rights under the Constitution of India. Ravi Suryavanshi & Neha Nigam from the Department of Mass Communication and Journalism, BBAU, Lucknow made a content analysis of two Hindi daily newspapers of Lucknow.

Valedictory Session

International Seminar on Future of Human Rights, Humanity and Culture in Emerging Globalized World reached its successful completion in the evening of 10th Dec. 2012. *It was a historic moment for the All Indian Rights Organisation (Chapter of Naina Dayal Foundation) when Valedictory Session was organized in the Conference Hall of Indira Gandhi Prathisthan, Gomti Nagar, Lucknow. It was witnessed by more than 400 delegates, participants and guests with great enthusiasm.*

To make the moment more precious Prof. A.K. Singh, Director, Giri Institute Lucknow was invited for the Valedictory Address. Hon'ble Justice A.N. Verma was presiding over the Valedictory Session and other dignitaries present on the Dias were Sri G.C. Shukla, Secretary, Management Committee SJNPG College, Lucknow; President Naina Dayal Foundation Sri Mahavir Pd Chantia along with Organizing Secretary Dr. Alok Chantia and Director of International Seminar Dr. Preeti Misra.

Participants coming from different parts of India and abroad expressed and shared their sentiments and gave feedback about the International Seminar. It was a beautiful experience. Mementos were presented to all the dignitaries and foreign delegates for cherishing the memories of the grand event. Dr. Alok Chantia Organizing Secretary of the Seminar proposed a formal vote of thanks. He expressed his gratitude and placed on record grateful thanks to all those who gave their blessings for the academic endeavour through their motivating participation, messages and presentations. He also expressed his thanks to all the team members of **All Indian Rights Organisation (AIRO), Indian Association of Social Scientists (IAOSS) and management and principal of Sri J.N.P.G. College, Lucknow** for their cooperation and support in organizing the mammoth International Seminar. Lastly International Seminar came to a close after a grand High Tea with a promise to gather again for the noble cause of the Humanity and Human Rights.

Outcome of the International Seminar

Present International Seminar deliberated upon Future of Human Rights, Humanity and culture, it explored the factors that lead to violation of human rights and examined their philosophical, sociological, political and legal underpinnings, as well as approach and strategies in addressing the challenges posed by them in today's global world. International Seminar was well attended by academicians, research scholars and students from universities and colleges as well as human rights advocates and public officials who are working on or are interested in human rights issues world over.

Human Right Issues explored within the framework of the International Seminar extended to **basic human needs, human rights of women and children, Human Rights of Tribes, Marginalized and other Vulnerable Groups, Human Rights, Society and Social Movements, Culture, Caste, Religion, Communal Violence, terrorism, Criminal Justice and Human Rights, Democracy, Good Governance and Human Rights,**

Humanity, Humanitarian Law and International Human Rights Law, Socio-Economic Justice and Human Rights, Education and human rights, Globalization and Emerging Dimensions of Human Rights in India and in other countries of the world.

Deliberations and discussions held during the seminar helped participants rethink and regenerate fundamental concepts in the field of human rights. Since the end of the Cold War, the promise of human right has captured the imagination of a global community of citizens, policymakers, scholars, and activists. Today, discourse on human rights have become the central normative framework for how states should treat citizens in an increasingly globalized world to ensure their human rights. Human rights constitute an inescapable dimension of global political discourse, ranging from international diplomacy to socio-economic development programs to grassroots community organizing. However, despite its centrality, the dominant conceptual framework for human rights has important shortcomings. Present seminar also examined those limitations and explored the future of human rights, humanity and culture in present global scenario. It is sure that deliberations of this international seminar will help policy makers/state and its experts to understand the problem of human rights efficiently and future of human rights may be better secured on the path of cultural evolution. It will be fruitful for all those involved in Research and Advocacy on Human Rights in various parts of the world.

National Seminar
on
“Women, Dalit and Human Rights in India”

Organized by

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

In association with

Department of Human Rights, Babasaheb Bhimrao Ambedkar University
(Central University), Lucknow

Venue

Conference Hall, Babasaheb Bhimrao Ambedkar University (Central
University), Lucknow

Date: 8th & 9th March 2013

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 All Indian Rights Organization (AIRO) and Department of Human Rights, Babasaheb Bhimrao Ambedkar University (Central University), Lucknow have accepted their views.

On the occasion of International Women Day on 8th March 2013 All Indian Rights Organization (AIRO, Community Development Programme of Naina Dayal Foundation) and Department of Human Rights, Babasaheb Bhimrao Ambedkar University (Central University), Lucknow organized a two days National Seminar on “WOMEN, DALIT AND HUMAN RIGHTS IN INDIA” on 8th and 9th March 2013 to discuss the status of women as a whole and as dalit in particular.

While women constitute half the population, they are significantly outnumbered in decision-making positions and are often missing from negotiating tables where conflicts are to be resolved. All too often, important decisions that affect women, their families, and their societies are made without their having a voice. Lots of efforts have been going on in the discourse of gender justice but society still face the problem of gender injustice even after passing of more than six decades of Indian constitution. Women are vulnerable to all sorts of abuses and violence due to hostile atmosphere around them. In this series the status of woman as dalit is also of serious concern. Women as dalit, encompasses different types of subordination during cultural practice in society. The incidences of violence against women are reflective of their dalit status in the society. It is a common feature of any society or nation that it discusses woman in the frame of development (Education, Health, Economy, etc.) only, but women may also be sketched as Dalit. The word “DALIT” has a cultural evolution with different notions like ardhnagn, asprashya, untouchable, Dalit, Harijan and finally they

are defined as Dalit in 1935. The recent spurt of violence against women and Dalit women have crushed their basic human right to live with dignity. Present seminar was organized with following objectives--

Objectives of the Seminar

1. To assess the awareness about human rights of women as dalit.
2. To analyse the nature of human rights violation against women and its causes.
3. To identify the areas where interventions are needed to rectify the human rights violations against women.
4. To put before the government agencies, academicians and policy makers the various issues of human right violation of women as dalit class need.
5. To suggest measures to be evolved and implemented by the policy makers and others concerned.

Participants

Near about 250 Academicians, Experts, Researchers, Scholars, College and University teachers working on the various dimensions of human rights and exclusion of women and also those NGOs actively involved and working towards the positive inclusion of women were invited to participate in the seminar. People from Media, Lawyers, Members of civil society and Individuals also actively participated and deliberated on the various sub-themes of the Seminar to discuss the problem of women as a whole and dalit women in particular. Papers were presented on various sub-themes addressing the public and private attitudes that perpetuate status of women as dalit in the society.

Papers were presented on following sub-themes--

1. Human rights of women
2. Constitutional and legal rights of women
3. Dalit women and human Right
4. Nature of human rights violation of women
5. Causes of human rights violation of women
6. Woman, education and human rights
7. Marriage, family and human rights of women
8. Woman and Empowerment
9. Health/Reproductive Health
10. Socio-Cultural Life of Woman and dalit women.
11. Political Participation of women
12. Women and media
13. Dalit Woman and Social System
14. Globalization and Future of Woman and on other related issues.

These sub-themes were broadly divided into Eight Technical Sessions. **Technical Sessions 1 & 2** deliberated upon the dalit and educational status of women in the society. **Technical Sessions 3 & 4** discussed cultural practice with respect to women and violation of their

human rights. Women health and their empowerment were focused during deliberations in the **Technical Session 5 & 6**. The human rights, law and policy issues were highlighted in the **Technical Session 7 & 8**.

Inaugural Session

Hon'ble State Minister, Women Welfare & Culture Department Mrs. Arun Kumari Kori and Hon'ble Justice J.S.Verma, Allahabad High Court inaugurated the seminar by lightening the lamp followed by Saraswati Vandana. Prof. R.C.Sobti, Vice Chancellor, Babasaheb Bhimrao Ambedkar University (Central University), Lucknow was also present on the occasion. Prof. Poonam Saxena from Delhi University was the key-note speaker of the seminar. Dr. Alok Chantia, Organizing Secretary of the Seminar welcomed the guests and emphasised on the vulnerability of dalit women to violence in comparison to other women in India. He also said that the concept of human right is a way to understand the philosophy of *verstehen* of Max Weber. Director of the Seminar, Dr. Preeti Misra presented the theme of the Seminar. She expressly emphasised on the constant degradation and subjugation of women in socio-economic, cultural and religious principles from Vedic times to present day. She wished the seminar a grand success. Hon'ble State Minister in her address expressed about the seriousness of the issues related to dalit women in India. She further contended that many intellectuals and academicians have previously attempted for the beneficial position of women in the society, Hon'ble Minister gave her best wishes for the success of the seminar. Hon'ble Justice J.S.Verma pointed out the comparative situations of women in ancient and modern society. During his address, he lamented on the insecurity of women in modern society by referring to Delhi Gang Rape Case. Prof. R.C.Sobti, Vice Chancellor, BBAU, in his address emphasised on the subordination of women in Indian society taking into consideration patriarchal arrangements at home. Prof. Poonam Saxena, the key note speaker of seminar, expressed her strong contention against the violation of the rights of women in the society. She recommended some urgent changes in the social as well as legal system of the governance so that the position of women may be changed. The inaugural session started at 9.30 a.m. and concluded at 11.30 a.m.

Technical Sessions

Approximately, 250 abstracts of papers were received for the seminar from different parts of the country, out of which more than 200 papers were read during the eight technical sessions of the seminar. Prof. D.P. Tiwari, University of Lucknow, Lucknow and Azra Bano, Nari Shiksha Niketan PG College, Lucknow chaired first technical session. Technical session-2 was chaired by Prof. A.K. Awasthi, University of Lucknow and Dr. S.D. Sharma, JNPG College, Lucknow. These sessions were pre-lunch sessions and during these some important and relevant discussions were held by the participants of the seminar. The highlights of some papers which were presented in **Technical Session 1** are- Sangeeta Krishna, Assistant Professor-cum-Assistant Director CSSEIP, BBAU, Lucknow and Jayant Kumar, UGC-Project Fellow in their paper discussed about the issues of human rights and dignity of dalit women in reference of Uttar Pradesh. Sapna Bajpai, Sr. Lecturer, Amity School of Fine Arts, Amity University, Lucknow in her paper talked about the serious injustice faced by dalit

women engaged in the manual scavenging in Uttar Pradesh. Reena, Assistant Professor & HOD, Dept. of Political Science in Mahila Mahavidhyala, Jhohhu Kalan, Bhiwani, presented her paper on the issue of political participation of women in India. Rudra Prasad Sahoo, Assistant Professor, CSSEIP, BBAU, Lucknow in his paper provided insight on the reality of human rights of dalit women. The issue of tribal women exclusion and social transformation was discussed by Bibekananda Nayak, Assistant Professor-cum-Assistant Director, CSSEIP, BBAU, Lucknow. Dr. Chaitali Chaudhary from Kolkata emphasised in her paper about the dignity of women in the context of human rights.

In **Technical Session 2** papers were presented on the theme -Women, Education and Human Rights. In this session Mohd. Zia-Ul-Haq from Department of Education, Aligarh Muslim University, Aligarh, Uttar Pradesh, discussed about the dalit education and the government policies in India. Rudra Nath Tripathi & Dr. A.K. Bhartiya, from department of Social Work Lucknow University elaborated on the issues of women education and its importance for the society.

Technical Session 3 began after lunch and was chaired by Sri R.P.Sahoo, Assistant Professor, CSSEIP, BBAU, Lucknow and Dr. Manish Verma, Associate professor, BBAU, Lucknow. The theme of this Session was women in culture, media & literature and some very substantive papers were presented in this session. Neha Nigam, Research Scholar, Dept. of Mass Communication, BBAU, Lucknow presented a paper with co-author Dr. Gopal Singh, Associate Professor, Dept. of Mass Communication, BBAU, Lucknow and discussed about the role of women in media and their rights. Dr. S.S. Das, Assistant Professor, Centre for Juridical Studies, Dibrugarh University, Dibrugarh, Assam, presented a paper on women under Vedic society of India and talked about the rights of women in ancient period. Bhanu Pratap, Lecturer, Amity Law School, Amity University, Lucknow emphasised on the Marxism and Critical Theory and its relationship with Feminism. Some other papers were of utmost importance on the issues of position of women in media, culture and literature.

Technical Session 4 was chaired by Prof. S.K. Bhatnagar, Dept. Of Human Rights and Dr. Sudarshan Verma, Head, Dept. of Law, BBAU, Lucknow and the theme was women, violence and protection of human rights. Some very important papers were read in this session. Dr. Karabi Mitra, Associate Professor, Dept. of History, B.K. Girls' College, Howrah, Kolkata, West Bengal presented her paper on the 'Living Sati'-A View from Literature and made a relation between ancient and modern status of women. Shaik Mahaboob Basha, Assistant Professor, Dept. of History, BBAU Lucknow provided a critical view of status of women in early twentieth century with a specific topic 'Sport to the Cat, Death to the Rat'. Dr. Rashida Ather, Assistant Professor, Dept. of Human Rights, BBAU, Lucknow emphasised on the very important issue of female foeticide and infanticide. Some other papers focused on the sexual harassment, human rights violations, educational status and political participation of women in India.

The next **Technical Session 5** was chaired by Prof. Kameshwar Chaudhary, Dept. of Sociology, BBAU, Lucknow and Shri D.K. Awasthi, Dept. of Chemistry, Sri J.N.P.G. College, Lucknow and very relevant papers were presented on the theme woman, health and

human right concerns were- Dr. Prinkal Joshi, Assistant Professor, National Law University, Jodhpur presented a paper on women health and emphasised the need of health care and challenges before law. Avishek Raj, Lecturer, School of Law, Institute of Management Studies, Dehradun dealt with the birth rights of women in a broad manner. Abhay Singh, Research Scholar, Dept. of Political Science, BBAU, Lucknow discussed about the problem of malnutrition among the women and the food security. Some other quality papers were also presented on the theme of the session.

Technical Session 6 was chaired by Dr. BB Malik, Head Dept. of Sociology, BBAU, Lucknow and the theme was-women, modernisation, globalisation and empowerment. Highlights of some important papers are- Dr. Chhavi Nigam, Assistant Professor, Dept. of Political Science, Bhartiya Vidya Bhavan Degree College, Lucknow discussed on the empowerment of daughters of a Lesser God. Dr. Soni Kewalramani, Senior Lecturer, Dept. of Psychology, Amity University, Lucknow analysed the impact of globalisation on the status of women. Shalu Desai provided some insights on the empowerment of Indian women and the need of improvement in it.

The next **Technical Session 7** was chaired by Dr. DNNS Yadav, Faculty and Director Legal Cell, University of Lucknow, Lucknow and Dr. Shashi Kumar, Faculty, Dept. of Human Rights, BBAU, Lucknow and Dr. R.P.Singh, Lecturer(Hindi) J.N.P.G College, Lucknow. The theme of this session was –women and human rights in India. In this session Dr. Shura Darapuri, Associate Professor, Dept. of History, BBAU, Lucknow deliberated on the position of women and their human rights along with the nature of violence faced by them. Dr. Jaya Srivastava, Assistant Professor, Dept. of Sociology, BBAU, Lucknow presented a sociological analysis of gender, ageing and human rights of women. Raj Kumar, Research Scholar, Dept. of Human Rights, BBAU, Lucknow discussed the impact of tuberculosis on women and their human rights. Mukesh Bharti and Jageshwar Nath Singh, Research Scholars, Dept. of Human Rights, BBAU, Lucknow emphasised on the status of women in heterosexual relationship in ancient and modern Indian society. Some other papers presented related to important issues like human rights of displaced Kashmiri women, Political participation of women in 21st century, family, marriage and dowry and women's reproductive rights. The final session before the valedictory session was **Technical Session 8** and was chaired by Dr. Salil Chandra, SJNPG College, Lucknow and Dr. S.K.Pandey, BBAU, Lucknow. The theme of this session was woman, law and public policies. In this session participants from the legal system talked about laws both present and future for addressing violence against women. Speakers discussed the cases of violence against women, rape crisis intervention, and suggested legal and extra legal measures against perpetrators. A common thought which was felt throughout the session was the idea that laws are tools for anti-violence, but not the most important tool. Paper presenters felt that for laws to be effective, they must be accompanied by a change in societal attitude towards women by both men and women together. In this particular session Dr. Sartik Bagh, Associate Professor, Dept. of Political Science, BBAU, Lucknow presented a paper and discussed about the gender justice. Utsav Gaurav Raj & Shweta Gupta, Research Scholar, Dept. of Law, University of Lucknow, Lucknow discussed about the fundament rights of women

under the Indian Constitution and suggested some review.

Valedictory Session

Two Days National Seminar ended with overwhelmingly heard valedictory address by Prof. Roop Rekha Verma, Former Vice Chancellor, Lucknow University, Lucknow and Secretary at present of 'Sanjhi Duniya' on 9th March 2013. She had a focus on gender discrimination and gender equality. She provided a vast framework of gender discrimination by including family, social and governmental institutions. The unique deliberation of Prof. Roop Rekha Verma made the environment of seminar worthy and precious. She shared her academic experiences to understand the nature of problem of women. She also emphasised about the ability of women and their increasing participation in different fields. She appreciated the organiser for organising the seminar and expressed her hope for organising such types of seminar in future also.

Outcome of the Seminar

Deliberations and discussions during the seminar fruitfully concluded that gender discrimination still lurks in even the most tolerant society like India and manifests itself in variety of ways. Women are not only important but also a necessity for the survival of any society. Sincere efforts for the protection of women are required to be implemented without any political or other kind of interventions. A woman is a human being first. She is also the citizen of an independent country, where the tools of citizenship can be used to establish her identity, her rights, and her social and political position.

Empowerment of women, in the social, economic, political and religious context, can become a reality not by the passing of laws but when women come out of their homes and actively participate in reshaping the society. It is only when women are empowered in all spheres of life with an equal opportunity and when she has the choice and opportunity to lead a publicly active life that we can talk about a foundation being created for a collective change in her dalit status in the society. An empowered woman free from her dalit status will be in a position to confidently articulate her thoughts and will become more productive in her actions. Women's empowerment in all walks of life will bring the necessary balance that is required in nature. It will help in promoting structures which are more inclusive, progressive, creative, constructive and generative in nature and which are in sync with nature.

The outcome of this seminar seeks to extend discussions on the protection and promotion of rights of women in comprehensive manner. The august gathering of the seminar came to a conclusion that such seminars should be a regular event to eliminate the unequal status of women and ensure the equal participation of them in every spheres of life. Hence, with commonly accepted vision of achieving the objective of equal participation of women in every sphere of life through combined efforts of academicians, civil society members and various other statutory and constitutional bodies, the seminar was concluded with a vow to meet again on some relevant and burning issue relating to women in society. It is expected that the suggestions and outcomes of the seminar will be helpful in seeking the ways that leads to positive and inclusive development of the women as a whole and of dalit women in particular.

Mohammad Talib. 2010, Writing Labour: Stone Quarry Workers in Delhi, New Delhi: Oxford University Press, pp 278. Rs. 725

'Writing Labour' is an unusual ethnographic account of informal workers. The book testifies the 'labour of love' of a researcher, who waited for more than two decades to fine-tune his doctoral research on stone-quarry workers, completed in 1989. Though the initial research was done during 1983-87 the extended enquiries go up to 2008. Similar to this expansion of the time-frame, the author also widens the physical canvas of the work – from the initial study village, PulPehlad in the southern outskirts of Delhi, to various stone-quarrying sites of the Aravalli hill ranges in far-off Rajasthan. The author tries to capture the trans-situational and temporal continuities of working and living conditions of the stone-workers through thick ethnographical narratives and closely-woven and layered arguments.

The book starts with select quotes from 'The Rock' by T.S. Eliot, in which the author sets the tone of his work through a precursory discussion of the theme and profiling of four interviewees. The subsequent part of the book is broadly divided into six chapters that address and delve into the nuances and complexities of informal work. The first chapter, which focuses on the conditions of life of stone-quarry workers, situates the research issues in the contexts of policy and field-level settings. Besides discussing wages and working conditions the chapter provides a detailed account of the organization of stone-quarrying and the processes and relations involved in this work. After this detailed 'contextualization of the study', the next chapter examines the self-perceived images and expressions of the workers. Drawing upon extensive case studies, the perceptions and attitudes of workers are captured vis-a-vis a broad range of aspects – including self image, wage-work, authority, patronage, sufferings, poverty and inequality. Further to this, the chapter also discusses on the role of government and the efficacy of extant strategies for the benefit of labouring poor.

The third chapter, which the author captions as 'Stirrings in the stone' focuses on the collective protests and struggles of stone-quarry workers and informal sector labourers. This outlining of the history of workers' protests, apart from providing a succinct account of the evolution of collectivity, also discusses related multiple concerns – such as the cooperative movement among workers, the state's role, modes of protests, and interwoven notions of collectivity and caste. The next chapter presents the case profiles of four workers, who belong to different castes and source regions. With the aid of these case studies, it is argued that there is no 'pure' social category of free workers. Following this, the fifth chapter focuses on the institutional and informal sites of world-making by the workers with three case studies (of quarry workers' children's school; the workers temple; and informal sessions of sharing folk tales).

The final chapter provides field memories/insights and the focus here is on elaborating the conceptual framework and methodology of field work. Since it is based on personal experience, engagement and travails of the author with the subject matter of the research, the chapter offers rich insights into the possible methods and tools for interdisciplinary research on labour.

In the concluding notes, the author also explains his research for focusing on 'labour', sidelining the customary concept of 'class', which to him, by now overshadowed the scholarly debates and led to the serious neglect of the labouring poor and their specific issues. The methodology of the book is truly interdisciplinary, integrating the possibilities of a wide range of disciplines – anthropology, economics, sociology, history and literature in labour

studies. Along with an eclectic mix of social science tools, the author has taken pains to collate, translate or even write relevant prose and poetry related to stones and rocks, which are spaced appropriately to set the tone for subsequent discussions.

The book is a complex but comprehensive analytical account of informal sector work and workers, which is organized in long-winded but interesting discussions. Due to this uniqueness, the book demands repeated readings and re-readings to grasp its ever-expanding implications, implicit meanings and imaginings. This uniqueness itself elevates the book to the level of an essential reference book for researchers, policy-makers, activists and others who are interested in the work and lives of labouring poor. Though its intricate narrations and discussions make the book slightly puzzling, this inimitability itself gets it 'imprinted on rock' as a methodologically-innovative and qualitatively-rich research on the work and lives of informal labour.

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