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Adsorption of Textile Dye Effluents through *Chara* Species

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Dyes and pigments represent chronic ecological problems as they are toxic and carcinogenic. Removal of dyes from the effluents is a major problem Biosorption through algal biomass is an effective and cheap process for the removal of dyes from industrial effluents. In the present study, biosorption of red dye textile effluent has been carried out using different doses of the dried biomass of *Chara* sp. High dose of algal biomass (100 mg) showed the higher percent adsorption as compared to lower dose (50 mg) of algal biomass. Maximum specific uptake value was observed at 40% red dye effluent through 100 mg biomass and at 80% red dye effluent through 50mg biomass. The results of Freundlich isotherm model showed better biosorption than Langmuir isotherm model. FTIR studies demonstrated that aromatic azo, C=S, sulfur and carbonyl groups could be associated with the adsorption mechanism of red dye.

Key words: *Textile dye effluent, biosorption, Chara sp., adsorption isotherms*

Introduction

Water pollution is caused by the release of various pollutants as a consequence of industrial progress (Ayangbenro and Babalola, 2017)[1] which has now become a serious threat to lives dependent on it. A lot of chemicals including dyes, pigments and aromatic molecular structural compounds are extensively used for several industrial applications such as textiles, printing, pharmaceuticals, food, toys, paper, plastic and cosmetics (Mohana *et al.*, 2008., Boudechiche *et al.*, 2016)[22,4].

Worldwide over 10,000 different dyes and pigments are used in dyeing and printing industries (Pandya *et al.*, 2017)[27]. The total world colorant production is estimated to be 8, 00,000 tons per year and at least 10% of the used dyestuff enters the environment through waste (Palmieri *et al* , 2005; Kalaiarasi *et al.*, 2012)[26,14]. The dyes of synthetic origin are of complex aromatic structure and specifically designed to be recalcitrant with poor biodegradability, they are very stable and difficult to degrade by conventional aerobic biological treatments, such as the activated sludge process (Nadaoglu *et al.*, 2013., Kalkan *et al.*, 2015)[23,15].

Various physical, chemical and biological methods, namely adsorption, biosorption, coagulation, precipitation, membrane filtration, solvent extraction, chemical oxidation, and photochemical degradation have been used for the treatment of dye containing wastewater. Among these methods, the adsorption process using low-cost adsorbent materials is proved to be an effective process for color removal from wastewater (Ravikumar *et al.*, 2006, Elizalde-gonzalez *et al.*, 2009)[28,9]. Worldwide more than 50,000 algal species have been identified and the list is increasing in number with the development of new technologies in the field of algal taxonomy (Kumar and Ahluwalia, 2017)[17]. Identification and selection of an ideal algal species are fundamentally important for effective and economic bioremediation process of pollutants e.g. dyes, heavy metals etc. An ideal species should have the high growth rate, easy to harvest, wide range of tolerance of environmental stress. Algae have been found potential and suitable biosorbent because of their fast and easy growth as well as their wide availability. Biosorption using biomass of photosynthetic aquatic organisms, such as algae and aquatic plants or mosses, represents an alternative of cheap and readily available sorbents for the removal of contaminants from wastewaters or polluted water systems (Renuka *et al.*, 2015)[29]. Algae are ubiquitous naturally and serve as one of the biomaterials with high capacity for removing dye from contaminated waters (Daneshwar *et al.*, 2007)[7].

Microalgae are known to remove dyes by bioadsorption, biodegradation and bioconversion. Microalgae degrade dyes for nitrogen source by removing nitrogen, phosphorus and carbon from water, it can help in reducing eutrophication in the aquatic environment (Olguin, 2003; Ruiz *et al.*, 2011)[25,30] and are unique in sequestering carbon dioxide (Mata *et al* , 2011)[21]. Both living and non viable algae have been used in color removal from wastewaters. Microalgae have been identified as potent metal and dyes biosorbent due to presence of binding sites such as carboxyl, sulfonate, amine and hydroxyl groups (Davis *et al.*, 2003; Celekli *et al.*, 2011 and 2013)[8,5,6]. Microalgae *Chara* sp. was investigated as a viable biomaterial for biological treatment of wastewater dye effluent. *Chara* sp. has also been reported for degradation of

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BIOGENIC PRODUCTION OF METAL NANOPARTICLES AND THEIR EFFECT ON GROWTH OF *VIGNA MUNGO* L. SEEDLINGS BY FOLIAR SPRAY METHOD

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ABSTRACT

The present experimental investigation demonstrates the effect of nano-iron, nano-zinc and nano-copper particles on the growth of black gram (*Vigna mungo* L. cv. Azad 1) seedling. The synthesis of metal nanoparticles was done using aqueous extract of *Mangifer indica* leaves and characterized by visible inspection and UV-visible spectroscopy. Thestudy was carried out by spraying optimum concentrations of nanoparticles in suspension form on seeds grown in pots and examining the effect on the germination, shoot growth of seedlings, root growth and leaf emergance. Based on biomass assay, it was found that the seedlings displayed good growth over control, demonstrating a positive effect ofthe nanoparticles treatment. All the test nano solution were found effective for the growth of black gram and the application of these nanosolution may be advantageous to plants by increasing the productivity and yield.

Black gram (*Vigna mungo* L. family Leguminoseae) is prominently known as "Urad", is a standout amongst the most critical heartbeats crop, developed crosswise over India. A large quantities are available in India and other Southern Asian countries (1). It ranks fourth in acreage and production up to 1.5 million ton of seeds annually (2) after chickpea, pigeon pea and green gram amongst pulse crop in India (3). Black gram accounts for more than 40% of total legume seeds traded globally (4). Seeds, sprouts and green pods are edible and much appreciated for their high digestibility and lack of flatulence induction (5). It is also grown for forage and hay (6). It is a short duration grain legume with high protein content in seeds and contains around 26% protein rich in basic amino acids, such as arginine, leucine, lysine, isoleucine, valine, phenylalanine etc. Its optimal growth conditions are average day temperatures (25°C to 35°C) and 600-1000 mm annual rainfall. It is drought-tolerant and thus suitable for semi-arid areas (7) and grows better on rich black vertisols or loamy soils, well-drained soils with a pH 6-7. Black gram crop is impervious to unfriendly climatic conditions and improves soil fertility and soil physical properties by capturing atmospheric nitrogen (8). Its cultivation does not require nitrogen fertilization but nitrogen fixation is improved by inoculation with local rhizobium strains (2), if required. It is often used as dry season intercrop in rice or wheat as it has a beneficial effect on soil nutrient status (8).

The use of conventional fertilizers, whether chemical or organic, may result in few difficulties such as large applied quantities cause soil and ground water pollution, deficiency of micronutrients, and soil degradation, finally leading to low product quality (9). Many plants need eighteen essential plant nutrients for normal growth and completion of their life cycle. Soil amendments containing the essential plant nutrients or having the effect of favorably changing the soil chemistry have been developed and used to enhance plant nutrition (10). For the improvement of the soil properties, an understanding of soil chemical properties is important because of their effect on nutrient availability to plants. Also, these properties may usually be favorably altered with the use of lime and/or fertilizer materials.

Micronutrient deficiencies (also termed as hidden hunger) in crop plants are difficult to diagnose (11) and it is related to food security (12, 13). This hidden hunger may cause nearly 40% reductions in crop productivity and ultimately affects more than a half of the global population. Recent studies suggests that the world will need to produce 60 to 100% more food when the global population will reach 9 billion by 2050 (14). A great challenge for global food and nutrition security is to feed the world population with nourishing food (15, 16). Hence emphasis should be laid on production of high quality food with the required level of nutrients and proteins (13, 17). This requires a radically changing the way food is produced, stored, distributed and accessed (18). The quality of crop plant is largely dependent of applied fertilizer and water. These fertilizers can be applied through the soil (for uptake by plant roots), through foliar spray (for uptake through leaves) (19) or both ways together. Now, after years of green revolution and decline in the ratio of agricultural products to world population growth, it is obvious that there is necessity of employing new technologies in the agriculture industry more than ever. Modern technologies such as biotechnology and nanotechnology can play an important role in increasing the production and improving the food quality produced by farmers (20).

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EFFECTS OF DIFFERENT DOSES OF DEAD FUNGAL BIOMASS OF *ASPERGILLUS NIGER* AND *HUMICOLA GRISEA* ON THE BIOSORPTION OF BASIC FUCHSIN DYE

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ABSTRACT

The present study focused on the biosorption of Basic Fuchsin dye through dead biomass of Aspergillus niger and Humicola grisea. Biosorption increase with increase in biomass amount at 10mg, 20mg and 40mg but slightly decrease with further increase in biomass amount at 80mg. Maximum biosorption of Basic Fuchsin dye was observed at 40 mg biomass by both the fungi *A. niger* and *H. grisea*. The number of sorption sites at adsorbent surface increased by increasing the dosage of the adsorbent, leading to increase in the percentage of dye removal from the solution. The decrease in biosorption capacity with increasing adsorbent dosage after a certain limit because aggregation occurring at high adsorbent concentration and leading to decrease in total surface area. In order to describe the adsorption equilibrium Langmuir's and Freundlich's isotherm model were used.

Key words : *Biosorption, basic fuchsin dye, dead fungal biomass, adsorption isotherms.*

Control of pollution is one of the major concern of society today. Untreated or partially treated industrial effluents discharges into natural ecosystems create a serious problem to the ecosystem and the life forms. With economic constraints on pollution control processes, affordable and effective methods have become a necessity. Biosorption is one of the most important technique for the treatment of industrial effluents and wastewaters.

Globally, it is estimated that over 7×10^5 ton and approximately 10,000 different synthetic dyes and pigments are produced annually world-wide and 2-50% of them are lost into wastewaters, causing environmental contaminations (1). The production of dyes in India alone is estimated to be around 60,000 tons (2). Chemical dyes reduce the light penetration in water, interfering with photosynthesis and most of them contain suspected carcinogens (5). Basic Fuchsin dye belongs to the triarylmethane class dyes, which is inflammable in nature and it is widely used as a coloring agent for textile and leather materials (4). The removal of color from waste effluents becomes environmentally important because even a small quantity of dye in water can be toxic and is highly visible (5).

Chemical and physical methods for treatment of dye wastewater are not widely applied to textile industries because of excessive costs and disposal problems. Green technologies to deal with this problem include biosorption of dyestuffs through bacterial and fungal biomass (6) or low-cost non-conventional adsorbents (7). Generally, biosorptive processes can reduce capital costs by 20%, operational costs by 36% and total treatment costs by 28% when compared with conventional systems (8).

The biosorption process has been recognized to be an effective and economical procedure for the removal of dyes from industrial effluents. Low cost biosorbent materials with high adsorption capacities have gained increasing attention (9). These include natural materials derived from waste materials from industry and agriculture, as well as biosorbents that are produced from microbial biomass like *Corynebacterium glutamicum, Escherichia coli, Pseudomonas luteola,* and *Rhizopus arrhizus* (10). Various authors have already worked with many microorganisms, the imperative bacteria being *Staphylococcus arlettae* (11); Lactic acid bacteria (12); *Pseudomonas putida* (13); *Micrococcus luteus, Listeria denitrificans* and *Nocardia atlantica* (14) *Bacillus megaterium* (15), and fungi *viz.* Basidiomycetous fungi (16); *Tramates pubescens* and *Pleurotus ostreatus* (17); *Aspergillus tamarii* and *Penicillium purpurogenum* (18); *Aspergillus ochraceus* (19); and *Pleurotus ostreatus* (20); *Aspergillus niger, Fusarium oxysporum* and *Trichoderma lignorum* (21).

Application of fungal biomass to remove textile dyes from industrial waste water is attractive for industry as it may decrease the overall effluent treatment cost (22). Compared to the live biomass, the use of dead fungal biomass offers various advantages such as reusability of biomaterial, easy storage, more efficiency, easy operation and hence cost effectiveness for the treatment of large volumes of wastewaters containing low dye concentrations, short operation time and no production of secondary compounds which might be toxic (23).

A major advantage of biosorption is that it can be used *in situ* and with proper design may not need any industrial process operations and can be integrated with

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BIOGENIC PRODUCTION OF METAL NANOPARTICLES AND THEIR IMPACT ON GROWTH OF *PISUM SATIVUM* L.

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ABSTRACT

In context to environmentally benign technology, the present study was made for the biosynthesis of iron, zinc, and copper nanoparticles which were used as nano fertilizer to enhance crop production in garden pea (*Pisum sativum* L.) cv. ADB 12. The synthesis of metal nanoparticles was done with the well-established protocol using plant biomass. Results indicate that synthesized nanoparticles showed a significant improvement in rapid germination, plant height, leaf emergence, and seed vigour index over control in seven days old plants. The results are drawn that the application of tested nanoparticles may be advantageous to plants by increasing their productivity and yield.

Key words : Pisum sativum, metal nanoparticles, nanoparticles biosynthesis, seed vigour index.

Pea (*Pisum sativum* L.) is a very popular crop and its green pods, as well as dry seeds, are in great demand for cooking as vegetable and as pulse, respectively (1). The mature seeds are used as whole or split into dal and put to use in various ways for human consumption. Besides vegetable purposes, it is also grown as a forage crop for cattle and cover crops to prevent soil erosion but mainly for matured seed for human consumption. Some major constituents of pea seeds are starch (18.6-54.1%) and proteins (15.8–32.1%), followed by fibers (5.9–12.7%), sucrose (1.3–2.1%), and oil (0.6–5.5%) (2). It is highly nutritive and contain minerals, vitamins, and micro-nutrients such as polyphenolics, saponins, α-galactosides, and phytic acids whose health-promoting effects are being tested (3). Mineral malnutrition can be addressed by increasing the bioavailability of mineral elements in edible crops. The increase in global food demand will require increased use of natural resources such as water, land, and nutrients to produce crops (4). Three major pathways have been identified to meet this growth: decreasing the loss of agro-ecological production capacity, decreasing the demand of food per capita, and increasing the production of food (5). The growth of the global food production is projected to require increased use of chemical fertilizers, but since the current environmental impact of agriculture and fertilizer use has reached its planetary boundaries (6). The nutrient use efficiency of fertilizers should be increased dramatically. The current yield trends are insufficient to meet forecasted food demands (7), which implies a daunting challenge to limiting the use of fertilizers and increasing yields. This problem reveals the great potential to increase the nutrient use efficiency, and consequently, yield levels by considering all essential plant nutrients (macronutrients N, P, K, Ca, Mg, and S and micronutrients Cl, Fe, B, Mn, Zn, Cu, Mo, and Ni) in fertilizer products and fertilization strategies (8,9).

The capacity of arable land to sustain humans has increased from 1.9 to 4.3 person ha^{-1} between 1908 and 2008. This increase is partly due to the invention and application of synthetic mineral fertilizers. Hence, given the limited additional arable lands and scarce water resources in the world, the development and application of new types of high-efficiency fertilizers are among the practical options for feeding the projected 9.6 billion population (a ~30% increase from 2012) by 2050 without seriously damaging ecosystems and the environment. Fertilizers have an axial role in enhancing food production in developing countries especially after the introduction of high yielding and fertilizer responsive crop varieties. Despite this, it is known that yields of many crops have begun to depression as a result of imbalanced fertilization and a decrease in soil organic matter. Moreover, excessive applications of nitrogen and phosphorus fertilizers affect the groundwater and also lead to eutrophication in aquatic ecosystems. Such cases along with the fact that the fertilizer use efficiency is about 20-50 percent for nitrogen and 10-25 percent for phosphorus fertilizers implies that food production will have to be much more efficient than ever before (10).

Plants need metals like Fe, Zn, Mn, and Cu, to develop biochemical redox reactions for the activation of enzymes and proteins and their cofactors and gas transport, such as CO_2 and O_2 (11). Because the availability of transition metals in soils is highly variable, plants have developed different mechanisms for their capture, transport, and assimilation. The uptake of these metals usually occurs in the roots, where they are then transported to the rest of the plant. Some of these

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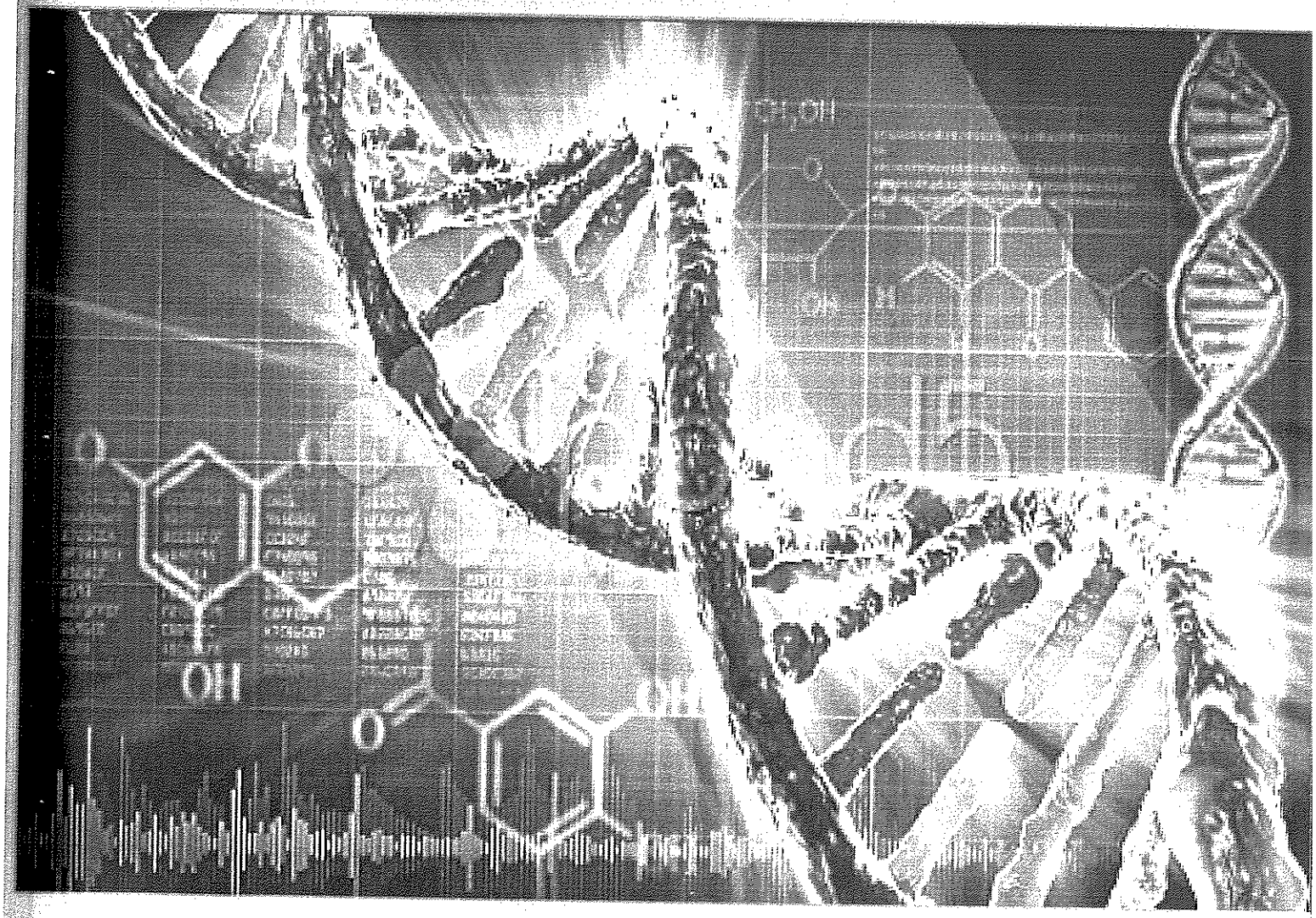

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Research Article

ANTAGONISTIC ACTIVITY OF *BACILLUS* STRAIN AGAINST FUNGAL PATHOGENS

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ABSTRACT

Soil borne plant pathogenic fungi are one of the serious problems in agriculture. A variety of fungi are known to cause important plant diseases, resulting in a significant loss in agricultural crops. Biological control is an alternative measure to synthetic chemicals for controlling plant diseases. In the present study *Bacillus* strain was isolated from the soil and its antagonistic activity was observed against several fungal strains. Isolated *Bacillus* strain inhibited the growth of *Aspergillus niger, Aspergillus flavus, Aspergillus fumigatus, Alternaria* sp., *Pencillium* sp., *Curvularia* sp., *Fusarium* sp. *Bacillus* strain showed the maximum inhibition against *Pencillium* sp. (72%).

Keywords: *Biological control, Bacillus strain, Antagonistic activity*

INTRODUCTION

Biological control is an environment friendly alternative to chemical pesticides and it is an attractive method protecting the plants from pathogens, because the wide usage of chemicals has a negative impact on the environment and human health. A variety of fungi are known to cause important plant diseases, resulting in a significant lost in agricultural crops. Classes of fungi that commonly cause diseases in agricultural crops are Plasmodiophoromycetes (root disease of cereals, and powdery scab of potato), Oomycetes (late blight and white rust disease), Zygomycetes (cause soft rot of fruit), Ascomycetes and Deuteromycetes (cause leaf spots,

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Research Article

BIOSORPTION OF TEXTILE DYE EFFLUENTS USING LIVING *ASPERGILLUS NIGER* VAN TEIGHAM

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ABSTRACT

Dyes constitute one of the larger groups of pollutants in wastewaters released from textile industries. Several methods exist for removal of dye pollutants from wastewaters. Biosorption is becoming a promising alternative to replace or supplement the dye removal processes from dye effluent wastewaters. In this study, biosorption of red and green dyes on living biomass of *Aspergillus niger* was investigated. 100 and 200 mg doses of living *Aspergillus niger* biomass and 10 minute contact time showed the most appropriate amount and duration for use in biosorption of red and green colored textile dye effluent solutions. Maximum adsorption capacity of living biomass with respect to red and green dyes was observed 58.39% and 70.71% using 100 mg biomass and 70.40% and 77.46% respectively for 200 mg. The kinetic studies indicated that the biosorption process follows a pseudo-first order model. The adsorption isotherm studies indicate that in green dye Langmuir's isotherm model fitted better at lower dose while Freundlich's isotherm model fitted better at higher dose. While in red dye Freundlich's isotherm model fitted better at lower dose while Langmuir's isotherm model fitted better at higher dose.

Key words: Dyes, wastewaters, textile industries, textile effluents, biosorption, Langmuir and Fruendlich models.

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Fungal Biosorption: An Innovative Treatment Method for the Removal of Textile Dyes

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Abstract

Basic fuchsin is a potential toxic, irritant and carcinogenic dye. Conventional dye effluent treatment strategies can cause extreme ecological problems. Therefore, the present study was focused on the sorption of Basic fuchsin dye by dead Aspergillus niger biomass at different pH (pH 6.0, pH 6.5, pH 7.0 and pH 7.5) from aqueous dye solution. Maximum dye removal was observed at pH 7.0 (80.42%). The equilibrium data were analyzed by employing Langmuir and Freundlich isotherm equations and the results showed that the equilibrium data were better described by Freundlich isotherm model, suggested that the sorption on a heterogeneous surface. The results therefore indicated that dead biomass of Aspergillus niger could be used as natural biosorbent to remove dyes from aqueous effluents.

Keywords: *industrial effluents, basic fuchsin dye, biosorption, Langmuir and Freudlich isotherms*

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INTRODUCTION

Industrial effluents contribute colossally to water disintegration and their treatment is the subject of discussion and regulation in many countries [1]. Dyes are the vital class of synthetic organic compounds used in various industries such as manufacture of pulp and paper, leather tanning or textile dying and in manufacture of dyestuffs. Ghaly *et al.* [2] pointed out that the textile industry is one of the significant industries in the world and it assumes a noteworthy part in the economy of numerous nations. The worldwide textile dyes market was estimated to reach USD 4.7 billion in 2015 and is projected to reach USD 6.4 billion by 2019 and USD 8.75 billion by 2023 [3–5]

About 10,000 different dyes are arranged globally and approximately 8×10^5 tons of synthetic dyes is devoured in textile industries in the whole world [6]. Approximately 10–15% of dyes applied in the dyeing process are released with wastewater causing natural contamination [7]. Wastewaters from the textile industry contain a lot of colors and chemical compounds containing trace metals such as Cr, As, Cu and Zn which are capable of harming the environment and human health [2].

Different physical (color irradiation, ozonation and ultrafiltration) and chemical (coagulation–flocculation, precipitation and advanced oxidation) methods are available for the treatment of wastewater but these methods have a lot of limitations such as high chemical and operating cost, high sludge and toxic gases generation [8–10].

Subsequently, the treatment of dye wastewaters and finding dye removal efficient methods has been challenging problems among ecological advances.

Biosorption has been contemplated since 1980s for evacuating dyes, heavy metals and other organic pollutants by various microorganisms from wastewater [11]. The fundamental points of interest of biosorption are high selectivity, cost viability and good removal performance [12]. Various bacteria, fungi, yeast and algae have been tried for their biosorption abilities under different experimental conditions [13–16]. Among these microorganisms, fungal biomass can be produced cheaply and obtained as a waste from various industrial fermentation processes [17]. In the cell wall of fungi, distinctive groups are present which are

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Equilibrium Studies on Sorption of Basic Fuchsin Dye Using Living Biomass of *Aspergillus niger* and *Humicola grisea*

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Abstract:

Textile effluents are among the most difficult to treat wastewaters, due to their considerable amount of recalcitrant and toxic substances. Fungal biosorption is viewed as a valuable additional treatment for removing pollutants from textile wastewaters. In the present study fungal biomass of *Aspergillus niger* and *Humicola grisea* were used for the biosorption of basic fuchsin dye from aqueous solutions. The maximum biosorption percentage of 46.09% and 32.66% were observed at 100 ppm concentration of dye by *Aspergillus niger* and *Humicola grisea*, respectively. The biosorption capacity of basic fuchsin dye by *Aspergillus niger* biomass was more efficient than the biomass of *Humicola grisea*. Adsorption of dye by *Aspergillus niger* followed Langmuir isotherm model while by *Humicola grisea* followed Freundlich isotherm model.

Keywords: Textile wastewaters, biosorption, basic fuchsin dye, fungal biomass, adsorption isotherms.

INTRODUCTION

The textile industry worldwide has witnessed tremendous growth over the years in the use of synthetic dyes (Pandey *et al.*, 2007). This however comes with attendant increase in pollution from wastewater disposal. Indiscriminate discharge of synthetic dyes as industrial effluents constitutes pollutant menace in our environment (Eichlorova *et al.*, 2006). Pollutants indiscriminately discharged into our environment poses great threat to the survival of flora and fauna in the ecosystem. Textile dyes makes significant portion of textile effluent and municipal sewages in most developing nations (Khandare *et al.*, 2013)

The dyestuffs discharge into water bodies reduces water transparency and thus the dissolved oxygen concentration, affecting aerobic organisms (Vijayaraghavan *et al.*, 2008). The presence of dyes or their degradation products in water, even at very low concentrations, can also cause human health disorders (Oliveira *et al.*, 2007). Dyes have been known as toxic, teratogenic, carcinogenic, mutagenic and allergic (Gunturu *et al.*, 2018).Dyes in the environment are always difficult to degrade or decolorize by many known chemical and physical methods. Dyes complex chemical structure confers on them the ability to remain stable/recalcitrant to degradation in water and soil (Rane *et al.*, 2014). To quench the negative effect of dye pollutant, there is a need for the development and application of ecofriendly biological treatment techniques.

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Biodecolorization of Textile Dye Effluent by Biosorption on Plant Biomass and Equilibrium Modelling

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Abstract

Dye effluent discharge into water bodies leading to water pollution. Each textile dye process requires a different amount of dye and also it generates a different amount of effluents. Most of the physico-chemical methods are insufficient and highly expensive. Biosorption is an alternative technology for the treatment of different textile and other effluents. Aquatic plants specially water hyacinth showed a greater potential to use as biotrap for textile effluent treatment. Both living and dead biomass were tested for the removal of Brown GR textile dye and observed that up to 69.39% dye was removed from its aqueous solution. The adsorption was found monolayer as indicated from the Langmuir model. From the Freundlich model, Temkin model and D-R model it was found that the process was chemical adsorption for living biomass and physical adsorption for dead biomass. Thermodynamic parameters indicated that the adsorption process here is endothermic and is accompanied by the decrease in the randomness. FT-IR data showed the involvement of amine and C=N group for dye biosorption by living and dead biomass, respectively.

Keywords: *Dye effluent, biosorption technology, water hyacinth, Langmuir model, Freundlich model, Temkin model, D-R Model.*

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INTRODUCTION

Dye industries are important emerging industries, even India has emerged as important global suppliers of dyes and its intermediate stuffs. The production of dyestuff is reported to increase every day. It should be noted that increasing production and the usage of dye has led to increase in discharge of dye effluents into the water bodies thus leading to water pollution. Dye effluents have become a major source of water pollution, and because water is the precious natural source; its treatment is a necessity for safety of living beings. Much focus has been placed upon the removal of colored factors from wastewater because these develop adverse effects on the environment [1]. Textile dyes are largely synthetic or typically derived from coal tar and petroleum-based intermediates [2]. Each process of textile dyeing industry requires a different amount of dye per unit of fabric to be dyed [3]. Mostly physical and chemical processes are used in industries for the treatment of colored wastewater but these technologies are insufficient in removing these dye effluents, highly expensive and not adaptable to a broad range of colored water. In spite of these technologies, biosorption technology presented as the preferred technique for the removal of dyes and other effluents from wastewater.

Aquatic plants could be used as sewage treatment facilities [4]. Different researchers demonstrated the use of aquatic plants for wastewater treatment including *Typha latifolia*, *Phragmites australis*, *Schoenoplectus lacustris*, *Iris pseudacorus* [5] and *Myriophyllum spicatum*, *Ceratophyllum demersum* [2]. Some other plant biomass are also used as biosorbent such as Apple pomace, Neem leaf powder, Indian rose wood sawdust, Banana pith, Sunflower seed husk, Wheat shell, Palm tree flower, Rice husk, Orange peel, Peanut shell, Coir pith, Eucalyptus bark, Wheat bran etc. [6].

Water hyacinth (*Eichhornia crassipes*, family Pontederiaceae) is one of the common weed found in India throughout the year. It is reported to be an effective biosorbent of dye and some heavy metals [7]. Water hyacinth, referred to as noxious beauty [8] and can be called as biological filter that can survive even in the

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Sushma

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beings. It pertains to all persons and possessed by everybody in the world because they are human beings. These are not earned, bought nor inherited nor does any contractual authority create them.

Human rights are essential for full development of human personality and for human happiness. These are indispensable for physical and mental nutriment of the human race. These rights are inalienable because the enlightened conscience would not permit the surrender of these rights by any person even of his own violation. These rights are inviolable because these are not only vital for the development of human personality but also because without these men would be reduced to the level of animal. These rights are expressions of what is a life minimally worth living and are based upon primary material and immaterial necessities of life. Of course, there cannot be single opinion about quality of life minimally worth living, about primary necessities of life and thus about human rights. But still some rights must be regarded as fundamental. Human rights are based on mankind' increasingly demand for a decent and civilized life in which the inherent dignity of each human being will receive respect and protection.

In the words of Subhash C. Koshyap, "the fundamental norm governing the concept of human right is that of the respect for human personality and its absolute worth. Human Rights may be said to be those fundamental rights to which every man or woman inhabiting in any part of the world should be deemed entitled merely by virtue of having being born a human being."[1]

Youcef Bouandel argued that, according to most of the schools the term human right is generally taking to mean a twentieth century name for natural rights. " J. Donnelly said, "Human Rights are those held simply by virtue of being a person. "To have a human right one need not be or do anything special, other than to be born as a human being." According to Donnelly, rights encompass at least two concepts. On the one hand, right refers to moral righteousness. On the other hand, right may refer to entitlements, as in the claim 'I have a right to'. This second sense of entitlement distinguishes rights, as human or otherwise.

Maurice Cranston defines human rights as "the rights, which belong to man only because he is a man." According to him, human rights have moral connotations. He said that human rights are a form of moral right and that differ from other moral rights in being the rights of all people at all times and

in all situations. According to him, legal rights do not constitute human rights because they are limited in scope; either they deal with a person and a privileged group or with people under a given jurisdiction. He identified three types of moral rights: (a) moral right of one person only (b) moral right of anyone in a particular situation and (c) moral rights of all people in all situations. Human rights to Cranston fall in the moral rights third category. Myron Weiner and Ali Kabir also consider human rights as moral rights.

Some human right thinker interprets human rights as the essential conditions required for the development of human dignity and personality and for the happiness of individual. The material and moral upliftment of the people can only be possible in the presence of human rights. In this light A. A. Said says, "human rights are concerned with the dignity of the individual, the level of self-esteem that secures personal identity and promotes human community."[5]

All the above definitions talk about the nature and significance of human rights. But M. Freeden has highlighted more practical approach of human rights. In his opinion, a human rights is a conceptual device, expressed in linguistic form, that assigns priority to certain human or social attributes regarded as essential to the adequate functioning of human being; that is intended to serve as a protective capsule for those attributes; and that appeals for a deliberate action to ensure such a protection.[6]

It is now proved that there is no precise and universally agreed definition of human rights. But Edward Lawson's definition can be considered as the most comprehensive and appealing. He, in the Encyclopedia of Human Rights', says "human rights are the universally accepted principles and rules that support morality and that makes possible for each member of the human family to realize his or her full potential so as to live life in an atmosphere of freedom, justice and peace."[7]

According to Compton's Encyclopedia "Human rights are those rights that individuals have by virtue of their existence as human being."[8] In the Encyclopedia Britannica, human rights are defined as "Rights thought to belong to the individual under natural law as a consequence of his being human."[9] According to 'The Cambridge Encyclopedia', "It is a concept derived from the doctrine of natural rights, which holds that individual by virtue of their humanity, posses fundamental rights beyond those prescribed in law."[10]

In India, The Protection of Human Right Act, 1993 vide section (2) (d) defines, human rights as "the rights relating to life, liberty and dignity of

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of Spinoza, the empiricism of Francis Bacon and John Locke encouraged a belief in natural law and universal order. During the 18th century, the so called Age of Enlightenment, a growing confidence in human reason and in the perfectibility of human affairs led to its more comprehensive expression in the writings of English philosopher John Locke and the works of Montesquieu, Voltaire and Rousseau. John Locke, the Father of modern liberalism argued in detail, mainly in writing associated with the Glorious Revolution (1688), that certain rights like right to life, liberty and property self-evidently pertain to individuals as human beings because they even existed in the 'state of nature' before humankind entered into civil society. Rousseau raised the flamboyant slogan of 'liberty, equality and fraternity'. He wanted people to enjoy their liberty, equality and fraternity within a political body whereas, he said there was nothing. His assertion that man "is everywhere in chains" is an assertion Rousseau wanted everyone to accept. The liberal philosophers though belonged to varied current of thoughts had a common supreme faith in reason and vigorously attacked religious and scientific dogmatism, intolerance, censorship, and social-economic restraints.

The teachings of these liberal thinkers had a profound influence on the western world of the late 18th and yearly 19th century. Together with the practical example of England's revolution of 1688 and the resulting 'Bill of Rights', the liberal intellectual ferment provided the rationale for the wave of revolutionary agitation that then swept the West, most notably in North America and France.

The doctrine of natural rights influenced the English, French and American revolutions. All these revolutions laid the foundation of human rights.

The American 'Bill of rights' embodied in the U.S. Constitution in 1791 and the 'French Declaration of the Rights of Man' were considered remarkable achievements in the developments of a new consciousness which acknowledged that rights of man were sancrosant and hence they should be embodied in the constitutional laws of modern state. Thus by 19th century they became a part of law of nearly all the European states

From the beginning of the19th century, attention was directed more to the rights of individual. Boundel argued that the clash between liberalism and socialism in the later part of 19th and early 20th century added a new dimension to the understanding of human rights.[2] Socialist thinkers stressed the need to suppress a number of individual rights to achieve higher rights for mankind as a whole. Marx recognized that civil and political rights are meaningless unless economic and social rights are ensured to the people.

Russian revolution ordered the concept of rights. It was realized that the vast masses of people living in the developing countries of Afro-Asia are suffering from want, poverty and destitution, civil and political rights could have meaning only when they guaranteed social, economic and cultural rights also.

Global efforts to ensure Human Rights

The first nationalization of the concept of human rights was begun by the League of Nations after the World War I. An important milestone was reached when the American President Roosevelt, while addressing the Congress on 6 January 1941 outlined the essential features for a new world order. They were freedom of speech, freedom of worship, freedom from want and freedom from fear.

The vague and halting hunger for peace, human rights and social justice expressed in the Covenant of League of Nations was transformed into firmer commitments and stronger imperatives in the Charter of the United Nations which stressed the urgency of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms.

In the Preamble of U.N. Charter, the people of the United Nations expressed determination to reaffirm faith in the fundamental human rights, in the dignity and worth of human persons and in the equal rights of the men and women.

Preamble apart, the Charter makes repeated references to human rights and fundamental freedoms.

The United Nations Charter is the first multinational, multilateral treaty on human rights. Though the effect of the Charter on human rights remained quite limited, yet it served as a basis for political action and future legal development.

When UN Charter came into force on 24 October 1945, one of the first act of the World Body was to fulfill the promises made at San Francisco with respect to human rights. The Preparatory Commission of the United Nations recommended that the Economic and Social Council should immediately establish a Commission on Human Rights and direct it to formulate an "International Bill of Rights" and to prepare studies and recommendation which would encourage the acceptance of higher standards

debate on the Right to Development, which paved the way for the adoption of the UN Declaration on the aforesaid right in 1986. However, it took almost a decade for General Assembly to adopt this much cherished demand of the developing countries of Third World.

The Declaration on Right to Development ties the realization of human rights in developing countries to international economic aid for them. It ensures the people the right to participate in, contribute to, and enjoy economic social, cultural and political rights of the country such that all human rights and fundamental freedom can be fully realized. The Declaration, which also recognizes the concept of indivisibility of human rights, emphasized that the denial of civil and political rights as well as economic social and cultural rights would constitute a serious obstacle to development. Further, the Declaration also stressed that promotion of one set of rights cannot justify the denial of other human rights. Most importantly the Declaration recognized that the human person is the central subject of development and should be an active participant and beneficiary of the right to development.

According to Kofi Annan, former UN's Secretary General, "The Right to Development is the measure of the respect of all other human rights. That should be our aim: a situation in, which all individuals are enabled to maximize their potential and to contribute to the evolution of society as a whole."[9]

The 'Right to Development" is one of the most important basic human rights and it constitutes the culminating point of the evolution of the concept of human rights. This super right, transcends the differentiation of civil and political rights and socio-economic cultural rights. It includes within its ambit both sets of rights. It correctly links the both because with hunger and ill health freedom can have no meaning.

Other Declaration and treaties regarding human rights approved by the General Assembly include:

(i) Declaration of the Rights of the Child (1959 and later 1991)
(ii) Declaration on the granting of independence to colonial countries and people (1960)
(iii) Convention relating to the Status of Refugee (1961)
(iv) Declaration on the elimination of all forms of racial discrimination (1963)

(v) Declaration on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment (1975)
(vi) Declaration on the right of all people's peace (1984)
(vii) International Convention on the Protection of the Rights of all Migrant Workers and Members of their families (1990)

In addition to these declaration and treaties, the UN General assembly adopts a number of resolutions dealing with some aspects of human rights every year.

There is a spectrum of independent organizations for the promotion of human rights in various fields at a global level like ILO (International Labour Organization, UNICEF (United Nations International Children's Emergency Fund), UNHCR (United Nations High Commissioner for Refugees), CEDAW (Convention on the Elimination of All forms of Discrimination against Women), UNIFEM (United Nations Development Fund for Women), UNESCO (United Nations Educational, Scientific and Cultural Organization), UNDP (United Nations Development Programme), WHO (World Health Organization) etc. The Human Rights awareness programme are launched in form of campaigns by dedicated individuals and citizen groups who even risk their life for the committed cause.

There are many non-governmental organizations also active in the field of protection of human rights like Amnesty International, International Committee of Red Cross and International Commission of Jurists etc.

Conclusion

Though there are number of organizations working in the field of human rights yet there is a need for a global mechanism to co-ordinate the processes and to present a systematic, comprehensive and coherent picture of action on human rights before the concerned humanity. However, comparative evaluation of the institutional and functional aspects of contemporary attempts at implementation of human rights would appear to favour a whole time, self-reliant, self-governing and self-directing organization which could devote exclusively and dispassionately to furthering the cause of human rights.

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THE PROBLEM OF LANDLESS LABOUR IN INDIA

Dr. V.P. RAKESH*, Dr. SUSHMA RAMPAL**

Introduction

Landless labourers constitute the most neglected class in Indian rural structure. Since they possess no skill or training they have no alternative employment opportunities. Socially, a large number of landless labourers belong to Scheduled Castes. Therefore, they are also an oppressed class. They are unorganized and cannot fight for their rights. For the major part of the year, they have to work on other farms. As the avenues for employment in the rural areas are limited it leads to their exploitation at the hands of the cultivators, moneylenders and others. Primarily, it is the lack of employment opportunities, which leads to all sorts of exploitation of landless labourers in the rural areas. This is manifested in depressed wage rates, employment as casual labourer, high rates of interest charged on loans etc. The present paper deals with the origin of the problem of landless labour in India, different safeguards, and the real picture regarding their situation.

Origin of the Problem

The problem of landless labour is not a recent one. It was originated during the British rule in our country. Before coming of the Britishers in our country, there was no question of private ownership on the land. During the Mugial era, land was seldom sold or purchased as a commodity and so long as the peasant paid his rent or revenue he could not be evicted by anybody. The cultivable land was unquestionably abundant. The only problem was how to encourage the peasants to bring it under cultivation. Since the ruler's revenues were directly proportionate to the extent of land cultivated, tilling of land was more of an obligation on the part of the peasant than a matter of legal right. Any failure to cultivate land that was previously under cultivation, affected the state exchequer adversely. Thus explains why

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until the British period, the whole question of 'rights of private ownership or property in land' never assumed any importance.

The British occupation of India for nearly two centuries brought about profound changes in almost all sectors of the Indian society. it also involves changes in the agrarian social structure i.e. in the structure of land control and in agrarian class relation as well as the peasant response to these changes. The British found the land revenue as the primary source of income in India and they increased it at regular intervals.

After securing the Diwani rights of Bengal in 1965, the administration of the British East India Company primarily worked to enlarge the Company's revenue, which was reflected in their land policy and settlement. The question, which had bothered them in the beginning, was from whom to collect the revenue. This was to be settled with the persons who were to be regarded as the owners of land, for in England the owners paid the revenue. Under the Permanent Settlement Act of Bengal (1789), existing zamindars were declared full owners with absolute proprietary rights in land, without realizing that they were only tax-collecting intermediaries during the preceding regime. A series of experiment on the assessment continued, after, which similar rights were conferred on zaminders and other actual proprietors in the northern parts of the Madras presidency and also on the talukdars of Oudh in the united provinces. These settlements, which redefined the rights of certain classes on the land, inaugurated a series of structural changes in control over land and in the relation among classes associated with land cultivation.

The zamindars of Bengal, as elsewhere, constituted a dominant class in rural society. Although functionally merely revenue-collecting intermediaries in course of time they acquired both substantial economic power and political importance. The zamindars were the key link between the central authority and the vast numbers of peasants who occupied and cultivated land. From the standpoint of more efficient revenue collection, recognition of the zamindars as 'owners of the soil' was perhaps thought by British as politically expedient. Some economic historians attribute benevolent motives to the British and hold that they saw in the zamindars potential for bringing about a commercial revolution in Indian agricultural as enterprising English

Another government's plan to tackle the rural problems was the' 'new agricultural strategy' to increase food production. The main components of this plan were the introduction of high-yielding variety of seeds, mechanization of agriculture, utilization of chemical fertilizers and pesticides, among other things. But this strategy did not improve the condition of landless labourers. While to some extent, their wage rose at harvest times because of the need to clear the land and prepare it for the next crop, it was found nevertheless that in the face of rising prices, labourers were generally left with little improvement in real income, and in some cases, they actually reported deterioration over previous years. Besides, increased use of machinery also threatened to displace a large number of agricultural labourers also threatened to displace a large number of agricultural labouers as they were becoming redundant. The government initiated several other schemes also like Integrated Rural Development Scheme, Rural Landless Employment Guarantee Scheme (1983), National Rural Employment Programme (1980) etc. Jawahar Rozgar Yojana (1990), Swarna Jayanti Gram Swarozgar Yojana (1999), Sampoorna Grameen National Rozgar Yojana (2001), National Rural Employment Guarantee Act (2005) renamed as Mahatma Gandhi National Rural Employment Guarantee Act on 2nd October 2009 etc.[2] On an average, about crores of rupees are being spent under the poverty alleviation programmes. But due to corrupt bureaucracy, political interference and middlemen, the relief is not properly reaching the needy people.

Inspite of the efforts made to improve economic conditions of people engaged in agriculture, the condition of this class has deteriorated with time. Among them, the poorest and weakest i.e. agricultural labour has suffered the most. The benefits have been hogged by a tiny among the agricultural population.

The disquieting feature observed in the rural economy of India has been the growth in the number of landless labourers. The phenomena of unemployment, underemployment and surplus population are all simultaneously manifested in daily lives and earnings of landless labouers. According to 1991 Census, 38.75 percent of the workers are classified as cultivators, 26.15 percent as agricultural laborers and 3.63 percent as other workers (engaged in livestock forestry fishing, hunting, plantation of orchards etc.). The number of

agricultural labourers in the country is 74.66 million (46.38 millions males and 29.28 million females). Between 1981 and 1991, agricultural labourers recorded a growth of 3.03 percent per annum. Most of the agricultural labour households are landless.[3] According to Census of India the percentage of agricultural labourer has increased from 19.5% in 1951 to 30% in 2011. The year wise detail of the agricultural labourers regarcing their population in million and percentage is given below :-

Table 1

Agricultural Labourers in India, 1951 to 2011

Year	Agricultural Labourers (in millions)	Agricultural Labourers (in percentage)
1951	27.3	19.5
1961	31.5	16.7
1981	55.5	22.7
1991	74.6	23.8
2001	107.5	26.7
2011	144.3	30.0

Source:- Census of India, 1951, 1961, 1981, 1991, 2001, 2011

With the increase in population, the land base of rural economy being the same and without any significant diversification, the incidence of rural labour has been continuously increasing. An increase in the 1991 was observed. As a proportion of total labour force from 174 million in 1961 to314 million in 1991 was observed. As a proportion of the total labour force, the percentage of landless labouers has also been increasec from 18.0 percent in 1961 to 26.1 percent in 1991. This implies that marginal farmers have been swelling the ranks of landless labourers.[4]

On account of the increasing economic compulsions in terms of past debts, they have been forced to sell their land. This supports the popularly held view that the benefits of millions of rupees invested in irrigation, tube wells, fertilizers etc have gone to the big farmers. It also

Gender differential has determined both work and wages is in rural areas. This difference emanates from the ideology operating behind the evaluation of the work of male as compared to female agricultural labourers, their capacity to perform certain tasks and the awarding of this performance in terms of wages.

The state is directed to ensure under Article 39(d) of the Constitution equal pay for equal work for both men and women In this regard, the Parliament passed an Equal Remuneration Act 1976, which provides for equal pay for equal work to men and women for doing the same work or work of similar nature. But unfortunately this concept of equality does not find its fulfillment in actual practice. Poverty and illiteracy of agricultural labour, absence of knowledge of the existence of legislation, casual nature of employment, and unorganized character of agricultural labour are the reasons in non-effective implementation of the Act in India.

Another problem faced by agricultural labourers is indebtedness. In Indian villages "indebtedness is a function not of enterprise but of poverty."[3] Debt is incurred not to finance production and increase productivity, but to meet consumption requirements and therefore, there is little hope that it would ever be repaid. Inadequacy of income from smallholdings forces peasants to borrow money for consumption needs and social ceremonies. Inability to pay the debt and the high rate of interest, results in the loss of land and thus make them landless. On the other hand, the landless labourers does not have any security to offer and he pledges his labour to the creditor. This is the origin of bonded labour and a worker is forced to work for his creditors throughout his life and is defrauded of his wages and earnings. This retards the development of a proper wage system, deprives the worker to enter into a free contract with employer and reduces his wages and earnings. Thus we see like indebtedness, bondage is also becoming an acute problem in the agricultural labour sector. Though Bonded Labour Abolition Act, 1976 was passed to abolish the evil system of engaging bonded labour, which is the worst form of human bondage but it is still prevalent in the agricultural sector.

Like employment, hours of work in agriculture depend partly upon natural factors and partly upon factors which can be controlled. Agriculture is a seasonal industry and the amount of work to be done in

a day depends upon the length of sowing and harvesting seasons and within a season working hours per day depend upon the duration of day-light . During the busy seasons there may be long working hours, which are harmful to the workers.

With the mechanization of farming, agriculture has become accident-prone. Amputation of hands in threshers and crushers and other machines is a common feature in mechanized farming. There should be compulsory insurance to cover all risks of this nature

The majority of landless labouers are from Scheduled Castes and Scheduled Tribes; they face besides economic exploitation, social and caste oppression. The aggressive landlords of upper castes are often committing atrocities so as to cow down the asserting landless labourers. They worked on the farms of the local big landlords but were not allowed to draw water from the village well, which was reserved for upper castes. The landlords and rich peasant sections of upper castes are utilizing communal and caste divisions to further their interests with the intention they are even dividing the exploited sections on communal and caste lines.

The champions of human rights have made declarations and announcements about protecting rights of labour but these have confined to the plight and needs of labour in the organized sector only, not much attention has been paid to agricultural labourers, except a few ILO (International Labour Organization) declarations.

Similarly at national level, Labour Welfare Ministry and various non-governmental organizations have tried to create awareness about violation of their right but no concrete steps have been taken. A general lack of concern and indifference of administration has resulted in worsening of their conditions.

Conclusion

The general picture that emerges from all this is one of night marish poverty, humiliation and oppression, inflicted upon more than half of India's rural population by minority of rich landlords and moneylenders, through squeezing out inch by inch, both land and labour from them, and paying them in exchange just enough to keep them working on the lands. These aspects definitely require protection and advancement in the realm of economic prosperity. Otherwise, the

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शोध वैचारिकी

मानविकी एवं समाज-विज्ञान की शोध त्रैमासिकी)

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Krishna

upper class is all real, so it can be said firmly whatever Shelley tries to say is the reality.

Shelley's 'Prometheus Unbound' is a direct commentary upon specific problems of problems in 'A philosophical view of Reform' and of symbolizing moral and psychological truths in 'Prometheus Unbound' simultaneously.

'Hellas' written towards the end of 1821 is the last of Shelly's major political poems. Shelley says in the preface that the poem is designed to celebrate the Greek struggle for independence, and is modelled upon the Persae of Aeschylus.

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Theoretical and Practical Aspect of Democracy

(with Special Reference to India)

Dr. V. P. Rakesh*
Dr. Sushma Rampal**

The concept of democracy is at the centre of fierce debates in political theory as well as in common place discussions on politics. It is a form of government in which all eligible citizens have an equal say in the decisions that affect their lives. Moreover, it is regarded not only a form of government but also a way of life that could provide human kind with a cherished dream of humane and just social order, through it ideals of liberty, equality, fraternity and justice.[1]

The term 'democracy' was first used in the fifth century BC by the Greek historian Herodotus in the sense of 'rule by the people'. This term is derived from a combination of two greek words: demos, meaning 'the people', and kratin, meaning 'to rule'. Abraham Lincoln's famous definition of democracy as 'government of the people, by the people, for the people' is very close to its literal meaning.

Analysing Lincoln's definition, D D. Raphael in the book 'Problems of Political Philosophy' observes that all government is government of the people, hence 'government of the people' does not convey much. As regards 'government for the people', Raphael argues that a benevolent despotism, as much as democracy, may be government for/or in the interests of) the people, through the political experience of Europe, if not perhaps always of Asia, leads one to doubt whether a despotism can for long remain benevolent. So the essential idea of democratic government is 'government by the people'[2]

Apparently 'government by the people' implies that public decisions should be taken with the approval of all the people. In practice, it would be a

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granted franchise till 1867. It is worth noting that in all these systems only male franchise was sought to be introduced Hence early democratic systems of modern western world were at best imperfect expressions the idea of democracy as they were not based on universal adult franchise Female franchise has been operative in the United States since 1919; and in Switzerland all women got their right to vote as late as 1971. Thus even in the Western World the idea of democracy was materialized only in the twentieth century.[6]

Waves of Democratization

20th century transitions to liberals democracy have come in successive 'waves of democracy' variously resulting from wars, revolutions, decolonization, religious and economic circumstances Samuel Huntington (1991) distinguishes three major one. The first modern democracies emerged in the first long wave of democratisation between 1828 and 1926. During this 'first wave nearly thirty countries established at least minimally democratic national institutions including Argentina, Australia, Britain, Canada, France, Germany, the Netherlands, New Zealand, the Scandinavian countries and the United States. Many of these democracies were later overthrown by fascist, communist, or military dictatorships during Huntington's 'first reverse wave' from 1922 to 1942. However, democracies did consolidate in the earliest nineteenth century democratizations, including the United States and United Kingdom. Huntington's second wave of democratization began during the second world war and continued until the 1960s. Like the first wave some of the democracies created at this time did not consolidate. For example elected governments in several Latin American countries were quickly overthrown by the military. But established democracies did emerge after 1945 from the ashes of defeated dictatorships, not just in West Germany but also in Australia, Japan, Italy. The third wave finally began in 1974. It was characterized by (i) the end of right wing dictatorships in South Europe (Greece, Portugal, and Spain) in the 1970s' (ii) the retreat of the generals in much of Latin America in the 1980s and, (iii) the collapse of communism in the Soviet Union and East Europe at the end of the 1980s.[7]

Some of the recent examples of attempts of liberalization include the Indonesia Revolution of 1998, the Bulldozer Revolution in Yugoslavia, the Rose Revolution in Georgia, the Orange Revolution in Ukraine, the Cedar Revolution in Lebanon, the Tulip Revolution in Kyrgyzstan and the Jasmine Revolution in Tunisia. It acquires distinct characteristics depending on the nature of the countries they are based: East of West, developed or developing ores.[8] In 2010 United Nations declared September 15 the International Day of democracy.

According to freedom House, in 2007 there were 123 electoral democracies (up from 40 in 1972).[9] According to World Forum on /Democracy, electoral democracies now represent 120 of the 192 existing countries and constitute 58.2 percent of the world's population. At the same time liberal democracies i.e. countries Freedom House regards as free and respectful of basic human rights and the rule of law are 85 in number and represent 38 percent of the global population.[10]

Forms of Democracy

The term democracy translates as 'rule by the people', raises many questions regarding like who are the 'people' and how do they rule? On what matters? To what extent? Through what institutions? To secure which goals? is this a desirable arrangements. Different theories and endless number of types or models developed with passage of time to answer these questions in different ways.

Direct and Representative Democracy

Several variants of democracy exist, but there are two basic forms, both of which concern how the whole body of all eligible citizens executes its will. One form of democracy is **direct democracy**, in which all eligible citizens have direct and active participation in the decision making of the government. In most modern democracies, the whole body of all eligible citizens remains the sovereign power but political power is exercised indirectly through elected representatives this is called **representative democracy**. Direct democracy only exists in the Swiss Cantons of Appenzell, Innerrhoden and Glarus. Representative democracy have two broad patterns of functioning namely through *presidential* and *parliamentary* systems.

Hybrid Democracy

Some modern democracies that are predominately representative in nature also heavily rely upon forms of political action that are directly democratic. These democracies, which combine elements of representative democracy and direct democracy are termed hybrid democracies or semi-direct democracies. Examples include Switzerland and some U.S states (like California), where frequent use is made of referendums and initiatives.[11]

Theories and Variants

Democracy has taken a number of forms, both in theory and practice. The detailed description is given as follows:

Liberal Theory of Democracy

Democracy is an old concept, liberalism is a recent one. Today, liberalism is generally thought to be inseparable from democracy so that the term 'democracy' is applied to denote 'liberal democracy' unless otherwise specified. Classical liberalism fostered capitalism and a free-market economy which were responsible for large-scale industrialization and urbanization. This gave rise to a large working class centered in large industrial cities and forced to live under sub-human conditions created by a cruel, competitive economy. In due course this class became conscious of its strength and

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preferences that occurs in voting. Authentic deliberation is deliberation among decision-makers that is free from distortions of unequal political power, such as power a decision-maker obtained through economic wealth or support of interest groups."[12] If the decision makers cannot reach consensus after authentically deliberating on a proposal, then they vote on the proposal using a form of majority rule.

Radical Democracy

Radical theory of democracy contemplates to expand the scope of democracy by recognizing and possibly combining the essential features of procedural and substantive democracy i.e. liberal and socialistic form of democracy. It is best represented by Macpherson's concept of democracy. In his work 'Democratic Theory- Essays in Retrieval', 1973, he has developed a new theory of democracy based on a humanistic vision: it will emancipate human beings from the constraints of the prevailing competitive social order of the capitalist world and usher in a new society which will promote 'creative freedom'.

Consociational Democracy

According to John Dewey ('Democracy and Education, 1916) "A democracy is more than a form of government; it is primarily a mode of associated living, of conjoint communicated experience. This system involves an elaborate arrangement to ensure minority representation. It is regarded particularly suitable for the governance of the societies which are deeply divided by religious, ideological, linguistic, regional, cultural, racial or ethnic differences. It involves four basic principles.

1. Executive power sharing 2. Greater autonomy of different segments
3. Proportionality 4. Minority veto

Consensus Democracy

A consensus democracy in contrast would not be dichotomous, instead decisions would be based on a option approach and policies would be enacted if they gained sufficient support, either in a purely verbal agreement, or via a consensus vote - a multi option preference vote. If the threshold of support at a sufficiently high level, minorities would be as it were protected automatically.

Inclusive Democracy

Inclusive democracy is a political theory and political project that aims for direct democracy in all fields of social life. The theoretical project of inclusive democracy emerged from the work of political philosopher Takis Fotopoulos in "Towards An Inclusive Democracy".[13]

The basic unit of decision making in an inclusive democracy is the demotic assembly, i.e. the assembly of demos, the citizen body in a given geographical area. The citizen body is advised by experts but it is the citizen body which functions the ultimate decision-taker. Authority can be delegated to a segment of the citizen body to carry out specific duties, for example to serve members of popular courts or of regional and confederal councils. Such delegation is made, in principle, by lot, on a rotation basis, and is always recallable by the citizen body.

Procedural Democracy

Democracy is regarded as a procedure designed to obtain consent of the people for public decisions. It is hoped that when this procedure is adopted, public decisions would be automatically devoted to people's welfare. Champions of liberal democracy regard it the standard by which they would judge any political system. They would never compromise this procedure for any other gains. This model of democracy is therefore called 'procedural democracy'.

Substantive Democracy

Defence of procedural democracy implies that 'government by the people' would necessarily prove to be 'government for the people'. However, some exponents of democracy do not accept this position. They argue that the goal of democracy viz. people's welfare should take precedence over its procedure. In other words, the structure of liberal democracy does not necessarily ensure that is would be conducive to people's welfare. So some critics of liberal democracy advocate necessary adjustment in the procedure and institutions of democracy for the achievement of its goal. Their approach to democracy may be described as substantive democracy .

Cosmopolitan or Global Democracy

Cosmopolitan democracy also know as Global democracy, is a political system in which democracy is implemented on a global scale, either directly or through representatives. An important justification for this kind of system is that the decisions made in national or regional democracies often affect people outside the constituency who, by definition, cannot vote. By contrast, in a cosmopolitan democracy the people who are affected by decisions also have to say in them."[14]

Indian Scenario

The Journey of democracy in India begins from its formal inauguration in 1947 with the independence of the country. The constitution makers adopted the Westminister model of parliamentary democracy as the foundation of its political system. The immense popularity of democracy amongst the popular leadership in India could be gauged from the fact that even after being ruled by British Crown for nearly three and half centuries, India adopted their model of democracy in its system of governance after independence.[15]

of theories and variants developed in due course of time. Indeed, democracy is often called an 'adjectival concept'. But at the heart of all democratic theories is the concept of popular power. According to Anthony Arblster, it refers to a situation where power and authority ultimately rest with the people.[1] The principle of democracy become relevant even beyond the level of the nation state as well. In a response, David Held suggests a cosmopolitan or global model of democracy for it. It envisages setting up political, legal, administrative and regulatory institutions at global and regional levels, which would help create methods to ensure transparent and accountability in international government and non-government institutions. This model is not meant to be an alternative to the nation- state but a system that complements democracy at the national and local levels.

Our country has become a largest democracy in the world. But if we see on the other side of the picture, India's road to development has not been very smooth. We cannot draw a straight line graphs of India's achievement, it has rather being a zig-zag one. If our achievement in post independence time have been impressive, our failures are shocking even after more than half century of independence almost one-third of the population is still living in a state of denial. They are denied the access to basic amenities; they don't have the wherewithal to enjoy the right to food; their consumption level significantly low because of their poor economic status. Even a great GDP growth rate of nine percent has not been able to bring any sustainable change in their standard of living, and witnessed slow rate of reduction in poverty even the health and the educational indicates are not showing very promising picture. Besides this, there is an increase in disparities across regions and social groups and between rural and urban areas. Growth also bypasses cetain vulnerable groups like physically and mentally challenged population, socially disadvantaged groups like tribal groups, adolescent girls, small children, widow etc.

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Sushma

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Globalization and Slums in India : A Study

Dr. V.P. Rakesh* & Dr. Sushma Rampal**

Globalization which gathered momentum during the last quarter of twentieth century, has created unparalleled opportunities and posed unprecedented challenges for development. But it has not been able to benefit each and every country and person in a egalitarian manner. It promises economic prosperity for countries, which carb their road to development through it and economic deprivation for countries that don't. During the 1990s the Indian economy opened itself to globalization and liberalization. It was during this period that Indian economy has done reasonably well in terms of economic growth and related macroeconomic indicators. Opening up of the economy for globalization and liberalization brought India amongst the ten fastest growing economies in the world, much in contrast with its earlier image of laggard economy.

However, this high growth in economy has co-existed with the continuation and sometimes even intensification of deep social failures. India's success in reducing poverty and deprivation has been very moderate. Not only this, in respect of the progress of social indicators, India's growth rate has been rather slower in 90s than in

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the 80s. As India enters the 21st century, the lives of majority of its citizens continue to be blighted by endemic poverty, mal/under-nutrition, ill-health, environmental degration and wide ranging social inequalities. The growing number of slums in urban India is an example of these existing socio-economic inequalities in the country. The present study focuses on the real dismal condition of the Indian slums deprived of any benefits of developments through globalization.

India's population stood as 1027 million on 1st March 2001. 72% of its population lived in rural areas, while the remaining 28% lived in urban areas. Although the level of urbanization has been rising gradually and the decadal increase in urban population remains quite high, not many efforts were under taken to provide proper housing to this growing population. As a consequence a number of slums sprung up in the urban areas. This influx of population is continuously on an increase. As per the UN projections, if urbanization continues at a present rate, 46% of the total population will be in the urban region of India by 2030.[1]

In the last two decades, there has been a steady growth in the number of slums in parts of urban India. In 1981, nearly 28 million people lived in slums, in 1991 this number rose to 45.7 million and as per 2001 census data there are about 52 million slum dwellers in India. This number rose to 65 million according to 2011 census. In 2001, the population residing in slums constituted nearly 23% of the total urban population of states and union territories reporting slums.[2]

In fact slums in India are the by-products of urbanization and industrialization. Whereas urbanization has been considered as an index of development and also lead to infrastructure development, industrial technological advancement has given rise to speedy growth of slums in cities. Though, ideally, economic growth & urbanization

India is also supposed to join the Elite club of power by 2020. So whereas India aims at attaining the role of a major player in the global scene, the problem of poverty poses a serious threat to this ambition. India is excelling in all fields - in economic performance, information technology and in scientific achievements. India's industry is a booming industry and has started competing with the industrial giants of the world. On Jan 31, 2007 Ratan Tata grapped world attention by bagging the world's 9th largest steel maker rank.[7] Mukesh Ambani and Laxmi Mittal are ranked among the richest people in the world.

This projection of affluence is to be understood by keeping in view the 260.3 million poor of the country. Indeed there is widespread inequality both in the distribution and possession of the resources and assessts. There are starvation deaths, farmers' suicides, deaths due to malnutrition, suicide for not being able to pay off the debts etc. According to a UN report, more than 1/3 malnourished children of the world are in India. It is estimated that several lakhs of children under five die each year in India. In Orissa, people had to live on mango kernel; hunger makes them eat things like ratmeat etc. The miseries of the people a do not stop here. An old woman in a city of Madurai tried desperately to survive by eating earth.[8]

The above picture presents a real dismal picture of development. The people who feed themselves on rat meat and mud cannot even imagine a decent living for themselves. They are living in impoverished shacks in Kachha houses or on pavements. The human right to developments does not have any meaning for them. A hut on 5-6 square feet area covered by rags, sacks and plastic sheets provides shelter to a family of 4-8 people. They cook, eat and sleep in this hut; sleep in open and at times take shelter at nearby railway stations, bus stands or in verandas of the shops. The condition of the sick and the aged people among them is all the more worrysome.[9]

Life in the Slums

The slums are a sore sight in any urban area and totally unacceptable. They are extremely dirty and contribute mightily to the overall squalor and slink. No human being should be allowed to live in such sub-human conditions. According to the United Nations Human Settlement Programme (UN-Habitat), "the slums are the areas characterized by inadequate access to safe water, sanitation, poor quality of housing over-crowding and insecure residential status. The National Sample Survey Organization (NSSO) defines a slum as a "compact settlement with a collection of poorly built tenements, mostly of temporary nature, crowded together usually with inadequate sanitary and drinking water facilities in unhygienic conditions.

The slums account for most of the poor in the cities. Indeed, most of India's urban poor live in these over crowded and unsanitary settlements, and usually do not have access to safe and secure shelter and basic infrastructure and services. The slum dwellers are forced to live in illegal and informal settlements because they cannot afford formal shelter, being excluded from the housing and basic services. Even the slum could get beyond the reach of the poor in the time to come. Given the scenario at the global level, the goals have been set up by UN to achieve significant improvement in the lives of at least 100 million slum dwellers by 2020.[10]

It is however, important to realize that slums do not house all the urban poor, nor are all slum dwellers are always poor. Income and unemployment deprivation may go together with deprivation in the area of housing and services (education, health & environment) such that the combination of deprivations makes it very difficult for households to get out of poverty. A rise in private income, unless it is so large as to allow the individual to move to

or semipucca structures. At least 35% of the slum households fell into this category in most states in 2002. In Delhi, more than half of the slum structures were kaccha or semi pucca in 2002 as compared to less than 35% in 1993. Infact most states did not show any sign of improvement in this respect. According to NSSO (2003) report, slum households typically consume small pieces of urbar land, with almost 58% of the slums covering an area of less than a hectare each. This pattern is evident across most states, indicating rampant overcrowding in India's slums. According to 2001 census, the population density for Mumbai was 27,000 persons per sq. km. The 'C' ward is the most populous with 114001 persons per sq. km. The 58th round of NSS conducted during July-Dec 2002 found that the proportion of households which did not have dwelling units for living was 0.09%. In rural areas, 36% lived in pucca houses, 43% in semi-pucca houses and the rest in Kaccha houses. In urban areas, 77% of households were in pucca structures, 20% in semi pucca structures and 3% in kaccha structures.

Slums most often are vulnerable to major health hazards primarily due to overcrowding and infrastructural deficiencies. By and large, the major sources of drinking water for the slums are either taps or tube wells. Under the policy of Environment Improvement of Urban Slums (EIUS), public stand posts are provided only in notified slums. Water is also provided to a few slum households on humanitarian grounds at the behest of local municipal councilors. In 1993, about 65% of slums had tap points as sources of drinking water. There was significant improvement by 2002 in water supply as 84% of notified slums and 71% non-notified slums had taps as a source of drinking water.[10]

In terms of access to tap water, the situation either worsened or remained more or less unchanged in a large number of states during the 1990s. The situation is quite

unsatisfactory in states like Bihar where all the slums get water from tube-wells and all non-notified slums in Punjab have to rely on tube-wells. Another problem related to this is that quite often the public stand post does not work due to lack of maintenance and or overuse. The water supply becomes highly inadequate during summer months. For slum dwellers, the inadequate supply results mostly in a time opportunity cost as they spend on an average of 3 hours a day to fetch water. Generally women and girls do the work of fetching water, this affects the prospects of the girl child to go to school and also reduces the likelihood of women participating in other economic activities. Besides this, the quality of water is not always good which is hazardous to their health and leads to number of physical & mental disorders.[11]

Another problem which the slum dwellers are facing is the lack of proper drainage, sewerage and toilets. Most urban families do not have suitable toilet facilities. A household is considered to have access to improved sanitation of an excreta disposal system, either in the form of a private toilet or a public toilet, shared with a reasonable number of people, for the household members.

In a developing society, sanitation has become a yardstick of socio-economic development. Improved sanitation results in improvement in the health of the people, decline in morbidity, reduction in child mortality, improved water quality, better environment, and helps rapid economic growth in a country.

Slums tend to be congested; most people have no attached latrines and depend on public latrines. The 58th Round of NSSO survey data reveal that only 33 percent of the people in urban slums had access to latrine facilities of any kind. Further, 21 percent of the people shared the toilet facility with others and 37 percent of slum dwellers used community facilities. Among slum households that share

of the slums solely as products of poverty is unadequate.

A majority of the slum dwellers work in the informal sector, which makes them more vulnerable to financial shocks inflicted by ill health. Sudden illness results in heavy losses in their daily earnings. This often leads to borrowings at high rate of interest that pushes them into the debt trap. The price of poor infrastructure is paid in terms of the poor health of the population in the slums and leads to continuous physical degradation and low productivity. Morbidity patterns among the population in the slums are high and reveal a preponderance of water-borne diseases.

High levels of morbidity also lead to heavy expenditure in healthcare, which often results in the family spiraling downwards in a vicious cycle of poverty.

The infant mortality rate is also very high in these slum areas. The worst affected are slums in Delhi, which, though rehabilitated continue to live under high rates of infant mortality, diseases and malnutrition.[19]

Besides this, the problem relating to physical abuse (15.2% domestic violence (30.2%) and sexual abuse (10.2%) were seen in urban slums which indicated poverty, illiteracy and low status of women in this category.[20]

Conclusion

Thus from the above details it is clear that the existing economic disparity is the main causative factor for the growing number of slums in the country as the benefits of the development do not trickle down to the last man of the society. Lack of policy planning, the unplanned growth of urban centres and unmindful influx of rural poor to the urban areas has made things even worse. The rural poor generally migrate to urban centres empty handed and are thus compelled to live either on the platforms or in slums. Unless the situation is not tackled at this stage no

improvement can be brought about in the lives of these slum dwellers.

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आपसे सादर अनुरोध है कि शोध पत्रिका की सदस्यता स्वयं ग्रहण करने के साथ-साथ अपने मित्रों, शोधार्थियों तथा संस्थानों को भी इस हेतु प्रेरित करने की कृपा करें ताकि शोध पत्रिका समयबद्ध तरीके से प्रकाशित की जा सके और सम्बन्धितों को प्रेषित की जा सके। साथ ही इस परिपत्र से अपने शोधार्थियों एवं लेखक सहयोगियों को भी अवगत कराने की कृपा करें।

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SOCIAL SECURITY, HUMAN RIGHTS & HUMAN DEVELOPMENT

Sushma Rampal

In this paper, we have tried to explain as to how the right-based approach to social security will help addressing the problem of poverty reduction and thus becomes a means for the human development.

Originally, the term 'social security' referred to any programme that was intended to help individuals who had little financial resources. Such people included the poor, the elderly, anybody who was physically disabled and the mentally ill. The first such financial programmes were begun by the European trade guilds, with the 'poor laws' sponsored by the government being formed later. The 'poor laws' adopted in countries such as the United kingdom represented a rudimentary form of public responsibility for the destitute who were unable to obtain assistance from their families.

The industrial revolution and the rise of capitalism from about 1750 destroyed the existing networks of social support. Individuals now had to sell their labour on the labour markets at the prevailing market rate . These workers and their families were completely dependent for their livelihood on the regular payment of wages .Large number of labourers were frequently getting unemployed for long periods without any form of insurance against the risk of work injuries, sickness or unemployment. Families often ended up living in slums in unsanitary and impoverished conditions. In Das Capital, published in 1867, Karl Marx indentified the commodification of labour, which stripped workers of their humanity is a major feature of the capitalist system. To a large extent, the development of social security systems was an attempt to humanize the ravages inflicted by the capitalist system on the working classes . To protect the urban working classes from destitution, certain protective systems were gradually developed such as saving bank facilities sponsored by government, placing some obligation on employers to maintain ill and injured worksmen; the growth of mutual aid societies, and private insurance providing life policies and funeral benefits. Gradually as a result of pressure from workers and other social groups, many states began to play a more active role in developing systems of social protection .

Given the irresistible influence of socialism by the late nineteenth century in the European continent, it was infact the organized strength of the working class that facilitated the evolution of social security in terms of ' welfare state policies'. The state out of the necessary urge of its ' legitimate function ' started to initiate attractive public policies to woo the working class away from the social democrats preaching socialism. The first of these tactics came from ' Bismarckian Socialism' of Germany in 1883 in the form of a comprehensive scheme of social security, offering the workers insurance against accident, sickness and old age. This, however, directly brought the concept of social insurance into the realm of public policy and responsibility of the state. Of course the motivation didn't come from an overwhelming concern for the plight of the working poor. However, the Bismarckian model of social security survived many vicissitudes and came to be adopted with variations by many other European countries in the next half century.

The British experience was characterized by compromises both by workers unions and employers and mediated by the state. The later advent of social insurance in France was based on a tripartite coalition among the state, sections of workers movement and big industrialists. In the United States the social policy of the state was slow to catch up with Europe, although it remained a local agenda through mutual benefit societies. The impetus for the expansion of social security in the United States came from the Great Depression in the 1930s and World War II. The Social

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Security Act of 1935 introduced programs to meet the risks of old age, death, disability and unemployment. The main emphasis was to promote the security of workers through social insurance. The way in which the social security system developed in the United States differed in important ways from the British system. The fundamental difference was that the US system offers no right to social security for unemployed men who are not eligible for contributory social insurance benefit. While the main concern of the Beveridge Report of Britain published in 1942 was guaranteeing to everyone a basic minimum income below which nobody would be allowed to fall. In this way social security could foster a sense of social inclusion within society.

The dramatic spread of social security in the sense of social insurance in the Netherlands is a post-war phenomenon as in many other European Countries. A Workmen's Compensation Act came into force in 1901, Invalidity and Old Age Pension in 1919 and Implementation of a Sickness Insurance Law also enacted in 1913, was delayed until 1930." Compulsory state unemployment insurance came into effect only in 1952.

Until now it is the adversity dimension that is captured in the notion of social security to meet contingencies. Such social security arrangements are provided through the work status of individuals.

The International Labour Organization (ILO) institutionalized the notion of social security in 1952 with an International Convention, No.102, in the International Labour Conference. It is defined as "the protection which society provides for its members through a series of public measures against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness maternity, employment injury, unemployment, invalidity and death, old age and provision of medical care and the provision of subsidies for families with children. A comprehensive definition proposed by ILO has covered nine core contingencies under social security. Social security therefore refers to relief for specific contingencies. This concept in fact developed in a historical process in condition obtaining in the developed economies characterized by (near) full employment and a high degree of industrialization with a large percentage of wage-earning workers in population. As such it takes into account only those in the formal labour market, and they constitute a majority in the developed countries but a minority in developing countries. In fact " a large majority (about 80 percent) of the global population live in condition of social insecurity, i.e. they have no access to formal social security beyond the limited possibilities of relying on families, kinship groups or communities to secure their standard of living. Among these 80 percent, 20 percent live in abject poverty – the cruelest form of insecurity"[3]. There is therefore need to broaden the concept of social security as it is understood so far.

In fact a debate has already been initiated to broaden the concept of social security in the context of developing countries. Dreze and Sen deploy a broader concept of social security while distinguishing two different aspects, namely, protection and promotion. The former is concerned with preventing a decline in living standard in general and in the basic conditions of living in particular. The latter has the objective of enhancing normal living condition and helping people overcome regular and persistent (capability) deprivation.[4] The developing countries need to have a mechanism not only for income maintenance, but also for income support in the face of persistent deprivation, that is, security for meeting basic needs also. Thus in a developing country context social security is to be viewed in terms of Basic Social Security (BSS) and Contingent Social Security(CSS).[5]

Basic social security (BSS) is alternatively referred to the problem of deficiency of those who are not in a position to access the minimum resources to meet their economic and social requirements , for a dignified life in their society. This takes care of human deprivation and vulnerability. The four realms of security and that may be considered to constitute basic social security are, food security, housing security, health security, and education security. Inherent in all these is a dimension of income/employment security.[6] The notion of CSS (contingent social security) refers to social arrangements to take care of adversity , that is, contingencies of a wide ranging nature. These could be hazardous situations arising out of human life and work, such as ill-health , injuries and accidents unemployment, maternity, old age, death of an earning member and so on.[7]

A study of the history of social security provides insight into how the system has evolved and identifies measures which have been taken in the past to financially stabilize. In this paper, we have tried to explain as to how the right- based approach to social security will help addressing the problem of poverty reduction and thus becomes a means for the human development.

Social Security As A Human Right

"To put it simply, human rights constitute those very rights which one has precisely because of being a human. They are based on mankind increasing demand for a decent and civilized life in which the inherent dignity of each human being will receive respect and protection. The concept of 'Human Rights' has assumed importance globally during the past few decades. Ever since the proclamation of the 'Universal Declaration of Human Rights' the human right has gained currency. And after that many human right documents and treaties have followed in its wake.

The above definition of human right looks at only one aspect i.e individualistic aspect of the rights and ignores the social or collective aspect. A human being stands and survives not only in an individual capacity, but also collectively, as a social being. It goes without saying that all the rights are both human and social in character and scope, not only do the rights come up in the mutual, social dealings of individuals, but also they are guaranteed in collectivity. Therefore there is an urgent need to liberate and extend the definition of human right to the collective realm, overlapping with the individual sphere. From a development perspective, such recognition of the integral relationship between the collective and the individual in understanding the human rights approach has already been noted by scholars advocating the right to development. It is in this wider sense that social security can be viewed as a human right.

The conception of the social security as a human right has it's origin in the Universal Declaration of Human Rights (UHDR) and the International Covenant on Economic, Social and Cultural rights (ICESC). Article 22 of the UHDR, 1948 states that, "everyone as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality." Article 9 of the International Covenant on Economic, Social and cultural Rights, 1966 recognizes "the right of everyone to social security, including social insurance" and Articles 10 to 13 of the Convention elaborate on the right of mothers and infants, the right to a decent standard of living, the right to food, health and education. The International Labour Conference concluded that "social security is a human right and a fundamental means for creating social cohesion thereby helping to ensure social peace and social inclusion. It is an indispensable part of government social policy and an important tool to prevent and alleviate poverty."[8] Approached in this way or social security as a human right shifts over into issues of social service and social equity like providing decent education, health care, water and sanitation, combating gender-based violence; guaranteeing labour rights for workers in formal and informal economies alike. Thus it provides a safety net to protect human being from violation of their dignity, harm to their well-being and conditions of abject poverty.

Human Right and Human Development

The basic idea of human development that enriching the lives and freedoms of ordinary people is fundamental has much in common with the concerns expressed by declaration of human right. The promotion of human development and the fulfillment of human right share in many ways, a common motivation , and reflect a fundamental commitment to promoting the freedom, well-being and dignity of individuals in all societies. Any right is a right to something ,which is largely interpreted as constituting freedom. Human right are essential

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'to secure freedom', in spite of 'well-being and dignity of all people everywhere.'[1] Thus, freedoms presupposes realization of rights. In other words people enjoy freedom only when the corresponding right are realized. Thus, honouring right to like, the most basic of all human rigat ensures freedom from wants, ill health and ignorance.

In fact freedom can be viewed as the overlapping bridge between human right and development. Development is the process of enhancing freedom expanding the capability, opportunities and choices[2] so that each person can lead a life of respect and value.[3] The set of enhancing freedoms includes the civil and political freedom, economic facilities, social opportunities including entitlement to education and health services, transparency guarantees involving freedom to deal with others openly and finally protective security guaranteed by social safety nets.[4] Thus human development approach is concerned, ultimately with all the capabilities that people have reasonee to value.

Thus, we can say an adequate conception of human development can't ignore the importance of political liberties and democratic freedom. Indeed, they can be extremely important for enhancing the capabilities of people who are poor. They can do this directly, since poor people have strong reason to resist being abused and exploited by their employers and politicians and they can do this indirectly; since those who hold power have political incentives to respond to acute deprivation when the deprived can make use of their political freedom to protest, criticize and oppose. The fuller development approach does not ignore these concerns that figure so prominently in the human right literature. Similarity, the human rights literature is concerned not only with political and civil liveries, but also with the right to education, to adequate health care and to other freedoms that have received systematic investigation in human development reports.[10]

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GORKHALAND MOVEMENT: QUEST FOR IDENTITY OR RESOURCES

Rana Sonia Tez Bahadur

The Gorkhaland Movement is mainly the drive for personal identity founded on the desire of the Gorkhas to preserve their distinctive identity based on primordial ties as against the Nepalese from Nepal in general and the Nepali settlers came in India since 1950, in particular. The present brief Gorkhaland Movement: Quest for Identity or Resources examines the causes for the demand by the Gorkhas in Darjeeling and the adjoining areas for a separate state of Gorkhaland within the Indian Union. It focuses on the Gorkhaland Movement organized under Gorkha National Liberation Front (GNLF) and also discusses the reemergence of the Movement in the present decade under the leadership of Bimal Gurung and his party Gorkha Janmukti Morcha (GJM). It draws a distinction between the two phases and briefly analyses the role of factors relative in the organization of the Gorkhaland Movement. Together with its socio-economic and political importance.

Gorkhaland Movement is the movement by the Gorkhas living in and around Darjeeling and the Dooars for a separate state of 'Gorkhaland'. The Movement is mainly an expression of the desire of the Gorkha populace to assert their ethnic individuality against the allegations of displaced identity. The Gorkhas who have their own distinct ethnic culture, language and customs are different from the dominant community of the rest of Bengal i.e. the Bengalis in West Bengal. The Gorkhas as a result find the inclusion of Darjeeling district and parts of Dooars where they are in majority within West Bengal as unjustified.

Gorkha Settlement In India During British Colonial Period

The immigration of the Gorkhas from Nepal to Northeast India began when the Britsh encountered the Gorkhas in an adversary situation during the Anglo- Nepal war of 1814- 5.They found their adversary not only brave warriors, but also effective in wild, difficult and mountainous tract. Moreover, they found them inexpensive, obedient and efficient even in trying circumstances. So much so that the British adopted many clandestine measures to encourage the Gorkhas to settle in places like Shillong, Darjeeling and Dehradun and dispatching *gallawallas* (local appellation for recruiting agents) to collect young boys for recruiting in their army. Consequently, the British proved to be a catalyst for an organized migration from the Nepal hills to the Indian Frontiers only to serve their own motives. After the Sepoy Mutiny of 1857 the British viewed the higher caste Hindus and Muslim Hindustani soldiers as less reliable. Thus, when the British consolidated the thinly populated, entirely wild and mountainous tract covering the entire Northeastern India, they preferred the Gorkhas which could swiftly move without a murmur and work as an ethnic buffer between hill and plains communities. Furthermore, the tribal hill tracts in Northeast India continuously necessitated armed pacification expeditions to be sent. And the Gorkhas were always available as a regular army, police or constabulary to restore the law and order.[2]

In addition to this the pre-British economy being a subsistence economy the British tried to generate more revenue by bringing more wastelands under production. It encouraged cash crop production such as cinchona, rubber, pepper and other herbal plantations.[3] Commercial activities like timber extraction and tea plantation required strong muscle power for jungle clearance. The British, thus, co-opted immigration, and this was done by giving land on favorable terms to Nepalis, who as soon as knew about it, came freely in.[4] Besides, the British also encouraged the Gorkhas to settle in the vast wastelands of Sikkim and Bhutan so as to avoid the Chinese and Tibetan infiltration.[5] The internal situation within Nepal also served as a positive pull factors encouraging Gorkha migration to the Northeast India. The classical Nepalis regime was notoriously a repressive one that considered some of the communities as enslavable.[6] The Nepal Government had no system of paying its soldiers in cash; they fought for their nation in lieu of daily food

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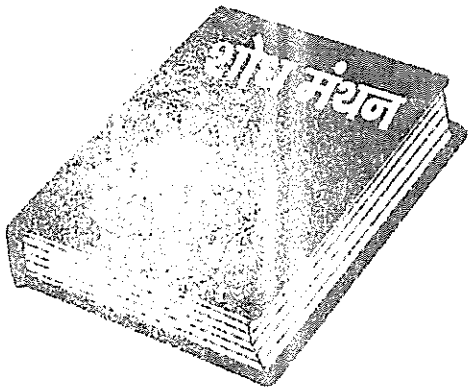

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अनुक्रमणिका

भारतीय राजनीति में दलितो की सहभागिता

8

डा0 भूपेन्द्र प्रताप सिंह*

आरम्भिक व्यवस्था के जब सामाज मे वर्ण व्यवस्था लागू कि गई कर्म के आधार पर सम्मान और सामाजिक क्रम प्रदान किये गये। उस समय भी पूजा अर्चना हवन आदि का कार्य ब्राह्मण ही किया करते थे तो इसी वर्ग को श्रेष्ठ माना गया और वर्ग व्यवस्था और सामाजिक स्तर पर इसे प्रथम स्थान पर रखा गया। इसी प्रकार पूरे राज्य की रक्षा का भार जिन लोगों को सौंपा गया उन्हे क्षत्रिय कहकर दूसरा स्थान दे दिया गया अब जो लोग राज्य की सीमाओं और सीमाओं के बाहर व्यापार करते थे उस व्यापारी वर्ग को तीसरे स्थान पर रखा गया। अब इन सभी वर्गों के अलावा एक वर्ग उन लोगों का भी था जो इन सभी की सेवा करते थे। ऐसे सेवा करने वाले सभी लोगों को दास कहा जाता था और दास को एक वर्ग की संज्ञा दे दी गई तथा इसे सबसे नीचले पायदान पर रखा गया और चौथा वर्ग माना गया। और सामाजिक व्यवस्था मे इस वर्ग के कार्यों के आधार पर अछूत मान लिया गया।

प्रथम स्तंभ के रुप में पराजित अनार्यो के मौलिक अधिकारों का हनन और उनकी संर्घषशील भावनाओं की पुनवृति का दमन करना था। आर्यो का मानना था कि शिक्षा ही एक ऐसा साधन है जो अनार्यों का अतित उजागर कर सकती है। इसीलिए शिक्षा विहिन अनार्य समाज की अनिवार्यता और इनकी खुद के संस्कारों से विरक्तता एवं अर्थहिन अवस्था में जीवन व्यतित करने की पात्रता वेदों पुराणों तथा धार्मिक ग्रन्थों के प्रमुख अध्याय के रुप में उल्लेखित करने लगे।[1]

जब आर्य और अनार्य युद्धो के आरम्भ में आर्यों ने भारत के अनार्यों को पराजित किया उस समय युद्ध के अलावा भी आर्यों ने यह नीति अपनाई कि यदि आर्यों मे उनकी संघर्ष करने की भावना और अधिकारों को पुनः पाने की कामना जाग्रत होती है तब वह अपने अधिकारों के लिए संघर्ष आरम्भ कर देगें इस लिए इनकी संघर्ष करने की इच्छा को समाप्त करना अति आवश्यक है। इसके लिए आवश्यक था। शिक्षा को अनार्यो से दूर रखना क्योंकि शिक्षा ही एक मात्र ऐसा साधन है जो किसी भी वर्ग को उसके अधिकारों के प्रति जागृत कर सकता है, इसलिए आर्यों के द्वारा अनार्यों को सामाजिक स्तर पर शिक्षाहीन और अर्थ हीन करने हेतू शिक्षा की अनिवार्यता अथवा शिक्षा ग्रहण करने को अनार्यो के लिए पुराणो और वेदों के प्रमुख अध्यायो के माध्यम से ही प्रतिबन्धित कर दिया गया। वेद पुराणों आदि मे कहा गया की अनार्यों को शिक्षा से और धन संचित करने से दूर ही रखा जाये।

जिस प्रकार आधुनिक समय मे मानव जाति के लिए शासन व्यवस्था और आधार संहिता को लिखित रुप में सामाजिक मान्यता मिली है। जिसका स्वरुप धार्मिक न होकर स्वेच्छा स्वरुप है। उसे "संविधान" कहा जाता है। उसी प्रकार तत्कालिन समय में भी

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प्रशासनीक व्यवस्थात्मक विधान को स्मृति कहा जाता था जिसके माध्यम से धर्मरक्षा और कर्मदण्ड को निरन्तर किया जाता था।

मनुस्मृति में ब्राह्मण समाज के सर्व हितों के सुरक्षात्मक विधानों का निरुपण था इसलिए मनुस्मृति ब्राह्मण समाज के लिए प्रारम्भिक आरक्षण व्यवस्था पर आधारित सवैधानिक रचना थी।

मनुस्मृति के अनुसार शूद्र वर्ग के समाजिक जीवन को पूर्ण रुप से नकार दिया गया था। ब्राह्मण, क्षत्रिय, वैश्य के आदेश की अवज्ञा अवहेलना या उल्लघन करने पर मनुस्मृति दण्ड सहिंता (दण्ड विधान) के अनुसार शूद्र को अति क्रूर, घृणास्पद और अमानवीय दण्ड देने का प्रावधान था।

शूद्रो के लिए किसी को उपदेश देना, धार्मिक कार्यक्रमो में उसकी उपस्थित और धार्मिक प्रवचन सुनने को दण्डनीय अपराध माना गया था। जिसके लिए राजा उसके कान व मुह मे गर्म तेल डालकर शूद्र को सजा देते थे (मुनस्मृति 8275)।

मनुस्मृति विधा के अनुसार शूद्र यदि ब्राह्मण, वैश्य या क्षत्रिय वर्ण को किसी भी प्रकार के अपशब्दों द्वारा अपमानित करे तेा राजाज्ञा जारी करके उसकी जिव्हा काट दिया जाये (मनुस्मृति 8270)।

शूद्र अर्थसंचय ना करें। ब्राह्मण समाज के लिए किसी भी प्रकार के विद्रोहपूर्ण भाषा का उपयोग करने पर दस अंगूल लौह धातू की लाल कड़क गरम छड़ को उसके मुख में डाला जाये (मनुस्मृति 8129)।

शूद्र को ब्राह्मण अधिकृत चिन्हो का प्रयोग करने पर राजाज्ञा द्वारा उसे दण्डित करने का प्रावधान था (मनुस्मृति 9224)।

ब्राह्मणो के नाम मंगलवाचक, क्षेत्रियों के नाम शक्तिवाचक, वैश्यों के नाम अर्थवाचक और शूद्रों के नाम घृणावाचक रखे जाये (मनुस्मृति 2 30)।

मनुस्मृति की विधाओं के अनुसार शूद्रों को शिक्षा और अर्थ से वंचित होने का परिणाम यह हुआ कि शूद्रों को आत्मविश्वास स्वाभिमान और आत्मसम्मान के बिना अत्यंत नरकीय और अमानुविक जीवन व्यतित करना पड़ा हजारो वर्षो से निरन्तर पशुवत जीवन व्यतीत करने के लिए शूद्रों को लाचार और बेवश कर दिया गया था।[2]

शूद्रों के इस वर्ग को सामाजिक स्तर पर बिल्कुल नकार दिया गया था। अब केवल इनसे ऊपर के वर्ग ही सम्मान पाने योग्य माने जाते थे और इस नियति को बनाये रखने के लिए मनु नामक एक विद्वान के द्वारा नियमावली तैयार की गई जिसके अनुसार उपयुक्त सभी नियम बनाये गये थे।

शूद्रों के लिए मनुस्मृति के अनुसार किसी भी प्रकार का कोई उपदेश किसी को भी देना पूर्णतः प्रतिबन्धित था, शूद्रों के लिए किसी भी प्रकार का धार्मिक कार्य करना मना किया गया था, नियम बनाया गया कि यदि किसी शूद्र को कोई धार्मिक क्रियाकलाप करते पाया जाता है या वह कही उपस्थित होकर प्रबचन सुनता है तो उसे अपराध की श्रेणी मे

रखकर राजा के द्वारा उसके कान व मुंह मे गर्म तेल डलवा कर उसे उसके इस अपराध का दण्ड देना सुनिश्चित किया गया था।

शूद्र के लिए अनिवार्यता थी की वह ब्राह्मण वैश्य या क्षत्रिय को देखते ही उसका सम्मान करेगा और उसे सदैव सम्मान जनक शब्दों से सम्बोधित करेगा। यदि उस पर अत्याचार भी हो तो भी वह इन वर्गो के लिए अपशब्दों का प्रयोग नही कर सकता था और यदि उसके द्वारा इन वर्गो के लिए अपशब्दों का प्रयोग किया जाता है तो राजाज्ञा के द्वारा उसकी जिव्हा काट कर उसे दण्ड दिया जा सकता था।

मनुस्मृति मे ही यह भी सुनिश्चित किया गया था कि किसी भी प्रकार की सम्पत्ति का संचरण करना शूद्र वर्ण के लिए प्रतिबन्धित था। धन का संचय ब्राह्मण, क्षत्रिय और वैश्य ही कर सकते थे, इनके अलावा कोई अन्य नही कर सकता था और यदि शूद्र कभी किसी प्रकार का धन संचित करता था तो उसके मुंह मे लोहे की छड को गर्म करके डाला जाता था जो उसके अपराध के दण्ड का परिणाम स्वरुप था।

इस प्रकार की राजाज्ञा को घोषित किया गया था कि जो प्रतिक चिन्ह ब्राह्मणों के लिए अधिकृत है उनका प्रयोग करना भी शूद्रों के लिए दण्ड का कारण था।

शूद्र वर्गों के नाम भी सदैव अपमान जनक शब्दों में ही रखे जाये और वह कोई भी ऐसा नाम ना रखे जिसके अर्थ में सम्मान जनक शब्दों का प्रयोग होता हो। मनुस्मृति मे यह भी नियमबध लिखा गया था।

काँग्रेस, भारत के लोगों से दलित वर्ग पर थोपे गये सभी प्राकर के प्रतिबंधो को दूर करने की आवश्यकता न्याय के औचित्य का आवाहन करती है क्योकि इन वर्गो पर भयावह और अमानुषिक प्रतिबंध सर्वाधिक कष्टकर और दमनकारी था।

काँग्रेस प्रगुख के रुप मे गाँधी जी का राजनीतिक सफर 1919 मे आरम्भ हुआ था अधिकारों के लिए दलितों का संघर्ष तथा हिन्दूओं और दलितो के बीच बढते अन्तदर्द को गाँधी भली भांती समझ चुके थे और इसीलिये दलित नेतृत्व को अमिट करने की पूरी जिम्मेवारी को अपने नेतृत्व का हिस्सा मान लिया था।

दलितों के राजनैतिक और समाजिक अधिकारों को सीमित एवं निष्प्रभावी करने के लिए गाँधीजी द्वारा गार्ग दर्शित काँग्रेस तरह-तरह के षडयन्त्रों का प्रयोग कर रही थी। जातिवाद मे विश्वास रखने वाले हिन्दू कट्टरवादी तत्व गाँधी जी को अपने राष्ट्रनायक के रुप मे प्रतिष्ठित कर चुके थे। गाँधी जी की जिम्मेदारियाँ विस्तृत और दोहरी हो चुकी थी। अग्रेंजों से सत्ता हस्तान्तरण और दलितो को उनके अधिकारों से वचिंत करना।

राजनैतिक क्षितिज पर दलितो के मसीहा के रुप मे डा0 भीमराव अम्बेडकर का अवतरण हो चुका था। डा0 अम्बेडकर हजारो वर्षों से चली आ रही दलितों की सामाजिक स्थिति और अपने शैक्षिक काल से लेकर महानायक के रुप मे प्रतिष्ठित होने तक को बंधनकारी व्यवस्था को समूल नष्ट करने का संकल्प ले चुके थे।

डा0 अम्बेडकर की दलितो के प्रति समर्पित संघर्ष की भावना उन्हे मसिहा के रुप

मे निर्विवाद स्थापित कर चुकी थी और उसमे किसी तरह की आंशंका या गुंजाइस नही बची थी। गाँधी जी और काँग्रेस इन बातों को भली भाँती समझ रहे थे। गाँधीजी का यह भ्रम भी टूट गया था कि राष्ट्रीय स्तर पर दलितों में नेतृत्व का आभाव है। डा0 अम्बेडकर को दलितों मे संघर्ष की मसाल प्रज्जवलित करने मे सफलता मिलती जा रही थी। जहाँ गाँधी जी और काँग्रेस स्वराज्य स्थापना के लिए अग्रेजों के विरुद्ध देशव्यापी संघर्ष को नया रुप देने मे लगे थे वही डा0 अम्बेडकर स्वाधिन राज्यों मे दलितों के मौलिक अधिकारो की सुरक्षा के लिए संघर्ष कर रहे थे।

अम्बेडकर के तर्को से प्रभावित ब्रिटिश शासन ने गोलमेज परिषद के आयोजन मे दोनो पक्षों के प्रतिनिधियों को सम्मलित होने का निमन्त्रण दिया।

12 नबम्बर 1930 को गोलमेज परिषद का आयोजन आरम्भ हुआ जिसका उद्घाटन सम्राट जार्ज पंचम ने किया और अध्यक्षता उस समय ब्रिटिश प्रधानमंत्री रैम्ज मेकडोनाल ने की थी। स्वाधीन भारत के भावी संविधान में दलित वर्गो के राजनैतिक अधिकारों के संरक्षण की एक योजना, भारतीय गोलमेज परिषद में प्रस्तुत की गई जिसकी शर्ते स्वाधीन भारत में बहुमत के शासन के अधीन दलित वर्गों को रहने के लिए निम्न प्रकार होगी।

दलित वर्ग वर्तमान वंशानुगत दासता की स्थिति मे रहते हुए। स्वय को बहुमत के शासन के अधिन शासित होने की सहमती नही दे सकते।

(अ) बहुमत के शासन की स्थापना से पूर्व छुआछूत की व्यवस्था से उनकी मुक्ति होना आवश्यक है। इन्हे बहुसंख्यको की मर्जी पर नही छोड़ना चाहिए।

(ब) दलित वर्ग को स्वतंत्र नागरिक बनाना आवश्यक है और राज्य के अन्य नागरिको की भाँति उन्हे भी नागरिकता के सभी अधिकारों का हक होना चाहिए।

(स) छुआछूत के लक्ष्य की प्राप्ति के लिए और नागरिकता में समानता पैदा करने के लिए यह प्रस्तावित किया जाता है कि निम्न मौलिक अधिकारों को भारत के संविधान का अंग बनाया जाए।

भारत की स्वतंत्रता प्राप्ति से पूर्व ही डा0 अम्बेडकर दलितो के सामाजिक एवं राजनैतिक हितों की सुरक्षा के लिए संघर्षरत थे।

सदियों पहले वर्ण व्यवस्था वर्ग चरित्र के रुप में विकसित हुई थी। जिन्हें ब्राह्मण स्मृतिकारों ने विकसित समाज व्यवस्था के अंतर्गत जातियता के ढाचे में ढाल दिया। दूसरे अर्थ में श्रम विभाजन को कठोर और भयावह बना दिया गया।

डा0 अम्बेडकर का यह कथन सार्थक है कि –

"यह समझ लेना उचित होगा की अन्य समाजों की भाँति हिन्दू समाज भी वर्गो द्वारा गठित हुआ था। आरम्भ के सुविदित वर्ग ये (1) ब्राह्मण या पुरोहित वर्ग (2) क्षत्रिय या सैनिक वर्ग (3) वैश्य या व्यवसायी वर्ग (4) शूद्र या शिल्पकार अथवा सेवक वर्ग। इस तथ्य की और खास ध्यान दिया जाना चाहिए कि यह मूलतः वर्ग व्यवस्था थी। इसमें योग्यता प्राप्त करने पर व्यक्ति अपना वर्ग बदल सकते थे, मूलतः वर्गो के क्रम में परिवर्तन हो जाया करता

था। हिन्दू इतिहास काल के किसी अवसर पर पुरोहित वर्ग ने (हिन्दू) संस्था के अन्य जनों से अपने को समाजिक रुप से विलय कर लिया और संवृत (घेरे में बन्द करना) नीति अपना कर स्वयं को एक जाति के रुप में स्थापित कर लिया। समाजिक श्रम विभाजन की मान्यता के फलस्वरुप अन्य विभेदीकरण उत्पन्न हो गया। जिससे कुछ बडे वर्ग और कुछ छोटे ग्रुपों में बट गये। वैश्य और शूद्र वर्ग मौलिक रुप में अविकसित जीवाणु जैसे थे जो वर्तमान में पाई जाने वाली विभिन्न जातियों के निर्माता तत्व बने। क्योकि सैनिक पेशे के लोग अति सफलतापूर्वक छोटे–छोटे उपभागों मे विभाजित नही हो पाते है मूलतः वह सैनिक और प्रशासकों के रुप मे बदल गये होगें।

निसन्देह वैदिक काल में वर्ण और आगे चलकर जाति प्रथा का प्रचलन हुआ। इसी युग के किसी अनजान काल खण्ड में समाजिक परिस्थितियों वश शूद्र, शिल्पकार या सेवक वर्ग बना जो स्पृश्य एवं अस्दृश्य दोनो प्रकार के थे। ये समाज के नीचले स्तर के लोग थे। आर्य शब्दावली में आरम्भ में वात्स, असुर पवन मलेच्छ जैसी जातियां अस्तित्व में आयी। कालांतर में जिन्हे टूटे या भंग लोगों (ब्रोकन मैन) के रुप में जाना गया। पहले समाजिक ढांचा परिवर्तनशील और लचीला था। बाद में यह सुगठित और कठोर होता चला गया। कमाऊ शिल्पी, दक्ष कुम्मकार आदि निवासी धर्मशालों में अस्दृश्य, निम्नमर्गीय और दलित बना दिये गये।

त्रिवर्ण से चतुवर्ग समाजिक व्यवस्था के निर्माण में कई शताब्दीयाँ लगी इसमे समाजिक परिवर्तन सामाजिक विघटन, कबिलों और जातियों का पराजय शिल्प और धार्मिक मान्यताओं का बहुत बड़ा हाथ रहा है।

"जातियों के उद्भव और विकास की इस प्रक्रिया में समाज स्वतः ही विभाजित होता गया। समाज मे उपविभाजन होना बड़ा स्वाभाविक कार्य है। लेकिन ऐसे उपविभाजन में अस्वभाविक बात यह हुई कि उन्होने वर्ग–व्यवस्था का खुला चरित्र खो दिया और अपने को आत्म संवृत (घेरे में बन्द) यूनिटों अर्थात जातियों में बाँट दिया या बदल लिया। इसमे गढ प्रश्न उत्पन्न होता है कि क्या उन्हें दूसरों के लिए अपने द्वार बन्द करने या संकृत होने पर मजबूर किया गया था अथवा फिर उन्होने स्वयं ही ऐसा तरिका अपनाना स्वीकार किया था ? लेखक का कहना है कि इसका दोहरा उत्तर है– कुछ ने तो स्वयं अपना दरवाजा बन्द कर लिया था और कुछ ने पाया की दूसरों ने उनके लिए अपना दरवाजा बन्द कर लिया था। इसमे एक मनोवैज्ञानिक व्याख्या है और दूसरी (समाज की यांत्रिक व्याख्या है। लेकिन ये एक दूसरे की पूरक है और जाति रचना की धखना को समझने हेतू दोनो आवश्यक है)

डा0 अम्बेडकर ने आगे लिखा –

"मनोवैज्ञानिक व्याख्या के बारे में कुछ कहूंगा। इस सम्बन्ध में जिसका उत्तर देना है वह प्रश्न है कि ये औद्योगिक, धार्मिक या कोई अन्य उपविभाजन आप चाहें तो इन्हे वर्ग कह ले आत्मसंकृत या अंतर्विवाही क्यों बन गये ? मेरा उत्तर है कि ब्राह्मण ऐसे ही थे।

हुआ था तो गैर ब्राह्मण उपविभाजित जातियों ने इसकी नकल की और वह अंतर्विवाही बन गये। विभागीकरण की हावी दौड के दौरान अनुकरण का संक्रामक रोग उपविभजितो पर छा गया और उसने इन्हें जातियों में बदल दिया। अनुकरण की प्रवृति मनुष्य के मस्तिष्क मे बहुत गहराई से छाई है और इसे भारत में जातियों के निर्माण का अपर्याप्त कारण नही समझा जाना चाहियें।

इस प्रकार जातिभेद से अस्पृश्य और दलितो का एक बहुत बडा भाग दास वर्ग बन गया है। यह कहना सच नही लगता की दासो, दलितों का कोई क्रमबद्ध इतिहास नही मिलता प्राचीन काल में जो भी साक्ष्य मिले है श्रेष्य ग्रन्थ उपलब्ध है ऐतिहासिक विवरण प्रस्तुत है उनमें दास दलित अछूतों का वर्णन अवृय मिलता है। दलित समाज की यही ऐतिहासिक पृष्ट भूमि है। जिसका धार्मिक ग्रन्थों में उल्लेख आया है।[3]

स्वतन्त्र भारत का संविधान निर्माण का कार्य भारत की संविधान सभा के माध्यम से कराया गया। चूँकि डा0 अम्बेडकर 1930 में गोलमेज सम्मेलन में भी ब्रिटिस सरकार के समक्ष भारत के दलितों के हितो को समानता प्रदान करने के लिये अपना सुझाव प्रस्तुत कर चुके थे। डा0 अम्बेडकर को संविधान निर्मात्री सभा का अध्यक्ष बनाया था तो उन्होने दलितों के सामाजिक और राजनैतिक हितो को भारत के संविधान में शमिल किया और राजनैतिक रूप से दलितो की हिस्सेदारी को सुरक्षित कर दिया। भारतीय संविधान के अनुसार निकाय पंचायतों राज्यो की विधानसभा व लोकसभा में दलित वर्गों के लिये सीट आरक्षित रखने का प्रावधान है ताकि भारत की शासन व्यवस्था में और भारतीय राजनीति में दलित वर्गो की उचित सहभागिता बनी रहे।

1. "प्रत्येक पंचायत मे अनुसूचित जाति और अनुसूचित जनजातिगो के लिये स्थान आरक्षित रहेंगे। और इस प्रकार आरक्षित स्थानो की संख्या का अनुपात उस पंचायत में प्रत्यक्ष निर्वाचन द्वारा भरे जाने वाले स्थानो की कुल संख्या से यथावत वही होगा जो उस पचायत क्षेत्र में अनुसूचित जातियो की अथवा उस पंचायत क्षेत्र में अनुसूचित जनजातियो की जनसंख्या का अनुपात उस क्षेत्र की कुल जनसंख्या से है और ऐसे स्थान किसी पंचायत में भिन्न–भिन्न निर्वाचन क्षेत्रो को चक्रानुसार से आवन्टित किया जा सकेगा।

2. खण्ड एक के अधीन आरक्षित स्थानो की कुल संख्या के कम से कम एक तिहाई स्थान यथा स्थिति अनुसूचित जाति या अनुसूचित जनजातियो की स्त्रियों के लिए आरक्षित रहेगे।

3. ग्राम या किसी स्तर पर पंचायतो के अध्यक्षों के पद अनुसूचित जाति या अनुसूचित जनजातियो के लिए और स्त्रियो के लिए एसी रीति से आरक्षित रहेगे जो राज्य का विधानमण्डल विधि द्वारा उपबन्धित करे।[4]

लोक सभा में अनुसूचित जाति और अनुसूचित जनजातियों के लिए स्थान आरक्षित रहेगें।

राज्यों की विधान सभाओं में अनुसूचित जातियों और अनुसूचित जनजातियों के

लिए स्थानों का आरक्षण प्रत्येक राज्य की विधान सभा में अनुसूचित जातियों और अन्य अनुसूचित जनजातियों के लिए स्थान आरक्षित रहेगें।

किसी राज्य की विधान सभा में अनुसूचित जातियों या अनुसूचित जनजातियों के लिए आरक्षित स्थानों की संख्या का अनुपात उन विधान सभा स्थानो की कुल संख्या से यथावत वही होगें जो यथास्थिति उस राज्य की अनुसूचित जातियों की अथवा उस राज्य की या उसके भाग की अनुसूचित जनजतियों की जिसके सम्बन्ध मे स्थान इस प्रकार आरक्षित है। जनसंख्या का अनुपात उस राज्य की कुल जनसंख्या से है।[6]

उपरोक्त अनुच्छेदों के अध्ययन से शोधार्थी को यह लगता है कि भारत में दलित राजनीति को मजबूत आधार देने में भारतीय संविधान में एस.सी./एस.टी. के लिए स्थानों के आरक्षण की व्यवस्था से ही भारत के प्रत्येक राज्य के विधान मण्डलों में और भारत की लोक सभा में दलित वर्ग के लोग राजनीति में सहभागी बन रहे हैं। बाबा साहब डा0 अम्बेडकर के संघर्ष का ही परिणाम है कि संविधान में दलितो के लिए राजनैतिक सहभागिता का रास्ता स्पष्ट कर दिया है। भारत की राजनीति में दलितों की सहभागिता के लिए अनेक दलित महापुरुषों ने संघर्ष किया, डा0 अम्बेडकर एक प्रमुख नाम है।

पूरे भारत में अनेकों नाम ऐसे है जो दलित समाज की सेवा में लगे रहे और दलित राजनीति को आगे बढ़ाने का कार्य किया। उत्तर प्रदेश में और भी ऐसे अनेको नेताओं के नाम गिनाऐ जा सकते है जो अधीन भारत में और इसके बाद भी समाज की प्रगति के लिए जागरुक रहे। जिन्होने स्वतन्त्रता आन्दोलन में भाग लिया अथवा डा0 अम्बेडकर के साथ कार्य किया, अथवा स्वतत्र रुप से दलितों में समाज सेवा का कार्य किया। इनमे तिलकचन्द कुरील (कानपुर), रामलाल कमल बंशी (कानपुर) डा0 मनिक चंद जाटव वीर (आगरा) डा0 धर्मप्रकाश (बरेली) चौ0 बिहारी लाल (बिजनौर) रामप्रसाद श्याम (गढ़वाल) आदी नाम प्रमुख है।

आरक्षित सीटों पर जब लोग सांसद ओर विधान सभा सदस्य बने तो दलित जातियों में जागरुकता चेतना और अधिकारों के लिए संघर्ष करने की भावना का उदय होना स्वाभाविक था। शिक्षा के क्षेत्र मे उत्तरोत्तर प्रगति ने उनकी मुक्ति और प्रगति के द्वार प्रशस्त किये। संसद सदस्य और विधायक मंत्री या नौकरशाह जैसी अनेक हस्तियाँ दलित समाज मे गौजूद है। ये स्वतत्रता और प्रजातन्त्र के अलादीनी चिराग से पैदा हुए हैं अथवा बिना किसी संघर्ष के राजनीति के झूले पर चढ़ कर या प्रतियोगिता के द्वारा ऊचाईयो पर पहुँचे है।

भारत के संविधान में मिले राजनैतिक आरक्षण के आधार पर दलित समाज की सहभागिता आज भारत की संसद और प्रत्येक राज्य विधान सभा में उचित है। इसके अलावा भी अनेको नाम ऐसे है जो भारत की राजनीति में संसद सदस्य और विधान सभा सदस्य, मन्त्री बनकर राजनीति में दलितो की सहभागिता को प्रकट करते रहे है। इसमे यदि कुछ प्रमुख नाम देखे जाये तो इस प्रकार देख सकते है।

बलदेव सिंह आर्य गढवाल निवासी कोली जाति में जन्में आर्य उत्तरांचल के

प्रमुख शिक्षा विद, समाज सुधारक थे। वे 1930 के आसपास राष्ट्रीय आन्दोलन से जुडे और काँग्रेस के कार्यकर्ता बन गये थे। 1950 मे आर्य लोक सभा के लिए निर्वाचित हुए। पहली बार 1952 मे उ0प्र0 विधान सभा सदस्य चुने गयें। वे क्रमशः ससदीय सचिव, उपमन्त्री और केबिनेट मन्त्री बने लगभग तीन दशक तक उ0प्र0 के दलितों की सेवा करते रहे।

मंत्री मण्डल मे रहते हुए भी वह वर्षो तक हरिजन सेवक संघ के अध्यक्ष, अखिल भारतीय हाथकरथा बुनकर काँग्रेस एवं हाथकरथा बुनकर काँग्रेस के क्रमशः उपाध्यक्ष, अध्यक्ष एवं अखिल भारतीय हरिजन लीग के कार्यकारी अध्यक्ष रहे।[6]

आजादी के समय से आज तक अनेको नाम ऐसे रहे है जो भारतीय राजनीति मे दलित वर्गों का प्रतिनिधित्व करते रहे हैं। डा0 अम्बेडकर के द्वारा संविधान में दलित वर्गों के लिए राजनीति में भी आरक्षण की व्यवस्था की है जिससे संसद में और देश की सभी विधान सभाओं में दलितों को प्रयाप्त सहभागिता का मौका मिलता है।

डा0 अम्बेडकर भारत के दलितों के समाजिक और राजनीतिक स्तर पर मसिहा के रुप में जाने जाते है। दलित वर्गो के राजनीतिक अधिकारों की रक्षा के लिए ही अपने साथियों की सलाह से अगस्त 1936 मे इन्डिपेन्डेन्ट लेबर पार्टी की स्थापना की। इस राजनीतिक संस्था ने दलित वर्ग, मजदूरों व किसानों की अनेक समस्यांओं को लेकर कार्य आरम्भ किया। बम्बई के इस पार्टी ने सन् 1937 में चुनाव लडा इसने अनुसूचित जातियों के लिए आरक्षित 15 मे से 13 सीटे जीति और 2 सामान्य स्थानों पर भी विजय प्राप्त की थी। बम्बई विधान सभा सदस्या के रुप में डा0 आम्बेडकर ने किरायदारी कानून, एन्टी स्ट्राइक बिल और खोटी बिल की आलोचना की उन्होने इस बात पर जोर दिया की मजदूरों को सत्याग्रह का अधिकार होना चाहिए।

1 जुलाई 1942 को वायसरॉय लार्ड लिनलियगो ने लार्ड एमरी को एक निजी और अल्प आवश्यक टेलीग्राम में इस बात की पुष्टि की कि अगली विज्ञप्ति में ब्रिटिश सम्राट द्वारा स्वीकृत वायसरॉय की कार्यकारिणी मे सदस्यों की नियुक्ति घोषित करेंगे। इस टेलीग्राम में अन्य सदस्यों के साथ डा0 अम्बेडकर का भी नाम था। जुलाई को वायसरॉय ने उन्हे श्रम विभाग का सदस्य बनाया जाने की घोषणा की। उन्होने टेलीग्राफिक सन्देश भेजकर 20 जुलाई 1942 को अंपना कार्यभार ग्रहण किया और सहमति पहले ही भेज दी थी। उनके विचार में यह दलित आन्दोलन का स्वर्णिम दिन था जब दलित सत्ता में आये।[7]

डा0 अम्बेडकर को स्वतन्त्र भारत का प्रथम कानून मन्त्री नियुक्त किया गया। संविधान सभा के अध्यक्ष डा0 राजेन्द्र प्रसाद ने 30 जून 1947 को बंबई के तत्कालीन मुख्यमंत्री बी.जी. खरे को पत्र लिखा कि संविधान सभा के लिए डा0 अम्बेडकर को निर्वाचित कराये ताकि 14 जुलाई 1947 से शुरु होने वाले अधिवेशन में वे निर्वाचित होकर संविधान संरचना में योगदान दे सकें दलित इतिहास का स्वर्णिम काल तब आया जब प्रारुप समिति ने 30 अगरत 1947 को उन्हे (डा0 अम्बेडकर) को इसका अध्यक्ष चुना।[8]

डा0 अम्बेडकर के साथ ही साथ अनेको नाम ऐसे रहे नाम रहे हैं जिन्होने दलित

ों के लिए कार्य किया है। इन्ही मे से एक नाम बाबू जगजीवन राम का है।

बाबू जगजीवन राम के जीवन के कई पहलू है। इन्ही में से एक संसदीय ाकतन्त्र के विकास मे उनका योगदान का है। 28 वर्श की आयु में उन्हे 1936 मे बिहार धान परिषद का सदस्य नामांकित किया गया था। जब गर्वमेन्ट ऑफ इण्डिया एक्ट 1935 तहत 1937 मे चुनाव हुए तो बाबू जगजीवन राम डिप्रेस्ड क्लास लीग के उम्मीदवार के ा मे निर्विरोध एम.एल.ए चुने गये थे। बिहार की उस सरकार मे जगजीवन राम मन्त्री पद रहे। 1946 की भारत की अन्तरिम सरकार मे जगजीवन राम को श्रम मन्त्री बनाया गया ।

भारत की संसद को जगजीवन राग अपना दूसरा धर मानते थे। मन्त्री के रुप में हे जब भी जो भी काम मिला उसे बहुत अच्छी तरह से निभाया। 1952 में चुनाव के बाद रु सरकार मे वह संचार मन्त्री रहे, उसके बाद जब इन्दिरा गाँधी ने प्रधान मन्त्री पद म्भाला तब जगजीवन राम उनके साथ एक कुशल प्रशासक के रुप में रहे। 1962 में चीन र 1965 में पाकिस्तान से लडाई हो चुकी थी। देश भूखमरी की कगार पर था। ऐसी स्थिति डा0 नारयन भारत आये और हरित क्रांति का सुत्रपात किया जगजीवन राम उस समय षि मन्त्री थे।[9]

बाबू जगजीवन राम डा0 अम्बेडकर के ही समय के नेता थे और वह भी दलित ि से ही थे। यह बिहार में पैदा हुए और वही पर सामाजिक ओर राजनैतिक जीवन का रम्भ किया। 30 वर्ष की आयु मे वह निविरोध चुनकर एम.एल.ए. बने थे। वह भारत कि ारिम सरकार में कॉंग्रेस की ओर से श्रम मन्त्री पद पर रहे। इसी दौरान उन्होने कुछ ऐसे नून बनाये जो भारत के इतिहास में मजदूरो दलित वर्गो के हीतों की दिशा में मील का थर साबित हुए। भारत की संसद में जगजीवन राम लम्बे समय तक सदस्य बने रहे। उन्हे 52 में संचार मन्त्रालय में विमानन मन्त्रालय की शामिल था तो इस नाते वह विमानन मन्त्री थे। इस क्षेत्र में जगजीवन राम ने निजी विमानन कम्पनीयों का राष्ट्रीयकरण करके राहनिय काम किया। जगजीवन राम भारत के रेल मन्त्री भी रहे थे। भारत के प्रधान मन्त्री लाल बहादूर शास्त्री की मृत्यु के बाद इन्दिरा गाँधी की सरकार में जगजीवन राम त्वपूर्ण पदों पर रहे और भारत के कृषिमंत्री के पद को भी इस दलित नेता ने सूशोभित या था। जगजीवन राम भारत के उपप्रधान मन्त्री बनने वाले प्रथम दलित नेता थे।

दलित वर्ग आज देष में बड़े स्तर पर राजनैतिक सहभागिता निभा रहा है। दलित ि के लोग विधायक, सांसद मन्त्री पद के साथ ही देश के राष्ट्रपति पद पर रहे है।

के0 आर0 नारायणन भारत के प्रथम दलित राष्ट्रपति होने का गौरव प्राप्त कर के है। नारायणन ने इन्दिरा गाँधी के कहने पर ही राजनीति मे प्रवेश किया और वह तीन र 1984, 1989, 1991 मे उत्तपलम पलकबाद केरला से सांसद चुने गये थे। वह राजीव धी सरकार मे केन्द्रीय केबिनेट राज्य मन्त्री रहे थे। 1992 में भारत के उपराष्ट्रपति और 97 में वह कुल मतों का 95 प्रतिशत पा कर भारत के राष्ट्रपति चुने गये थे।[10]

कोचिरील रमन नारायणन का जन्म 27 अक्टूबर 1920 को पेरुमथानम ट्रावनकोर में हुआ और एक साधारण परिवार में लालन पालन के बाद ऊच्च शिक्षा हासिल की। के0आर0 नारायणन राजनीति में इन्दिरा गाँधी के कहने पर आये थे और जब वह राजनीति मे सक्रिय हुए तो इस दलित नेता का जादू सब के सर चढ कर बोला, वह उत्तपलम पलकबाद (केरला) से लगातार तीन बार सांसद रहे। संसद के सदस्य रहते हुए वह केन्द्रीय केबिनेट मे राज्य मन्त्री के पद पर रहे। के0 आर0 नारायणन एक मात्र ऐसे दलित नेता रहे जिन्होने भारत के उपराष्ट्रपति और राष्ट्रपति पद को सुशोभित किया।

मीरा कुमार दलित समूदाय से ही है। वह पूर्व उप प्रधानमन्त्री जगजीवन राम की सुपुत्री हैं। मीरा कुमार 1973 में भारतीय विदेश सेवा में शामिल हुई वे कई देशों में नियुक्त हुई और बेहतर प्रशासक साबित हुई। मीरा कुमार का राजनीति मे प्रवेश अस्सी के दशक में हुआ। वह 1985 में पहली बार बिजनौर से सांसद चुनी गई। 1990 में वे काँग्रेस पार्टी की कार्यकारिणि सदस्य और अखिल भारतीय काँग्रेस समिति की महासचिव भी चुनी गई। 1996 में वह दूसरी बार सांसद बनी और तीसरी पारी 1998 में शुरु की 2004 में वह बिहार के सासाराम से लोकसभा सीट जीती। 2004 में यूनाईटेड प्रोगेसिव अलायन्स सरकार ने उन्हे समाजिक न्याय मन्त्रालय में मन्त्री बनाया। वर्तमान में लोकसभा स्पीकर के पद पर है। जी. एम.सी. बालयोगी के बाद दूसरी दलित व पहली महिला लोकसभा स्पीकर है। वह इस पद पर 3 जून 2009 को निर्विरोध चुनी गई थी।[11]

दलित राजनीति में अनेंकों नेताओं के नाम जुडते रहे है उन्ही में से एक नाम रहा बाबू जगजीवन राम को जो देश के प्रथम दलित उपप्रधान मन्त्री रहे थे। जगजीवन राम के ही नाम पर अस्सी के दशक में उनकी पुत्री मीरा कुमार का राजनीति में पदार्पण हुआ और वह बिजनौर लोकसभा सीट से काँग्रेस पार्टी की सांसद बनी। मीरा कुमार राजनीति में आने से पहले भारतीय विदेश सेवा में रह कर कई देशों में नियुक्त रह चुकी है। 1996 में मीरा कुमार को दूसरी बार संसद सदस्य बनने का मौका मिला और 2004 में वह बिहार के सासाराम लोक सभा सीट से संसद पहुची। इस बार उन्हे सामाजिक न्याय मन्त्रालय में मन्त्री पद यू0पी0ए0 सरकार के द्वारा दिया गया। मीरा कुमार अपने राजनीतिक जीवन में सफलताओं को हासिल कर रही है। वह दलित वर्ग से ही है। मीरा कुमार ऐसी पहली महिला है। जिन्हे भारत की संसद मे लोकसभा स्पीकर बनने का गौरव प्राप्त हुआ है।

रामविलास पासवान दलित राजनीति में एक जाना पहचाना चेहरा है। वह 1969 में बिहार विधान सभा आरक्षित सीट पर संयुक्त समाजवादी पार्टी के टिकट पर जीते थे। 1974 मे राजनायण और जयप्रकाश नारायण के अनुयायी बने और लोकदल के महासचिव बन गये। 1975 में वह आपातकाल के दौरान गिरफ्तार हो गये। 1977 में वह जेल से छुट कर जनता पार्टी के टिकट पर लोकसभा में चुने गये। वह नवीं लोक सभा में फिर से चुने गये 1980 और 1984 में वह हाजीपूर से सांसद रहे है।

1983 के पासवान ने दलित सेना का गठन किया। 1989 में वह नवीं लोक सभा में चुने गये और बी0पी0 सिंह सरकार में श्रम विकास मन्त्री रहे। वह भारत के केन्द्रीय कोयला

मन्त्री और रेल मन्त्री भी रह चुके है। वर्तमान में पासवान राज्य सभा सांसद है और y}kstu"kDr iVsydsv/; {k gSA[12]

शिबूसोरेन भारत की राजनीति में एक जाना पहचाना नाम है। शिबू सौरेन झारखण्ड मुक्ति मोर्चा के अध्यक्ष है। झारखण्ड राज्य के मुख्यमन्त्री रहे है। और 2004 में मनमोहन सिंह सरकार मे कोयला मन्त्री भी रह चुके है।[13]

शिबू सोरेन भारत की राजनीति में एक अलग पहचान रखने वाले दलित वर्ग के नेता है। सोरेन ने झारखण्ड को अलग पहचान दिलाने की सदैव कौशिश की है। वह झारखण्ड मुक्ति मोर्चा के अध्यक्ष रहे और अध्यक्ष रहते उन्होने झारखण्ड के विकास के लिए कडा संघर्ष भी किया। दलित वर्ग की राजनीति में सहभागिता को बढ़ाते हुए शिबू सोरेन झारखण्ड के मुख्यमन्त्री बने तो वहां के विकास के कार्य को नई ऊचाईया दी। शिबू सोरेन भारत सरकार में कैन्द्रीय केबिनेट मन्त्री रह चुके है।

भारत की राजनीति में आज हजारों नाम ऐसे है जो दलित वर्गो से सम्बन्ध रखते है और केन्द्रीय व राज्यों की राजनीति में सहभागिता कर रहे है। आज दलित समाज से जुडे लोग बडे से बडे राजनीतिक पदो पर रह चुके है।

दलित वर्ग से ही सम्बन्ध रखने वाले अजित जोगी छत्तीसगढ़ राज्य के प्रथम मुख्यमन्त्री रहने का सौभाग्य प्राप्त कर चुके है। अजित जोगी 1986 से 1998 तक दो बार राज्य सभा के सदस्य रहे हैं। 1998 में 12 वी लोकसभा में चुने गये। जब छत्तीसगढ राज्य बना तो 2000 से 2003 तक वहाँ के प्रथम मुख्यमन्त्री चुने गये 2004 से 2008 तक पूनः लोक सभा के सदस्य चुने गये। छत्तीसगढ मे वर्तगान में वह 2008 से मारवाही विधान सभा सीट से विधायक है और भारतीय राष्ट्रीय काँग्रेस पार्टी के सदस्य है।[14]

G.M.C.Balafogi 1991 मे तेलगू देशम पार्टी के टिकट पर दसवीं लोक सभा के सदस्य चुने गये थे। 1996 में चुनाव हारने के बाद वह आंध्र प्रदेश में लगातार राजनीतिक कार्यों में लगे रहे और मुन्नीदीवारम विधान सभा से विधायक चुने गये आंध्र प्रदेश सरकार मे उच्च शिक्षा मन्त्री भी रहे। 1998 में बालयोगी फिर से लोक सभा के सदस्य चुने गये। वह 24 मार्च 1998 को लोक सभा के 12 वे स्पीकर और 22 अक्टूबर 1999 को 13 वें लोक सभा स्पीकर चुने गये थे।[15]

मायादती– मायावती ने 1977 से 1984 तक अध्यापन के साथ साथ कांशीराम द्वारा संस्थापित बामसेफ एवं डी.एस 4 के कार्यक्रमों में सक्रिय हिस्सा लेना आरम्भ किया। 14 अप्रैल 1984 में बी.एस.पी. का गठन हुआ मायावती अध्यापन कार्य से त्यागपत्र देकर इस दल की महासचिव नियुक्त हुई। वह इस पार्टी के टिकट पर 1984 से 1987 तक कई लोक सभा चुनाव लडी परन्तु वह जीत नही पाई 1989 में वह बिजनौर सीट से पहली बार लोकसभा चुनाव जीति। एक बार पुनः केन्द्र की राजनीति करने के उद्देश्य से अपने दल के बलबूते 1994 में राज्यसभा में निर्वाचित हुई। 1993–1994 में सपा–बसपा की साझा सरकार में कांशीराम ने उन्हे मुख्यमन्त्री के मासिक कार्यो की समीक्षा के लिए अधिकृत किया।

जून 1995 में सपा–बसपा का राजनीतिक संबंध विछेद हो गयां फलस्वरुप जून 1995 में बी0जे0पी0 के समर्थन से मायावती देश के सबसे बडे राज्य की मुख्यमन्त्री बनी। 1996 में दूसरी बार और 2002 में तीसरी बार मुख्यमन्त्री बनी।[16]

मायावती ने चौथी बार उत्तर प्रदेश की मुख्य मन्त्री के रुप मे लखनऊ के राजभवन मे 13 मई 2007 को 1 बजकर 40 मिनट पर शपथ ग्रहण की थी।[17]

दलित वर्गों के लोग भारत की राजनीति मे सहभागिता में आज बड़े–बड़े पदों पर विराजमान है। अनेंकों नाम ऐसे है जिन्हे गिना भी नहीं गया है। भारत के संविधान में ही ऐसी व्यवस्था की गई है कि दलित वर्गों की सहभागिता राजनीति मे उचित बनी रहे। भारत के संविधान में राजनैतिक आरक्षण देकर भारत के प्रत्येक राज्य से लोकसभा की सीटों को आरक्षित करके संसद में दलित वर्गो के प्रतिनिधित्व को सुनिश्चित किया है और साथ ही साथ ऐसी भी व्यवस्था कि गई है। भारत देश के प्रत्येक राज्य की विधान सभा मे दलित वर्ग अपनी सहभागिता निभाता रहे। उपर्युक्त नाम तो उदाहरण मात्र देखे जा सकते हैं। इन सभी दलित नेता के अलावा भारत की राजनीति मे सहभागी बनने वाले हजारो दलित नाम है।

आज देश के हजारो नाम ऐसे है जो दलित वर्गों से आकर केन्द्र की राजनीति में सहभागिता कर रहे है और राज्यों की विधान सभाओं में भी सहभागी है। भारत के संविधान के अनुसार प्रत्येक राज्य मे एस.सी./एस.टी. के लिए जनसंख्या के अनुसार में सीटे आरक्षित की जाती है। जिससे एस.सी./एस.टी. वर्गों के लोग सरकार में प्रतिनिधित्व करते है। डा0 अम्बेडकर से लेकर वर्तमान में मायावती तक सभी नेता दलित, दलित राजनीति की पहचान बन चुके है और बड़े बडे पदो पर राजनीति में विराजमान है।

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3. Synchronisation of work in the sectors of agriculture, industry and the service must prevail.
4. Education with a good value system must not be denied to the meritorious students owing to societal or economic discrimination
5. Our nation must be the best destination for talented scholars, scientists and inventors from around the world
6. Healthcare for all must be available
7. Governance must be responsive and transparent, and corruption free
8. Poverty must be totally eradicated, illiteracy must be removed, crime against women and children must be absent and none should feel alienated.

Let us not forget that what we are today is owing to the political system and the youth must not be discouraged from entering into politics but inspired to guide and lead the nation great in all disciplines. Therefore, we must burn the fire within us to create a India to be proud of.

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HUMAN RIGHTS IN INDIAN AND GLOBAL PERSPECTIVE

Sushma Rampal

The history of human kind has been firmly associated with the struggle of individual against injustice, exploitation and disdain. The recognition, first at national and later at international level of human rights is one of the most remarkable manifestations of the struggle. Recognition, protection and implementation of human rights are a very important and complicated issue because there is no agreed definition and understanding of the term 'Human Right' It is a dynamic concept and it endeavours to adopt itself to the needs of the day. For this reason, the definition and understanding of term depends much on the condition and opinion prevailing in the given society at a given time and it attains new dimensions with the march of history. To put it simply human rights constitute those very rights which one has precisely because of being a human. Maurice Cranston defines human rights as "the rights which belong to man, only because he is a man."[1]

In the words of Subhash C. Kashyap, "the fundamental norm governing the concept of human right is that of the respect for human personality and its absolute worth. Human rights may be said as those fundamental rights to which every man or woman inhabiting in any part of the world should be deemed entitled merely by virtue of having being born a human being."[2] J. Donnelly said, "Human rights are those held simply by virtue of being a person. To have a human right one need not be or do anything special, other than to be born as human being."[3] Though various authors have ventured and defined human rights, yet as it stands there is no precise and universally accepted definition of human rights. Edward Lawson's definition can be considered as the most comprehensive and appealing. He, in the 'Encyclopedia of Human Rights says, "human rights are the universally accepted principles and rules that support morality and that makes possible for each member of the human family to realize his or her full potentials and to live life in an atmosphere of freedom, justice and peace."[4]

Basic to the concept of human rights is the desire of the people to live the life of a man, and not the slave who lives on the whims of the rulers. In other words, it means the desires of the people to live a dignified life. The present paper focuses on the evolution and development of the concept of human rights in Indian as well as in the global context.

Three Generations of Human Rights

Human rights are the product of an evolutionary process. Different philosopher and circumstances have added new rights to the original list of human rights. The first generation rights includes civil and political rights, these rights were first developed in the liberal traditions and considered to be the original set of human rights. Second, the economic social and cultural rights which have came to be known as the second generation human rights Marx and his followers first highlighted these rights. Third, a group of new rights, which is called third generation human rights, started their claim to be included in the human rights only after the emergence of third world in the form of developing countries. These third generation rights emerged due to mainly two reasons; first the independence of the third world countries and second, the newly recognized threats to the entire mankind. Karl Vasak calls it the rights to solidarity and included four rights in this category. They are right to development, the right to a healthy and ecologically balanced environment, the right to peace, and the right to ownership of the common heritage of mankind.[5]

Now we are also talking about fourth and

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fifth generation of rights. The fourth generation corresponds to collective rights of identity groups such as LGBT. The fifth generation refers to the rights of humanity, specially in relation to environment issue. But still, it is not very clear and controversy is there regarding the types of rights to be included in these fourth & fifth generation of rights.[3]

Human Rights in Global Perspective : Evolution and Development

The concept of 'human rights' came some what late in the vocabulary of mankind. The term came in common use only after World War II. It was made currency by the United Nations 'Universal Declaration of Human Rights', in 1948. In other words, the concept of human rights is very old but the general recognition of its validity is new. Some scholars trace its origin back to the ancient period. According to some scholars the concept of human rights is as first reflected in ancient Greece and Roman thought. In the literature and philosophy both of Greece and Rome there are abundant statements acknowledging laws of the God and that of nature, and such laws were understood to take precedence over laws made by the state. In ancient history, as Bajwa argues, we also come across many moral principles in the name of 'Dharma' and 'Danda'.[4]

The idea of natural law continues even after Roman period which forwarded the cause of human rights. However, natural law, at this stage was considered as will of God revealed to men by holy scriptures. In the form of natural law human rights are further promoted in the middle ages. St. Thomas Aquinas had tried to make a classic attempt to harmonise the teachings of the church with those of natural laws. The modern development of the human rights concept began during 17th and 18th century. The scientific and intellectual achievements of the 17th century, the discoveries of Galileo and Newton, the materialism of Hobbes, the rationalism of Rene Descartes and G. W. Leibniz, the pantheism of Spinoza, the empiricism of Francis Bacon and John Locke encouraged a belief in natural law and universal order. During the 18th century, the so called 'Age of Enlightenment' a growing confidence in human reason and in the perfectibility of human affairs led to its more comprehensive expression in the writings of English Philosopher John Locke and the works of Montesquieu, Voltaire and Rousseau. John Locke, the Father of modern liberalism argued in detail, mainly in writing associated with the Glorious Revolution (1688), that certain rights like right to life, liberty and property self evidently pertain to individuals as human beings because they even existed in the 'state of nature' before human kind entered into civil society. Rousseau raised the flamboyant slogan of 'liberty, equality and fraternity'. He wanted people to enjoy their liberty, equality and fraternity, within a political setup. His assertion that man "is everywhere in chains" is an assertion Rousseau wanted everyone to accept.[5]

After the decline of natural law conception of human rights, positive law evolved and legislation became the main source of human rights. The prominent writers in this regard are Austin and Bentham. Under positive law instead of human rights being absolute, they can be given, taken away and, modified by a society to suit its needs. Geremy Bentham sums up the essence of the positivist view as: Right is a Child of Law; from real laws come real rights, but from imaginary law, from "laws of nature", come imaginary rights..... Natural right is simple nonsense."[6]

This transfer of abstract ideas regarding human rights and their relation to the will of nature into concrete laws is exemplified best by various legal documents that specifically described these rights in detail.

Modern historians trace the origin of human rights to 'Magna Carta'. It was a charter of concessions only for the nobles and not for the common man, given to them by the king John in 1215 A.D. Magna Carta was followed by 'Petition of Rights' (1627) and 'Bill of rights' (1688). The American 'Bill of Rights' and the French Declaration of 'Rights of Man' (1789) were of a new consciousness, which acknowledged that rights of man were sacrosanct and hence they should be embodied in the constitutional law of modern states.

After the First world war, the world community for the first time released the need to establish some institutional mechanism to protect and preserve the rights of man. The establishment of the League of

Nations was the first such attempt in this direction. However, it was only after U.N. Charter was signed in 1945 that any attempt was made to provide comprehensive protection to all individuals against all forms of injustice and human rights violation. In the Preamable of the U.N. Charter, the people of the United Nations expressed determination to reaffirm faith in the fundamental human rights, in the dignity and worth of human and in the equal rights of the men and women. The Charter makes repeated reference of human rights and fundamental freedoms."[7]

On 10 December 1948 the United Nations General Assembly adopted the famous Universal Declaration of Human Rights, it can be said to be the first ever international effort to codify the fundamental human rights. It contains a preamable and 30 articles. It deals not only with civil and political but with social and economic rights also.

The Universal Declaration of Human Rights was viewed as first step in the formulation of an "International Bill of Human Rights". In 1976, three decades after this comprehensive undertaking was launched by the United Nations, the 'International Bill of Human Rights' became a reality, with three signified instruments.[8]

- The International Covenant on Economic, Social and Cultural rights.
- The International Covenant on Civil and Political rights.
- The Optional Protocol to the Latter Covenant.

The Declaration on Right to Development adopted by United Nations in 1986 is one of the most important basic human right and to constitutes the culminating point of the evolution of the concept of human rights. Many declaration, treaties and resolutions adopted by UN General Assembly deal with some aspects of human rights every year.[9]

There are spectrum of independent organizations and non governmental organization working for the promotion of human rights in various fields at a global level. A few among them are ILO (International Labour Organization), UNICEF (United Nations International Childrens Emergency Fund), WHO (World Health Organization), Amnesty International, International Red Cross Society etc.

Besides this, Human Rights Commission, Human Rights Commissioner, Centre for Human Rights is also working for the promotion of human rights.

Human Rights in Indian Context

Long before civilizations flowered in Egypt and Greece we have the Hindu jurisprudence of about 4000 B.C. The Hindu jurists have the Hindu jurisprudence of about 4000 B.C. "A king should enter the court room with all humility. More Great than the man who lives the life of a murderer is the king who lets himself to oppress and act unjustly (towards his subjects)".[10]

"For it is punishment alone that guards this world and the other, when it is evenly met by king to his son and his enemy, according to the offense."[11] The Hindu jurists have elaborated the procedure for civil and criminal cases as well as investigations. Hindu jurists like Narada, Brhaspati and Katyayan have elaborated rules to the innocent and stressed that king should not shrink from punishing the guilty. The Indian mind, thousand of years before the dawn of Christan era, could perceive the existence of all living being in paramatman and visualized Paramatman in all creatures, thus leaving before no room for hatred towards any one. The Vedic rishis always prayed for the well-being of everyone in society. These rishis were first to conceive the whole world as one family. In the above context, it was considered foremost duty of the state or king to protect the citizens or praja. The protection of citizens in those days was considered necessary from high officials, criminals, enemies of the state and from the kings and those who were close to him. One can very well realize how ancient is the concept of protecting rights of citizens against the avarice or greed of the king or the state.[12] Rig Veda cites three civil rights- that is of Tana (Body), Skridhi (Dwelling place) and Jibhasi (Life). Mahabharata tells about the importance of the freedoms of the individual (civil liberties) in a state. Concept of Dharma- rights and duties of individuals, classes, communities and castes- has been delineated in our scriptures. Before second century B.C. Indian states could boast of elected kings. Arthashashtra elaborates on civil and legal rights first formulated by Manu.

which also included economic rights.[6]

Another aspect which is important to be discussed in the Indian perspective is that our view toward rights is duty-centric and western views is right centric. It seems that root cause of all the problems which are creating hinderance in the realization of human rights is this right centric view. It sees men born with certain natural, inalienable universal rights which can be ascribed to him just because he is a human being. On the other hand, our Indian i.e. duty-centric view emphasis that man is born with certain Rinas (debts) or obligations and it is his foremost Dharma (duty) that he discharges these obligations with almost care and perfection. Unless one does so, one is not considered worthy of being called a human being. The essence and meaning of human existence consists in fulfillment of certain obligations he is born with. To do so he may need certain privileges or facilities. He must be provided with these facilities. But he can possess these 'rightfully', only if he uses them for discharging his obligations. In this duty centric world view rights acquire a goal-oriented character. They are not cherished for their own sake. They are important, but their importance primarily lies in their instrumentality towards specific goals.[7]

Development of Human Rights in India

The evolution of the concept of rights in our country, as a matter of fact, coincides with the growth of a struggle for national liberation and it has evolved precisely in the same manner in which our national movement has developed. The earlier phase of Indian National Movement was led by upper middle class and the landlords. Therefore, it was only inevitable that the thrust was on civil and political rights. With passage of time, national movement did not remain confined to the upper classes only, it became a mass movement, the credit for this goes to Mahatma Gandhi. He brought the rank and file of the Indian people into the folds of freedom struggle. The demand for the rights now became wider and people started demanding not only civil and political but socio-economic rights also. Mention should also be made of Gandhian approach to the concept of rights. Gandhiji was of the view that rights without duties are mere usurpation and therefore, each right should be followed by a duty.

The evolution of fundamental rights can be traced in two phases.

(a) Pre-Constituent Assembly Era, and

(b) Framing of Fundamental Rights by Constituent Assembly.

The first explicit demand for fundamental rights appeared in the Constitution of India Bill, 1895. Other documents on the rights of pre-assembly era were Annie Beasent's Common Wealth of India Bill 1925, Nehru Committee Report, 1928, Karachi Charter, 1931 and Sapru Committee Report 1945.

The Constituent Assembly came into existence in 1946. A Sub-Committee was appointed by the Advisory Committee to deal with the Fundamental Rights. The Advisory Committee accepted the following recommendations of Sub-Committee on Fundamental Rights;

- For division of rights into justiciable and non-justiciable rights;
- Certain rights guaranteed to all persons and certain other rights to the citizens only.
- All such rights being made uniformly applicable to the Union and the Units.

The Indian Constitution came into force on 26 January, 1950. The dream of Founding Fathers to make the India's Constitution a viable instrument for the Indian people's salvation and to secure all person basic human rights is implicit from the promise made in Preamble, Fundamental Rights and Directive Principles of the State Policy.

The Preamble of the Constitution is largely based on the Objective Resolution moved by Nehruji. It states in unequivocal term that the people of India solemnly resolved, "to secure all its citizens justice-social, economic and political; liberty of thought, expression, belief, faith and worship, equality of status and opportunity, and to promote among them fraternity so as to secure the dignity of the individual and unity and integrity of the nation."

The philosophy underlying fundamental right is that constitutional limitation on the powers of the

government are the only way of ensuring the survival of basic human freedom.

While enunciating rights for the Indian people, Founding Fathers kept in mind the requirements of the modern welfare state. It was clear in their mind that they had to prescribe rights for a country where the existence of a number of religious, linguistic and cultural minorities on one hand and the caste system on the other hand created problems which were peculiar to this country alone and if the purpose of a bill of rights was to usher in a new era wherein the human personality might find adequate avenues for self realization, it was essential that the fundamental rights as embodied in the Constitution should provide satisfactory solution to these problems. The entire Chapter III of Constitution deals with the scheme of fundamental rights as guaranteed to every citizen.

The principles embodied in Chapter IV are directives to the various governments and government agencies (including village panchayats) to be followed as fundamental in the governance of the country. It shall be the duty of the state to apply these principles in making laws. Thus, they place an ideal before the legislators of India while they frame new legislation for the country's administration. They lay down a code of conduct for the administration of India while they discharge their responsibilities as agents of the sovereign power of the nation. In short, the Directive Principles enshrine the fundamentals for the realization of which the state in India stands. They guide the path, which lead the people of India to achieve the noble ideals which are embodied in the Preamble.

India took a lead in this behalf and enacted Protection of Human Rights Act, 1993. This act besides other provisions provides for the creation of a National Human Right Commission. The apex court significantly held that it was fully empowered to look into the propriety of orders passed by such commissions and observed "the National Human Right Commission headed by a former chief justice of India is a unique expert body in itself. The chairman of the commission in his capacity as a judge of Supreme Court or as a Chief Justice of India, and so also to other members, who have held high judicial offices as Chief Justice of High Courts, have throughout their tenure considered, expounded and enforced the fundamental rights and are, in their own way, expert in the fields. And the judiciary is also playing an important role in promoting and protecting human rights.

In the end, we can conclude that concept of human right is not merely western and modern but both the concept has evolved and developed in Indian and international perspective. The difference lies only in the approach towards the rights. Our approach is duty-centric and western view is right centric. It may be noted that this duty-based characterization of rights in no way diminishes their importance. Rather it seems to add new dimensions to it. The approach makes rights very specific, concrete and consequently more effective in the practical realm. They no more remain simply abstract principles capable of being differently interpreted or misinterpreted. They become concrete instruments of realizing the ultimate aims of human essence. Moreover, their derivation from moral obligation gives them significance of a 'Value' and in a way makes them elements of ideal realm.[19] In this perspective we can say that Indian approach to the concept of human rights has given a new vision to the whole world, to deal with theoretical and functional aspect of human rights. It has also given a practical solution to all the problems related to human rights as it focuses more on duties than on rights.

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INDIAN VISION OF POLITICAL THINKING: POSSIBILITIES OF GLOBAL ALTERNATIVE

Alka Tomer

The complexity of the emerging world order, our historical experience and aspirations for the future of the world require that we continue to pursue a multi-polar world order. This is desirable both from the point of view of our enlightened national interests and reducing the potential for great power conflicts. Moving forward, we should insist on ensuring autonomy in our foreign policy and resist temptations for too close an alignment with any one of the great powers. We should judge each issue in the international arena in light of our enlightened national interest. This disposition of prudential distance from the antagonisms and the militarism of great powers has served us well in the past and is our best bet in the emerging world order. Our strategy of building our core strengths should be accompanied by an enhanced quest for increasing our participation in the regional and global forums. India should enhance its footprint in multilateral forums such as the United Nations, institutions of global financial governance and technical bodies working towards fostering global norms. Our rich experience, reputation and resources should be leveraged to expand and deepen democratisation of global governance processes.

The intensification of globalisation marked by the movement of capital, ideas and people presents both opportunities and challenges to India. India has largely benefited from the current phase of globalisation and economic liberalisation. However, the benefits are not evenly distributed and this is fuelling social and political anxieties with enormous consequences for India's long-term stability and prosperity. It is in our interest to further the globalisation process in the coming decades while at the same time addressing the domestic inequities with commitment of resources for social welfare of the disadvantaged. Growth and social equity are not necessarily contradictory. They are interdependent. Growth is necessary for social upliftment but in itself not sufficient. Social welfare is desirable but our experience suggests that the economic democracy desired by our founding fathers could not be achieved due to lack of growth. Also, we should foster global cooperation to contain the undesirable aspects of globalisation at the international level- global pandemics, international terrorism, trafficking, money laundering, loss of traditional livelihoods etc. The recent financial crisis has demonstrated the imperatives of global governance.

India's ability to secure itself from both internal and external threats will depend on the progress it makes on the economic front. It is essential that we foster a sustainable economic development model that takes into account objective conditions of our society, environment concerns, and ongoing changes in the world economic system. Besides other factors, our growth prospects are heavily dependent on our ability to ensure energy security and a peaceful neighbourhood. Our foreign policy instruments should be harnessed to maximise opportunities for economic growth and wellbeing of our citizens and minimise threats to our security.

Our security will depend on our capacity to meet the democratic aspirations of our people especially the growing percentage of young people. The ongoing transformations in the political, technological, social and economic dimensions are fuelling expectations for better governance and as a corollary, increasing disaffection with our political institutions. India's leaders should speed up the governance reform process, promote greater accountability and promote innovative approaches to conflict resolution. In the coming decade, India's capabilities need to be geared towards maximising opportunities and minimising risks particularly in the domestic and regional spheres. The most significant challenges for the country arise from the need to address socio-economic concerns such as education and health; the threat from left wing extremism; issues such as climate change and energy security that necessitate cooperation with our neighbours; and, increased engagement particularly with Pakistan and China on outstanding issues. This papers offers some insightful recommendations for important aspects of India's policy planning for the

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भारतीय राजनीति विज्ञान शोध पत्रिका

भारतीय राजनीति विज्ञान परिषद् का अर्द्धवार्षिक प्रकाशन

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योजना निर्माण में नीति आयोग: एक बेहतर विकल्प के रूप में

सुषमा रावत

भारत में नियोजन का नाम सर्वप्रथम 1934 में सुनने में आया, जब एम. विश्वेश्वरैया ने अपनी पुस्तक Planned Economy in India में देश की अर्थ को दुगुना करने के उद्देश्य से दस वर्षीय योजना बनायी थी। जब देश स्वतन्त्र हुआ, तो सरकार के सामने भारत के आर्थिक विकास की गम्भीर चुनौती थी। 1946 में अंतरिम सरकार में जवाहरलाल नेहरू प्रधानमन्त्री थे और इस सरकार ने नियोजन एवं विकास की समस्या के समाधान के लिए एक उच्चस्तरीय सलाहकारी प्लानिंग बोर्ड का गठन किया। इस बोर्ड ने भारतीय आर्थिक विकास की समस्या का गहन अध्ययन करने के बाद केन्द्र में एक स्थायी 'प्लानिंग कमीशन' की स्थापना के लिए सस्तुति की। 1946 में ही 'सिरदेसाई समिति' ने भी आर्थिक नियोजन के लिए एक ऐसे एकीकृत संगठनात्मक ढांचा प्रस्तुत करने पर बल दिया था जो भारत के पुनर्निर्माण एवं विकास पर एकाग्र होकर स्थायी रूप से कार्य कर सके। सर्वोदयी नेता जयप्रकाश नारायण ने भी 1950 में 'सर्वोदय योजना' के नाम से एक आर्थिक योजना प्रस्तुत की तथा सरकार ने सभी सस्तुतियों को ध्यान में रखकर योजना आयोग का गठन किया। योजना आयोग का गठन 15 मार्च, 1950 को मंत्रिमण्डल के एक प्रस्ताव द्वारा हुआ था। इसके गठन के पीछे तत्कालीन प्रधानमंत्री जवाहरलाल नेहरू का विचार था चूंकि सोवियत संघ की समाजवादी विचारधारा से प्रभावित थे। सोवियत संघ ने बहुत ही कम समय में अपने शोषकों अमरीका के समकक्ष खड़ा कर दिया था, जिसके पीछे एक प्रमुख कारण नियोजित अर्थव्यवस्था (Planned Economy) की अवधारणा थी और जिसका अर्थ है नियोजन के माध्यम से आर्थिक विकास करना।' इस प्रकार प्रस्तुत शोध पत्र में हम यह जानने का प्रयास करेंगे कि पूर्ववर्ती योजना आयोग में क्या कमियाँ रह गई थी और ऐसी कौन सी नयी समस्यायें उत्पन्न हो गयी थी जो योजना आयोग के स्थान पर नीति आयोग को एक बेहतर विकल्प के रूप में देखने का प्रयास किया गया है।

नियोजन से तात्पर्य है सुविचारित ढंग से किसी कार्य को करना या किसी कार्य को करने की पूर्व योजना। जब हम किसी लक्ष्य को प्राप्त करने के लिए उपलब्ध संसाधनों का अधिकतम लाभप्रद प्रयोग करते हैं, तो वह नियोजन कहलाता है। नियोजन सदैव किन्हीं निश्चित उद्देश्यों के लिए किया जाता है और बिना किसी उद्देश्य से किया गया नियोजन, नियोजन न होकर संसाधनों के उपयोग का एक राजनैतिक प्रपंच मात्र है।[1]

प्रो0 गैबिन्सन का यह कथन है कि "सही शब्दों में सम्पूर्ण आर्थिक जीवन में नियोजन की आवश्यकता होती है, क्योंकि योजना का निर्माण करना, किसी उद्देश्य से कार्य करना या चुनने के समान है और चुनाव ही आर्थिक क्रियाओं का निचोड़ है।" यही कारण है कि पूर्ववर्ती योजनाओं को तैयार करते समय कुछ स्पष्ट एवं सर्वमान्य उद्देश्यों की घोषणा की गयी ताकि आर्थिक विकास का कार्य उसी आधार पर आगे बढ़ाया जा सके। भारत में आयोजित विकास के मुख्य तौर पर निम्न पाँच उद्देश्य रखे गये हैं-[2]

राष्ट्रीय आय में अधिकतम वृद्धि करना।

तीव्र औद्योगिकीकरण एवं आधारभूत उद्योगों की स्थापना करना।

रोजगार के अधिकतम सुअवसर प्रदान करना।

आय की असमानताओं को कम करके समान वितरण को बढ़ावा देना।

समाजवादी समाज की स्थापना करना।

विभिन्न पंचवर्षीय योजनाओं के माध्यम से मुख्यतः इन सर्वमान्य उद्देश्यों को प्राप्त करने का लक्ष्य

ही समाजवादी समाज तथा कल्याणकारी राज्य की स्थापना करना है। समाजवादी समाज का लक्ष्य आजादी आन्दोलन का वह प्रस्ताव सही रूप में प्रस्तुत करता है कि समाजवादी ढाँचे का प्रमुख उद्देश्य भारतीय समाज का नई आकृति प्रदान कर सम्पत्ति का समान वितरण और सभी को समान अवसर उपलब्ध कराकर एक पूर्ण और श्रेष्ठ जीवन सुनिश्चित किया जाए।

दूसरी ओर कल्याणकारी राज्य से अभिप्राय एक ऐसे राज्य की स्थापना करना रहा है, जिसके अन्तर्गत नागरिकों को जीवन की मूल आवश्यकताएँ जैसे खाद्य पदार्थ, वस्त्र, आवास, स्वास्थ्य व शिक्षा सम्बन्धी सुविधाओं को उपलब्ध कराया जा सके। इस प्रकार कल्याणकारी राज्य एक अत्यन्त विस्तृत शब्द है, जिसमें उपयुक्त सुविधाओं के अलावा हर प्रकार की सामाजिक सुरक्षा भी प्रदान की जाती है।[8]

भारत सरकार भी स्वतन्त्रता प्राप्ति के बाद से शुरुआत से ही इस बात का निरंतर प्रयत्नशील रही है कि देश में लोकतांत्रिक समाजवादी ढाँचे के समाज के साथ-साथ कल्याणकारी राज्य की भी स्थापना की जाए। इस लक्ष्य की प्राप्ति की पूर्ति हेतु समय समय पर आवश्यक कदम भी उठाये गये हैं। भारतीय संविधान की रचना और सामयिक परिवर्तन इस बात के प्रमाण हैं कि भारत कल्याणकारी राज्य की स्थापना कि लिए संकल्पकृत है। पंचवर्षीय योजनाओं का स्वरूप तैयार करते समय विशेष रूप से ध्यान रखा गया है। यद्यपि कल्याणकारी राज्य की सही तस्वीर अभी तक उभर कर सामने नहीं आ सकी।

देश में 65 वर्ष से चली आ रही आयोजन की प्रक्रिया में मूलभूत परिवर्तन करते हुए, 1 जनवरी 2015 को प्रधानमंत्री नरेन्द्र मोदी की सरकार ने योजना आयोग का भंग करते हुए उसके स्थान पर नीति आयोग (National Institute for Transforming India) के गठन की घोषणा कर दी। इस नयी संस्था को प्रतिस्थापित करने के पीछे भारतीय अर्थव्यवस्था की परिवर्तित गति को ध्यान में रखा गया है।[9]

भारत में विगत छह दशकों में राजनैतिक, आर्थिक, सामाजिक, प्रौद्योगिकीय और जनांकिकीय दृष्टि से आश्चर्यजनक बदलाव आया है। राष्ट्रीय विकास में सरकार की भूमिका में सामयतर क्रम विकास देखा गया है। विकास प्रक्रिया में नई संस्था के सम्बन्ध में एक उत्प्रेरक के रूप में परिकल्पना की गई है जो सार्वजनिक क्षेत्र और भारत सरकार के सीमित दायरे से आगे निकलकर विकास के प्रति समग्र दृष्टिकोण के माध्यम से समग्र रूप से समर्थनकारी माहौल को पोषित करेगी।[10]

जब से नई सरकार ने सत्ता संभाली, उसी समय से ही योजना आयोग को भंग करते हुए नयी रचना [illegible] के बारे में चर्चा हो रही थी। प्रधानमंत्री तथा कुछ मंत्रियों से विचार था कि जैसे किसी घर की पुरी मरम्मत करने में ज्यादा खर्च होता है, और उसको तोड़कर नया घर बनाना सस्ता पड़ता है, उसी प्रकार योजना आयोग में सुधार करने के स्थान पर नई संस्था का निर्माण ही श्रेयस्कर कदम होगा तथा जनहितकारी विकास में भागीदारी एजेंडा के साथ सशक्तिकरण और सशासन इसके मार्गदर्शक सिद्धान्त रहेंगे।[11]

सरकार द्वारा इसके पूर्ववर्ती योजना आयोग के स्थान पर नीति आयोग निम्नलिखित आधारों पर प्रस्तावित किया गया:[12]

इसमें योजना आयोग के उस दौर की समाप्ति होनी थी जिसमें योजनाओं के प्रवाह केन्द्र से राज्यों की ओर होता था। यह केन्द्र व राज्यों को द्विपक्षीय नीतिगत संचालन प्रक्रिया से जोड़ेगा।

यह एक थिंक टैंक की भाँति नीतिगत मुद्दों पर राज्यों व केन्द्र को आवश्यक सुझाव व सलाह देगा।

प्रगति का अनुवीक्षण व कमियों को दूर करते हुए तथा विकास लक्ष्यों को हासिल करने के लिए संयुक्त रूप से प्रयास करने हेतु केन्द्र और राज्यों के विभिन्न मंत्रालयों को एकजुट करते हुए क्रियान्वयन को सुसाध्य बनाने वाला एक सहयोगात्मक मंच होगा।

सहयोगात्मक संघवाद के सिद्धान्त को लागू करते हुए राष्ट्रीय विकास में बराबर के भागीदारों के रूप

Sushma

में राज्यों की सशक्त भूमिका।

टीमों में विशेषज्ञों व उनकी आवंटन प्रक्रिया को सुनिश्चित करना और फिर इसे ऊपर के स्तरों पर लागू करना।

नीति आयोग का संगठन[13]

1 जनवरी 2015 को संकल्प में और इसके दिनांक 16 फरवरी 2015 के अनुपूरणी संकल्प में नीति आयोग के संगठन के लिए निम्नानुसार प्रावधान किया गया है।

भारत के प्रधानमंत्री - अध्यक्ष

इसकी परिषद् में सभी राज्यों के मुख्यमन्त्री, विधानसभाओं से युक्त संघ राज्य क्षेत्रों दिल्ली और पुडुचेरी के मुख्यमंत्री और अन्य संघ राज्य क्षेत्रों के उप-राज्यपाल शामिल होंगे।

विशिष्ट मुद्दों और ऐसे आकस्मिक मामले, जिनका सम्बन्ध एक से अधिक राज्य या क्षेत्र से हो, को देखने के लिए क्षेत्रीय परिषद् गठित की जाएगी। ये परिषदें विशिष्ट कार्यकाल के लिए बनाई जाएगी। भारत के प्रधानमंत्री के निर्देश पर क्षेत्रीय परिषदों की बैठक होगी और इनमें सम्बन्धित क्षेत्र के राज्यों के मुख्यमंत्री और संघ राज्य क्षेत्रों के उपराज्यपाल शामिल होंगे। इनकी अध्यक्षता नीति आयोग के अध्यक्ष या उनके नाम निर्देशित करेंगे।

सम्बन्धित कार्यक्षेत्र की जानकारी रखने वाले दक्ष, विशेषज्ञ और कार्यरत व्यक्ति, विशेष आमंत्रित के रूप में प्रधानमन्त्री द्वारा नामित किए जायेंगे।

पूर्णकालिक संगठनात्मक ढाँचे में प्रधानमंत्री के अध्यक्ष होने के अलावा निम्न होंगे-

उपाध्यक्ष- प्रधानमंत्री द्वारा नियुक्त

सदस्य - पूर्णकालिक

अंशकालिक सदस्य - आयरी विश्वविद्यालय, शोध संस्थानों और अन्य सुसंगत संस्थाओं से अधिकतम दो पदेन और अंशकालिक सदस्य जाने को प्रावधान रखा होगा।

पदेन सदस्य - केन्द्रीय मंत्रिपरिषद् से अधिकतम चार सदस्य प्रधानमंत्री द्वारा नामित होंगे।

मुख्य कार्यकारी अधिकारी: भारत सरकार के सचिव स्तर का अधिकारी को निश्चित कार्यकाल के लिए प्रधानमंत्री द्वारा नियुक्त किया जायेगा।

सचिवालय, जैसा आवश्यक समझा जाए।

मंत्रिमंडल के दिनांक 1 जनवरी 2015 के संकल्प के अनुसरण में, प्रधानमंत्री के निम्नानुसार नीति आयोग के गठन को मंजूरी दे दी है, वर्तमान में इसकी संरचना इस प्रकार है-

अध्यक्ष : श्री नरेन्द्र मोदी, प्रधानमंत्री

उपाध्यक्ष : राजीव कुमार, कैबिनेट मंत्री के रैंक में

पूर्णकालिक सदस्य :

डॉ0 विवेक देबराय, राज्यमंत्री के रूप में

डॉ० वी० के० सारस्वत, पूर्व सचिव, रक्षा अनुसंधान और विकास, रक्षामंत्री के रैंक में

सदस्य

राजनाथ सिंह (गृहमंत्री)

अरुण जेटली (वित्तमंत्री)

सुरेश प्रभु (रेलमंत्री)

राधा मोहन सिंह (कृषिमंत्री)

विशेष आमंत्रित सदस्य

निरीह जयराम गडकरी (सड़क परिवहन व राजमार्ग मंत्री)

श्रीरामचन्द्र पासवान (सामाजिक न्याय और अधिकारिता मंत्री)

प्रकाश जावडेकर (मानव संसाधन विकास मंत्री)

मुख्य कार्यकारी अधिकारी (CEO)

सिन्धुश्री खुल्लर

नीति आयोग केन्द्र सरकार एवं राज्य सरकारों के लिए योजनाएँ बनाने तथा नियोजन के क्षेत्र में एक दिशा-निर्देशन एवं नीति प्रदान करने वाले 'थिंक टैंक' के रूप में कार्य करेगा।

नीति आयोग के उद्देश्य[4]

नीति आयोग की स्थापना करने वाले संकल्प में निम्नलिखित उद्देश्यों को रेखांकित किया गया है-

क) राष्ट्रीय उद्देश्यों का दृष्टिगत रखते हुए राज्यों की सक्रिय भागीदारी के साथ राष्ट्रीय विकास प्राथमिकताओं क्षेत्रों और रणनीतियों का एक साझा दृष्टिकोण विकसित करना। तब नीति आयोग का दर्शन बल प्रदान करने के लिए प्रधानमंत्री और मुख्यमंत्रियों को परामर्श देने के लिए 'राष्ट्रीय एजेंडा' का ढांचा उपलब्ध कराएगा।

ख) सशक्त राज्य से सशक्त राष्ट्र का निर्माण कर सकते हैं, इसको स्वीकार करते हुए राज्यों के साथ सतत आधार पर संरचनात्मक सहयोग की पहल और तंत्र के माध्यम से सहयोग पूर्ण संघवाद को बढ़ावा देना।

ग) ग्राम स्तर पर विश्वसनीय योजनाएं तैयार करने के लिए तंत्र विकसित करना और इन सभी को उत्तरोत्तर रूप से सरकार के उच्चतर स्तर पर पहुँचाना।

घ) जो क्षेत्र विशेष रूप से आयोग को निर्दिष्ट किए गए हैं उनकी आर्थिक रणनीति और नीति में राष्ट्रीय सुरक्षा के हितों को ध्यानपूर्वक समन्वित करने को सुनिश्चित करना।

ङ) हमारे समाज के उन वर्गों पर विशेष रूप से ध्यान देना जिन तक आर्थिक प्रगति से उचित प्रकार से लाभान्वित न हो पाने का जोखिम हो।

च) रणनीतिक और दीर्घावधि के लिए नीति तथा कार्यक्रम को ढांचा तैयार करना और पहल करना तथा उनकी प्रगति और क्षमता को मॉनीटर करना। निगरानी और प्रतिक्रिया के आधार पर नवीन सुधार में

क्या उपाय उपकरण उपयोग किए जाएंगे जिनके अंतर्गत कार्यान्वयन संशोधन किए जाएंगे।

छ) महत्वपूर्ण पणधारियों तक ज्ञान विस्तारित करने राष्ट्रीय और अंतर्राष्ट्रीय थिंक टैंक और साथ ही साथ शैक्षिक और नीति अनुसंधान संस्थाओं के बीच व्यवहार और भागीदारी का प्रस्तावित देना।

ज) राष्ट्रीय और अंतर्राष्ट्रीय विशेषज्ञों, अभ्यासों तथा अन्य भागीदारों के सहयोगात्मक समुदाय के माध्यम से ज्ञान सहायक उत्कृष्टताओं बढ़ावा देने वाला एक ढांचा बनाना।

झ) विकास के एजेंडे के कार्यान्वयन में तेजी लाने के क्रम में अंतर-क्षेत्रीय और अंतर-विभागीय मुद्दों के समाधान के लिए एक मंच प्रदान करना।

ञ) अभ्यधुनिक संसाधन केन्द्र बनाना जो सुशासन तथा सतत और समावेशन विकास की सर्वश्रेष्ठ कार्यप्रणाली पर अनुसंधान करने के साथ-साथ सहभागियों तक पहुंचने में भी सक्षम हो।

ट) आवश्यक संसाधनों की पहचान करने संदेश कार्यक्रमों और उपायों का कार्यान्वयन का सक्रिय मूल्यांकन और सक्रिय निगरानी करना, ताकि संसाधन प्रदान करने में सफलता की संभावनाओं को प्रबल बनाया जा सके।

ठ) कार्यक्रमों और नीतियों के क्रियान्वयन के लिए प्रौद्योगिकी उन्नयन और क्षमता निर्माण पर जोर।

ड) राष्ट्रीय विकास का एजेंडा और उपरोक्त उद्देश्यों की पूर्ति के लिए अन्य आवश्यक गतिविधियों का उत्तरदायित्व लेना।

नीति आयोग और योजना आयोग

जहाँ एक योजना आयोग और नीति आयोग के बीच अंतर का प्रश्न है दोनों के बीच संरचना में विशेष अंतर नहीं है, दोनों की अध्यक्षता प्रधानमंत्री है। उपाध्यक्ष को नियुक्ति प्रधानमंत्री द्वारा की जायेगी दोनों ही आयोगों में पदेन एवं पूर्णकालिक सदस्य हैं। जिनकी नियुक्ति प्रधानमंत्री द्वारा होती है। योजना आयोग में जहाँ सदस्य सचिव है वहीं नीति आयोग में मुख्य कार्यकारी अधिकारी। नीति आयोग में प्रधानमंत्री समय-समय पर विशिष्ट सदस्यों को आमंत्रित कर नियुक्त करेंगे। नीति आयोग में जहाँ गवर्निंग काउंसिल है जिसमें राज्यों के मुख्यमंत्री व संघीय क्षेत्र का उपराज्यपाल शामिल होंगे, वहीं योजना आयोग में राष्ट्रीय विकास परिषद् में केवल राज्य के मुख्यमन्त्री ही सम्मिलित थे तथा रीजनल गवर्निंग काउंसिल जैसी कोई संस्था का प्रावधान नहीं था।

योजना आयोग की कार्य प्रणाली पर [illegible] के मृत्यु के बाद से ही प्रश्न उठने लगे थे। योजना आयोग जो कि एक परामर्शदात्री संस्था के रूप में स्थापित की गयी थी धीरे-धीरे उसने एक केन्द्रीकृत योजना निर्माण की संस्था के रूप में धारण कर लिया। यह संस्था निम्न आधारों पर आलोचना का केन्द्र बनती जा रही थी :

योजना आयोग द्वारा योजना निर्माण में राज्य के द्वारा प्रस्तुत पक्ष को बिल्कुल अनदेखी की जाती थी।

सभी राज्यों की समस्यायें भिन्न-भिन्न है परन्तु सभी के लिए एक जैसी योजनाओं का निर्माण केन्द्रीय स्तर पर हो रहा था।

सत्ता के विकेन्द्रीकरण की अपेक्षा लिये परन्तु योजना निर्माण के कार्य को विकेन्द्रीकृत नहीं किया गया।

राष्ट्रीय विकास परिषद् के माध्यम से राज्य को भागीदारी केवल योजनाओं के क्रियान्वयन के लिये अधिक से अधिक धन माँगने तक सीमित थी न तो मुख्यमंत्री बोलते थे और न ही कोई ठोस सुझाव देते थे।

राज्यों को धन के आवंटन एवं वितरण में योजना आयोग पूर्ण रूप से निष्पक्षता के साथ कार्य नहीं कर रहा था।

राज्यों का प्रभाव योजना आयोग पर न होकर योजना आयोग का प्रभाव राज्यों पर था।

योजना निर्माण में जनसहयोग नाम की कोई चीज नहीं थी।

जब योजना आयोग बना तब अर्थव्यवस्था का स्वरूप समाजवादी था वर्तमान समय के भूमण्डलीकरण के युग के अनुरूप योजना आयोग अपने आप को नहीं ढाल पाई जिसका परिणाम है कि अब भी गरीबी, विकास, आर्थिक असमानता, बढ़ती बेरोजगारी, औद्योगिक विकास जैसी समस्यायें अब भी विद्यमान है।

केन्द्रशासित प्रदेशों का कोई भी प्रतिनिधित्व योजना आयोग में नहीं था।

योजना निर्माण का कार्य राजनीति से सम्बन्धित हो गया था।

उपरोक्त कारणों से कह सकते है कि योजना आयोग परामर्शदात्री संस्था से प्रारम्भ होकर एक सर्वोच्च मन्त्रीमण्डल या super cabinet का स्थान प्राप्त करती जा रही थी। समय-समय पर इसके सुधार की माँग की जा रही थी। जिन मुख्य मुद्दों पर ध्यान केन्द्रित किया गया वे निम्न है:-

नियोजन का सहकारी संघात्मक स्वरूप

नियोजन में जनसहभागिता

नियोजन में सुरक्षात्मक दृष्टिकोण

इन सब बातों को ध्यान में रखते हुए नीति आयोग का गठन किया गया कि यह योजना निर्माण में इन बातों का ध्यान रखे। योजना निर्माण में राज्यों का सहयोग लिया जाये योजना थिंक टैंक से परिमार्जित कर ही इसे अंतिम रूप दिया जाये तथा योजना राज्यों पर थोपी नहीं जायेगी। उपरोक्त तीनों लक्ष्यों का विस्तृत विवरण नीचे दिया गया है:-

सहकारी संघवाद

सहकारी संघवाद का अर्थ ऐसी संघात्मक व्यवस्था से है जिसमें राज्य की सत्ता भी उतनी ही महत्वपूर्ण है जितनी केन्द्र की। इसके अतिरिक्त शासन व्यवस्था का संचालन केन्द्र व राज्यों के आपसी सहयोग से होता है। केन्द्र व राज्य सरकारें एक दूसरे की प्रतियोगी न होकर सहयोगी होती है। नियोजन के क्षेत्र में सहकारी संघवाद से तात्पर्य है कि योजना के निर्माण में राज्यों की सहभागिता का महत्व प्रदान किया जायगा। योजनाओं के निर्माण की प्रक्रिया केन्द्रीय स्तर से प्रारम्भ न होकर ग्रामीण स्तर से प्रारम्भ होकर राज्य सरकार के पास पहुँचे और वहाँ से केन्द्रीय स्तर पर यानि नीति आयोग के पास आये। ऐसा इस कारण महत्वपूर्ण है कि भौगोलिक विविधता के कारण सभी राज्यों की समस्यायें अलग-अलग है और केन्द्रशासित प्रदेशों की समस्यायें राज्यों की समस्याओं से भी अलग है इसीलिए राज्य व केन्द्रशासित प्रदेश दोनों अपने संसाधनों एवं आवश्यकताओं के अनुरूप अपनी योजनाओं के प्रारूप तैयार कर नीति आयोग के समक्ष प्रस्तुत करें तथा नीति आयोग विशेषज्ञों से विचार-विमर्श के बाद ही उचित राज्य एवं राष्ट्र नियोजन को अल्पकालीन एवं दीर्घकालीन योजनाओं का सफल निर्माण हो सकेगा और सफल क्रियान्वयन के लिए समुचित तकनीकी एवं मार्गदर्शन प्रदान कर सकेगा। इस प्रकार राज्य सशक्त बनेंगे और सशक्त राज्यों से ही सशक्त राष्ट्र का निर्माण होगा।

नियोजन में जनसहभागिता

लोकतंत्र जनता का, जनता के लिये और जनता के द्वारा शासन है और इस कारण शासन सत्ता में जनता

की वास्तविक सहभागिता बढ़ाने के लिये लोकतांत्रिक विकेन्द्रीकरण को अपनाया गया है। उसी तरह नियोजन को जनोन्मुखी बनाने के लिए दूसरे शब्दों में कहें तो जनता की सहभागिता बढ़ाने के लिए नियोजन निर्माण के कार्य को भी नीति आयोग के माध्यम से विकेन्द्रीकृत करने का प्रभावशाली कदम उठाया गया है जहाँ योजना आयोग में समस्त योजनाओं का निर्माण केन्द्रीकृत रूप में होता था वहीं नीति आयोग में योजना निर्माण का कार्य ग्रामीण स्तर से शुरू होकर नीति आयोग तक पहुँचेगा तथा दूसरी ओर थिंक टैंक के रूप से बड़े उद्योगपतियों, विषय विशेषज्ञों एवं अन्तर्राष्ट्रीय विषय विशेषज्ञों एवं शोध संस्थानों का खुले रूप में वैचारिक, तकनीकी एवं रणनीतिक सहयोग लिया जायेगा। यह कदम भी एक रूप में जनसहभागिता को बढ़ाता है।

नियोजन में सुरक्षात्मक दृष्टिकोण

भारत में पहले कभी आर्थिक सुरक्षा, ऊर्जा सुरक्षा एवं रणनीतिक सुरक्षा के लिये अलग से कोई कार्य योजना नहीं बनी। यह कदम सबसे पहले चीन द्वारा उठाया गया। जिससे वह विश्व की द्वितीय बड़ी व समृद्ध अर्थव्यवस्था के रूप में उभर रहा है। नीति आयोग का निर्माण इस वैश्वीकरण के युग में हुआ है। अतः उसके द्वारा इन तीनों ही क्षेत्रों में विशेष रूप नियोजन निर्माण कार्य किया जायेगा।

नीति आयोग की स्थापना के बाद आयोजन प्रक्रिया में आये परिवर्तन

नेहरू की विचारधारा वाले नियोजन के युग का अंत

समाजवादी विचारधारा वाले नियोजन का अंत

पूंजीवादी व खुली अर्थव्यवस्था के दौर में नियोजन

नियोजन में राज्यों व संघशासित क्षेत्रों की सहभागिता

उद्योगपतियों, विषय-विशेषज्ञों व समेत विद्वानों की सहभागिता

नियोजन में राष्ट्रीय एजेण्डे के साथ-साथ राज्यों के एजेण्डे को भी पर्याप्त महत्व

'सबका साथ सबका विकास' के सूत्र का पालन

राष्ट्रीय सुरक्षा, आर्थिक सुरक्षा व ऊर्जा सुरक्षा को नियोजन में विशेष प्राथमिकता।

उपरोक्त विश्लेषण से यह स्पष्ट होता है कि नीति आयोग का निर्माण उन समस्त समस्याओं के समाधान हेतु हुआ जो पिछले कई दशकों में राष्ट्रीय एवं वैश्विक परिवेश में आये परिवर्तनों के परिणाम स्वरूप उठ खड़ी हुई और उन आवश्यकताओं को पूर्ण करने के लिए हुआ जो देश को विकास के मार्ग पर अग्रसर करने के लिए वर्तमान समय एवं परिस्थितियों की माँग है। जहाँ पूर्ववर्ती योजना आयोग में केन्द्रीकरण की प्रवृत्ति थी और इस आधार पर उसने सुपर कैबिनेट का रूप धारण कर लिया था, वहीं नीति आयोग सहकारी एवं सहयोगी संघवाद को मजबूत बनाने की ओर प्रयासरत है इसका उद्देश्य योजना आयोग की तुलना में बहुआयामी है, इसके लक्ष्यों को मात्र आयोजन प्रक्रिया तक सीमित नहीं करके नवाचार, नवोन्मेष व तकनीकी विकास के पक्षों पर भी बल दिया गया और साथ केन्द्र-राज्य दोनों की सहभागिता व भूमिका पर बल दिया गया है अतः यह उम्मीद की जा सकती है कि आगे आने वाले भविष्य में नीति आयोग, योजना निर्माण के रूप में तथा राज्य एवं राष्ट्र के विकास में एक बेहतर विकल्प सिद्ध होगा।

सन्दर्भ

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डॉ0 नीशु कुमार, सहायक आचार्य, राजनीति विज्ञान विभाग, चमन लाल महाविद्यालय, लण्ढौरा, हरिद्वार (उत्तराखण्ड)

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डॉ. पंडित एस. नलावडे, राजनीति शास्त्र विभाग, पंडित जवाहरलाल नेहरू कॉलेज, शिवाजी नगर, औरंगाबाद (महाराष्ट्र)

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डॉ0 भूपेन्द्र प्रताप सिंह, शिक्षण सहायक, राजनीति विज्ञान विभाग, चौधरी चरण सिंह विश्वविद्यालय, मेरठ (उत्तर प्रदेश)

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वैश्वीकृत राजनीति एवं राष्ट्र-राज्य

चन्द्र भूषण बैठा

वैश्वीकरण एक सरल परिघटना नहीं है, यह एक अत्यंत जटिल एवं सबको समाहित करने वाली एक विस्तृत अवधारणा है। यह एक विश्वव्यापी प्रक्रिया है, जो विश्व के विभिन्न हिस्सों में विभिन्न अर्थों एवं संदर्भों में अपना पक्ष रखा रही है। एक विश्वव्यापी प्रक्रिया होने के कारण यह दो भिन्न चरित्र रखता है। एक तरह से यह राजनीतिक अर्थव्यवस्था और सामाजिक गतिविधियों को कड़ियों के रूप में अंतर (क्षेत्रीय महाद्वीपीय) परिप्रेक्ष्य रखता है जो दूसरे शब्दों में समाजों के मध्य व उनके अंदर सहभागिता अंतर्व्यवस्था जुड़ाव के सघन स्तर का व्यापक प्रसार है।

वैश्वीकरण राष्ट्र-राज्य की राजनैतिक सीमाओं की दरकिनार करते हुए 'दीवार-रहित दुनिया' का स्थापित करने का प्रयत्न है। वैश्वीकरण से एक तरफ सामाजिक - सांस्कृतिक गतिशीलता बढ़ती है वहीं दूसरी तरफ विश्व अपने उत्तरोत्तर विकास के स्थान पर क्षेत्रीय विकास को दिशा प्राप्त करता है। सूचनाओं के प्रवाहन की तीव्रता ब्रह्माण्डकीय ज्ञान के साथ मानसिक क्रान्ति को सुनिश्चित करता है।

वैश्वीकरण के कारण जहां पहले सभी क्षेत्रों पर सरकार का पूर्ण नियंत्रण रहता था वह ही यह सुनिश्चित करती थी कि अगले पाँच वर्ष में कहाँ-कहाँ और किस प्रकार से उद्योगीकरण करना है तथा यह किस प्रकार से स्थानीय लोगों के लिए कल्याणकारी होगा वही अब यह निर्णय निजी व्यवस्थाओं द्वारा जनकल्याण के लिए नहीं अपितु अपने मुनाफे को अधिक रखने के आधार पर किया जाएगा। उदारीकरण के परिणाम स्वरूप विकास की संपूर्ण अवधारणा निम्न प्रकार से बदली है :-

राज्य की भूमिका तथा कार्यक्षेत्र में कटौती ही उसका प्रथम प्रभाव है। आर्थिक स्तर पर निजी क्षेत्र बिना किसी सरकारी प्रतिबंध के कार्य करते है। दूसरा जहाँ सरकार तथा नौकरशाही एक नियंत्रणकारी भूमिका अदा करते थे जिसने उनका स्वरूप नकारात्मक था वही अब उन्हें अब तक सकारात्मक तथा सहयोगात्मक तथा मार्गदर्शक (Facilitator) की भूमिका अदा करनी है। तीसरा कारण, उदारीकरण से पूर्व नियोजित विकास में आर्थिक विकास को प्राथमिकता दी जाती थी अब आर्थिक क्षेत्र में सरकार की भूमिका कम की गई है, वही सामाजिक क्षेत्र में उसका प्रभाव काफी व्यापक हो गया है। चौथा कारण वैश्वीकरण के कारण महिला सशक्तीकरण, सर्वशिक्षा, मानव-अधिकार, पर्यावरण संरक्षण आदि इन सभी क्षेत्रों में सरकारी प्रशासन का हस्तक्षेप कम करते हुए जन संगठनों एवं नागरिक समाज को दायित्व सौंपना है।

वैश्वीकरण ने ऐसी परिस्थितियाँ उत्पन्न कर दी हैं जिनके अंतर्गत सरकार बड़े मुद्दों पर अति लघु नजर आती है और साथ ही कई बार सरकारें अपनी छोटी समस्याओं से निपटने में अक्षम नजर आती है। डेविड हैल्ड ने 24 जनवरी 2002 को ओपन डेमोक्रेसी नेट पर चर्चा में कहा कि अगर कोई वैश्वीकरण की वृद्धि पर सूक्ष्म दृष्टि दौड़ता है तो पाता है कि अब अर्थशास्त्र राजनीति से लेकर संस्कृति और कानून तक का सतत स्वरूप परिवर्तन हो रहा है जो एक नई किस्म की विश्व व्यवस्था को जन्म दे रहा है।[1]

वैश्वीकरण इसी बदलते चिंतन के साथ 21वीं सदी में राज्य की व्यापक अवधारणा में शामिल कर मार्का-4 राज्य के रूप में 'साइबर राज्य' को विकसित करने का प्रयत्न किया जा रहा है। जिसमें सरकार स्वयं को एक सहायक यन्त्र के रूप में प्रयुक्त कर रही है जिसमें लोक उद्देश्यों की प्राप्ति के लिए राजनैतिक और आर्थिक मुद्दों को बौद्धिक संयुक्तता देने की कोशिश की गई है। ऑस्बॉर्न और गैब्लर का विचार की हमें एक बड़े शासन की तुलना में एक अच्छे शासन की जरूरत है जो आज मान्यता प्राप्त कर रहा है साइबर राज्य में सामुदायिक सरकार के गठन तथा जनता की भागीदारी बढ़ाने के प्रयास पर ज्यादा बल दिया जाने लगा है। व्यवस्थित एवं संवांगिण दृष्टिकोण लेते हुए साइबर राज्य गुणवत्ता के आधार पर एक सामुदायिक सरकार के रूप में स्थापित होने की कोशिश कर रहा है। साइबर राज्य ने स्व-इच्छा से जीवन जीने की

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भारतीय राजनीति विज्ञान शोध पत्रिका

भारतीय राजनीति विज्ञान परिषद् का अर्द्धवार्षिक प्रकाशन

वर्ष–नवम्, अङ्क:–द्वितीय, जुलाई–दिसम्बर, 2017

जरा रूपं हरति धैर्यमाशा
मृत्युः प्राणान् धर्मचर्यामसूया।
कामो ह्रियं वृत्तमनार्यसेवा
क्रोधः श्रियं सर्वमेवाभिगाः।।

कौशल किशोर मिश्र
सम्पादक

विषय सूची

सम्पादकीय: कौशल किशोर मिश्र

रतीय राजनीति विज्ञान शोध पत्रिका, वर्ष-नवम्, अङ्क: द्वितीय, जुलाई-दिसम्बर, 2017 ISSN-2229-452X

राष्ट्रीय विकास में पंडित दीनदयाल उपाध्याय के एकात्म मानववाद एवं आर्थिक विचारों की सार्थकता

भूपेन्द्र प्रताप सिंह

15 अगस्त, 1947 को देश ने आजादी का सूरज देखा जो बंटवारे के रक्त से लाल था, लेकिन देश में ाने वाले मुश्तकबिल की सुर्खी देखी जा सकती थी। देश के रहनुमा 32 करोड़ की जिस आबादी को खुद ासन करने में सक्षम देखना चाहते थे। आज वहीं 60 करोड़ से अधिक युवाओं के साथ एक अरब लोगों ी एक ऐसी जमात है जिसे पूरी दुनिया उभरती हुई आर्थिक ताकत के रूप में देख रही है।[1]

दीनदयाल उपाध्याय की अवधारणा थी कि आजादी के बाद भारत का विकास का आधार अपनी ारतीय संस्कृति हो न कि अंग्रेजों द्वारा छोड़ी गयी पश्चिमी विचारधारा, हालांकि भारत में लोकतंत्र आजादी तुरन्त बाद स्थापित कर दिया गया था, परन्तु दीनदयाल उपाध्याय के मन में यह आशंका थी कि लम्बे र्षों की गुलामी के बाद भारत ऐसा नहीं कर पायेगा। उनका विचार था कि लोकतंत्र भारत का जन्मसिद्ध धिकार है न कि पश्चिम (अंग्रेजो) का एक उपहार। वे इस बात पर भी बल दिया करते थे कि कर्मचारियों ौर मजदूरों को भी सरकार की शिकायतों के समाधान पर ध्यान देना चाहिए। उनके अनुसार लोकतंत्र अपनी ीमाओं से परे नहीं जाना चाहिए और जनता की राय उनके विश्वास और धर्म के आलोक में सुनिश्चित रना चाहिए।[2]

दीनदयाल उपाध्याय भारतीय विचारो से ओतप्रोत एक सम्पूर्ण अर्थशास्त्री, समाजशास्त्री, राजनीतिक और त्रकार थे। उन्होंने राष्ट्रीय स्वयंसेवक संघ के स्वयं सेवक के रूप में अपने सामाजिक जीवन का आरम्भ ्या और भारतीय जनसंघ (वर्तमान, भारतीय जनता पार्टी) के अध्यक्ष भी बनें, इन्होंने ब्रिटिश शासन के ान भारत द्वारा पश्चिमी धर्मनिरपेक्षता और पश्चिमी लोकतंत्र का आंख बंद कर समर्थन का विरोध किया। द्यपि उन्होंने लोकतंत्र की अवधारणा को सरलता से स्वीकार कर लिया, लेकिन पश्चिमी कुलीनतंत्र, शोषण ौर पूंजीवाद मानने से साफ इंकार कर दिया था। इन्होंने अपना जीवन लोकतंत्र को शक्तिशाली बनाने और नता की बातों को आगे रखने में लगा दिया।[3]

दीनदयाल उपाध्याय का जन्म 25 सितम्बर, 1916 को उत्तर प्रदेश के मथुरा जिले के नगला चन्द्र भान व में पिता भगवती प्रसाद उपाध्याय और माता रामप्यारी के घर हुआ था। मात्र 8 वर्ष की आयु में माता ा निधन हो गया। पिता का स्वर्गवास पहले ही हो गया था। दीनदयाल जी को नाना के यहां धनकिया भेज या गया। दीनदयाल अपने ममेरे भाईयों के साथ खेलते बड़े हुए। उन्होंने पिलानी से स्कूली शिक्षा प्राप्त की था सनातन धर्म कालेज कानपुर से बी0ए0, आगरा से इंग्लिश में एम0ए0 तथा बी0एड0, एम0एड0 प्रयाग किया। वह शिक्षा के हर स्तर पर अव्वल एवं गोल्ड मेडलिस्ट रहे। पण्डित जी राष्ट्रीय स्वयंसेवक संघ 937 में शामिल होने वाले प्रारम्भिक स्वयंसेवक में से एक थे जो आगे चलकर संघ के संयुक्त प्रान्तीय ायक बने। वे जनसंघ में 1952 में सम्मिलित हुए एवं 1967 में पार्टी का अध्यक्ष बनने तक महासचिव के द पर नियुक्त रहे। डॉ0 श्यामा प्रसाद मुखर्जी के निधन के पश्चात् उन्होंने पार्टी के निर्माण की जिम्मेदारी पने कंधों पर ले ली एवं इस कार्य में शानदार सफलताएं अर्जित की। पण्डित उपाध्याय ने लखनऊ के चजन्य (साप्ताहिकी) एवं स्वदेश (दैनिक) का सम्पादन किया।[4]

अल्पायु में माता पिता के देहान्त के पश्चात ननिहाल में उनके मामा ने उनका पालन-पोषण अपने ही च्चों की तरह किया। छोटी अवस्था में ही अपना ध्यान रखने के साथ-साथ उन्होंने अपने छोटे भाई के भिभावक का दायित्व भी निभाया परन्तु दुर्भाग्य से भाई को चेचक की बीमारी हो गयी और 18 नवम्बर, 934 को उसका निधन हो गया। दीनदयाल ने कम उम्र में ही जीवन के बड़े उतार-चढ़ाव को देखा, पर पने दृढ़ निश्चय से जिन्दगी में आगे बढ़े। उन्होंने सीकर से हाई स्कूल की परीक्षा पास की। जन्म से

राष्ट्रीय विकास में पंडित दीनदयाल उपाध्याय के एकात्म मानववाद

बुद्धिमान और उज्ज्वल प्रतिभा के धनी दीनदयाल को स्कूल में अध्ययन के दौरान कई स्वर्ण पदक प्रतिष्ठित पुरस्कार प्राप्त हुए। उन्होंने अपनी स्कूल की शिक्षा जी0डी0 बिड़ला कॉलेज, पिलानी से पूरी की। इसके पश्चात् उन्होंने सिविल सेवा की शिक्षा कानपुर विश्वविद्यालय के सनातन धर्म कॉलेज से पूरी की। इसके पश्चात् उन्होंने सिविल सेवा की प्रवेश परीक्षा पास की। दीनदयाल उपाध्याय अपने जीवन के प्रारम्भिक वर्षों से ही समाज सेवा को पूर्ण समर्पित थे। वर्ष 1937 में अपने कॉलिज के दिनों में वे कानपुर में राष्ट्रीय स्वयंसेवक संघ (आर0एस0एस0) के साथ जुड़े। वहां उन्होंने आर0एस0एस0 के संस्थापक डॉ0 हेडगेवार से बातचीत की और संगठन के प्रति पूरी तरह से अपने आपको समर्पित कर दिया। वर्ष 1942 में कॉलेज की शिक्षा पूर्ण करने के बाद उन्होंने तो नौकरी के लिए प्रयास किया और न ही विवाह का, बल्कि वे संघ की शिक्षा का प्रशिक्षण प्राप्त करने के लिए आर0एस0एस0 के 40 दिवसीय शिविर में भाग लेने नागपुर चले गए।

भारतीय जनसंघ की स्थापना डॉ0 श्यामा प्रसाद मुखर्जी द्वारा वर्ष 1951 में हुई एवं दीनदयाल उपाध्याय को प्रथम महासचिव नियुक्त किया गया। वे लगातार दिसम्बर, 1967 तक जनसंघ के महासचिव रहे। उनकी कार्यक्षमता, खुफिया गतिविधियों और परिपूर्णता के गुणों से प्रभावित होकर डॉ0 श्यामा प्रसाद मुखर्जी उनके लिए गर्व से सम्मानपूर्वक कहते थे कि- ''यदि मेरे पास दो दीनदयाल हों, तो मैं भारत का राजनीतिक चेहरा बदल सकता हूँ'', परन्तु अचानक वर्ष 1953 में डॉ0 श्यामा मुखर्जी के असमय निधन से पूरे संगठन की जिम्मेदारी दीनदयाल उपाध्याय के कंधों पर आ गई। भारतीय जनसंघ के 14वें वार्षिक अधिवेशन में दीनदयाल उपाध्याय को दिसम्बर, 1967 में कालीकट में जनसंघ का अध्यक्ष निर्वाचित किया गया।

दीनदयाल उपाध्याय के अन्दर की पत्रकारिता तब प्रकट हुई जब उन्होंने लखनऊ में प्रकाशित होने वाली मासिक पत्रिका 'राष्ट्रधर्म' में वर्ष 1940 के दशक में कार्य किया। अपने आर0एस0एस0 के कार्यकाल के दौरान एक साप्ताहिक समाचार पत्र 'पांचजन्य' और एक दैनिक समाचार पत्र 'स्वदेश' शुरू किया था। उन्होंनने नाटक 'चन्द्रगुप्त मौर्य' और हिन्दी में शंकराचार्य की जीवनी लिखी। उन्होंने राष्ट्रीय स्वयंसेवक संघ के संस्थापक डॉ0 के0बी0 हेडगेवार की जीवन का मराठी से हिन्दी में अनुवाद किया। उनकी अन्य प्रसिद्ध साहित्यिक कृतियों में 'सम्राट चन्द्रगुप्त', 'जगतगुरू शंकराचार्य', 'राजनीतिक डायरी', 'दो योजनायें', 'एकात्म मानववाद', 'भारतीय अर्थनीति का अवमूल्यन', 'राष्ट्रीय जीवन की दषा' आदि हैं।

हम जानते है कि कई पुरातन राष्ट्र मिल गए। पुरातन ग्रीक राष्ट्र का अंत हुआ। ईजिप्ट की सभ्यता एंटियामेंट हो गयी। बेबिलोनिया तथा सीरिया की सभ्यताएं इतिहास का विषय बनकर ही रह गई। क्या कभी ऐसा समय था जब लोगों ने साथ रहना छोड़ दिया? तथ्य तो यह है कि लोगों के बीच गहरे अंतर के जिस कारण इन राष्ट्रों का पतन हो गया। ग्रीस ने एलेक्जेण्डर तथा हेरेडोट्स जैसे शासक दिए। उलाइसिस अगस्तु, सुकरात तथा प्लेटो जैसे दार्शनिकों का देश आज भी उन्हीं की विरासत है। आनुवांशिक लक्षण में कोई अन्तर नहीं आया(क्योंकि ग्रीस में पूरी जनसंख्या अपनी संस्कृति से अलग-थलग हो गई। पिता से पुत्र को संस्कृति वहा हमेशा जीवंत है कि पुरातन 250 से लेकर 500 पीढ़ियां पुराना ग्रीस आज भी वह विद्यमान है। वह कैसे समाप्त हो सकता है। पुरानी सभ्यता वहां आज भी देखने को मिलती है। पुराना ग्रीस और पुराना ईजिप्ट आज नहीं रहे और उनके स्थान पर नए राष्ट्र अस्तित्व में आए। एसा कैसा हुआ, यह प्रश्न विचारणीय है। यह सामान्य तथा विवाद रहित है कि राष्ट्रों का अस्तित्व केवल साथ में रहने से नहीं होता। इज़राइल के यहूदी सदियों के तमाम इधर-उधर से आए। यह स्पष्ट है कि राष्ट्रीय भावना का होना किसी स्थान विशेष में रहने के कारण नहीं वरन् यह कुछ और ही है। दरअसल राष्ट्रीय भावना समाज के सुदृढ़ता के लिए मूलमंत्र की तरह है जिसमें रच बसकर वह सम्प्रदाय फलफूल सकता है।

जनता के सामने लक्ष्य को ग्रोत राष्ट्र है। जब जनसमूह एक लक्ष्य और एक आदर्श के सामने नतमस्तक हो जाता है और एक विशेष भू-भाग की मातृभूमि मानने लगता है तो समूह को हम एक राष्ट्र की संज्ञा दे सकते है। शरीर मे एक 'आत्मा' है जो किसी भी व्यक्ति की चिति शक्ति की तरह है। यह शक्ति ही उसकी प्राणशक्ति है जिसके बिना जीवन का कोई अस्तित्व नहीं है। यह माना जाता है कि मानव बार-बार जन्म लेता है लेकिन दूसरे जन्म में वह दूसरा ही व्यक्ति कहलाएगा और अलग ही व्यक्ति माना जाएगा। वह आत्मा जब दूसरा शरीर धारण करती है तो पहले से [illegible] जाती है। आदर्श

[illegible] अवधान से लेकर मुद्रापे तक चक्रित में [illegible] एवंविधान होते हैं जैसे वैज्ञानिक हमें बताते हैं कि इस दौरान कोशिका में अनन्त परिवर्तन होते हैं। चूंकि कुत्ते में आत्मा का निवास होता है अतः शरीर तब तक जीवित माना जाता है जबकि उसमें आत्मा अधिष्ठित है अतः और आत्मा का संबंध एक नई के जमीर की तरह का है।"

एक बार एक ग्राहक को दाढ़ी बनाते हुए नाई ने ग्राहक को अपना उस्तरा दिखाते हुए कहा कि यह ५० वर्ष पुराना उस्तरा है और पूरे समय में इसी उस्तरे से अपने ग्राहकों की दाढ़ी बनाता था। ग्राहक को उस्तरा देखकर उस उस्तरे का हैंडल काफी चमकदार था और लगता था जैसे कि नया हो। उस्तरा देखकर ग्राहक बोला चमकदार जैसे है' अपने इन ५० सालों में इसकी चमक को कैसे बरकरार रखा नाई ने चुटकी लेते हुए कहा कि इस हैंडल को ५० वर्षों तक चमकदार रखना कोई बड़े आश्चर्य की बात नहीं है इसमें ७ महीने पहले ही इसे बदलवाया था, बड़ी सहजता से उसने जवाब दिया। ग्राहक ने फिर दुबारा पूछा कि फिर कैसे कहते हो कि उस्तरा पुराना है' उत्तर में वह बोला कि स्टील तीन वर्ष पुराना है उसमें से हैंडल बदल दिया गया था, लेकिन ब्लेड (फलक) पुराना ही रहा और इसको पहचान जाने रहे। इसी तरह एक राष्ट्र की अपनी आत्मा है। जन संघ ने अपनी नीतियों में इस 'चिति' का नाम दिया अर्थात् राष्ट्र की चिति शक्ति ही उसकी आत्मा का स्वरूप है। मैकडुगल के अनुसार यह सहज ही अंतरंग प्रकृति की शक्ति है। व्यक्तियों का हर समूह इसी प्रकृति की इसी शक्ति से प्रभावित होता है इसी तरह हर समाज की अंतरंग शक्ति अजन्मा होती है जो ऐतिहासिक परिस्थितियों के परिवर्तनों पर उत्पन्न नहीं होती।

हर मानव का कुछ व्यक्तित्व के साथ होता है जो उसको प्राप्त शक्ति भी है आत्मा और चरित्र इसका अंग है व्यक्तित्व व्यक्ति के गुणों का परिशोधन है और एक व्यक्ति के चिंतन और उसके प्रभाव का परिणाम है लेकिन आत्मा का इससे कोई सरोकार नहीं है। उसी तरह राष्ट्रीय चरित्र निरन्तर बदलता रहता है और ऐतिहासिक कारणों और परिस्थितियों के वशीभूत होता है। संस्कृति संस्थाओं, प्रयासों एवं समाज के इतिहास में बनती है और पनपती है जिसका समावेश राष्ट्रीय चरित्र में होता ही होता है। लेकिन इन सभी बातों का समावेश 'चिति' में नहीं होता। 'चिति' तो सार्वभौम है जो राष्ट्र की अंतरंग शक्ति है। 'चिति' किसी राष्ट्र के सांस्कृतिक उत्थान की पथ-प्रदर्शक होती है। चिति के अनुरूप ही संस्कृति का उत्थान होता है।"

पंडित नेहरू के समय के दौरान भारत ने लोकतांत्रिक समाजवाद का नारा उठाया परन्तु इसमें सफल नहीं हुए क्योंकि लोकतंत्र है और हम मूलरूप में एक पश्चिमी नींव पर आगे कर रहे हैं, के लिए कोशिश कर रहे हैं और इसलिए अधूरे हैं, की गई थी कि समाजवाद आज इन दोनों के विचार अलग जीवन के तत्वों और उनसे सम्बन्धित सत्य व्यक्त करते हैं। उनके संश्लेषण संभव है लेकिन केवल हमारे दृष्टिकोण [illegible] जाते हैं। पश्चिम में विकसित रूप में यह संस्थाओं और लोकतंत्र की परम्पराओं में हमारे [illegible] जीवन इस करने के लिए अधिक नहीं होगा या लेकिन स्टालिन ने मार्क्स द्वारा प्रतिपादित और अभ्यास समाजवाद के लिए तैयार का दिया। सांचों में आदि इस देश के जीवन में अधिक है। इन दोनों विचारों को मिलाने के बजाय भारत में पश्चिमी राजनीति Foisting को हम अपने खुद के राजनीतिक दर्शन को विकसित करना होगा। जबकि यह कर हम पश्चिम में किया सांच से फायदा हो सकता है। लेकिन हमारे [illegible] Unbelmed खत्म होना चाहिए न है और न हो हम इस शाश्वत सत्य पर विचार करना चाहिए।

स्वराज की परिभाषा इन तीन मुख्य बातों में शामिल है। पहले सरकार राष्ट्र का एक हिस्सा है, जो न चंद के हाथों में होना चाहिए। दूसरे विशेष बात सरकार को राष्ट्रीय हित की ओर उन्मुख किया जाना चाहिए अपनी नीतियों मोड्स जो देश के हित में आयोजित किया जाना चाहिए और तीसरी बात एक ऐसी सकल दक्ष की भलाई के लक्ष्य को हासिल करने के लिए अपनी खुद की ताकत होनी चाहिए। दूसरे शब्दों यह में आत्मनिर्भरता के बिना स्वराज के बारे में सोचना गलत है। सरकार नागरिकों के हाथों में है यहां व सरकार दबाव में आती है या कुछ अन्य राष्ट्र के एक अनुचरी बन जाते हैं तो स्वराज अर्थहीन हो [illegible] राज्य अपनी नीतियों के सम्बन्ध में और आत्मनिर्भर रहा के सम्बन्ध में मुक्त नहीं है तो यह देश [illegible] दिन के विरुद्ध कम करने में दबाव डाला जा सकता है। आर्थिक नियोजन के सम्बन्ध में आत्मनिहित

इस तरह के आश्रित राज्य बर्बादी की ओर जाता है।[14]

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Primary Role of Bhakti in Indian Politics in Fight for Freedom

Sanjeev Kumar Sharma

Rammohan not only attempted to reform Hinduism but alsolaid the basis of political thought and liberal movement in India. History as a triumph of memory over the corrupting influence of time was never a part of Hindu outlook, and as a result political thinking of invasion and political theories failed to develop amongst them. The Hindu intellect longed for intuitive insight, not for empirical fact.

The next Brahma leader, Keshab Chandra Sen, conceived the great idea of uniting the Indians under the banner of one faith, and successfully toured India and established centers of Brahma faith, which actually made the task of Surendra Nath Bannerjee easier, when he toured India for popularizing the Congress. It was no longer unusual for a Bengali to address a gathering in the Punjab or Maharashtra, (Incidentally, Keshab has suggested to Dayananda to use Hindi as his medium of preaching.) But he was loyal to the British, and steadfastly refused to have anything to do with even the moderate politics of those days. However, even Kesheb was constrained to declare: "Europeans and natives are both the children of God, and the ties of brotherhood should bind them

private life, Tilak is sometimes said to have introduced Hindu religious revivalist movement in politics. This charge, however, appears to be one of those half-truths which clings to a picturesque personality who thrived on controversy.

There is no doubt that Tilak was a religious man, but so were many if his most of his contemporaries. The real point of difference between Tilak and his political oppo-nents washis 'Assertiveness' that is fixing the goal of Indian politics to driving the British out of the country. Tilak seems to have understood that in this task the support of the masses would be necessary, and a corollary to this was the further postulate that nothing would rouse the Indian masses unless there was a religious or even pseudo-religions call. He made this point clear at a private conference of some Hindu nationalists and Muslim pan-Islamists. "Tilak spoke on the desirability of widespread agitation being car-ried on among the masses, and pointed out that the agitation would not succeed unless it was mixed up with religion. The outcome of the conference were two new movements; one was the revival of the *Kirtan* amongthe Hindu; the other was the Anjuman-i-Khuddam-i-Kaba. At the gatherings of these two, political songs were to be sung with the religious. It was as stressed at the meeting that what appealed to the masses most was a movement ostensibly reli-gious and spiritual."[4] It was due to this desire to enlist mass support in the cause of the nationalist movement that he advocated, four months before his death, that anyone who spent his life in Indian freedom struggle must be treated as a Brahmana to whatever caste he might have been born.[5]

Tilak's philosophy of life is to be found in the *Gitarahasya*, his masterly introduction to the *Gita*; indeed the *Gitarahasya* and Tilak's commentary on the *Gita* is a pro-logue to modern India, There certain cherished concepts held for more than a thousand years have been revised, so that the *Gita* might still maintain its position as the Lord's revelation, yet help the devotees to meet the chal-lenge of an alien civilization.

It is necessary to recall here that Sankara not only preached monism, but also the view that in order to attain ultimate release from the chain of births and deaths, one

should attain knowledge, for which one has to renounce the world and become a sannyasin. Now all the later Acharyas, like Ramanuja, Nimbarka, Madhva, Vallabha and Chaitanya differed from Sankara on monism, but in practice accepted doctrine of renunciation. And it was on this point that Tilak differed with all of them. He ac-cepted Sankara's monism us the only satisfactory doctrine to explain the apparently contradictory statements of the Upanishads, but rejected Sankara's doctrine of renunciation not dogmatically, but as being opposed to the real teach-ings of the *Gita*. Anyone who has read the great Achar-ya's commentary will realize the amount of moral and intellectual courage necessary to undertake the task of prov-ing him wrong on a point on which all his great adversa-ries had tacitly supported him.

Tilak wanted his countrymen to become intensely active, but such activity should neither be that of slaves nor merely imitative, but based on knowledge. He had to base his doctrine on the bed-rock of Hinduism the *Gita*, for that was the sure way of appealing to the Hindus; people might differ from him but would not reject his views without proper consideration. This has left him open to the charge of being a Hindu revivalist and obscurantist. As to the first, there is no doubt that the Hindus in those days stood greatly in need of being revived, and many other eminent Indians had been attempting to do the same since the days of Rammohan. As for the charge of his being an obscu-rantist it can be brought only by those who have no understanding of traditional Indian culture, His ideals were Ganesa, the God of wisdom, destroyer of obstacles, and the bestower of desired ends (*siddhi*), and Shivaji, the man of action; and he wanted to inculcate in his countrymen the combined virtues of his idols.

According to Tilak, *bitakti-marga*, though an important element of the *Gita*, is subordinate to *jnana* and *Karma* which have been described as the only two *nishthas* (*Gita*,III.3).[6]

We need not go into the subtlety of the points raised by his interpretation, but he seems to have been correct in assumption that the pre-Sankara commentaries of the *Gita* preached the doctrine of *jnana-karna-samuchchya*. This was

proved when the Kashmir recension of the *Gita* was published in 1930.

It was Aurobindo who introduced *bhakti* that is a mystic faith dissociated from rationalism, into politics. Like a meteor he shot across the firmament of Indian politics for only five years (1905-10), but within these few years left an indelible stamp on Indian politics.

"Those who have freed nations," Aurobindo wrote in 1908, 'have first passed through the agony of utter renun-ciation before their efforts were crowned with success, and those who aspire to free India will first have to pay the price which the Mother demands...Regeneration is literally rebirth, and rebirth comes not by the intellect, not by the fullness of the purse, not by policy, not by change of machinery, but by getting a new heart, by throwing away all into the fire of sacrifice and being reborn in the Mother."[7]

This is pure *bhakti*; Aurobindo's attempt was to open the floodgate of emotion and inundate the country with nationalistic faith and fervour, as visualized by Bankim in his *Anandamath* and the *Vande-mataram* song. This song, being written in Sanskrit, conceals the obvious anti-religious tenor of its theme, namely, to substitute the country in the place of the deity, unheard of in the Bramanical literature. *Prithvi* was worshipped by the Vedic Aryans, but Bankim's Mother bears no relation to the Vedic *Prthvi*. He was born in a country surcharged with bhakti and sakti worship which dominated his political thinking. Possibly he felt that the salvation of his coun-try needs a resurgence of *sakti* through a political *bhakti* movement, He was writing a novel, so it's secondary political Implications, namely, its Hindu bias, would not appear to him objectionable in the context in which he wrote it, but it must have been apparent to Aurobindo. But it does not seem to have disturbed him in the least. He wrote in the *Bande Mataram*: "What is nationalism? Nationa-lism is not a mere political programme; nationalism is a religion that has come from God; Nationalism is a creed Which you shall have to live...If you are going to be a nationalist, if you are going to assent to this religion of nationalism, you must do it in the religious spirit. You must remember that you are the

instruments of God."[8] In an article intended for the *BandeMataram*, Aurobindo defined his political *bhakti*: "Love has a place in politics but it is the love of one's country, for one's countrymen, for the glory, greatness and happiness or the race, the divine ananda of self-immolation for one's fellows, the ecstasy of relieving their sufferings, the Joy of seeing one's blood flow for country and freedom, the bliss of union in death with the fathers of the race. ... The pride in our past, the pain of our present, the passion for the future is its trunk and branches. Self sacrifice and self forgetfulness, great service, high endurance for the country are its fruit. And the self which keeps it alive is the realization of the Motherhood of God in the country, the vision of the Mother, the perpetual contemplation, adoration and service of the Mother."[9]

If 'Krishna' or 'Kali' is substituted for 'race' and 'country', the passage can probably pass muster as a free English rendering of a *bhakti* hymn. Thu justification for this attitude, apart from Aurobindo's spiritual nature, is to be found in his statement: "All great movements in India have begun with a new spiritual thought and usually a new religious activity.[10] This is undoubtedly correct so far as religious movements are concerned, but it is difficult to find from Indian history, political activities which began with a new spiritual thought, unless one concedes that the Vijayanagara empire founded by Harihara and Bukka was the result of Vidyaranya's neo-Vedantic movement, or that Shivaji's activities were inspired by Ramadasa. Whatever may be the validity of such claims, it does not appear that Aurobindo was anxious to prove the soundness of his theory on an empirical basis but seems to have taken his Stand on intuitive realization. And this was exactly the type of appeal which the Hindus, devoid of historical sense, could appreciate. Tilak's Ganapati and Shivaji festivals were confined to Maharashtra though temporarily it found an echo in distant Bengal; his *Gitarahasya* had a wider appeal, but to Aurobindo's call the Hindus responded from all overIndia, *Ananya-bhakti*, or unswerv-ing devotion henceforth became

the basis of nationalism: not patriotism based on a pride in the past history of this ancient land.

Thus to politicians today *Asoka* represents India. For-gotten are the services or Chandragupta Maurya who drove out the Greeks from Indian soil, of Skandagupta who re-pelled the Huna Invasion, of Harihara and Bukka, of Shivaji, and those who fought to preserve their independence, Maharana Pratap, Maharana Rajasimha, Durgadas Rathor, Santaji Ghorpare or Dhana Singh Jadav.

This was of course not contemplated by Aurobindo, but the Hindus in general, being what they were, prefer-red a spiritual basis fur national struggle to a historical one, though pride in a glorious past was never quite absent from their minds, But this too was based partly upon reading of history, and partly on intuition.

Tilak had brought into existence the Extremist Party in Indian' politics and tried to provide a philosophy for them based on rationalism, for basically Tilak was a realist. But Aurobindo wasan idealist, and it was his idealism which gripped the Imagination of the Extremist Party. In their nationalistic fervour they ignored the difficulties that lay in their way if they really had to match their strength against the might of the British. Their justification would be that politics might be game of achieving the possible, but sometimes the Impossible has to be attempted in order that the possible may, be attained. And so the revolutionaries began to organize themselves.

It is difficult to assess the value of the revolutionary movement in our struggle for Independence. However, the example of a young man cheerfully mounting the gallows had an overpowering effect on the sentiments of his countrymen. Their reaction to the example was an yearning to do something positive, but the Extremists had no means to harness this potential mass upsurge, nor was it included in their programme. For that another leader was to appear. He was Gandhiji.

It is interesting to recall here Aurobindo's 'last politi-cal will and testament,' published in the *Karmayogin* of July 31, 1909 under the title, An*open. letter to my countrymen.* In this

letter Aurobindo prephesied: "All great movements wait for their God-sent leader; the willing channel of His force, and only when he comes move for. ward triumphantly to their fulfillment. The men who have led hitherto have been strong men of high gifts and commanding genius, great enough to be the protagonists of any other movement, but even they were not sufficient to fulfil one which is the chief current of a world-wide revolu-tion. Therefore the Nationalist Party, the custodians of the future, must wait for the man who is to come..."

It may be doubted whether Aurobindo had envisaged Gandhiji, but it is clear that he felt that a new leader was needed. The reason may be that though Tilak and Aurobind shared In common an aversion to Moderate Party politics, they differed in their basic approach to the political problems; Tilak being a realist and Aurobindo an idea list. Gandhiji was both. He accomplished what Tilak had attempted: a mass uprising; and what Aurobindo had envisaged: imposing nationalism as the religion of contemporary India. It iswith the latter aspect that we are concerned here.

Gandhiji was born in a devout Vaishnava family and the form of religion with which he was familiar was pure *bhakti-vada,* which demands complete obedience to the *guru* (preceptor). This is quite different from the leader-ship on the *fuehrer* principle and Gandhiji was quite conscious of it. He neither envisaged nor treated his vast horde of followers as an impersonal conglomeration of human beings meaningful only collectively in a mass; to him each of them had significance as an individual. But he expected each and all of them to obey his command, appropriately called 'Inner voice'.

It is remarkable that a man who had on him all the marks of true humility was never successful in any major political negotiation. This can be explained if historical precedence is any guide for posterity, A political leader can compromise, for compromise is an art which a politician has to master before he can become a leader. A religious loader, however, never compromises, which is one of the main reasons that it is almost impossible to put an end to religious feuds.

When Gandhiji claimed that he represented both the Hindus and the Muslims he genuinely believed it; for, to him, it was a fact. His religion was nationalism, as he understood it, in the ultimate analysis service to humanity, particularly Indians.

Memory is the co-ordination of past experiences and awakening on the plane of consciousness. The bhakti movement through Gandhji's powerful agency acted mys-teriously on the profound philosophic bent, and religious feeling of the Hindus, but failed to convince those who had left the fold of Hinduism. To the Hindus Gandhiji was the centre of gravity, the unifying agent, the true Indian, but to Muslims, Just a Hindu leader.

Incidentally, his non-cooperation movement, which involved the boycott of all the British institutions in India, and his attempt to replace English with Hindi, reminds us of the following verse from the Brihaddharrna-purana (III, 20.15):

Samsargo yavanaschaiva bhasha cha yavana tatha
Suratulyam dvayam proktam yavanannam tato' dhikam

(Association with the yavanas, and the use of their language are (as bad as drinking) wine, (while) *yavana's* food (i.e. food earned by serving a *Yavana* or cooked by a yavana is even worse.) Yavana in this verse means a Muslim, but if interpreted as British, the verse would yield the central idea of non-cooperation, The Hindus were familiar with this negative attitude, but not the Muslims.

One of the main reasons for the great popularity en-joyed by the bhakti movement was that it needed little or no education to be a bhakta. Gandhiji never made any secret of the fact that he "had never been able to make a fetish of literary training."[11] This mild rebuke may have been unpalatable to 'Tagore (to whom it was addressed) and other educated Indians, but ninety percent or the Indians being illiterate, this anti-intellectual bias was sure to earn for Gandhiji great popularity.

Gandhiji had worked amongst the labourers, particularly in Ahmedabad, but he seems to have an intuitive realization

of the fact that the peasants constitute the backbone of India's body politic; the visible symbol of her tenacious will to survive. And the peasant too, whether at Champaran, Bardoll or Noukhali, Hindu or Muslim immediately took him to heart. Had he not put on the join cloth of the Indian peasants? And the fact of Gandhiji's British education would not be known to them, for they could understand nothing of his Impeccable English. They came to have his *darsana*, even at night when the train currying the sleeping Mahatma passed by, for a glimpse of the holy man or even his surroundings takes a bhakta upwards, however little, towards a purer region of bliss.

Unfortunately what Gandhiji lacked was Tilak's scho-larship and Aurobindo's detachment, Like Tilak, Gandhiji wanted to base his doctrine on the authority of the Gita, and here he discovered that the Gita's main message was *anasakti* (non-attachment) which impied non-violence. All, except Gandhiji's faithfuls, agreed that in try-ing to prove his thesis, he was twisting the meanings of certain verses, but Gandhiji remained unperturbed. Ac-tually, there wasa disarming naivete about his attitude towards the *Gita* (and systematic philosophy in general) that silenced many of his would-be critics but not all. How-ever, to his bhaktas, his judgment was infallible. and the *Gita* became the Bible of non-violence, because Gandhiji had said so.

A fatal flaw in Gandhiji's experience was that he had never served as an apprentice. Almost from the day he landed in South Africa he became the acknowledged leader of the Indians there. This was due to his personality, and also because of the common characteristic of all leaders, the will to lead. His success was phenomenal, but except for a few English friends, he was surrounded by Indian businessmen, most of whom were gross materialists, Once Gandhiji's moral superiority was established, it did not need any intellectual effort on his part to convince these people, His relation to these People was more like that of a *guru* and his *sisyas*, than that of a political leader and his party. And the pontifical attitude, which Gandhiji developed in his early youth, remained with him all his life, and always, served as an added

attraction to similar people in India the big and small businessmen, peasants and other uneducated persons who have always depended on their guru for salvation. In return they were prepared to offer some sacrifice: the poor went to the jail, and the rich contributed to his "funds".

Gandhiji has described Gokhale as his political *guru*, andundoubtedly to begin with he was influenced by the latter's approach to politics, But can there be a greater contrast than between Gandhiji, who never thought of join-ing a legislature and Gekhale, the great parliamentarian? This was not only because he disdained to Join a sub ordinate legislature; even when the Constituent Assembly was preparing the constitution of India, Gandhiji hardly took any notice of its proceedings.

The *bhakti-marga* has a dark side. People gather and chant the Lord's name together for some time and feel spiritually elated.; but such mental state is seldom permanent and often them is a degrading reaction. For this reason Swami Vivekananda insisted on *jnana-misra-bhakti,* that is *bhakti* based on knowledge, unfortunately, like the previous bhakti movements, Gandhiji's political *bhakti* movement was not based on rational examination of its fundamental Premises, nor by its very nature was it pos-sible for him to develop the Congress into well-disciplined political party. It was meant to absorb all in its benign embrace. The results could have been foreseen even in Gandhiji's lifetime, but once his personality was removed nothing could prevent the steep decline.

Perhaps this has a moral. The Vedantins envisage three levels of reality; the, *vijavaharika* (the waking state everyday reality), the *Pratibhashika* (dream reality) and the *Paramarthika* (the ultimate reality) and each of these is valid in its-own sphere. The Values of ultimate reality cannot be valid for politics which is concerned with everyday life. This does not mean that ethics and mora-lity do not determine political attitudes, Indeed ethics and morality are a part of *vyavaharika* life for in the ultimate reality of Vedanta there is no scope for ethics or morality. That is why Indian religion sometimes seems to be non-ethical and amoral. To build a

political structure on such a basis is bound to be disastrous in the long run; the leader should take into account the realities of every-day life and act accordingly. But this the Moderates did and failed to rouse the masses. Possibly Gandhiji and his doctrine was historical necessity to rouse the Indian masses from their slumber of centuries. They could be awakened by a familiar call and a familiar person, and Gandhiji like an instrument of destiny performed the function of arous-ing his countrymen and instill in their minds a sense of patriotism with the same value as religion itself.

End Notes

1. Jesus Christ: Europe & Asia, 'Kesab Chander Sea's *Lectures to India,* pp. 21-22.
2. The only thing about the British that Dayananda admired was their patriotism. See *Sources of* Indian Tradition, p. 034-35.
3. For details of this controversy see Ram Gopal *Lokamanya Tilak,* pp. 60-66; D.V. Tahmankar, *Lokamanya Tilak, 45-50*
4. Ram Gopal, op. cit., 393
5. *Kesari,* March 16, 1920, quoted by P. V. Kano, *History of Dharmasastra* V Part-2, pp.1635-636. f.n. 2619.
6. Tiak supports his contention by elaborate arguments and copious quotatins from scriptures. Incidentally, I should like to point out that Tilak did not denounce the doctrine of renunciation but sought to prove that the Gita supports. his doctrine of jnana and karma. Ranade had denounced the doctrine of renunciation to which Vivekananda gave a smashing reply. Vivekananda: The Social Conference Address, Complete works of Swami Vivekananda IV pp. 303-07.
7. Bande Mataram, Weekly edition, April 12, 1908; quoted by Karan Singh, *Prophet of Indian Nationalism,* p. 95.
8. Bande Mataram, weekly edition, April 12, 1908, quoted by Karan Singh, op. cit., p.74
9. Sri Aurobindo; Thu Doctrine of Amine Resistance, pp. 83-84
10. Sri Aurobindo: *the Renaissance in India,* p. 44.
11. See Gandhiji's reply to Tagore, Gandhi: Selected Writings (London, 1951), p. 111.

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Contextual Presence of English in India

Paavan Pandit

English is a West Germanic language that developed in England and South-Eastern Scotland during the Anglo-Saxon era. Because of the military, economic, scientific, political, and cultural influence of the United Kingdom from the 18th century, and of the United States since the mid-20th century, it has become the *lingua franca* in many parts of the world, and the most prominent language in international business and science.

Just a few centuries ago, just five to seven million people on one, relatively small island spoke English, and the language consisted of dialects spoken by monolinguals. Today there are more non-native than native users of English, and English has become the linguistic key used for opening borders: it is a

Article

Context as Pretext: Presidential Discretion in India

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Abstract

Despite being one of the most contested themes of Indian constitutional law, debates on presidential discretion have generally remained inconclusive owing to the fair degree of plausibility of both the contending standpoints on the subject. It is undeniable that Indian parliamentary democratic system has been designed on the model of British parliamentary system in which the crown is absolutely bereft of any discretionary power and has to discharge her duties only on ministerial advice. But at the same time, it is equally true that the circumstantial dynamics of Indian political system is markedly different from the British political system in many respects. Moreover, in interpreting the relevant constitutional provisions and figuring out suitable conventions on presidential powers and functions, the Indian juridical and academic scholarship has not been as inimical to an iota of discretion for the president as has been the British to their crown. Yet, keeping in sync with the spirit of the parliamentary system, the Indian Constitution does not provide any explicit discretionary power to the president. Whatever discretionary power a president may derive is purely circumstantial in nature, and precedents vary widely. The article, therefore, seeks to provide a critical analysis of certain circumstances in which the president in India could exercise powers on his discretion either due to absence of a ministerial advice or, in rarest of the rare cases, to obtain a better outcome than the one coming out of ministerial advice.

Keywords

Cabinet, president, parliament, circumstantial discretion, ministerial advice

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framers' intention to make the President a constitutional ruler, it is somewhat surprising that the position was not stated in specific language so as to put the matter beyond the pale of controversy' (Bombawall, 1966, p. 25) as has been done in many constitutions such as in Ireland and Japan. Anyway, in figuring out the constitutional position on the powers and position of the president, the relevant articles seem to be Articles 53, 74, 75 and 78 given in Chapter 1 of Part V of the Constitution. While Article 53(1) states that 'the Executive power of the Union shall be vested in the President', it hastens to add that these powers are to be exercised by him 'in accordance with the constitution' (Bakshi, 2010, p. 93). The substantive constitutional position in this context is provided in Article 74(1) which states that 'There shall be Council of Ministers...to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.' Though the provisions of this article are sufficiently categorical in establishing the ceremonial position of the president, the 44th constitutional amendment further tightened the loose ends of Article 74(1) by adding the proviso that 'the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration' (*ibid.*, p. 102).

Equally significant stipulation is given under Article 75(2) which states that the council of ministers 'shall be collectively responsible to the House of the People' though Article 75(3) mentions that the ministers 'shall hold office during the pleasure of the President'. Importantly, under Article 78(1), the constitution requires the prime minster to 'communicate to the President all decisions of the Council of Ministers'. Thus, the scheme laid out in the Constitution appears to be a careful fixation of customary and substantive provisions in which though the president is taken as repository of the powers, the real exercise of all such powers are routed through different parts of the government. In a way, therefore, the constitutional provisions regarding the powers and position of the president are in consonance with the modern constitutional axioms as exemplified by the British Constitution. In comparison to the British political system, what make the working of such constitutional scheme slightly problematic are certain peculiarities of the Indian political system such as federalism, elected office of the president, among others. But even these unique features are now, by and large, adapted to the imperatives of the parliamentary system and it is firmly established that president is not more than a ceremonial head of state in the Indian political system.

Contextual Discretion

Notwithstanding the established juridical proposition that president is bound by the advice of the council of ministers in all cases, and thereby does not have any discretion, accepting such a position as axiom of Indian constitutional law is both illogical and untenable in practice. In a way, president may be argued to have some sort of discretion in at least two circumstances. First and the incontrovertible circumstances are those in which the president does not have the opportunity

in the country, it is getting increasingly difficult for any party to secure a majority in the Lok Sabha. In such a situation, there emerges more than one contender for the post of prime minister in which case the president would be duty bound to use his wisdom and prudence, obviously based on material evidences before him, to take a decision for which there would be no advice from the council of ministers. Such a discretionary exercise of powers on the part of the president would be beyond any constitutional fetters and the president would be well within his rights to do so.

Extending the same corollary further, there may arise a situation in which an incumbent prime minister might die or resign from his post without any duly elected successor from his party. In this situation, if there are more than one contender to form the government claiming majority support in the party, the situation comes back to square one and the president gets vested with the discretionary power of choosing the prime minister. Arguably, the constitutional provision that the president would invite the leader of the majority party to form the government presupposes the existence of a majority party in the lower house of parliament. But in the era of multiparty coalition politics, neither the cobbled up majority of a coalition is permanent in the parliament, nor the leader of the majority party. Quite often, the political predilections of parties may change in which case the majority of the coalition as well as the leader of the majority party may change requiring the formation of a new government under a new leader.

Another situation for the exercise of discretionary power by the president may arise in the particular circumstance in which the incumbent prime minister loses majority in the lower house of parliament but instead of resigning she/he recommends for the dissolution of the house. In such situations, a convention has developed in Britain that the crown does not have any choice and have to abide by the advice for the dissolution of the House of Commons (Delzell Chalmers, 1946). But in India, there is neither any constitutional stipulation nor unanimity amongst the constitutional experts as to the options available before the president to act in a particular manner in such situations. As a result, the president again gets vested with some sort of discretionary power to either go in accordance with the advice of the minority prime minister to dissolve the lower house and call for fresh elections or reject his advice and explore avenues to see if an alternative majority government could be formed to last the remaining term of the house.

Presidential power to give assent to the non-money bills passed by the parliament in order to make them law has also been considered a potential area where the president may exercise his discretion to grant or withhold assent to a bill. Article 111 of the constitution provides that on presentation of a bill for his assent, 'the President shall declare either that he assents to the Bill, or that he withholds assent therefrom'. Explaining the rationale of this article, B. N. Rau notes that these provisions 'are intelligible only on the supposition that the functions of the President thereunder are meant to be exercised, at least in some cases, irrespective of ministerial advice' (Rau, 1960, p. 377). Thus, the constitution makers desired that the president need to be the repository of wisdom to provide an opportunity for a second opinion on a given piece of legislation. In case the procedure ordained in Article 111 is followed scrupulously and the bill is pre-

persons and situations did not exist in the country in all the times as a result of which a few presidents did try to assert their authority in real sense of the term to drive home the point that they could exercise their powers in contrary to or independent of the advice tendered by the council of ministers. One such instance was experienced during the presidency of Giani Zail Singh. When his relations with prime minister Rajiv Gandhi did not remain cordial, he asserted his authority by using the hitherto unknown tool of pocket veto to withhold his assent to the Indian Post Office (Amendment) Bill passed by the parliament.

The most happening period for the exercise of circumstantial discretionary power was the presidencies of R. Venkataraman and K. R. Narayanan. The fluid political situation in the country led to the onset of the era of coalition politics in which the phase of single majority party rule as well as the governments lasting their full term seemed to be over. In such circumstances, the presidents were either left with no ministerial advice or advices by the ministries who had lost their majority in the Lok Sabha. As a result, they had to exercise their constitutional powers not with the aid and advice of the council of ministers but on their own discretion. Moreover, the fragile nature of majorities held by the governments in the Lok Sabha did not allow the minsters to be over assertive in tendering advices to the presidents. But the credit must be given to the maturity of the Indian constitutionalism as well as the prudence of the presidents that they did not go beyond the *Lakshman rekha* despite all sorts of allurements and exhortations to them to indulge into petty politics and demean the constitutional sanctity of the ministerial aid and advice.

In sum, working of presidential discretion in India validates the assertion of Bombawall that 'the sanctions to prevent the President from exercising arbitrary authority must be conventional and political rather than legal' (Bombawall, 1966, p. 28). That way, unfolding of the issue of presidential discretion exhibits the gradual maturing of constitutionalism, democratic ethos and political conventions in the country. In an ambience in which one or the other kind of discretionary power for the president has been argued for in the country for a long time, a maverick president would have got ample opportunities to be tempted to use his discretion in a number of issues to disregard the ministerial advice. But the prevalent democratic political discourse and overwhelming public support for the same apparently acted as the bulwark against any misdemeanour of the presidents. Whatever discretionary act on part of any president might have been visible, that must have been the requirements of time, not the sweet will of the president. And, that is what might have been required for smooth and healthy functioning of fledgling constitutional democracies like India.

Conclusion

Despite the most sincere adaptation of the British parliamentary system, the president of India cannot be said to be devoid of certain discretionary powers arising out of circumstances as well as inverse reading of certain provisions of the constitution. As far as circumstantial discretion is concerned, such a situation could be found in almost all the parliamentary democratic political systems

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मनसि वचसि काये पुण्यपीयूषपूर्णा–
स्त्रिभुवनमुपकारश्रेणिभिः प्रीणयन्तः।
परगुणपरमाणून्पर्वतीकृत्य नित्यं
निजहृदि विकसन्तः सन्ति सन्त कियन्तः।।

पी. मदुरई वीरन
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प्राचीन भारत में राजनीतिक न्यायः अवधारणात्मक विश्लेषण

संजीव कुमार शर्मा
चंचल

प्राचीन भारतीय राजव्यवस्था का मूल उद्देश्य न्याय की स्थापना करना है। राजनीतिक न्याय स्वतन्त्रता के आदर्श को महत्व प्रदान करके सामाजिक न्याय के हितों की पूर्ति करता है। प्राचीन चिन्तन में राजनीतिक न्याय से तात्पर्य राजव्यवस्था में व्यक्तियों की भागेदारी की सुनिश्चितता से है जो सभी व्यक्तियों को समान राजनीतिक अधिकार प्रदान करती है प्राचीन भारतीय चिन्तन में राजनीतिक न्याय समानता एवं स्वतन्त्रता पर आधारित है। इसके अन्तर्गत यहीं देखने का प्रयत्न किया जायेगा कि क्या राजनीतिक व्यवस्थाओं में सभी पदों की नियुक्तियों में सभी व्यक्तियों को समान अवसर प्रदान किए जाते थे? क्या वेतन एवं पुरस्कारों के वितरण में न्याय किया जाता था?

प्राचीन भारतीय राजव्यवस्था में राजा का राजनीतिक न्याय से निकटतम सम्बन्ध है क्योंकि वह विधिव्यवस्था एवं समाज में न्याय प्रदान करने का मूल स्त्रोत एवं धर्म का संरक्षक है। प्राचीन चिन्तन में राजा के बिना राज्य का कोई अस्तित्व नहीं है। इसीलिए भीष्म पितामह ने कहा है– **"राजन्येकु सर्वेषु वस्तव्यमिति वैदिकम्"**[1] अर्थात् राजाहीन राज्य में रहना ही नहीं चाहिए। अतएव प्रजा के सम्यक् रक्षा एवं समृद्धि के लिए राजा का होना नितान्त आवश्यक है। इसलिए प्रजा को अपने सुख एवं धर्म, अर्थ काम की सिद्धि के लिए राजपद पर किसी योग्य व्यक्ति को ही नियुक्त करना चाहिए। इस दृष्टि से प्राचीन भारतीय चिन्तन में राजनीतिक न्याय मूल रूप से योग्यता के सिद्धान्त एवं जनसहमति के सिद्धान्त पर आधारित है। सर्वोच्च पद पर आसीन राजा को पद प्राप्त करने के लिए केवल उच्च कुंल में जन्म लेना एवं ज्येष्ठता का अधिकारी होना ही नहीं चाहिए था अपितु उस व्यक्ति में कुछ विशिष्ट योग्यताओं का होना अत्यन्त अनिवार्य था। भीष्म पितामह ने राजा की योग्यता के विशय में 36 गुणों का व्याख्यान किया है। उनके अनुसार राजा को सुप्रज्ञ, शीलसम्पन्न, दान्त, मृदु, धार्मिक, जितेन्द्रिय, सुदर्शन, स्थूललक्ष, सत्यवादी, विक्रान्त शास्त्र आत्मवान, जितक्रोध, त्रयी और शास्त्र का ज्ञाता चतुवर्ग–स्त, संवृतमन्त्र, मृदुदण्डी, प्राज्ञ, शत्रु की दुर्बलता समझने में तत्पर, नय अपनयवित्, क्षिप्रकारी, सुप्रसाद, महामना, क्रियावान, अविसंवादक तथा दृढ़संकल्पी होना चाहिए। इसके अतिरिक्त एक स्थल पर वह कहते है कि वे सब गुण भी राजा में विद्यमान होने चाहिए जो सचिव एवं सेनापति आदि में अपेक्षित है। ऐसा गुणवान राजा ही वांछनीय होता है।[2]

महर्षि मनु ने राजा की योग्यता का वर्णन करते हुए कहा गया है कि राजा को वेदज्ञ, शास्त्रज्ञ एवं विनयशील होना चाहिए, क्योंकि विनय युक्त राजा कभी नष्ट नहीं होता है। अविनय से सम्राट वेन, नहुष, पिजवन के पुत्र सुदा, सुमुख नष्ट हो गये है। विनय के कारण पृथु और मनु ने राज्य, कुबेर ने धन एवं ऐश्वर्य और विश्वामित्र ने क्षत्रिय होकर भी ब्राह्मणत्व को प्राप्त किया था इसके अतिरिक्त राजा को चारो विधाओं आन्वीक्षकी त्रयी, वार्त्ता तथा दण्डनीति को विद्वानों से सीखना चाहिए क्योंकि ये चारों विधाऐं धर्मस्थिति का प्रमुख कारण है। महर्षि मनु ने राजा के जितेन्द्रिय होने पर भी काफी बल दिया है क्योंकि जितेन्द्रिय राज प्रजाओं को वश में रखने के लिए समर्थ होता है।[3] इस प्रकार राजा के गुणों को महत्व प्रदान करके मनु ने राजा की योग्यता को महत्व प्रदान किया है।

आचार्य कौटिल्य ने राजतन्त्र को श्रेष्ठ व्यवस्था स्वीकार करते हुए कहा कि राजा को योग्य, महान सम्पन्न, कर्त्तव्यपरायण तथा परोपकारी होना चाहिए। इसी अधार पर राजा के गुणों एवं

योग्यताओं का वर्णन किया गया है। कौटिल्य के अनुसार राजा को गुणवान एवं शीलवान होना चाहिए। उनकी दृष्टि में केवल वही व्यक्ति राजा होना चाहिए जो राज्य के क्षेत्र का मूल निवासी हो, जो शास्त्रों के निर्देशों का पालन करता हो और कुलीनवंशी हो बलवान हो तथा व्याधियों और व्यसनों से मुक्त हो। कौटिल्य ने राजा के चार प्रकार के गुणों अभिगामिक, प्रज्ञागुण, उत्साह गुण एवं आत्मसम्पन्न गुणों का होना अनिवार्य माना है। अभिगामिक गुणों के अन्तर्गत कौटिल्य ने सौलह प्रकार के गुणों का उल्लेख किया है यथा– राजा को महाकुलीन, देवबुद्धि, धैर्य सम्पन्न, दूरदर्शी, धार्मिक, सत्यवादी सत्यप्रतिज्ञ, कृतज्ञ, उच्चाभिलाषी, अत्यन्त, उत्साही, शीघ्र कार्य को सम्पादित करने वाला, सामन्तों को वश में करने वाला, दुष्बुद्धि, गुणसम्पन्न, परिवार से मंत्री वाला, विनयी एवं शास्त्र बुद्धि वाला होना चाहिए। प्रज्ञागुण के आठ प्रकारों वर्णित का उल्लेख करते हुए कहा कि शास्त्रचर्चा में समर्थ, शास्त्रज्ञान सम्पन्न प्रत्येक बात को ग्रहण कर लेने की क्षमता, अच्छी स्मरण शक्ति, तर्क करने की क्षम्ता, बुरे पक्ष के त्यागने की क्षमता एवं मुणियों की पहचान होनी चाहिए। उत्साह गुण के चार प्रकार शौर्य, अमर्ष क्षिप्रकारिता तथा दक्षता बनाये है। आत्मसम्पन्न गुणों के अन्तर्गत राजा के 27 गुणों से युक्त करके उसे आत्मसम्पन्न राजा की संज्ञा प्रदान की गई है।

आचार्य कौटिल्य ने राजा के संस्थागत एव व्यक्तिगत गुणों का विवरण करते हुए राजा के मर्यादित स्वरूप की भी चर्चा की है। उनके अनुसार प्रजा को ऐसे कुलीन व्यक्ति को राजा बनाना चाहिए। जिसके समक्ष समस्त प्रजाजन उसके व्यक्तिगुण गुणों के कारण नतमस्तक हो जाये। इसी कारण कौटिल्य को राजा की योग्यता में चारित्रिक गुणों का होना अनिवार्य माना है।

आचार्य शुक्र के मत में राजा जिस प्रकार सात्विक, राजस एवं तमसगुण प्रधान तप करता है, वह उसी तप के अनुसार सतगुणी, रजोगुणी एवं तमोगुणी बन जाता है। सात्विक गुण वाला राजा निरन्तर अपने कर्त्तव्य या धर्म के अनुपालन में निरत रहता है, प्रत्येक प्रकार के यज्ञों का अनुष्ठान शत्रुओं का नेता, अत्यन्त उदार क्षमावान, दानवीर, शूरवीर, इन्द्रियों के विषयों की तरफ मन न लगाने वाला, वैराग्य युक्त होता है, ऐसा राजा ही अन्त में मोक्ष प्राप्ति का अधिकार होता है।[4]

इस प्रकार भारतीय राजप्रणेताओं ने राजा के व्यक्तिगत गुणों को विशेष महत्व प्रदान करके एक योग्य व्यक्ति को राजा बनाये जाने का आग्रह किया। इस दृष्टि से योग्यता का सिद्धान्त राजपद की अनिवार्य शर्तें है, जो विभिन्न सन्दर्भों में सभी राजकुमारों के लिए एवं प्रजा के लिए राजनीतिक न्याय की स्थापना करता है। राजनीतिक न्याय समानता के सिद्धान्त का पोषक है इस आधार पर ऐसे सभी व्यक्तियों को शक्ति प्राप्त करने का समान अधिकार है जो कि योग्य है। भारतीय वाङ्मय संस्कृति में स्पष्ट तौर पर कहा गया है कि यदि ज्येष्ठ पुत्र में राजा बनने हेतु वांछनीय योग्यता न हो तो उसके छोटे भाई को राजा बनाना चाहिए। उदाहरणार्थ महाभारत में महाराज धृतराष्ट्र की शारीरिक दुर्बलता अन्धे होने के कारण उन्हें राज्य नहीं मिल पाया था।[5] स्वयं धृतराष्ट्र ने दुर्योधन से कहा कि **'ज्येष्ठः प्रशासितां राज्याद्धीनांग इति भारत'**[6] अर्थात् मेरे अन्धे होने के कारण ही पाण्डु राजा बनाये गए। राजा की योग्यता का अनिवार्य गुण विनम्र स्वभावी होना भी है। यदि राजा का ज्येष्ठ पुत्र अहंकारी हो तो उसे राजा नहीं बनाया जाता था। ययाति के ज्येष्ठ पुत्र यदु थे अभिमानवश यदु ने समस्त क्षत्रियों एवं अपने पिता एवं भाई का अपमान किया था। महाराज ययाति ने क्रुद्ध होकर उन्हें उत्तराधिकार से बेदखल कर दिया था तथा अपने तीन अन्य पुत्रों जिन्होंने यदु का अनुसरण किया था, उनकी जगह अपने सबसे छोटे आज्ञाकारी पुत्र पुरू को राजसिंहासन पर सुशोभित किया था।[7] इस प्रकार एक सर्वगुण सम्पन्न व्यक्ति ही राजा नियुक्त किया जाता था।

महर्षि मनु का राजा दिव्य गुणों पर आधारित है उन गुणों को धारण करना राजा के लिए अनिवार्य है यदि वह उन गुणों को धारण नहीं करता है तो वह प्रजा के राजा होने का अधिकार

खो देता है। मनुस्मृति में कहा गया है कि यदि ज्येष्ठ पुत्र अन्धा या पागल हो तो उनके स्थान पर उसका छोटा भाई राजा होता है।[8] अतएव महर्षि मनु ने राजा की योग्यता को विशेष महत्व प्रदान करके योग्य राजा की नियुक्ति को ही उचित माना है। आचार्य कौटिल्य ने ऐसे ज्येष्ठ पुत्र को राजसिंहासन देने का विरोध किया हैं जो कि दुबुद्धि हो। इसी प्रकार शुक्र ने स्पष्ट शब्दों में कहा है कि यदि ज्येष्ठ पुत्र बधिर, कोठी, गूँगा अन्धा या नपुंसक हो तो उसके स्थान पर उसका छोटा भाई या पुत्र राज्याधिकार को प्राप्त करता है।[9] इस प्रकार वीर वंश में जन्म लेकर और ज्येष्ठता के आधार पर राजा को नियुक्त नहीं किया जाता था वरन् ऐसे व्यक्ति को राज्य का उत्तराधिकारी बनाया जाता था जिसे शास्त्रों का सम्यक ज्ञान हो, शूरवीर सम्बन्धी सभी चारित्रिक गुण एवं राजउद्देश्यों को प्राप्त करने की सक्षमता हो।

भारतीय संस्कृति में पुरूषों को ही राजपद का अधिकारी माना जाता था किन्तु कुछ ऐसे उदाहरण है जिनमें कहा गया है कि स्त्री को राजपद प्रदान किया जा सकता है। महाभारत महाकाव्य में वर्णित है कि विजित देश के सिंहासन पर राजा के भाई, पुत्र या पौत्र को राजगद्दी पर बैठाना चाहिए किन्तु राजकुमार न रहने पर भूतपूर्व राजा की पुत्री का राजपद मिलना चाहिए।[10] इस प्राचीन समय में नारी की राजपद न मिलने का एक कारण नियोग प्रथा भी मानी जा सकती है जिसके अनुसार निःसन्तान राजा अपने राजवंश को स्थिर करने के लिए अपनी स्त्री से दूसरे योग्य पुरूष से नियोग कराकर पुत्रोत्पत्ति करा सकता था। साथ ही यदि उसकी पत्नी वंध्या होती थी तो उसे दूसरी रानी को रखने का अधिकार था। इन्हीं सभी विकल्पों के कारण राजपद की प्राप्ति में कन्या को कम अवसर ही प्राप्त थे। अतएव कहा जा सकता है कि स्त्री को राजपद पाने का अधिकार तो था किन्तु अन्य विकल्पों के प्रावधान के कारण ऐसी स्थिति भी समाज में उत्पन्न नहीं हुई जो राजपद की प्राप्ति में उनके अधिकार सुनिश्चित करे। इसका यह अभिप्राय कदापि नहीं है कि स्त्री को राजनीतिक न्याय प्राप्त नहीं था धर्मशास्त्रों में अनेक उदाहरण ऐसे है जिनमें स्त्रियों ने पुरूषों के समान अपनी चारित्रिक एवं शारीरिक योग्यता का परिचय देते हुए पुरूषों के समान राज–निर्णयों एवं युद्धों में अपने महत्वपूर्ण योगदान से इतिहास को गौरव–गाथाओं से सम्पन्न किया है। भारतीय परम्परा में स्त्री पुरूष की वामांगी है अतएव जो पुरूष का है वह स्वतः ही स्त्री को प्राप्त है। भारतीय परम्परा में स्त्रियों को जितना सम्मानजनक स्थान प्राप्त है इतना किसी चिन्तन में प्राप्त नहीं है।

भारतीय वाङ्मय में राजा की नियुक्ति में समाज की भागेदारी का प्राथमिक महत्व प्रदान किया गया है। राजपद की नियुक्ति में जनसहमति प्रमुख आधार थी जनमत के द्वारा ही राजा की शक्तियाँ निर्धारित एवं नियंत्रित होती थी। राजा एवं प्रजा के मध्य सम्बन्ध सहयोग पर आधारित राजा के पद की नियुक्ति से लेकर उसके सभी कर्त्तव्यों में जनमत की सहमति प्रभावित रूप में देखी जा सकती है। प्रजा को यह अधिकार प्राप्त था कि वह राजा के प्रजा विरूद्ध व्यवहार की निन्दा कर सके। जन सहमति का प्रत्यक्ष उदाहरण राजपद की नियुक्ति में जनता की उपस्थिति एवं सहमति है। महाभारत महाकाव्य में प्रजा ने सर्व सम्मति से ही कुरू को राजा के पद पर आसीन किया था।[11] इसी भाँति जब राजा परीक्षित की मृत्यु हो गयी थी तब जनमेजय को अभिषिक्त करने वाले राज्यजन, मन्त्री एवं पुरोहित थे। महाभारत में एक अन्य प्रसंग यह पुष्टि करता है कि प्रजा न केवल राजा की नियुक्ति में सक्रिय भूमिका निभाती थी वरन आवश्यक रूप से राजा को नियन्त्रित भी किया करती थी।[12] उदाहरणस्वरूप विचित्रवीर्य की मृत्यु के उपरान्त प्रजा भीष्म पितामह को जनपद ग्रहण करने के लिए आग्रह करती है।[13] किन्तु भीष्म पितामह अपनी प्रतिज्ञा से वचनबद्ध होते हैं इसीलिए वे राजपद ग्रहण नहीं करते। इन तरह राजा की नियुक्ति में प्रजा की महत्वपूर्ण भूमिका थी। तथा जनता को राजा के आचरण एवं नीतियों को विरूद्ध प्रतिवाद करने का भी अधिकार प्राप्त था। महाभारत महाकाव्य में महाराज धृतराष्ट्र की प्रजा ने यह कहते

हुए निन्दा की कि वह अपने पुत्र मोह बन्धन में फंसकर पाण्डु के पुत्रों के साथ अन्याय कर रहा है।[14] इसके अतिरिक्त महाराज धृतराष्ट्र की अनुचित नीतियों के विरूद्ध सभाओं में तथा चौराहों पर जनता ने राज्य विरोधी प्रदर्शन किए है।[15] महाराज धृतराष्ट्र का भीष्म पितामह की उपस्थिति में यह कथन कहना कि 'हम पांण्डवों के साथ अन्याय करेंगे तो प्रजा हमें बन्धुबान्धवों सहित मार डालेगी।[16] स्पष्ट करता है कि राज्य के संचालन में प्रजा की सहमति अत्यन्त आवश्यक थी। इसी प्रकार मनुस्मृति में वर्णित है कि यदि राजा कोई अनैतिक एवं धार्मिक कर्म करता था तब उसे प्रजा की आलोचनाओं का सामना करना पड़ता था। मनुस्मृति में धर्मविरूद्ध आचरण करने वाले राजा के विरूद्ध प्रजा को यह अधिकार प्राप्त है कि वह आपसी चर्चाओं के द्वारा राजा के कार्यों की समीक्षा कर सकें। मनुस्मृति में राजा की लोकप्रियता का महत्व दण्डशक्ति के प्रयोग में भी किया है। उनके अनुसार सम्यक दण्ड स्वर्ग प्राप्ति एवं लोकप्रियता की प्राप्ति का साधन है तथा जो राजा दण्ड ईर्ष्या, भेदभाव एवं बदले की भावना से प्रदान करता है, वह राजा अलोकप्रियता को प्राप्त करके शीघ्र ही नष्ट हो जाता है। इस प्रकार इहलौकिक एवं पारलौकिक कल्याण के लिए आवश्यक के की राजा सदैव प्रजाकल्याण को ध्यान में रखकर ही अपने धर्म का अनुपालन करे। आचार्य कौटिल्य की राजव्यवस्था में जनसहमति का महत्वपूर्ण स्थान था। कौटिल्य ने जनसामान्य के यह अधिकार प्रदान किया है कि यदि राजा अपनी शक्तियों का दुरूपयोग करे, तो प्रजा राजा का परित्याग कर दे। कौटिल्य ने स्पष्ट शब्दों में कहा कि राजा असीम शक्तियों का प्रयोगकर्त्ता है किन्तु वह प्रजा को निरंकुशता नहीं थोप सकता है। राजा केवल तभी तक राजसत्ता का अधिकारी है जब तक वह प्रजा के हित में ही कार्य करता है। राजा जब भी प्रजा के हितों के विरूद्ध कार्य करेगा प्रजा राजा के आश्रय को अस्वीकार कर सकती है। आचार्य शुक्र ने भी राजा के कार्यों में जनता की सहमति को अनिवार्य माना है। राजा के द्वारा लोकमत का अनादर करने को न केवल अनुचित माना अपितु इसे एक गम्भीर नैतिक अपराध भी माना है। शुक्र ने राजा को यह परामर्श दिया है कि वह लोकनिन्दा को गम्भीरता पूर्वक ग्रहण करके ऐसा कोई कार्य न करे जिससे प्रजा उद्विग्न हो और उसके कार्यों की निन्दा करें।[17] आचार्य शुक्र ने प्रजा को न केवल राजा के कृत्यों को निन्दित करने का अधिकार प्रदान किया अपितु शासक को पदच्युत करने का अधिकार भी प्रदान किया है। शुक्र के अनुसार प्रजा का कर्त्तव्य हूँ कि वह नीति एवं धर्म के विरूद्ध आचरण करने वाले राजा को सदैव भयभीत रखे।[18] जिससे राजा अपनी शक्तियों का दुरूप्योग न कर पाये।

इस प्रकार सभी राजप्रणेताओं ने राजाभिषेक से लेकर राज्य निष्कासन तक प्रजा की सहमति को स्वीकार किया है। राजा एवं प्रजा के मध्य अटूट सम्बन्ध था राजा के समस्त कर्त्तव्य प्रजा कल्याण पर आधारित थे। प्रजा सुरक्षा एवं न्याय प्राप्त करने के लिए राजा के आदेशों का पालन करती थी। राजा का कर्त्तव्य था कि वह प्रजा को धर्म के प्रति प्रेरित करके अनुचित कार्य करने वाले व्यक्ति को दण्डित करके लोक रक्षण करे। वही यदि राजा प्रजा के विरूद्ध नीतियों का सचरण करता था तब प्रजा विरोध का व्यवहार अपनाती थी। तब राजा को प्रजा के प्रतिवाद का सामना करना पड़ता था। राजा लोकनिन्दा एवं अपकीर्ति के भय से प्रजा के विरूद्ध कार्य करने का प्रयत्न नहीं कर पाता था। इस प्रकार राजव्यवस्था में प्रजा एवं राजा के मध्यम से न्याय की स्थापना होती हैं।

प्राचीन भारतीय राजशास्त्र प्रणेताओं ने राजा की भाँति मन्त्रिपरिषद की अनिवार्यता का प्रतिपादन किया है। महाभारत में कहा गया है कि **'न राज्यमन मात्येन शक्यं शास्तुमपियहं'**[19] अर्थात् बिना मन्त्री की सहायता के राजा तीन दिन भी राज्य का संचालन नहीं कर सकता है। महर्षि मनु के अनुसार साधारण से साधारण कार्य भी कार्य भी व्यक्ति अकेला नहीं कर सकता है तो राजकार्य जो बहुत गुरूतर है वह बिना दूसरों की सहायता से कैसे पूर्ण किया जा सकता है।[20] कौटिल्य के शब्दों में राजतन्त्र–पद सहायकों की मदद से ही सम्भव है, अकेले एक पहिये

से रथ नहीं चल सकता है। शुक्र के मत में राजा कितना भी योग्य और विद्वान क्यों न हो, उसे राजकीय कार्य बिना मन्त्रियों की सहायता से नहीं करने चाहिए। अन्यथा वे कार्य राज्य को विपत्ति में डाल देंगे और राज्य स्वयं ही विनाश की ओर अग्रसरित होगा। इस प्रकार मन्त्रिपरिषद राजकार्यों के लिए अत्यन्त अनिवार्य है क्योंकि राजा के समस्त कार्य मन्त्रणा से ही सम्पन्न किये जाते है।

प्राचीन भारतीय राजव्यवस्था में मन्त्रियों की नियुक्ति किन आधारों पर की जाती थी? एवं क्या सामान्य व्यक्तियों को नियुक्त पदों पर नियुक्त होने का अधिकार प्राप्त था यही सब विषय राजनीतिक न्याय की व्यवस्था को स्पष्ट करते है। प्राचीन भारतीय राजव्यवस्था में मन्त्रियों की नियुक्ति के मुख्य रूप से तीन मापदण्ड योग्यता, जनसहमति और परीक्षा ही थे। साधारण शब्दों में हर प्रत्येक व्यक्ति मन्त्री बनने के योग्य था। जिसमें मंत्री पद हेतु वांछनीय योग्यता थी एवं जिसकी पुष्टि उसकी परीक्षा को उत्तीर्ण करने से होती थी तथा लोकसम्मति के बिना कोई भी व्यक्ति पद प्राप्त करने का अधिकारी नहीं होता था।

राज्य में मन्त्रिपरिषद के सदस्यों की नियुक्ति में चारित्रिक योग्यता के सिद्धान्त को विशेष बल प्रदान किया गया था। महाभारत महाकाव्य में भीष्म पितामह ने मन्त्रियों के आचरण की शुद्धता को स्पष्ट करते हुए युधिष्ठिर से कहा कि शूर, परम, अनुभवी, सन्तुष्ट, महान, उत्साही और ब्राह्मण को ही मन्त्रिपद प्रदान करना चाहिए।[21] मन्त्रियों में देशकाल के अनुसार कार्य पूर्ण करने की योग्यता होनी चाहिए उसको अपने धर्म स्वामी का हितैषी होना चाहिए। आचार्य मनु ने भी मन्त्रिपद हेतु चारित्रिक योग्यता को अनिवार्य शर्त माना है। उनके अनुसार राजा को सभी मन्त्रियों में अधिक ध कर्मा और बुद्धिमान मन्त्री के साथ षाडगुण्य नीति के मन्त्र का निश्चय करना चाहिए।[22] मन्त्री की नियुक्ति के विषय में कहा कि पवित्र, बुद्धिमान, परीक्षित तथा द्रव्य के उपार्जन को जानने वाले व्यक्तियों को ही मन्त्री पद पर नियुक्त करना चाहिए।[23] आचार्य कौटिल्य शासन व्यवस्था के लिए मन्त्री एवं अन्य पदाधिकारियों का होना अनिवार्य माना है। कौटिल्य के राष्ट्रों में अच्छे शासन के लिए न केवल अच्छा शासक अनिवार्य है अपितु अच्छे अमात्य भी आवश्यक थे। अमात्यों की नियुक्ति के विषय में कौटिल्य ने कहा कि विद्या, बुद्धि, साहस, गुण–दोष, देश काल एवं पात्र का विचार करके ही राजा को अमात्य नियुक्त करना चाहिए। कौटिल्य ने अमात्यों के अन्तर्गत आने वाले मन्त्रियों तथा विभिन्न प्रकार के पदाधिकारियों की योग्यता एवं गुणों का विशद् उल्लेख करके यह व्यवस्था की कि जिस व्यक्ति में आधी योग्यता हो उसे मध्य या जिसमें एक चौथाई हो उसे निकृष्ट मन्त्री समझना चाहिए।[24] आचार्य कौटिल्य ने अपनी विद्वता का परिचय देते हुए अमात्यों के गुणों, मनोदशा एवं चरित्र के परीक्षण हेतु अनेक युक्तियों का विवरण प्रस्तुत किया है। मन्त्रियों के लिए सत्यता, ईमानदारी एवं विश्वासपात्रता की जांच को परीक्षाओं के रूप में सम्मिलित किया है।[25]

नियुक्ति की परीक्षा में सफल होने वाले पदाधिकारियों को ही राज्य के महत्वपूर्ण कार्य प्रदान करने चाहिए। कौटिल्य ने नियुक्ति की परीक्षा को उपधा परीक्षा कहा है। उपधा का अर्थ है कि गुप्त तरीके से एवं छल द्वारा किसी के चरित्र की परीक्षा करना। उपधा परीक्षा के चार प्रकार– धर्मोपधा, अर्थोपधा, कामोपधा और भयोपधा हैं। धर्मोपधा परीक्षा में भ्रमिक प्रसंग लेकर चरित्र की परीक्षा की जाती है। अर्थोपधा में आर्थिक प्रलोभन देकर, कामोपधा में स्त्री सहवास का प्रलोभन देकर एवं भयोपधा में राजा किसी मंत्री को अपमानित करता है फिर इसके बाद गुप्तचर के माध्यम से परीक्षा लेता है। इन चारों प्रलोभनों को देकर राजा ऐसे मंत्री का नियुक्त करे जो इन प्रलोभनों से मुक्त रहे। महाभारत में भी उपधा परीक्षा का समर्थन किया गया है। कौटिल्य नियुक्ति से पूर्व एवं पश्चात् परीक्षा को अनिवार्य मानते हैं ताकि पदभ्रष्ट होने वाले पदाधिकारी का नजर रखी जा सके। वही मनु नियुक्ति से पूर्व परीक्षा का समर्थन करते हैं। आचार्य शुक्र भी ऐसी परीक्षा के समर्थक हैं। विद्याध्ययन के पश्चात् ली जाये। शुक्र के शब्दों में परीक्षा में उत्तीर्ण व्यक्ति को उसकी योग्यता एवं क्षमता के अनुसार राज्य कार्य का दायित्व सौंपना चाहिए।

इस प्रकार आचार्य कौटिल्य मन्त्रिपरिषद के गठन में सर्तकता बरतने का परामर्श देते है क्योंकि मन्त्रिपरिषद के सभी सदस्य राज्य संचालन के वास्तविक अंग होते है। श्रेष्ठ एवं गुणी अमात्यों के अभाव में शासन का सुचित संचालन संभव नहीं है क्योंकि राज्य की दूसरी प्रकृति अमात्य है और अमात्यो के अन्तर्गत अनेक मन्त्रियों का उल्लेख किया गया है। आचार्य शुक्र ने मन्त्रिपरिषद की सदस्यता ये चारित्रिक योग्यता को महत्व प्रदान करते हुए कहा कि राजा के मन्त्री गुणवान होने चाहिए। शुक्र के शब्दों में राजा को राज्य के अभ्युदय हेतु कुलीन, गुणी, चरित्रवान, वीर, राजभक्त, मधुरभाषी, हितकर उपदेष्टा, सहिष्णु, सदैव न्यायप्रिय, कुपथगामी, राजा को भी युक्तिपूर्वक सत्पथ पर लाने में समर्थ, शुद्ध चरित्र वाला, द्वेषरहित, काम क्रोध लोभ से रहित तथा आलस्यहीन मनुष्यों को अपने सहायक के रूप में उच्चपद पर नियुक्त करना चाहिए।[26] शुक्र ने मन्त्रियों की आवश्यकता एवं उनकी उपयोगिता का विवरण करते हुए कहा कि युवराज एवं मन्त्रिगण दोनों ये दोनों राजा के दायें–बाये हाथ है। अतएव स्पष्ट है कि राजा के कार्यों को पूर्ण करने में मन्त्रियों की सहयोगी भूमिका है। जिस कारण इनके पद का महत्व विशेष है। इस प्रकार आचार्य शुक्र भी राजव्यवस्था में मन्त्रियों की योग्यता को अनिवार्य मानते है। जो व्यक्ति इन योग्यता को सिद्ध कर देता था वही राज्य के प्रमुख पद को प्राप्त करने का अधिकारी हो जाता था। इस दृष्टि से मन्त्रियों की नियुक्ति में सभी गुणी व्यक्तियों को राजनीतिक न्याय उपलब्ध था तथा मन्त्रियों की नियुक्ति में जनसहमति आवश्यक थी। वही व्यक्ति मन्त्री नियुक्त किया जाता था जो व्यक्ति चारित्रिक गुणों के अतिरिक्त लोकप्रिय था इसीलिए महाभारत के शान्तिपर्व में कहा गया है कि केवल ऐसे व्यक्ति को ही मन्त्रिपद प्रदान करना चाहिए जो प्रजा का विश्वास पात्र हो एवं जिसकी नियुक्ति प्रजा की दृष्टि में उचित समझी जाती हो इस सन्दर्भ ने भीष्म पितामह का कथन है कि मन्त्रिपद उसी व्यक्ति को प्राप्त होना चाहिए जिसे राष्ट्र एवं पुर दोनों के निवासियों का विश्वास प्राप्त हो इसके विपरीत उस व्यक्ति का भी प्रपत्र कभी भी प्रदान नहीं करना चाहिए। जिसमें पुर एवं राष्ट्र के निवासियों का विश्वास हो आचार्य शुक्र ने जनसहमति को महत्व प्रदान करते हुए कहा कि यदि राजा का मन्त्री अन्याय परायण हो जाए तब राजा को तत्काल ही उसे पद से च्युत कर देना चाहिए।[27] अतएव आचार्य शुक्र ने प्रजा सहमति के सिद्धान्त को मन्त्रि परिषद के गठन के लिए अनिवार्य महत्व प्रदान किया है।

प्राचीन भारतीय चिंतन में पदाधिकारियों के वेतन एवं पुरस्कारों के वितरण में आदर्श व्यवस्था थी। राज्य के पदाधिकारियों की नियुक्ति राजा कार्यों के संचालन के लिए की जाती थी। जिस कारण राजा राज्य से प्राप्त होने वाली आय का कुछ अंश राजकर्मचारियों को वेतन स्वरूप प्रदान किया करता था। वेतन व्यवस्था के अन्तर्गत पदाधिकारियों को उनके पद एवं योग्यता के अनुसार ही वेतन प्रदान किया जाता था। आचार्य कौटिल्य ने प्रत्येक पद पर अलग–अलग वेतन पद के दायित्व के आधार पर निर्धारित किया है। प्राचीन भारत में सभी चिंतकों ने राजा को निर्देष दिया कि वह वेतन नियत समय पर दे साथ ही पदाधिकारियों का वेतन इतना तो अवश्य होना चाहिए कि वह अपने परिवार का भरण–पोशण कर सके। प्राचीन समय में भी राज्यकर्मचारियों की योग्यता, कार्यक्षमता एवं राज्यनिश्ठा के आधार पर पदोन्नति प्रणाली को स्वीकार किया गया है। पदोन्नति की व्यवस्था राज्य कर्मचारियों के प्रोत्साहन प्रदान करने के लिए की गई है। पदोन्नति के लिए उपधाओं का वर्णन किया गया है

प्राचीन भारतीय चिंतकों ने आदर्श वेतन की व्यवस्था एवं पदोन्नति के साथ–साथ राज्यकर्मचारियों के लिए सवेतन अवकाष की व्यवस्था की है। राज्यकर्मचारियों के लिए सामाजिक एवं धार्मिक पर्वों पर अवकाष की व्यवस्था की गई है। राज्यकर्मचारी राज्य के महत्वपूर्ण सहायक होते हैं। उनकी योग्यता एवं कार्य की समझ पर ही राज्यकार्य निर्भर रहते हैं इसीलिए राजा राज्यकर्मचारियों के लिए आकस्मिक अवकाष एवं चिकित्सा सेवा की भी व्यवस्था करता है। भारतीय

चिंतकों ने पदाधिकारी की आयु बढ़ जाने पर सेवा निवृत्ति के नियम को स्वीकारा है। कौटिल्य ने भी सेवा निवृत्त कर्मचारियों के लिए पेंषन की भी व्यवस्था की है। राज्यपदाधिकारियों की सेवाकाल में मृत्यु हो जाने पर परिवार को मुआवजा एवं भरण–पोशण का अधिकार प्रदान किया है।

इस प्रकार प्राचीन भारतीय राजप्रणेताओं ने राजनीतिक पदो की नियुक्ति सभी सिद्धान्तों में योग्यता एवं जनसहमति को विशेष महत्व प्रदान करके राजव्यवस्था में राजनीतिक न्याय की स्थापना की है। प्राचीन भारतीय चिन्तन में राजनीतिक न्याय सभी व्यक्तियों को समान नियुक्ति का अधिकार प्रदान करके व्यक्तियों को राजकीय पद प्राप्त करने हेतु योग्यता प्रमाणित करने की स्वतन्त्रता प्रदान करता है। जिसमें राज्य का कल्याण निहित है। अतएव प्राचीन चिन्तन में राजनीतिक न्याय का स्पष्ट क्रमबद्ध एवं व्यवस्थित स्वरूप है जो समानता एवं स्वतन्त्रता पर आधारित न्याय की स्थापना करता है। जिसमें भेद, असमानता एवं अन्याय के लिए कोई स्थान नहीं है। राजनीतिक व्यक्तिगत योग्यता का महत्व प्रदान करके एक श्रेश्ठ राज्य का निर्माण करता है।

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9. शुक्रनीति, 1/346–348
10. महाभारत, शान्तिपर्व, 33/43–45
11. महाभारत, आदिपर्व, 6/40
12. महाभारत, आदिपर्व, 6/40
13. महाभारत, उद्योगपर्व, 145/25–30
14. महाभारत, आरण्यपर्व, 1/12–18
15. महाभारत आदिपर्व, 140/23–29
16. महाभारत आदिपर्व, 130/2–7

17. शुक्रनीति, 1/26

18. शुक्रनीति, 2/274

19. महाभारत, शान्तिपर्व, 83/3

20. मनुस्मृति, 7/55

21. महाभारत, शान्तिपर्व, 83/3

22. मनुस्मृति, 7/58

23. मनुस्मृति, 7/60

24. कौटिल्य अर्थशास्त्र, 1/8

25. कौटिल्य अर्थशास्त्र, 1/10

26. शुक्रनीति, 2/7–9

27. शुक्रनीति, 2/375

[illegible] वर्ष-दशम्, अङ्क: द्वितीय, जुलाई-दिसम्बर, 2018 ISSN-2229-452X

भारत में लोकतंत्र की गहराई

दिप्ती पॉल सरीन

[illegible] के बनने की प्रक्रिया एक तरह से हमारी आजादी के संघर्ष के साथ जुड़ी [illegible] बहुत कुछ ब्रिटिशराज के समय का ही रहा, किंतु वयस्क मताधिकार, सर्वथा [illegible] न्यायपालिका, प्रतिनिधि संसदीय संस्थान और उत्तरदायी कार्यपालिका हमारे [illegible] बन गए। संविधान की रचना का अध्याय भारतीय जनतंत्र का एक गौरवशाली [illegible] संविधान सभा स्वयं वयस्क मताधिकार पर आधारित नहीं थी, किंतु संविधान [illegible] मताधिकार को सभी व्यवस्था के मूल में प्रतिष्ठित करते हुए प्रजातंत्र का एक [illegible] बना दिया।

[illegible] की भूमिका केवल चुनावों में, सरकार बनाने में और सत्ता व सुविधा के मोदक बाँटने [illegible] नहीं हो जाती। सत्ता और सुविधा के मोदक राजनीतिक दलों में बाँटने की परिपाटी के [illegible] लूट-खसोट की राजनीति पनपने लगी है। आज भ्रष्टाचार राजनीति में इस प्रकार आरोपित [illegible] है कि अपराध, भ्रष्टाचार और राजनीति–अन्योन्याश्रित हो चले हैं। आपराधिक पृष्ठभूमि के राजनेता [illegible] भ्रष्टाचार का शासन हमारे लोकतंत्र पर सबसे बड़ा प्रश्नचिन्ह है। भ्रष्टाचार के विषवृक्ष को [illegible] की राजनीति निरंतर सींच रही है। दागी मंत्रियों और सांसदों का प्रश्न राजनीति में [illegible] की खेती की फसल है। भ्रष्टाचार के विषवृक्ष को समूल नष्ट करने के संकल्प, साहस [illegible] नास्तिकता और सूझबूझ का अभाव दृष्टिगोचर होता है हमारी लोकशाही नहीं जुटा पा रही [illegible] चुनावों में अथाह अकूत धन का खर्चा होता है। सांसद और मंत्री अपने सार्वजनिक जीवन को [illegible] दिन की चाँदनी मानकर अगले चुनाव के लिए या शेष जीवन के लिए साधन जुटाना चाहते [illegible] सत्ता और भ्रष्टाचार का संयोग और दांपत्य राजनीतिक दलों और राजनेताओं को अब विचलित [illegible] करते। राजनीतिक दल और उनके नेता भ्रष्टाचार को संस्कृति को जीवन का यथार्थ मानकर [illegible] बाहुबली महारथी सांसदों और मंत्रियों को मनोनीत करने को बाध्य होते हैं कि जो चुनाव [illegible] जीतने की क्षमता रखते हैं और चुनावों में जीतने की क्षमता के लिए जातियों और उपजातियों [illegible] समीकरण चाहिए, बाहुबल चाहिए, अथाह संपदा चाहिए। हमारे लोकतंत्र में आजकल चरित्र [illegible] एक बोझा और सादगी को एक फुहड़पन समझा जाता है। बौद्धिक योग्यता और मूल्यनिष्ठा [illegible] सत प्रतिशत अवमूल्यन हो गया है। संवेदनशील बुद्धिजीवी सार्वजनिक जीवन के हाशिए पर [illegible] तिरस्कृत है और यह सब इसलिए कि मतदाता का पुण्यप्रकोप अभी हमारे समाज [illegible] भ्रष्टाचार पर बिजली की तरह नहीं गिरता। मामले–मुकदमे बरसों तक लटके रहते हैं और [illegible] मर्यादाओं का हनन सरेआम चलता है। चुनाव के खर्चे, राजनीतिक दलों का भ्रष्टाचार, [illegible] राजनेताओं की स्वार्थ जीवनशैली और जनता की निष्क्रिय उदासीनता मिलकर एक ऐसा दुष्चक्र [illegible] बनाते हैं कि इसका सक्षम प्रतिकार और प्रतिवाद करने में लोकशक्ति निहत्थी और बेवश है। जब [illegible] सिविल समाज का नैतिक मनोबल नहीं जागता तब तक छिछली राजनीति का वर्चस्व बना [illegible] यह लगभग निश्चित है

लोकशाही की श्रेष्ठ भूमिका देश के मनोबल को बनाए रखने और बढ़ाने में, देश की एकता को सुपुष्ट करने में है, हमारी नागरिकता में देशप्रेम तथा बंधुत्व को प्राण–प्रतिष्ठा करने में है, किंतु इस कसौटी पर हमारा लोकतंत्र आज खरा नहीं उतरता। यह हमारे लोकतंत्र की विडंबना है कि राजनीतिक दल और राजनेता देश के प्रतिक्षण तिल–तिल बाँट रहे हैं। प्रत्येक उपद्रव के पीछे [illegible] की स्वार्थनीतियों का टकराव स्पष्ट है, हमारा संविधान पहले ही अनुच्छेद में घोषणा

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समय आने पर अपनी शक्ति को बढ़ाना चाहिए और फिर उसकी दानवता का प्रतिकार करना चाहिए।

विग्रह या शत्रु के विरुद्ध युद्ध का निर्माण

जब कोई शत्रु देश हमारे आन्तरिक मामलों में हस्तक्षेप करने लगता है और हमारी आन्तरिक शान्ति को भंग करने का प्रयास करने लगता है, तब उसके विरुद्ध युद्ध की घोषणा करना अनिवार्य हो जाता है। यह तब और भी अधिक आवश्यक हो जाता है जब कोई शत्रु हमारी सीमाओं को तोड़कर हमारी राष्ट्रीय एकता और अखण्डता को चुनौती देता है या हमारे पौरुष और शौर्य की परीक्षा लेने के लिए हमारे समक्ष खड़ा होकर हमें ललकारता है।

यान या युद्ध घोषित किए बिना आक्रमण की तैयारी

शत्रु को अपने प्रति सदा संशय में डाले रखना चाहिए। उसे हमारे राष्ट्र की किसी भी दुर्बलता का ज्ञान नहीं होना चाहिए। मनोवैज्ञानिक दबाव उस पर बना रहना चाहिए। यदि उसके समक्ष हमने अपनी दुर्बलताओं को दिखाने का तनिक सा भी प्रयास किया तो परिणाम वही होगा जो 1962 में चीन ने हमारे साथ किया था। उस समय भारत के प्रधानमंत्री पण्डित जवाहरलाल नेहरू ने चीन की शत्रुतापूर्ण साम्राज्यवादी और विस्तार वादी नीतियों के प्रति असावधानी बरतकर उसे अपनी अहिंसात्मक रक्षा नीति की दुर्बलता बता दी थी। जिसका परिणाम यह हुआ कि चीन ने भारत पर हमला किया और उस समय हमें अपने राष्ट्रीय नेतृत्व द्वारा बरती गई असावधानी का भारी मूल्य चुकाना पड़ा।

आश्रय अर्थात् आत्मरक्षा की दृष्टि से राजा द्वारा अन्य राजा की शरण में जाना

कभी–कभी ऐसा भी होता है कि शत्रु देश हम पर अचानक हमला कर देता है। तब उसे युद्ध के अतिरिक्त अन्य कोई उपाय हमारे पास उपलब्ध नहीं होता। ऐसी स्थिति में एक विकल्प रह जाता है कि उस देश के अतिरिक्त जो देश हमारे मित्र हैं या आक्रमण करने वाले के शत्रु हैं, हमें उनसे सामरिक संधि करनी चाहिए और उनका साथ लेकर ऐसे आक्रमणकारी का सामना करना चाहिए। अपनी राष्ट्रीय एकता और अखण्डता को बचाए और बनाए रखने के लिए ऐसा किया जाना नैतिक रूप से उचित माना जाता है। जैसा कि हम वर्तमान समय में देख रहे हैं, जब चीन अपने सैनिकों को हमारी सीमा पर भेज रहा है और सीमा पर युद्ध की स्थिति प्रबल होती जा रही हैं। ऐसे में भारत की विदेश नीति चाणक्य के इसी सूत्र का लाभ उठाते हुए संसार में अपने मित्रों को खोज रही है। इस समय हम यह भी देख रहे हैं कि भारत के साथ बड़ी संख्या में वैश्विक शक्तियां एकत्र होती जा रही हैं।

इसे चाणक्य नीति की सफलता ही मानना चाहिए कि जितनी बड़ी संख्या में वैश्विक शक्तियां भारत का सामरिक सहयोग करने की तैयारी कर रही हैं, उतने ही अनुपात में चीन हमारी सीमा पर आने में भय अनुभव कर रहा है। पिछले दिनों चीन के द्वारा कुछ सैनिक भारत की सीमाओं पर वापसी के लिए जब गाड़ियों में लादकर भेजे गए तो गाड़ियों में बैठे हुए चीनी सैनिक भारत के इस कारण रो रहे थे। क्योंकि उन्हें यह आभास हो रहा था कि आज का भारत 1962 का भारत नहीं है . आज के भारत के साथ वैश्विक शक्तियां जुड़ती जा रही हैं और यदि इस बार

युद्ध हुआ तो चीन को युद्ध का भारी मूल्य चुकाना पड सकता है। यही कारण है कि चीन के सैनिकों को ऐसा आभास हो रहा है कि हम संभवतरू इस युद्ध में मारे जाएंगे।

द्वैधीभाव अर्थात् एक राजा से शान्ति की संधि करके अन्य के साथ युद्ध करने की नीति

इस नीति को हग भारत रूस संबंधों के माध्यम से समझ सकते हैं । भारत के प्रति रूस का मित्रता पूर्ण दृष्टिकोण सारा संसार जानता है। भारत रूस की सामरिक संधि के चलते भारत को कभी भी रूप से किसी प्रकार का खतरा नहीं रहा है। रूस ने अपनी मित्रता को न केवल भारत रूस के द्वीपक्षीय सम्बन्धों के विषय में निभाया है, बल्कि उसने संयुक्त राष्ट्र जैसे वैश्विक मंचों पर भी भारत का साथ देकर अपनी सच्ची मित्रता का प्रमाण प्रस्तुत किया है। भारत ने रूस से सामरिक संधि करके भारत ने चीन को यह संदेश दिया है कि वह अपनी क्षेत्रीय अखण्डता को बनाए रखने के लिए उस से युद्ध करने को तैयार है। भारत रूस की मित्रता और सामरिक संधि को समझकर चीन भी भारत पर हमला करने से पहले 10 बार सोचेगा। भारत इस समय चीन से युद्ध करने के लिए तैयार है, क्योंकि वह जानता है कि चीन इस समय अंतरराष्ट्रीय मंचों पर अपने आपको अकेला अनुभव कर रहा है।

भारत चाणक्य नीति के इसी सूत्र को अपनाकर वैश्विक शक्तियों के साथ सामंजस्य स्थापित कर चीन से 1962 का बदला लेने के लिए तैयार है । यद्यपि अंतर्राष्ट्रीय शान्ति को बनाए रखने के अपने महान दायित्व का निर्वाह करने के दृष्टिगत भारत अभी भी इसी प्रतीक्षा में है कि चीन ही युद्ध का आरम्भ करे तो अच्छा रहेगा।

दुर्बल देशों के राजनीतिज्ञों को चाहिए कि वे अपने पड़ोसी सबल देश से किसी भी प्रकार मित्रतापूर्ण सम्बन्ध बनाए रखें। यदि छोटे देश या छोटे राजा अपने पड़ोसी सबल राष्ट्र को तोड़ने की या उसे किसी भी प्रकार से आहत करने की चेष्टा में सम्मिलित होंगे या ऐसे शड़यंत्र को हवा देंगे तो निश्चय ही उनका अपना अस्तित्व मिट जाएगा। वर्तमान सन्दर्भ में हम नेपाल को देख सकते हैं। नेपाल हमारा बहुत पुराना पड़ोसी देश है, परन्तु वर्तमान में वह चीन के हाथों खेल रहा है। अब चीन जैसे पड़ोसी और साम्राज्यवादी देश के हाथों में खेलकर वह अपनी स्वयं की ही हानि कर रहा है।

हमारी एकता और अखण्डता को छिन्न–भिन्न करने की योजना में सम्मिलित है तो ऐसे उत्पाती पड़ोसी शत्रु देश पर हमला करके उसे दण्डित करना सबल राष्ट्र का कार्य है। ऐसे पड़ोसी शत्रु देश के प्रति सबल राष्ट्र को भेद के माध्याम से भी उचित मार्ग पर लाने का अधिकार है। इसका अभिप्राय है कि यदि आज महामति चाणक्य होते तो वे पाकिस्तान जैसे पड़ोसी देश को युद्ध के माध्यम से दंडित करने की नीति अपनाते। क्योंकि पाकिस्तान भारत की एकता और अखण्डता के लिए पहले दिन से एक खतरा बना हुआ है। वह नित्य प्रति ऐसे शड़यंत्र में लगा रहता है जिससे भारत की एकता और अखण्डता नष्ट हो जाए। इसके उपरान्त भी भारत का नेतृत्व पाकिस्तान को 'छोटा भाई' कहकर क्षमा करने की आत्मघाती नीति का पालन करता रहा है। चाणक्य के रहते ऐसी नीति को प्राथमिकता न देकर शत्रु पाकिस्तान को दण्ड और भेद के माध्यम से सही मार्ग पर लाने का प्रबंध किया जाता।

विदेश नीति को सफल बनाने के लिए गुप्तचर व्यवस्था का शक्तिशाली होना भी बहुत आवश्यक है। इस संबंध में कौटिल्य का विचार है कि कौटिल्य ने गुप्तचरों के प्रकारों व कार्यों का विस्तार से वर्णन किया है। गुप्तचर विद्यार्थी गृहपति, तपस्वी, व्यापारी तथा विष–कन्याओं के रूप में हो सकते थे। राजदूत भी गुप्तचर की भूमिका निभाते थे। इनका कार्य देश–विदेश की गुप्त सूचनाएँ राजा तक पहुँचाना होता था। ये जनमत की स्थिति का आंकलन करने, विद्रोहियों पर नियंत्रण रखने तथा शत्रु राज्य को नष्ट करने में योगदान देते थे। कौटिल्य ने गुप्तचरों को राजा द्वारा धन व मान देकर सन्तुष्ट रखने का सुझाव दिया है।

योगक्षेम· भारतीय विदेश नीति का लक्ष्य

कौटिल्य के मुताबिक विदेश नीति का मापदंड ये है कि, क्या उससे किसी राज्यसत्ता को गर्त में जाने, यथास्थिति और विकास के रास्ते पर आगे बढ़ने से जुड़े चक्र में ऊपर उठने में मदद मिलती है. विदेश नीति का लक्ष्य भौगोलिक सीमाओं की सुरक्षा के साथ–साथ आर्थिक समृद्धि प्रदान करना भी है. ये दोनों एक दूसरे को बल प्रदान करते हैं. लिहाज़ा भारतीय विदेश नीति के उद्देश्यों की प्राप्ति में पाकिस्तान और चीन की संभावित भूमिका के हिसाब से ही उनके प्रति भारत का रवैया परिभाषित होना चाहिए.

इससे भारत के राष्ट्रीय हितों में स्पष्टता लाने में आसानी होगी. इसके साथ ही वैश्विक स्वभाव वाली और आपस में जुड़ी विश्व व्यवस्था में भारतीय विदेश नीति के घोषित लक्ष्य योगक्षेम (सुरक्षा और कल्याण) को परिभाषित करने में भी मदद मिलेगी. शांगरी–ला डायलॉग में अपने मुख्य संबोधन में प्रधानमंत्री नरेंद्र मोदी ने भारत की भावी आर्थिक संभावनाओं को न सिर्फ़ देश की अर्थव्यस्था के आकार बल्कि वैश्विक मसलों में भारत के जुड़ाव की गहराई से भी जोड़ा, किसी ख़ास इलाक़े मे स्थित राज्य–सत्ताओं का भविष्य आपस में जुड़ा होता है. ऐसे में इनके लिए आपसी टकराव की जगह सहयोग का संबंध बनाना ज़्यादा समझदारी भरा होता है आधुनिक समय में मंडला की राजसत्ताएं "आपस में जुड़ाव वाले हो गए हैं. ऐसे में वो किसी एक राजनीतिक इकाई में राजकीय कर्तव्यों को दूसरी राजसत्ता के लोगों की खुशियों के साथ जोड देते हैं." भारत नियम–आधारित विश्व व्यवस्था को बढ़ावा देने का पक्षधर है, ऐसी कल्पनाशीलता सुरक्षा और समृद्धि के दोहरे मकसद को लक्ष्य बनाती है।

भारत की सामरिक और रणनीतिक गणनाओं को इसी संदर्भ में देखे जाने की ज़रूरत है. चीन एक स्थापित क्षेत्रीय महाशक्ति है, विश्व की आर्थिक व्यवस्था में उसका दर्जा काफ़ी ऊंचा है. भारतीय रणनीतियों में उसकी अहमियत अस्थिरता भरे पाकिस्तान के मुक़ाबले कहीं ज़्यादा है. वैश्विक मंच पर भारत अपने लिए महाशक्ति वाली भूमिका तलाश रहा है. ऐसे में कम से कम थोड़े समय के लिए ही सही, मगर चीन का रोल भारत के लिए बेहद अहम है. हालांकि, भारत की आर्थिक समृद्धि के लिए एक स्थिर और शांत पड़ोस बेहद ज़रूरी है, ऐसे में पाकिस्तान के साथ रिश्तों पर भी ध्यान दिए जाने की ज़रूरत है, भारत के नज़रिए से देखें तो एक निष्क्रिय पाकिस्तान ही पर्याप्त है जबकि चीन के साथ सकारात्मक और उत्पादकता से भरा संबंध वक्त की मांग और बेहद ज़रूरी है, चीन दुनिया की दूसरी सबसे बडी अर्थव्यवस्था है, ऐसे में वो एक

ऐसा किरदार है जिसे नज़रअंदाज़ नहीं किया जा सकता, जबकि इस पायदान में पाकिस्तान का स्थान 44वां है।

अध्ययन के उद्देश्य

1. कौटिल्य और भारत की विदेश नीति के अध्ययन के लिए
2. आचार्य चाणक्य की छः सूत्रीय विदेश नीति और मोदी सरकार के अध्ययन के लिए

अनुसंधान क्रियाविधि

द्वितीयक स्रोत

माध्यमिक डेटा कई संसाधनों से एकत्र किया जाता है जैसे विभिन्न पुस्तकालयों, पुस्तकों, शोध पत्रिकाओं, इंटरनेट, पत्रिका, और समाचार पत्रों में साहित्यिक कॉलम, आधिकारिक वेबसाइट

निष्कर्ष

मोदी के उदय ने भारत के अधिक आत्मविश्वास को दर्शाया है। विदेश सचिव एस जयशंकर ने जोर देकर कहा, इसकी विदेश नीति का आयाम केवल एक संतुलन शक्ति के बजाय एक प्रमुख शक्ति बनने की आकांक्षा है।यह विजिगिशु (जो जीत की इच्छा रखता है) होने के करीब है, जैसा कि अर्थशास्त्र में चित्रित किया गया है। एक प्रमुख शक्ति बनने की महत्वाकांक्षा कौटिल्य की अवधारणा के चक्रवर्ती (आदर्श, सार्वभौमिक नेता) होने के आवेग को दर्शाती है।

ऐसा लगता है कि मोदी और उनके सलाहकारों ने अर्थशास्त्र के मूल संदेश को आत्मसात कर लिया हैरू शासक को शक्ति का ज्ञानपूर्वक उपयोग करना चाहिए क्योंकि ज्ञान शक्ति और धन से अधिक मूल्यवान है।

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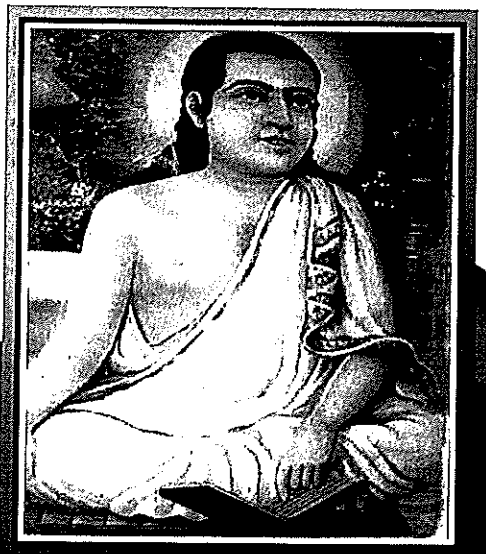

ऐश्वर्यस्य विभूषणं सुजनता शौर्यस्य वाक्संयमो
ज्ञानस्योपशमः श्रुतुस्य विनयो वित्तस्य पात्रे व्ययः।
अक्रोधस्तपसः क्षमा प्रभवितुर्धर्मस्य निर्व्याजता
सर्वेषामपि सर्वकारणमिदं शीलं परं भूषणम्।।

The Quarterly Journal of Indian Political Science Association

d Approach

rinciples are often related to a variety
, and perceptions. And, one should be
d with them For instance, before ana-
epts and ideas contained in the works
Mahabharta's, ShantiParva, Plato, Ar-
Machiavelli, Bentham, Ruskin, Marx,
should be fairly conversant with their
osophical. moral, political and social
assumptions and perceptions. For, a
ses his ideas and evolves his system
to particular context and if the analy-
ciently familiar with the philosophical,
l or social context of the thinker con-
uld not able to have a fair evaluation.
for analyzing the tradition of the 'spir-
politics' which Gokhale handed down
ould be essential to be familiar with the
tion of '*Dharma*' and the politics based
nental principles of morality and ethics,
re or less common to all religions.

it may here be observed that no particu-
is comprehensive enough to study any
litical thought. Infact a number of ap-
e to be applied and there has to be some
esis between these approaches and their
as basically all these approaches are com-
o one another

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INTEGRAL HUMANISM OF DEEN DAYAL UPADHYAYA AND ITS CONTEMPORARY RELEVANCE

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Integral Humanism of Pandit Deen Dayal Upadhyaya is a name given to the philosophical ideas propounded by the *Jan Sangh* leader in early 1960s. Ideological contours of integral humanism have emanated from the ancient Indian tradition and cultural ethos. Philosophical moorings of integral humanism were shaped by the essential foundations of Indian society and *Dharma.* Upadhyaya has succinctly demolished the social and political philosophies of capitalism as well as communism, by underlining their inherent disdain for humanitarian aspects of individual life and their inappropriate emphasis on financial dimension. Therefore, integral humanism essentially believes in a synergy of individual and society and the universe and the ultimate authority of the Supreme. Every nation, according to Upadhyaya has its own cultural and societal central idea which has been termed as *Chiti* and every society has some peculiarities which could be identified as *Virat.* Every individual has different roles carved out and various dimensions of activities. Integrating these varying aspects of human life into a continuous interaction with each other is the essence of integral humanism. We propose to delineate the scattered ideological attributes of integral humanism through this paper and also to explore the contemporary relevance of this philosophy with an overall perspective of finding solutions to present day political crises.

Pandit Deen Dayal Upadhyaya is one of the most influential Indian political thinkers of modern times He is perhaps the only Indian philosopher of modern times, after Mahatma Gandhi, who acquired all the tenets of his thinking from vast Indian culture and enormous sources of ancient Indian knowledge tradition itself. His exceptional understanding of both capitalism and communism facilitated him with enormous rational background to reject both of these ideologies and plead for an all encompassing Indian alternative of Integral Humanism, the idea which hitherto remained neglected. He proposed idea based on ancient roots oriented towards facing contemporary challenges with an eye on future possibilities. This is why articulation of his writings has substantial relevance to provide Indian vision of political thinking and proposing global alternatives.

Pandit Deen Dayal Upadhyaya was born on Monday, September 25, 1916 (*Ashwin Krishna Trayodashi Samvat* 1973)[1] in the holy region of Brij in the Village of Nagla, Chandraban in Mathura District of Uttar Pradesh.[2] Born in Sanatan faith, his father Bhagwati Prasad was assistant station master at Jalesar and his mother Rampyari was a religious lady. Deen Dayal lost his father at the tender age of three and mother when he was barely seven. He was shifted to his maternal grandfather, Chuni Lal Shukla who worked as station master at Dhankia, Rajasthan His maternal grandfather passed away when he was ten years old and later his younger brother Shivdayal also passed away due to grave illness and consequently his maternal grandmother also passed away.

Life of Pandit Deen Dayal Upadhayaya has been grueling and unfortunately difficult but in spite of his troubling personal life, he did exceedingly well academically. He stood first class first in his tenth Ajmer Board, securing a distinction in every subject for which he was awarded gold medal and scholarship by Maharaja Kalyan Singh of Sikar[3] For pursuing

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intermediate he went to Pilani and yet again won a gold medal and scholarship by Ghanshyam Das Birla. For his higher education Deen Daya. went to Kanpur and joined Sanatan Dharm College for pursuing Bachelor degree in English Literature. In 1937, he joined R.S.S., where he came in contact with Dr. Hedgewar and gradually started devoting time to the activities of the organisation. After passing graduation with first class he went to St. John's College, Agra for pursuing his post graduation, he successfully took the Administrative Service Examination, where during the selection interview he was ridiculed for wearing dhoti, kurta and cap. This was the first instance of him being called panditji[4], although in the later days of his life it was used with immense affection by his followers. The death of his cousin Ramo Devi sent him into despair and subsequently he left Master's degree unfinished, despite securing first class results in the first year. In the year 1941, he moved to prayag to pursue B.T. course.

Being under extreme suffering and deprived conditions that could cow down any ordinary individual, Deen Dayal drew strength from negative forces and hardships bestowed upon him by nature and developed a unique personality to rise above his circumstances. After declining the administrative post, he was even offered headmastership of a higher secondary school.

The reason for his declining the entire career opportunities lead us to believe in his obvious attachments to the purpose of R.S.S. Deen Dayal wrote, "I was at first thinking of taking up a job in some school and also attending to the *sangh* work of the place simultaneously. But in Lucknow, I was able to study the current situation and to form an idea of the vast field of work ahead, and I got the advice that instead of working in one particular town, I would have to work in a whole district. That is how the paucity of available workers in the dormant *Hindu Samaj* has to be made up."[5] Deen Dayal was concomitantly disturbed by the conditions that prevailed, wherein our society has become weak, devoid of power and steeped into arms of selfishness, people being engrossed in individual interest. Deen Dayal remarked, "Today begging bowl in hand, *Samaj* is seeking alms from us. If we continue to be indifferent to its demands a day may come when we may, have to part with a great deal that we most dearly love."[6] He dedicated his entire life for the aim and mission of the organisation and to organise the society on the ideas and principles of R.S.S. Shanti Bhushan writes, "Deen Dayal always wanted to dedicate his life to the country, because he believed that service of the country was not possible after taking up a government job while the country was in bondage. So he dedicated his life to the service of the country, and for this he chose the medium of the R.S.S."[7] In 1940, the founder of R.S.S. Dr. Hedgewar died and Muslim League was intensely demanding a separate Muslim state. Deen Dayal opposed the partition demands and worked to combat Muslim fundamentalism and also to integrate the Hindu society[8]. From 1942 onward, he dedicated himself to full time work in R.S.S., attended forty day summer vacation R.S.S. camp at Nagpur and hence, became a lifelong *pracharak* after successfully finishing two year training in the R.S.S. education wing. He was regarded as an ideal *swayamsevak* essentially because his discourse reflected the pure thought-current of the Sangh.[9] He earned reputation and acclaim because of his hard work, dedication, sheer grit, capacity, sincerity, organisational skills, loyalty and commitment. Nanaji Deshmukh writes, "Deen Dayal was gifted with a many-faceted personality. He was an extraordinary successful organiser and had the knack for keeping people together. His role in the growth and development of the R.S.S. in Uttar Pradesh was very significant."[10]

Deen Dayal steered and geared up the organisational work by professing the ideas of R.S.S. and by exhibiting academic talent through various journals. For spreading the ideology of *Hindutva* nationalism in 1945, he established *Rashtra Dharma Prakashan* in Lucknow, from where he launched a monthly magazine *Rashtra Dharma* and in 1948, a weekly *Panchjanya* and in 1949, a daily *Swadesh* (now replaced by *Tarun Bharat*) was also published from Lucknow.[11] In 1946 and 1947, he wrote two books, namely *Samrat Chandragupta* and *Jagat Guru Sankracharya*. Later, he expressed his ideas in philosophical essays and a number of speeches. [12]

Deen Dayal's indomitable ideas are contained in the books and literary works like, Integral Humanism, *Rashtra Jeevan Ki Disha, Rashtra Jeevan Ki Samasyayen, Bhartiya Arthaniti aur Vikas ki Disha, Hindu Sanskriti Ki Visheshta, Akhand Bharat aur Muslim Samasya, Rashtriya Chintan*, The Two Plans: Promises, Performances, Prospects, Political Diary, Devaluation: A Great Fall, His Presidential Address, etc. Dr. Shyama Prasad Mukherjee realised the necessity of forming an alternative to the Congress on all India basis while R.S.S. too felt a need to from political party to protect its interest. Dr. Shyama Prasad Mukherjee resigned from Nehru cabinet in 1950 opposing Nehru- Liaquat Ali Agreement[13] terming it as unilateral surrender of Indian interests to Pakistan. In September 1951, Dr. Shyama Prasad Mukherjee and Deen Dayal Upadhyaya launched the B.J.S. in Lucknow, Uttar Pradesh. On 21st October, 195. All India Convention was held in Delhi to launch *Jan Sangh* where Dr. S.P. Mukherjee was elected as the founder President and Deen Dayal was the General Secretary. First National Conference of the B.J.S was held on 29-31 December, 1952 in Kanpur.[14]

Nevertheless, at the insistence of M.S. Golwalkar, Deen Dayal joined the Bhartiya Jana Sangh. M.S. Golwalkar had remarked, "Deen Dayal had not the slightest inclination towards politics."[15] Vasant Nargolkar writes, "It seems that those who wanted to protect the Hindu interests and promote the Hindu culture exclusively, began to feel the need for a political front to propagate their views through elections and representation in the legislature."[16] R. Balashankar writes, "Deen Dayal Upadhyaya is to the B.J.P. what Mohandas Karamchand Gandhi was to Congress."[17] The acumen and highly meticulous attitude exhibited by Deen Dayal deeply moved Dr. Mukherjee and elicited his famous remarks, 'If I had two Deen Dayals, I could transform the political face of India.' Deen Dayal contested 1963 by elections from Jaunpur Parliamentary Constituency unsuccessfully. [18] He also visited the United States, United Kingdom and some European and African countries[19] where he addressed annual functions of R.S.S.

In August 1964, he released a significant document Integral Humanism which later became the basis of B.J.S. Programme.[20] This was adopted in Vijayawada meeting of *Akhil Bhartiya Pratinidhi Sabha* of B.J.S. on 23-25 January, 1965.[21] The various tenets of Integral Humanism were contained in four lectures delivered by him in Mumbai from 22-25 April, 1965.[22] He remained General Secretary of B.J.S. for fifteen years (1953-67). In the Calicut session of B.J.S. held in December 29-31, 1967, he was elevated to the position of President[23] after the death of Dr. Mukherjee. He remained President of B.J.S. only for forty three days. His untiring efforts made BJS a strong political force to be reckoned with while effectively building up and strengthening the network of *Jan Sangh* throughout India. He was found dead on railway tracks of Mughal Sarai on 11 February, 1968. Mystery of his death still remains unsolved. Sunder Singh Bhandari said, "It was his tremendous dedication and inexhaustible capacity for contact with the people that wove a country wide organisational network for the Jan Sangh.[24]

Deen Dayal believed in converting the ideas into a reality, he said, 'We do have before our eyes a vision of a great future for this country; we are not mere visionaries but are *Karamyogis*, resolved to translate our vision into reality"[25] In a commentary, Satyavrata Singh writes, "It is true that Deen Dayal never received from the people and the press the same attention as the known leaders of other political parties did both before and after independence."[26]

Despite the fact that significant contributions have been made by Deen Dayal Upadhyaya, very little academic discourse is available on his philosophical and ideological orientations and analysis of political accomplishments. In this light, it becomes pertinent to examine and analyse the ideas and life of Deen Dayal Upadhdyaya.[27]

It is heartening to note that the India national movement produced a large number of dedicated people, who gleefully sacrificed their life for the attainment of independence. The national movement simultaneously used a series of thinkers and scholars who concentrated on understanding and analysing broader societal issues and questions of modern Indian having social, economic, political and cultural

dimensions. This is essentially what led to multi-dimensional trajectory of the struggle for freedom, culminating into various streams of social reformers, spiritual development, nation building, academic excellence, legal advancement and so on. This is not a co-incidence that the common available platform to address various issues of socio-political life in pre-independent India got converted itself into a political party, contesting elections to achieve power. This political party, like others, in compulsion of retaining political power and to stabilise its power and following, made itself inclined to one particular stream of thinking which somehow led to being intolerant towards other viewpoints prevailing in post independent India. It is also interesting to note that any differing idea with the ruling elite was usually termed as fascist, fundamentalist or retrograde. Social scientists in India also could not muster sufficient courage to look at any point of view which did not follow in line of the contemporary ruling elite. Assigning the infamous adjective of fascist to the political ideologies not in consonance with the ruling political ideology has become a political fashion in our country since independence and the natural corollary of all this has been the one-sided and blatantly partial nature and profile of academic manifestations of socio-political thinking in India. Therefore, the movement of the idea of integral humanism of Deen Dayal Upadhyaya from the party offices and meetings to the academic discourse is a significant phenomenon.

Thinking of Deen Dayal Upadhyaya essentially fills the gap of integrated and multi-dimensional attempts to visualise the future India in post-independent scenario. His philosophy of integral humanism presents before us a well organised and well thought of body of philosophy which is inspired by universal values of perennial tradition of Indian thinking. Deen Dayal Upadhyaya makes earnest attempts to synchronise the all time cultural and ethical tradition of spirituality, morality and acceptability of diverse ideas with modern instruments of democracy. He also tries to present before us the fundamentality of dialogue, discussion, debate and discourse in a contemporary shape with traditional foundations.

Indian tradition always believes in the centrality of assimilation of varying ideas and streams of thinking. Therefore, the differing idea cannot be termed as anti. A thesis does not necessarily require an anti-thesis, a synthesis does not entail upon the existence of anti-thesis. This means that any idea which may appear opposite to one idea is not the idea of the enemy, differing ideas are not necessarily inimical rather opposite ideas having a discourse may lead to a conclusive idea which emerges out of thorough discussion and debate. Therefore, diversity of ideas is not at all a problem rather it is our strength. This diversity gets reflected in all kinds of human life in Indian society for more than five thousand years. This diversity has been recognised, appreciated and acknowledged in almost all the treatises of ancient India. Rigveda underlines and highlights the diversity of religious beliefs, languages and cultural inclinations with an added emphasis on their peaceful co-existence and concomitant assimilation. The hymn in Rigveda says:

नाना धर्माणं बहु विवाचसम्

जनं विभ्रति पृथिवी यथौकसम्।।

This assimilation of diverse viewpoints is integral to Indian ways of thinking. Additionally, it has to be acknowledged that all attempts of human beings are aimed at ultimate pleasure and welfare of humans. In this way, integrity between individual, society, universe and the Supreme is the fundamental basis of the philosophy of integral humanism which Pandit Deen Dayal Upadhyaya has propounded through his lectures and writings.

Pandit Deen Dayal Upadhyaya contributed immensely to the political dimension of the nation. According to him, a nation needs four things: one, land and people, which together constitute to form a unit called country; secondly, a common collective will is necessary that contains the desire of all: thirdly, a well knit and defined system, constituting a set of principles or a constitution for which the concept of *Dharma* is invoked in India from ancient traditions; and fourthly, ideals of life. Just as a man is comprised of body, mind, intellect and a soul and in the scenario

of absence of any of them we may fall short of being a human in true sense. Likewise, all these four elements combined comprise of a nation and absence of any may not be termed as a nation.[28] He made a whole set of distinction between a country and a nation, while they may appear to be synonymous yet the two differ to a large extent. He also draws an analogy between individual and a nation and what steps should be taken by us individuals to reach ideals of life. Country on one hand is a visible entity but the nation on the other hand is a subtle and unseen reality.

A nation is formed "when a group of people lives with a goal, an ideal, a mission, and looks upon a particular piece of land as motherland, the group constitutes a nation. If either of the two- an ideal and a motherland is not there, then there is no nation." Hence, the name, *Bharat* makes one think of only a territory, but the appellation, '*Bharat Mata*' evokes a special, unified consciousness that establishes a relationship between the land and the residents and in this context, the idea of motherland or *Janma Bhumi* is cultural specific in India. The country is conceived as mother, which is regarded not a mere mass of territory but a living entity working through her sons and fulfilling her mission through them. This notion represents the highest ideal of love and devotion to the land as mother by the residents. According to Deen Dayal solidarity of the people with the land in which they reside lays in the concept of *Ekjan*', one people, one nation. *Ekjan*, to him, is a living organism. He believes that *Ekjan*, which is the basis of nation, evolves over a passage of time, which is rooted in a long and unbroken tradition spanning generations. *Ekjan*, according to him is the life-breath of the people. It shapes the consciousness of the people residing in a specific territory. The unified consciousness exhibited by the psycho-spiritual nature of the people in unison is termed as '*Chiti*' by him. The fundamental tenets and principles evolved on the basis of the *Chiti* (collective consciousness) determine and maintain the nature and identity of the nation. As long as such collective consciousness exists a nation remains living and resilient. If the principles, which constitute the *Chiti* (collective consciousness of the nation), are followed and upheld, then the nation becomes strong and stable, acquires vitality and glows energetically. According to Deen Dayal Upadhyaya, *Chiti* provides power and energy called *Virat*. It protects the nation from distortions and malformations, and leads to national awakening. He is of the view that if *Chiti* and *Virat* are actuated then only can the nation and its people progress; draw all kinds of worldly and spiritual pleasures emerge triumphant in the world; and attain glory.[29]

Deen Dayal Upadhyaya was also influenced by the concept of democracy. He says "the people of this country have an abiding faith in nationalism and democracy and they will not tolerate elements who seek to subvert these values." He goes on to say "Democracy has been defined as government by debate. *Bhartiya* culture goes beyond this and looks at debate as a means of realisation of truth." As the famous ancient Indian pronouncement from *Rambha-Shukha* samvad: वादे वादे जायते तत्त्वबोधः। (Though continuous dialogues alone does one arrive to the truth.)

We believe that truth is not one-sided and that it's various facets can be seen, examined and experienced from various angles". The oldest treatise of the World Rigveda declares this in emphatic manner:- एकं सद् विप्रा बहुधा वदन्ति। (Truth is one but the learned refer to it in different names.) Deen Dayal Upadhyaya believes that the effectiveness and vibrancy of democracy depend upon consciousness of responsibility, discipline and the feeling for the nation in the life of the people. If these *sanskaras* (spiritual values) are absent in the citizen, democracy degenerates into an instrument of individual, class and party interest. Nation is viewed as an integral and organic entity which according to him forms a unified state structure. While discussing about *Dharma* Pandit Deen Dayal Upadhyaya says, *Dharma* is not just a sovereign value and a balancing wheel between *Artha* and *Kama* to attain *Moksha* but also the anchor-sheet of nation, state and government. Therefore, he emphatically upholds the primacy of *Dharma* not just for the individual and society, but also for the nation, state and government.

Deen Dayal Upadhyaya's philosophy of Integral Humanism has various dimensions such as social, political and economic. He is of the view that an

individual is inseparably attached to society. Society, according to him, is an enlarged man. He also deals with the relation of man with humanity and universe. Deen Dayal also laid great emphasis on *Swadeshi* and decentralisation for the development of India. He speaks for the development of both agriculture and industry in his '*Arthayam*.' For the establishment and proper development of the industry Deen Dayal emphasises the consideration of seven 'M's, which are man, material, money, motive power, management, market and machine. He develops an integrated indigenous model of development, which is very important for the development of Indian society because of its peculiar conditions.[30] He seeks to achieve not only the material development of man but also craves for his spiritual advancement. Deen Dayal Upadhyaya deserves the credit of enriching Indian thought through his philosophy of Integral Humanism, which aims at an overall development social, political, economic and spiritual of man. His philosophy of Integral Humanism is also very important as it seeks to harmonise the interests of an individual, the society, the mankind and the entire universe. Deen Dayal believes that man is a complex of *tatvas* (elements). He says "Body, mind, intelligence and the soul-these four make up an individual." These four elements cannot be viewed separately because they are integrated and intertwined with each other. Man's progress means that balanced development of the entities residing in the body. For the development of man, he emphasises the importance of body and stresses that the satisfaction of bodily needs is necessary for the realisation of self. In this contexts, he quotes from Upanishad- नायमात्मा बलहीनेन लभ्यः, i.e. a weakling cannot realise the self. Again शरीरमाद्यं खलु धर्मसाधनम्, the body is truly the primary instrument to discharge the responsibilities that *Dharma* enjoins.[31] He divides human nature into two types, viz: the *Asuri bhav* (demonic disposition) and the *Devi bhav* (dynamic disposition of Goddess). Former is based on self interest and the latter on selfless service. He wants to build up a well-knit harmonious edifice or order of civilisation on the principle of complimentary and mutual relationship based on fellowship, cooperation sympathy and goodwill in man's life.

The first interaction of individual is with the Earth and throughout life the maximum interaction of the individual is with the Earth only. As per Indian tradition of thinking the human body is made up of five elements namely, Earth, Water, Fire, Air, Sky. All the consumable and required things and material for individual are derived from Earth only. The final destination of human body is also Earth only The *Amrit* (nectar) is derived from the earth so is the *Visha* (poison), same is with the water, fire and life. Therefore, the Earth is called रत्न गर्भा वसुन्धरा. This is why Indian tradition calls the Earth *Mata* (Mother). The Vedic hymn says: माता भूमिः पुत्रोहम् पृथिव्याः।

The approach of looking at the Mother Nature essentially transforms our behaviour and attitude towards the other living and non-living creatures inhabiting the earth, individual and society, and individual and the universe. This integrity of individual and universe will necessarily pave the way for the integrity between the individual and supreme. Keeping in mind this natural integrity among these elements Pandit Deen Dayal Upadhyaya provides an altogether different perspective of analysing the social life. It does not anticipate any kind of conflict or clash of interest between any of these elements. The existence of each of these elements is independent and separate but not delinked to any of the other elements. So, each of these elements is complimentary and connected to each other. There cannot be any existence of any of these elements without the other. Individual is at the central point but, not the role point. We cannot find a distinctive demarcation with the Supreme. The feeling of the existence of a supreme authority transforms an individual into human being. It prevents him from becoming brutal, it lessens the animal trends, it disseminates the virtues of sympathy, love, affection, compassion, etc. The aspiration for the interaction with the ultimate authority guides the individual towards understanding of intricate secrets of the nature. It introduces the individuals to his ultimate aim. It defines his path of life. It relates him with society, nation and universe. It indicates the trajectory of human welfare. This is why the Indian tradition of thinking does never differentiate between nations, societies, regions, classes, groups and so on. It always prays for the welfare of all, it always prays for the good of all, it always prays for the *Vishwa Kalyan*.

लोकाः समस्ताः सुखिनः भवन्ति

The most famous Indian prayer of Upanishad aims at achieving welfare of all.

सर्वे भवन्तु सुखिनः सर्वे सन्तु निरामयाः।

सर्वे भद्राणि पश्यन्तु मा कश्चिद् दुःख भाग् भवेत्।।

The contemporary relevance of the philosophy of integral humanism of Pandit Deen Dayal Upadhyaya lies in underlining the idea of welfare of all in Indian tradition and attempting to address the various issues and questions, being faced by the society as a whole in the light of integral humanism. Deen Dayal not only examined the existing body of thinking throughout the world but also tried to provide the Indian alternative. It has been rightly observed that integral humanism of Deen Dayal Upadhyaya attempts at creative interpretation of ancient Indian tradition and culture through re-inventing the system of life prevailing in post-independent India. It indicates at lop-sidedness of the capitalist and socialist ideological perspectives and seeks to offer an indigenous system of life.[32]

Although it must be underlined that Deen Dayal himself argued that neither those who discarded everything that has originated in Bharat are correct, nor those who suggest that we must go back to the position of past and must restart from there are to be accepted. Both of these view-points represent partial truths. He argued that: यद्देशस्य यो जन्तु तद्देशस्य तदौषधम् i.e. for the disease in each place, a remedy suitable to that place must be formed. "Therefore, it is neither possible nor wise to adopt foreign issue in our country in original form in toto. It will not be helpful in achieving happiness and prosperity"[33] He further candidly says that "We must absorb the knowledge and gains of the entire humanity so far as eternal principles and truths are concerned. Of these, the ones that originated in our midst have to be clarified and adopted to changed times, and those that we take from other societies have to be adapted to our conditions."[34]

Deen Dayan Upadhyaya has touched upon a large number of issues ranging from secularism to majoritarianism, Dharma to society, state to individual, market to profit, nation to nationalism, democracy to culture, constitution to decentralization, legislature to judiciary, education to employment, *Bhartiya* to *Swadeshi* and so on. Therefore, he attempts to address most of the issues of contemporary relevance and to provide an alternative perspective to the solutions. His ideas are well equipped to transform the discourse of conflict resolution in present times and face the challenges of nation- building. More and more serious attempts of analysing the body of thinking of Deen Dayal Upadhyaya are the need of the hour.

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RELEVANCE OF PANDIT D
THOUGHT

Pandit Deendayal Upadhyaya was a thinker. He disagreed with all those who fo fragmented approach and regarded a particul of life as fumdamental. Upadhyaya held tha approach present an extremist system oversh other facts. In this context, Upadhyay extensively. In the present chapter, an effort made to articulate his economic thought in th era. To elucidate his thoughts regarding Deendayal Upadhyaya wrote a book, I Arthaniti:Vikas Ki Dishaen. There in, he with the arthyam (economic aspect) of an Individual"."Arthayam stands for a proper s economics that eliminates both the paucity abundance of capital".[1]

Artha in Indian Culture:

Dharma has been accepted as the fun purushartha (objective of life). Chanakya has ' Sukhasya moolam dharmah Dharmasya arthah' (happiness lies in dharma, which c sustained without artha).[2] Upadhyaya writ first treatise on economy in 1953:

"... We know that the Bharatiya always been based on dharma (not on It is essential to reconstruct an economy the tenets of dharma .... Far dharma, we a Vedic concept that enumerates 12 chara of it .... The basic one is shram (labour) tapasa srishta). The realisation of the impo labour did not wait for Marx or Angle's enunciation by Communism. This truth ex by us was endowed to the humanity in o way. Duty to work is a fundamintal functio In the same way it is the duty of the state (administration) to ensure right to work individual.

Nitin Tyagi, Research Scholar, Department of

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Political Thinking in Ancient India: Western Myths and Contemporary Challenges

Sanjeev Kumar Sharma and Ansuiya Nain

In India, Political Science has been taught and learned since ancient times as a discipline of statecraft. Even before the western political thinking, Indian philosophers and writers have been discussing the various dimensions of ruling a state and debating on the duties and functions of different functionaries of state. While in Greek society Plato was trying to visualize, through his 'Academy', a systematic political arrangement for the society, many centuries ago in India, political thinking had fully evolved and a planned rule was in existence. Concepts considered to be modern like governance, justice, punishment and education were fully developed and existed in the ancient Indian society. Even after the existence of such amount of Indian political thinking, discourse on the study of politics, by nature, has always been West-oriented and largely based on western interpretations. In our higher educational institutions and universities for many years, the first topic taught in the classes was that political science has started from the Greeks. One of the most prominent political theorists announces that political theory is a part of

philosophical scientific thinking that has begun with ancient Greeks. He mentions India only once to say that it is a peripheral civilization which gave birth to Gautam Buddha, another prominent theorist, clearly mentions that political thinking has begun from Greeks itself. Mentioning about Plato's famous sentence, 'Philosophy is a child of astonishment', he writes that for the first time, it was only Greeks who viewed this visible world with astonishment and started incorporating the observations and reflections of this universe, in the light of rationality. Similar efforts made by India, in this field have been out and out dismissed and Barker termed it as religious ritualism. It's ironical that our country's social scientists had also simply and naturally accepted this mentality and surrendered without any further questioning or enquiry. Need of the hour is that the community of Indian political scientists must make a call from the national as well as international arena that Indian political thinking has originated many centuries before the western political thinking. Therefore, attempts to revitalize Indian thinking and give it a rebirth and study them accordingly can definitely provide path-breaking and unaccomplished levels of research in the discipline of Political Science.

Organisation of men into institutions of social nature is the first milestone of evolution of any civilisation. The social nature of individual has been compelling him to form associations and organise the activity and interaction with fellow human beings in some or the other regulated (or maybe unregulated) manner. This has given birth to the institutions of yesteryears as well as contemporary times. Sociological studies have essentially laid emphasis on the evolution of institution of family in order to organise social interaction and defining the boundaries of relationship between a male and a female. Scholars of Political Science have also agreed upon family being the origin of the institution of state, to the extent that Greek philosophers had announced state to be a union of families or extension of families. Most of the theories of the origin of the state have depended upon the evolution of the state as a mega institution either from family, kinship, society or matriarchal or patriarchal orders or from the

concentration of power in some socially, economically or numerically strong group of people. The believers of the divine inception of the state have also been acceding to the idea of the state being run by a representative of God. This incarnation of God is also to be conducting his role in an institutionalised from. Therefore, the apparent legitimacy to the authority of the state visibly emanates from the social institutions and the natural corollary of this argument is the evolution of the state and its organs in any of the forms essentially and firstly in the oldest civilisation of the world, that is *Bharat* (India). This argument would necessarily pave the way for exploring the traces of the early nature of state, its functions and functionaries, its various organs and a growing and sustained debate on the formal and informal intercourse of the state with other institutions and organisations of society on Indian soil first.

It has been observed that there is a serious lack of any systematic work in the field of studying ancient Indian treatises from the angel of Political Science. Political theorists have, due to various reasons best known unto them, generally not delved into the field of ancient Indian political thinking and therefore, this area of research has largely remained uncultivated and unexplored. This apathy towards the study of ancient political ideas has emanated from so many known assumptions, such as- Indians did not have any idea of political system and institutions before they started being graduated in modern western educational system; ancient Greeks were the originators of political thinking based on reason and inquiry; ancient Indian treatises are largely mythical religious texts created for the purpose of performance of rituals; the chronology of the subject matter of most of these works is extremely exhaustive and interwoven with various aspects of human life; political content of these literary masterpieces is confusing and scattered; and so on.[1] Therefore there seems to be prevalent a presupposed West-orientedness in the community of political science in India in respect of formulation of text books, research orientation, new fields of study and analysis. etc.[2]

It may be found noteworthy that some rigorous analytical attempts and in-depth study would indicate that writers, philosophers, thinkers, poets, historians, *rishis* and others in ancient India have delved into minute and logical examination of the issues related to overall development and growth of individual, society and state.[3] Some of the Western writers have also contested the idea of western origin of democracy in the same vein. Chase-Dunn argues that "the point to make is that democracy is not a European invention and neither has it been a European monopoly. The European civilizational claim that democracy was an invention of the classical Greek city-states is full of contradictions. The economics of most of the Greek city-states was based on slavery, while the polities of nomadic fore-agers, which are elsewhere on Earth the ancestors of all peoples, were egalitarian systems in which all adults participated in making the important collective decisions. Greek ideas and institutions are only part of the story of the struggle for autonomy and popular control."[4] Thus, it has very well been argued that a close study of the texts of ancient India is essentially required to understand their comprehensive view on state, politics, sovereignty, rights and duties and, of course, public administration besides the overwhelmingly amazing idea of welfare state.[5]

We may not tend to accept the existing academic belief pervading in the field of study of political science propounded and seconded by towering scholars and philosophers of the world, who have consistently been emphasising upon their pronouncement of Political Science beginning with the Greeks.

Theorists of Political Science have regularly insisted on the claim that philosophy is the child of astonishment and it was only the Greeks who for the first time started viewing the visible world with astonishment and incorporating the observations and reflections of this universe in the light of rationality.

The students of Political Science are generally, taught the primary maxim- 'Political Science begins with the Greek.' But this altogether neglects the Indian contribution to the field

of knowledge. Indian writings of pre-historical period have never been given due importance in the narration of philosophical chronology.[6]

This view has naturally found many followers in the field of academia in the West as well as in India, the oldest civilisation of the world. Before Independence, interestingly a series of Indian scholars, haven been graduated in higher educational institutions of the West, seriously and scientifically attempted to dispel the prevalent notion of the Indian socio-political understanding of the mundane world been shrouded in mystery.

On other consequence of the dominance of western paradigms has been the neglect of the study of Indian classical texts. Such neglect has had academic consequences at institutional level. Both in the realm of research and course-contents, the social sciences hardly have anything about the classical texts which have dealt with society and polity in the classical intellectual tradition of India.[7]

In fact, the inadequacy of several western conceptual schemata and theoretical formulations in the context of understanding Indian social reality necessitates a more careful and deeper analysis. However, the discontent arising out of it may provide the possibility of a major breakthrough in the growth of knowledge in the social sciences in India.[8]

In this background a good number of researches were produced by scholars, majority of them being Indian while some were westerners also. The most prominent among them was path-breaking work of K.P. Jayaswal. His work has been considered as a pioneering study on the political thinking in ancient India and it was described as a storehouse of most valuable academic and research information for further studies in the field of ancient Indian political thinking. Some other note worthy works were done by D.R. Bhandarkar, Narendra Nath Law, Pramarth Nath Banerjee, N.C. Bhattacharya, U.N. Ghoshal, etc. But unfortunately two seemingly significant trends have followed these studies: One : terming all these wonderful researches into incipient attempts to glorify the Indian past and to legitimise the demand for self rule, concomitantly looking forward for

political Independence; and Two, as a result of attaining political Independence in August 1947, the Indian academic community assiduously disconnecting all the links with Indian past with so called modernised eyes tucked in the envisaged future. But, it may also be ascertained that political compulsions of the ruling dispensation at the centre and most of the provinces in post-Independent India had compelled the academic fraternity to be led, guided, moulded, influenced and patronised by political ascendance of left thinking in academic decision making and therefore, stray attempts at analysing the Indian past and politico-social institutions of the yore were essentially directed by the ideological orientations of materialistic interpretation of history. This has resulted in curious explanations of the historical phenomenon into providing a scenario of conflict between the thesis and the anti-thesis. It was in this light that the conflicts between *Dharmic* traditions and variations of rational discourse were established as clashes between *Shaiva* and the *Shakta*, the *Vaishnava* and *Shakta*, *Bhramins* and *Shramanas*, *Aryans* and *Non-Aryans*, *Aryans* and *Dravidians*, and so on. These ideologically loaded explanations of history were grounded in deliberate painting of the knowledge of political and administrative institutions and process prevalent in ancient Indian treatises to be depicted as mythology or lacking scientific historic evidence. Therefore, the chronological order and historical datings of the events and the ideas were considered to be more prominent than any initiation of discussion and analysis of the evolution of political institutions in ancient India. Secondly, the so-called nationalist tradition of analysing the ancient Indian political thinking also got loose shunted. It is only the development of past few decades that we have been witnessing a revival in interest and scholarship on ancient Indian concepts and theories of politics and governance.

In Ancient India, the different branches of knowledge were grouped under four heads, namely Philosophy, the Vedas, Economics, and Polities.[9] Of these Politics was regarded as a very important-if not the most important-subject of study.

The Mahabharat says, "When the Science of Politics is neglected, the three Vedas as well as all virtues decline."[10]

The method of study pursued in ancient times was somewhat different from that generally adopted at the present day. Politics was treated more as an art than as a science; in other words, guidance in the practice of actual administration, rather than the construction of a complete and consistent system of political theories, was the object mainly aimed at in the study of the subject. Chanakya, for instance, defines Politics as "the science which treats of what is right in public policy and what is not, and of power and weakness" According to the Shukraniti, a knowledge of the science "enables rulers to gain victories over their foes, to please their subjects, and to be proficient in statecraft." the Mode of treatment was thus more practical than theoretical; and one result of this was that the conclusions were expressed in the form not of scientific principles but or moral percepts.

Our sources of information regarding the systems of administration which prevailed in India in the ancient times and the political ideas and ideals which moulded and shaped those systems are various. Briefly speaking, they are: the Vedas, the Hindu Epics, the Smritis, the Puranas, the religious books of the Buddhists and the Jainas, historical and dramatic literature, accounts of foreign travelers, epigraphic records, the lastly a few treatises which deal specially with Politics.[11]

The past few decades have seen a revival in interest and scholarship on ancient Indian concepts and theories of politics and governance. In this period there has been a paradigm shift in research in the field of ancient Indian studies. Increasing attention has come to be paid to the importance of exploring and analysing the precepts found in ancient Indian literature within the framework of modern contexts. Research during the past few decades indicates the strong relevance of our ancient political and public administration knowledge for modern governance.

India, perhaps more than any other region in the world, has an invaluable history of glorious ancient empires with efficient public administration amongst contradicting realities in a land of vast diversities. The extensive and rich

literature of the ancient Indian period is a storehouse of knowledge on the ancient theories of politics and governance. Social scientists and analysts have extensively documented and researched the literature of ancient India, but often without linking it to modern contexts and relevance.[12]

This visible shift in the paradigm of political analysis may also be attributed to change of political guards at central level in a journalistic manner but the academic world is seeing increased attention being paid to the intellectual significance of exploring the arenas of political thinking in Indian tradition. A very many factors have been considered to be responsible for apparent neglect and shameful ignorance of our own intellectual contours in the field of political science. Some of them may be enumerated as the lack of so called recorded history, confusions in chronological order, amalgamation of history, myth, poetry, philosophy in one work and so on. The questions of providing substantative historical evidences and distinguishing between literary and *Dharmic* works were also difficult to be addressed. In addition to that, missing of most of the original manuscripts, thanks to incessant invasions, and the resultant destruction of the centres of knowledge and above all subservience of more than thousand years, all this has substantially damaged our ability to produce systematic, chronological and discipline wise demarcated body text of political thinking.

From the perspective of the social sciences, the study of ancient Indian texts raises several issues. The categorization of knowledge into well-defines formalized disciplines having institutionalized mechanisms for creation, communication and diffusion in the present form is basically a western model.[13]

It is quite ironical that before the dawn of twentieth century, India and the world didn't have any opportunity to glance through even the most quoted work of Kautilya, Arthashastra, and now we all know that publication of Kautilya's Arthashastra in 1909 significantly transformed the coastlines of political thinking throughout the world. It is in this backdrop that the fundamental induction sentences

about the trajectory of political thinking in India and the West appear to be faulty and full of inconsistencies.

The economic and administrative injunctions of great master Kautilya had also stood the test of time, although the Mauryas remained no more in power. The descriptions of Greek writers, Smritis and also of epigraphic records tell us the potentialities of his laves and their practical utility. India, even today, can learn much from these laves and the ways of their implementation.[14]

The knowledge increased by the acquisition of Kautilya's Arthashastra provided some great avenues of having a different perspective and a better understanding of Rajadharma of Shantiparva, Rajadharma of Manu and Rajadharma ideas of Shukra, Kamandaka and others.

In our zeal for scientific and technological development of free India, we are so much engrossed in Western ideas and devices to solve our day-to-day socio-economic problems that we are tending to ignore our past heritage of which the Indian society can be proud of and the solutions of our problems which are germane in this soil due of their nutural approaches and easy accesses.[15]

Academic fraternity having a substantial amount of control over leadership of institutionalised learning in India either disapproved the orientations of exploring administrative and political structures and process in Indian past with adjectives as parochial, fundamental or otherwise; or ridiculed the efforts by providing alternative narration in terms of conflicts and clashes, thereby thwarting serious scientific analytical enquiry. They have been conveniently ignoring and neglecting the abundance of the variety of political ideas, diversity of institutions, co-existence of apparently contradictory viewpoints, assimilation of diverse perspectives and overarching centrality of the welfare of all succinctly explained in the following shloka.

सर्वे भवन्तु सुखिनः सर्वे सन्तु निरामयाः।
सर्वे भद्राणि पश्यन्तु ना कश्चिदुःखभाग्भवेत्।।

Unaffected by these sinister attempts, significant number of scholars in contemporary India have engrossed their minds

in acquiring a broader perspective of the Indian traditional intellectual wisdom. By default they have gained repudiation of the prevalent notion of ignorance of Indian past. As a result institutions of higher education and research in contemporary India are witnessing sustained efforts in the direction of exploding western myths about the existence of democracy, good governance, representation, republican form of government, oath taking ceremonies, hierarchy in administration, organisation of departments, systems of taxation, forms of personnel administration, structures of criminal justice administration and overall welfare of the people apparently visible in many ancient Indian treatises. Some of the scholars have termed this welfaristic concept of Indian political structures as Yogakshema "योगक्षेमं वहाम्यहम्". This idea of *Yogakshema* is a natural inception of ultimate sensitivity towards the population of the state which has been frequently termed as *Lok* in Sanskrit treatises and the overall welfare of this *Lok* is the only and sole goal of the political leadership which Bhavbhuti says "आराध्यनाम लोकस्य " or the famous saying of Kautilya in the following shloka "प्रजा हिते हितं राज्ञः प्रजानाम् च सुखे सुखम"।

In the light of the above shloka one may find it interesting to note that the ancient Indian tradition of thinking politically was not at all based on structural arrangements or over formalised institutional procedures. Rather the co-mixture of social, cultural, intellectual and *Dharmic* streams of understanding in a given society was predominantly addressing two main issues. One, exploring the ultimate truth; and two, keeping balance with the contemporary reality. That is why Indian thinkers have never laid much emphasis on the organisation of institutional or mechanical structures. Rather, they have constantly been emphasising upon providing self-regulatory indications of *Dharma* to the variety of individuals with variety of responsibilities.

Present day scholars of political science usually wonder, for example, at the absence of any substantative amount of literature on rights and functions of individuals at positions of power, authority and decision making as well as the rights

Article

Intellectual Roots of Independent Regulatory Authorities in America and India

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Abstract

The contemporary omnipresence of independent regulatory authorities (IRAs) as formidable structures of governance in different countries has long intellectual roots that helped in their evolution over a period of time. Though such intellectual traditions might have been found in every country, they appear to be more pronounced and definite in the countries where the idea of independent regulatory bodies has been originated and practised more fundamentally than others. In this context, America and India stand out prominently for obvious reasons. For instance, they represent two distinct political systems in which certain variations in intellectual traditions of independent regulatory bodies may be discerned. Further, while the intellectual traditions in America seem to be relatively autonomous vis-à-vis external influences, such traditions in India have surely been influenced by the long years of colonial rule that laid the foundation of the post-independence politico-administrative system of the country. This article seeks to present an analytical study of the intellectual roots of independent regulatory bodies in the two countries in a comparative perspective.

Keywords

Intellectual traditions, *The Federalist*, separation of powers, parliamentary federal democracy

Introduction

The emergence of independent regulatory authorities (IRAs) in the 20th century marks an important landmark in the changing nature of structures and processes

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favour the idea of independent regulatory bodies. As a result, at the time of framing of the American Constitution, IRAs could not find a place in the doctrinal as well as institutional design of the American Constitution. In fact, constitution making in the country was essentially a creative exercise in exploring and establishing such normative traditions and institutional mechanisms that could have provided an alternative to the dominant system of parliamentary democracy existing in Britain. For instance, in place of the integrated system of the government in which the British Parliament acts as the fountainhead of other two branches of government, that is, executive and judiciary, the American political tradition has been underpinned by strict separation of powers in which each branch of the government stands in an autonomous position vis-à-vis others. Further, the functional dynamics of separation of powers has been sought to be counterbalanced by the doctrine of checks and balances through which each branch of the government is sounded to work within the confines of its constitutional domain. Undoubtedly, deep-rooted traditions of democracy and fundamental rights have further provided subtler grounds of accountability and control over different institutions of government in the country. In none of these doctrinal formulations of American constitutional traditions could IRAs stand in such an appreciable position that they could have been made part of the original politico-administrative system of the country.

Intellectual discourses on IRAs in America, both opposing and supporting their cause *per se*, are generally carried forward through the two competing theoretical perspectives known as unitarian and functionalist theories, respectively (Breger & Edles, 2000). The early intellectual traditions seem to be dominated by the unitarian perspective outlined by none other than Alexander Hamilton in his reflections on the nature of the executive in the country in *The Federalist* papers. Given the great influence of *The Federalist* papers on the drafting of the American Constitution, it has never been surprising that IRAs could never come into the reckoning of the constitution makers. However, soon after the Constitution was put into practice, the unitarian theories began to be questioned by the functionalist theories advocating the idea of broad congressional power that logically justifies divesting the President of unfettered executive power. Without raising doubts on the primacy of the presidency as the custodian of executive powers, the functionalist theories argue for broad powers of the Congress, ranging to even executive matters outside the domain of the office of the President.

Unitarian Executive Perspective

The theoretical incongruity of IRAs with the broad foundational tenets of the American political system is generally located in the 'theory of the unitary executive' propounded first of all by Hamilton in his uncharacteristic analytical description of the executive power in *The Federalist No. 70*. Hamilton deciphers the true nature of executive power quite eloquently:

> The ingredients which constitute energy in the Executive are, first, unity; secondly duration; thirdly, an adequate provision for its support; fourthly; competent powers ... This unity may be destroyed in two ways: either by vesting the power in two or more

repository of all the executive powers and there exists scope for the creation of IRAs by the Congress as per the functional requirements of the country.

On the constitutional front, the functionalists seek to derive the sanction of the Constitution for their standpoint on the basis of the derivative reading of the Necessary and Proper Clause under Article I of the Constitution. In other words, Article I, Section VIII, Clause 18 empowers the Congress 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof' (*The Constitution of the United States*, n.d., Article I, Section 8, Clause 18, p. 4). Drawing strength from the provisions of Article I, the functionalists denounce the unitarian logic that the unitary executive view bars the Congress from enacting any law towards the creation of independent regulatory bodies, and any such bodies must work under the overall supervisory control of the President. For instance, Rosenberg argued against the idea of a unitary executive by questioning any substantial constitutional basis for it. He even charged the theorists of unitary executive as subverting 'our delicately balanced scheme of separated but shared powers' (Rosenberg, 1989) Eventually, thus, the functionalist theorists have indeed been able to resurrect the power of Congress to enact laws providing for the creation of independent regulatory bodies despite the President epitomising the executive in the American political system.

The Rise and Growth of IRAs

Amidst the competing theoretical perspectives, a number of individuals have also contributed to enriching the intellectual roots of IRAs in the United States. In this context, particular reference needs to be made of Charles Francis Adams, Jr. Acknowledging his momentous contribution, Breger and Edles point out so eloquently, 'The intellectual impetus for government oversight, including the form that it should take, was the brainchild of Charles Francis Adams, Jr., the latest in a distinguished family line that included two US Presidents' (Breger & Edles, 2000, p. 1123). In many of his articles and monographs published during the later 19th century, Adams commented on the structure and functioning of the railroad industry in the United States and called for better supervision of the industry.[1] In sum, he advocated the creation of a 'sunshine commission' to act as an independent body of experts tasked with the responsibility of looking into different aspects of the workings of the railroad industry and reporting on its activities. Interestingly, in Adams' design, such a commission would be devoid of any enforcement powers given that such powers lie in the domain of the executive. It would in principle be advisory.

In concrete form, though the rise of the IRAs at the federal level in America is reckoned to begin with the establishment of the Interstate Commerce Commission (ICC) in 1887, there did already exist rudiments of regulatory bodies in the states as precursors to the ICC. Cushman asserts that 'regulatory commissions were ... the normal outgrowth of a broader state commission movement which dated back to the early 19th century'.[2] As a matter of fact, with the burgeoning of the

scope for independent regulation of any aspect of public life. However, given the complex functioning of the market forces in the British economy, there did arise the need for distinct administrative measures for the independent regulation of certain aspects of economic life. To put it differently, the idea of IRAs in the parliamentary traditions emerged as an administrative measure instead of being a political innovation as in the case of the presidential system. Further, since the emergence of IRAs did not have the potential to alter the power equations amongst different organs of the government in a substantial manner, not much intellectual explorations were carried out on the subject in parliamentary democracies. In any case, the supremacy of the parliament remains intact and accountability of the executive to the parliament stands so absolute that in the normal administrative hierarchy, IRAs exist as autonomous organisations under the overall supervision of the executive and legislature.

Like the United States, the British Parliament's tryst with the independent regulatory bodies had also begun with the enactment of legislative measures for the regulation of certain businesses and companies. Incidentally, probably one of the earliest regulating Acts passed by the British Parliament was the Regulating Act of 1773, aimed at overhauling the structure and functioning of the East India Company's rule in India. Through this Act, Lord Frederick North, the then British Prime Minister, sought to regulate the activities of the Company in its monopoly trading in India by creating new administrative structures and restricting the unscrupulous activities of the servants of the Company.[4] Afterwards, the British Parliament passed a number of Acts to regulate the working of the Company in India. In fact, the intellectual roots of the regulating measures enacted by the British Parliament for India lay in the quest of the British government for a middle ground between the absolute control of the Indian administration by the government and substantially curtailing the monopoly trading activities of the Company. The initial lofty idea of imperial justice subsequently got, however, supplanted by the colonial realpolitik after the 1857 Great Indian Rebellion and replacement of the Company rule by the Crown rule.

After independence, though the political and administrative systems of India remained overwhelmingly patterned on the British model, reinforcement of certain feeble features such as federalism in the Constitution does have major implications insofar as IRAs are concerned. In spite of the retention of core principles of parliamentary democracy, the Constitution has indeed created a number of IRAs to act as impartial bodies for autonomously carrying out certain activities critical for the sustenance and smooth functioning of the political and administrative systems. For instance, given the criticality of free and fair elections in electing representative bodies and functionaries in the vibrant functioning of a democracy in the country, the Constitution provided for an independent regulatory body in the form of the Election Commission of India under Article 324 (Bakshi, 2010, p. 287). Similarly, the wider spectrum of impartiality, efficiency and integrity of the administrative structure in India is sought to be ensured through a range of independent regulatory bodies such as the Union Public Service Commission (UPSC), State Public Service Commissions (PCSs) and the Comptroller and Auditor General (CAG) of India. Standing independent of the regular administrative machinery

of time. On the contrary, the Indian traditions drew upon the British conventions without much intellectual explorations into different aspects of the theory and practice of IRAs in India. It is probably for this reason that numerous theoretical standpoints were evolved in America to critically analyse the veracity and utility of IRAs whereas in India such bodies have been taken as valuable components of the politico-administrative system whose adoption appeared as *fait accompli* of the Indian administration.

Given the varied understanding of the distinct foundational doctrines of the presidential system getting established in America, IRAs have not been an integral part of the politico-administrative system of the country from day one. As discussed in the preceding paragraphs, *The Federalist* discourse on the nature and extent of the executive power in America appeared in opposition to the idea of IRAs on the ground that there does not exist space for any autonomous or independent executive/administrative agency in the American system beyond the supervisory and administrative control of the President. Thus, in the name of the separation of powers, scope for any agency beyond the triumvirate of the legislature, executive and judiciary was initially totally ruled out in the American political system. Contrarily, drawing upon the British political convention, the Indian constitution makers seemed favourably disposed towards the idea of IRAs in accordance with the imperatives of parliamentary democracy in the country. As a matter of fact, the creation of independent regulatory bodies in India began well before independence when the colonial masters felt the necessity of putting in place certain autonomous bodies in vital sectors of the economy. An important landmark in this regard may be taken to be the Reserve Bank of India which was established as an autonomous body under the Reserve Bank of India Act 1934 to regulate the monetary aspect of the Indian economy.

In view of the total oblivion of the American Constitution makers towards the idea of IRAs, there did not exist any space even for mention, not to say of specific stipulations, of any independent regulatory body in the American Constitution. Indeed, after intense intellectual exchanges, court rulings and circumstantial imperatives, IRAs became a reality in the American political system out of congressional enactments in specific sectors of the American economy. Even after their creation, IRAs in the country are perpetually besieged by acrimonious intellectual exchanges on the issues of their exact status, constitutionality, accountability, control and related matters. But in India, IRAs have been accepted as normal institutional arrangements in the Indian politico-administrative system within the framework of parliamentary democracy outlined by the Constitution. Any critical intellectual exploration on these bodies primarily relates to their functional dynamics and performance appraisal instead of questioning their existential status itself. Thus, IRAs seem to be more agreeably placed in India in comparison to their counterparts in the USA.

The American intellectual traditions on IRAs have tended to conceptualise them as formidable mechanisms to regulate the vital sectors of the American economy. That way, IRAs in that country have been created primarily, if not exclusively, as regulatory bodies to manage the affairs of particular business and commerce. Generally, other fields of public life such as political, educational, administrative

inherent distinctions between their respective political systems have unavoidably led to some marked differences in the IRAs of the two countries. Among these is the greater autonomy of IRAs in the USA than in India.

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Notes

1. The intellectually stimulating works of Adams that led to the birth of IRAs in America are: C. F. Adams and H. Adams (2009 [1871]); and Adams (2005 [1878]).
2. Robert E. Cushman, *The Independent Regulatory Commissions*, quoted in Marshall E. Breger and Gary E. Edles (2000, p. 1117).
3. The President's Committee on Administrative Management, *Report of the Committee on Administrative Management in the Government of the United States*, 1937, reproduced in, Jay M. Shafritz and Albert C. Hyde (1997).
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[illegible] नहीं देते, तब तक विधानसभा भंग नहीं हो सकती। सर्वोच्च न्यायालय ने राष्ट्रपति शासन लागू करने के मामले को न्यायिक समीक्षा के दायरे में भी ला दिया। हालांकि, न्यायालय केन्द्र की ओर से राष्ट्रपति को दी गई सलाह को चुनौती नहीं दे सकता, लेकिन [illegible] आधार की समीक्षा कर सकता है। एक नजीर कायम करने और [illegible] परिभाषित करने वाले इस फैसले के बाद, राष्ट्रपति शासन लगाने के कुछ फैसले [illegible] भी हुए।

निष्कर्ष - निष्कर्षस्वरूप यह कहा जा सकता है कि केन्द्र सरकार ने अनुच्छेद 356 का अधिकतम प्रयोग, राज्यों में अपने विरोधी दलों की सरकारों को गिराने में ही किया है। केन्द्र-राज्य सम्बन्धों में अनुच्छेद 356 का दुरुपयोग बहुत बड़ी बाधा है। हालांकि, एस.आर. बोम्मई बनाम सर्वोच्च न्यायालय के ऐतिहासिक निर्णय (सख्त दिशा निर्देश) द्वारा, इसके प्रयोग में काफी कमी आई है, लेकिन अनुमानित संवैधानिक संकट के आधार पर किये गये इसके प्रयोग, इस विश्लेषण [illegible] केन्द्र सरकार की मंशा पर सवाल खड़े कर रहे हैं। अनुच्छेद [illegible] संवैधानिक संकट के नाम पर, विरोधी दलों की सरकारों को बर्खास्त करके [illegible] की बजाय, राजनीतिक दलों को राजनीतिक सुधार की दिशा में प्रयास करना चाहिए। [illegible] सदभावना से किये गये ईमानदार प्रयासों से, सहकारी संघवाद भारतीय संघवाद का [illegible] बना रह सकता है।

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लोकतंत्र के विविध स्वरूप: एक अध्ययन

सुषमा रामपाल

आज का युग लोकतंत्र का युग है। [illegible] में इसे प्रजातान्त्रिक भ्रम का युग भी कहा है [illegible] राजनीतिक सिद्धान्तों [illegible] है। लोकतंत्र केवल [illegible] [illegible] एक आदर्श अथवा एक उद्देश्य के रूप में भी परिभाषित किया जा सकता है। [illegible] के शब्दों में "लोकतंत्र न केवल सरकार का [illegible] है अपितु [illegible] जीने का तरीका है जो अपने स्वतंत्रता, समानता, बन्धुत्व एवं न्याय के आदर्शों के माध्यम से सम्पूर्ण मानवता का नवीन एवं सुन्दर सामाजिक व्यवस्था स्थापित करने का मार्ग प्रशस्त करता है।" प्रत्येक राज्य [illegible] [illegible] प्रजातान्त्रिक और [illegible] [illegible] ही [illegible] है। विभिन्न लेखकों का विचार है कि [illegible] में [illegible] कहा जा सकता है इसके अतिरिक्त विभिन्न विचारकों ने भी इसे अलग रूप देने का प्रयास किया है। एक सम्मानित शासन तंत्र के रूप में लोकतंत्र केवल प्रथम महायुद्ध के बाद ही स्थापित हुआ।

समकालीन लोकतन्त्र पर [illegible] पश्चिमी उदारवादियों का एकाधिकार नहीं है। इसे केवल पश्चिमी उदारवादी लोकतंत्र के साथ ही नहीं जोड़ा जा सकता। पूर्व सोवियत यूनियन एवं पूर्वी यूरोप साम्यवादी राज्यों तथा एशिया और अफ्रीका के विकासशील राज्यों में भी लोकतंत्र की अपनी-अपनी व्यवस्थाएं रही हैं, इन राज्यों ने लोकतंत्र की अपनी कुछ अलग विशेषताएं विकसित की। इस सन्दर्भ में पिछले 200 वर्षों से अस्तित्व में आये और विकसित हुये लोकतंत्र के विभिन्न रूपों एवं सिद्धान्तों की व्याख्या की जा सकती है

जिन परिस्थितियों में पिछले 200 सालों में लोकतंत्र का विकास हुआ है, उनके आधार पर इसकी किसी सर्वमान्य परिभाषा पर पहुंचना असम्भव है। एक लेखक के अनुसार लोकतंत्र विभिन्न लोगों के दिमागों में उत्पन्न विभिन्न विचार हैं। 1949 में यूनेस्को द्वारा विभिन्न देशों को प्रेषित प्रश्नावली में भी लोकतंत्र की अस्पष्टता की तरफ इशारा किया गया था।

इन सब अस्पष्टताओं के बाद भी जिस बात पर सबकी सहमति स्पष्ट रूप से दृष्टिगोचर होती है कि लोकतंत्र का अर्थ है जनता का शासन। लोकतंत्र शब्द की उत्पत्ति ग्रीक भाषा के 'Demokratia' शब्द से हुई। 'demos' का अर्थ है 'जनता' तथा 'kratos' का अर्थ है 'शासन'। लेकिन लोकतंत्र को 'जनता का शासन' रूप में परिभाषित करने से प्रश्न अधिक उठते हैं और इसका अर्थ कम स्पष्ट होता है। यदि 'Demos' का अर्थ जनता है, तो प्रश्न यह है कि जनता कौन होते हैं और इसकी भागीदारी का क्षेत्र तथा सामर्थ्य क्या है? भागीदारी के लिए अनुकूल परिस्थितियां क्या होती हैं? इसी तरह यदि 'Kratos' का अर्थ 'शासन' है, तो यह प्रश्न उठता है कि इस शासन की सीमा क्या है? क्या इसका अर्थ है कानून और व्यवस्था, अर्थव्यवस्था तथा सार्वजनिक नीतियों पर जनता का शासन? जो लोग इसमें भाग नहीं लेना चाहते उनके लिये विकल्प क्या है? संक्षेप में, यदि लोकतंत्र को लेकर सवाल अनेक हैं तो इनके उत्तर भी विभिन्न लेखकों ने व्यापक विभिन्नता के आधार पर दिये हैं। कुछ लेखकों का मत है कि राज्य के नीति निर्माण में सम्पूर्ण जनता की प्रत्यक्ष भागीदारी होनी चाहिए, तो अन्य लेखकों का मत है कि यह कार्य निर्वाचित प्रतिनिधियों के माध्यम से भी [illegible] है। कुछ लेखकों का विचार है कि शासक जनता द्वारा चुने जाने चाहिए तथा जनता के प्रति उत्तरदायी होने चाहिए। कुछ अन्य का

Sushma

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भारतीय राजनीति विज्ञान शोध पत्रिका [illegible] जुलाई-दिसम्बर, 2019 ISSN-0976-4534

एक उभरती हुई वैश्विक शक्ति के रूप में भारत

उमा शंकर
उमेश चन्द्र

राष्ट्र की समृद्धि [illegible] (जी.एन.पी.) [illegible] विदेशी विनिमय भण्डारण आर्थिक वृद्धि [illegible] परन्तु ये पर्याप्त नहीं है। इसमें अन्य सूचकों को भी सम्मिलित किया जाता है जैसे कि [illegible] औसतन आयु में जीवन की [illegible] सफलता एवं शिक्षा [illegible] होना चाहिए और [illegible] विकसित भारत है।

भारतीय अर्थव्यवस्था का [illegible] अन्तर्राष्ट्रीय [illegible] भारत को [illegible] धर्मनिरपेक्षता व बहुलता का मॉडल तथा एक आर्थिक शक्ति माना जा रहा है जो अन्तर्राष्ट्रीय मामलों में व्यापक भूमिका निभा सकती है। भारत ने [illegible] एक ऐसी विदेश नीति अपनाई है जिसका लक्ष्य स्पष्ट है [illegible] तथा इक्कीसवीं सदी में भारत को [illegible] औद्योगिक रूप से उन्नत और विकसित देशों में उच्च [illegible] भारत की [illegible] नवीन बदलावों पर महत्तापूर्वक विश्लेषण किया जा रहा है ताकि भारत के [illegible] को बढ़ावा दिया जा सके। भारत का राजनीतिक प्रभाव व सैन्य शक्ति में वृद्धि हुई है जिसका उचित परिप्रेक्ष्य से अध्ययन व विश्लेषण [illegible] अमेरिका, चीन, जापान, यूरोपीय संघ और रूसी [illegible] सैनिक और प्रतिस्पर्धा सम्बन्धों को परखना रहे हैं परन्तु आर्थिक, राजनीतिक और सैनिक क्षेत्र में भारत का [illegible] केवल आजादी के बाद संघर्ष की अहिंसात्मक परम्परा में ही नजर आया। बीसवीं शताब्दी के दौरान मानव संघर्ष शस्त्र संचालित होते थे। आर्थिक संघर्ष [illegible] एक नए रूप में शुरू हुआ। इसमें जिन साधनों का उपयोग हुआ है, वह है उच्च प्रौद्योगिकी [illegible] अतः महत्वपूर्ण मुद्दा यह है कि एक नए प्रकार के संघर्ष में आर्थिक व सैनिक प्रभाव की रणनीतियों का किस प्रकार सामना किया जाए।

आज [illegible] और [illegible] प्रौद्योगिकी में आत्मनिर्भर [illegible] की आवश्यकता है।

सी० राजा मोहन के अनुसार-

भारत में राजनीतिक पश्चिम की अग्रणी सदस्य बनने और आने वाले दशकों में महान राजनीतिक संघर्ष में महत्वपूर्ण भूमिका निभाने में समर्थ है।[1]

अन्तर्राष्ट्रीय और राष्ट्रीय [illegible] एक उभरती हुई महाशक्ति के रूप में भारत पर प्रकाश डालने के लिए अलग-अलग मापदण्डों का प्रयोग कर रहे है। मापदण्ड

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नरेंद्र मोदी सरकार की विदेश नीति पर कौटिल्य के मंडल सिद्धांत का प्रभाव

डॉ० भूपेन्द्र प्रताप सिंह
राजनीति विज्ञान विभाग
चौ० चरण सिंह विश्वविद्यालय,
मेरठ

सारांश

कौटिल्य का अर्थशास्त्र सामरिक प्रबंधन का एक शास्त्रीय ग्रन्थ है और इसे आधुनिक अंतर्राष्ट्रीय संबंधों के लिए आधारभूत पाठ माना जा सकता है। पश्चिमी समाजवादी मैक्स वेबर अर्थशास्त्र के महत्व और वर्तमान में इसकी प्रासंगिकता को पहचानने और समझने वाले पहले लोगों में से थे, जब उन्होंने हिंदू धर्म (धर्म के व्यवसाय और समाजशास्त्र के रूप में राजनीति) पर धार्मिक अध्ययन किया। मोदी के विश्वदृष्टि में, अपने पूर्ववर्तियों की तुलना में अधिक साहसी, भारत का स्थान पहले से कहीं अधिक बड़ा है। इसके अनुरूप, प्रधान मंत्री की विदेश नीति ज्ञान और लोगो के बड़े कारण से सूचित शक्ति के व्यावहारिक और बुद्धिमान उपयोग पर अर्थशास्त्र के जोर को दर्शाती है। क्या यह अब तक सफल रहा है

मुख्य बिन्दु

नरेन्द्र मोदी, विदेश नीति, अर्थशास्त्र

प्रस्तावना

नरेन्द्र मोदी सरकार की विदेश नीति को मोदी सिद्धान्त भी कहते हैं। 26 मई, 2014 को सत्ता में आने के तुरन्त बाद से ही मोदी सरकार ने अन्य देशों के साथ सम्बन्धों को नया आयाम देने की दिशा में कार्य करना आरम्भ कर दिया।

श्रीमती सुशमा स्वराज भारत की विदेश मंत्री थी। दक्षिण एशिया के अपने पड़ोसियों से सम्बन्ध सुधारना मोदी की विदेश नीति के केन्द्र में है। इसके लिए उन्होने 100 दिन के अन्दर ही भूटान, नेपाल, जापान की यात्रा की। इसके बाद अमेरिका, म्यांमार, आस्ट्रेलिया और फिजी की यात्रा की।

श्रीमती सुशमा स्वराज ने भी बांग्लादेश, भूटान, नेपाल, म्यांमार, सिंगापुर, वियतनाम, बहरीन, अफगानिस्तान, तजाकिस्तान, यूएसए, यूके, मॉरीसस, मालदीव, यूएईदक्षिण कोरिया, चीन, ओमान, और श्रीलंका की यात्रा की है।

अब माना जाने लगा है कि नरेन्द्र मोदी ने विश्व के बारे में भारत की सोच में आमूल परिवर्तन कर दिया है।

न केवल पश्चिमी विद्वान, बल्कि आधुनिक शिक्षा पर पोशित भारतीय विशेशज्ञ भी, प्रधान मंत्री नरेंद्र मोदी की विदेश नीति का मूल्यांकन करने के लिए 2,300 साल पहले लिखे गए अर्थशास्त्र का उपयोग करने से कतरा सकते हैं। हालांकि, उन्हे अपनी धारणा पर पुनर्विचार करना चाहिए।

अर्थशास्त्र के लेखक और सम्राट चंद्रगुप्त मौर्य के गुरु कौटिल्य के अध्ययन में रुचि और उनकी समकालीन प्रासंगिकता की सराहना, मोदी सरकार से पहले की है। पूर्व राष्ट्रीय सुरक्षा सलाहकार (एनएसए) और विदेश सचिव शिवशंकर मेनन के समर्थन से 2012 के बाद से एक प्रमुख भारतीय थिंक टैंक इंस्टीट्यूट ऑफ डिफेंस स्टडीज एंड एनालिसिस (आईडीएसए) द्वारा गंभीर अध्ययन किए गए हैं। यह विशेष परियोजना भारतीय और पश्चिमी विद्वानों द्वारा पिछले कई वर्षों के काम पर बनाई गई है। हाल ही में, हेनरी किसिंजर ने अर्थशास्त्र को शासकों के लिए एक व्यावहारिक, गाइड टू एक्शन के रूप में चित्रित किया है, जिसने इसके मौलिक महत्व को रेखांकित किया है।

अर्थशास्त्र राज्य के सभी पहलुओं पर एक कालातीत और व्यापक ग्रंथ हैरू राजनीति, कानून, अर्थव्यवस्था, युद्ध और शांति का प्रबंधन, खुफिया, विदेश नीति और कूटनीति। यह एक राज्य के मूल उद्देश्य की व्याख्या करता है, अर्थात्, अपने लोगों के कल्याण और सुरक्षा को सुनिश्चित करना।

जटिल सुरक्षा–विकास मैट्रिक्स वर्तमान में अंतर्राष्ट्रीय राजनीति की एक अभिन्न विशेषता है। सुरक्षा (व्यापक अर्थ में) और विकास दोनों आवश्यक हैं। वे स्वाभाविक रूप से वैश्वीकृत समाज में जुड़े हुए हैं जिसमें लोग रहते हैं – परमाणु शस्त्रागार और सुरक्षा के लिए कई पारंपरिक और गैर–पारंपरिक खतरों की छाया में। पूर्व एनएसए शिवशंकर मेनन ने देखा है कि कई मायनों में आज हम जिस दुनिया का सामना कर रहे हैं कृ वह उस दुनिया के समान है जिसे कौटिल्य ने महानता के लिए मौर्य साम्राज्य का निर्माण करते समय संचालित किया था।

अंतरराष्ट्रीय संबंधों के लिए अर्थशास्त्र की प्रासंगिकता के लिए इस विश्लेषण को सख्ती से प्रतिबंधित करते हुए, कोई भी इस बात पर प्रकाश डाल सकता है कि ग्रंथ की सर्वोत्कृष्टता सप्तांग के अपने तीन सिद्धांतों में परिलक्षित होती है (जो राजकोश, प्रधान मंत्री और सेना सहित सात अंगों के रूप में राज्य की शक्ति को देखता है); राजा मंडला (राज्यों का चक्र, जहां किसी का अपना देश मित्रवत और अमित्र पड़ोसियों से घिरा हुआ है); और शडगुण (छह तरीके से एक राज्य विदेश नीति का संचालन कर सकता है)।

कौटिल्य ने पड़ोसी, मध्यवर्ती और दूर के राज्यों की विभिन्न श्रेणियों के साथ राज्य की निरंतर बातचीत के बारे में (एक विद्वान, संरक्षक और सम्राट के मंत्री के रूप में) जो लिखा और अभ्यास किया, वह अत्यधिक प्रासंगिक है। उनकी शिक्षाएं भारत के बौद्धिक डीएनए का हिस्सा हैं। आईडीएसए परियोजना में भाग लेने वाले रणनीतिक मामलों के विद्वान माइकल लिबिग कहते हैं कि कौटिल्य भारत की रणनीतिक संस्कृति को प्रभावित करने वाला एक महत्वपूर्ण कारक है।

चार्य चाणक्य की छः सूत्रीय विदेश नीति और मोदी सरकार

"अपनी नीति तो अपनाओ, लेकिन शत्रु की युद्ध नीति को समझना भी उतना ही आवश्यक है। युद्ध में अपने शत्रु की भान्ति सोचना भी आवश्यक है। जो भी नीति हो, उसे गुप्त रखो। उसे केवल अपने कुछ विश्वासपात्र सहयोगियों को बताओ। अच्छे के लिए सोचो, पर बुरे से बुरे के लिए भी उद्यत रहो।" दृ यह कथन है महामती चाणक्य का। जिसके आदर्श व्यावहारिक, राजनीतिक, कूटनीतिक चिन्तन का यह विश्व लोहा मानता है और जिसके विषय में निस्सन्देह यह कहा जा सकता है कि उसके कालजयी राजनीतिक व कूटनीतिक सूत्र हमारा आज भी मार्गदर्शन कर रहे हैं और भविष्य में भी करते रहेंगे।

यह बहुत ही दुरूखद है कि चाणक्य जैसा महान कूटनीतिज्ञ जिस भारत देश में हुआ उसी देश में उसके विचारों की उपेक्षा की जाती है, जबकि विदेशों में उसे कहीं अधिक सम्मान दिया जाता है। चाणक्य ने राजनीति के ऐसे सिद्धांतों का प्रतिपादन किया था जो कालजयी हैं। ये सिद्धांत उतने ही मननीय, विचारणीय और ग्रहणीय आज भी हैं जितने उसके जीवन–काल में थे। हमारा मानना है कि जब तक सृष्टि रहेगी तब तक भारत के महान तपस्वी और राजनीतिक मनीशी महामति चाणक्य के ये विचार मानवता की सेवा करते हुए राजनीति का मार्गदर्शन करते रहेंगे ।

महामती चाणक्य ने हमें परामर्श दिया है कि शत्रु को जहाँ से भी आर्थिक, सामाजिक, मानसिक एवं शारीरिक शक्ति प्राप्त हो रही है, उस स्रोत को शत्रु तक पहुँचने से पहले ही मिटा दो। सही समय की प्रतीक्षा करो। जब शत्रु पूर्णरूपेण दुर्बल हो तब उस पर (उसके शत्रु, जो कि अब आपका मित्र है) मिलकर आक्रमण कर दो। इस प्रकार के हमले के उपरान्त शत्रु पूर्णतः अचम्भित हो जाएगा और आपसे प्रतिशोध लेने में भी सक्षम नहीं होगा।

चाणक्य अथवा कौटिल्य ने विदेश नीति सम्बन्धी छः प्रकार की नीतियों का उल्लेख किया है

सन्धिः विदेश नीति मे संधि शब्द का बहुत अधिक महत्व है। चाणक्य के कथनानुसार शान्ति बनाए रखने हेतु समतुल्य या अधिक शक्तिशाली राजा के साथ संधि की जा सकती है। आत्मरक्षा की दृष्टि से शत्रु से भी सन्धि की जा सकती है। किन्तु इसका लक्ष्य शत्रु को कालान्तर में निर्बल बनाना है। भारतीय राजनीतिक चिन्तन और परम्परा में शत्रु वह है जो हमारे राष्ट्रीय अस्तित्व को समाप्त करने के षड़यन्त्रों में या किसी भी प्रकार से मानवीय मूल्यों का हनन करने और मानवता का विनाश करने की योजनाओं में संलिप्त रहता है। चाणक्य का मत है कि संधि समतुल्य या शक्तिशाली राजा के साथ ही की जाती है।

यदि शत्रु शक्तिशाली है तो उससे संधि कर लेने में ही लाभ है। यद्यपि चाणक्य के इस कथन का अभिप्राय यह कदापि नहीं है कि शक्तिशाली शत्रु के सामने आप आत्महीनतावश सदा पूँछ हिलाते रहें। सन्धि करने से उसका अभिप्राय केवल इतना है कि देश, काल व परिस्थिति के अनुसार यदि कुछ समय के लिए शक्तिशाली राजा को या देश को इस भ्रम में डाला जा सकता [illegible] तो ऐसा कर लिया जाना चाहिए।

समकालीन राजनीति में प्रयुक्त शब्दावली के प्राचीन भारतीय सन्दर्भ

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चौ. चरण सिंह विश्वविद्यालय, मेरठ

विगत दो सौ वर्षों से भारत में विमर्श का मुख्य आधार यही रहा है कि आधुनिक राजनीति और उसमें प्रयुक्त शब्दावली का अभ्युदय पश्चिम विशेषतः यूनान में हुआ है और साम्राज्यवादी इंग्लैंड ने अपने उपनिवेशों को सभ्य बनाने के लिए उनका नानाविध प्रयोग किया है। यह सब न केवल हमने पढ़ा बल्कि इसको ध्रुव सत्य भी मान लिया। फलतः हम आज भी उन्हीं के गढ़े वृतांत को पीढ़ी दर पीढ़ी स्वीकारते हुए एक आत्म-विस्मृत परावलम्बी समाज का सृजन करने में सन्नद्ध हैं। जबकि वास्तविकता इसके बिल्कुल विपरीत है क्योंकि भारत युगों से न केवल स्वयं श्री-समृद्धि से सम्पन्न रहा है बल्कि उसने विश्व को भी अपने सान्निध्य से उपकृत किया है। तभी तो विश्व प्रसिद्ध इतिहासकार विल ड्यूरण्ट लिखते हैं कि 'भारत हमारी नस्लों की मां है और संस्कृत यूरोपीय भाषाओं की माँ है, वह हमारे दर्शन की माँ है, अरबों के माध्यम से आए हमारे गणित की माँ है, बुद्ध के द्वारा ईसाईयत में सन्निहित करुणा की माँ है, गाँवों के द्वारा स्वशासन की मां है। इस प्रकार भारत माता अनेक प्रकार से हमारी माँ है।'[1]

ये बातें विल ड्यूरण्ट ने 1935 में लिखी थी। लगभग पचासी वर्ष पूर्व वे भारत के महत्व को बहुत ही बेबाकी से स्वीकारते हैं। 1783 में भारत में ब्रिटिश ईस्ट इंडिया कंपनी के सुप्रीम कोर्ट के जस्टिस बनकर भारत आए सर विलियम जोन्स भी यूनान और शेष यूरोप पर भारत के प्रभाव को स्पष्टतः रेखांकित करते हैं। वे लिखते हैं कि 'गौतम के न्याय-दर्शन से अरस्तु प्रभावित थे, कणाद के वैशेषिक से थलेस, जैमिनी के पूर्व मीमांसा से सुकरात, व्यास की उत्तर मीमांसा से प्लेटो, कपिल के सांख्य से पाइथागोरस और पतंजलि के योग से जेनो के स्टोइक।"[2] इतना ही नहीं यह तो हमें ज्ञात ही है कि यीशु सहित प्लेटो और पाइथागोरस ने ज्ञान-पिपासा की शांति के लिए न केवल भारत की यात्रा की थी बल्कि लम्बे समय तक उसको प्राप्त करने के उपक्रम भी किये थे।[3] इसी सन्दर्भ में जोन्स लिखते हैं कि 'जैसे नील नदी से मिस्र के पुरोहित गंगा और यमुना के किनारे सीखने आते थे, वैसे ही जैसे यूनान के इनके पास आते थे।'[4] इस प्रकार से यूनान के ज्ञान का आधार भी मिस्र के द्वारा भारत ही था।

रामविलास शर्मा इस संयोग को बहुत ही रोचक रूप से लिखते हैं कि जैसे ही हेगेल ने यूनानी दर्शन को पढ़ा वैसे ही वह वेदांत के साथ जुड़ गया और यूरोप में ज्ञान का प्रवाह होने लगा। मार्क्स, गैकाले और

मैकाले के बहनोई चार्ल्स ट्रेवलिन के अनुयायी जो पीढ़ी दर पीढ़ी भारत को हेय सिद्ध करने में लगे रहते हैं, वे स्वयं इन तीनों के हवाले से भारत के गुण-वैशिष्ट्य को समझ सकते हैं। मैकाले स्वयं भारत के गुण-वैशिष्ट्य को मानते हैं किन्तु स्वीकारते नहीं।[5] चार्ल्स ट्रेवलिन भी कुछ ऐसा ही लिखते हैं कि हमारी मुख्य चिंता हिन्दुस्थानियों को सिखाना नहीं अपितु सीखे हुए को भुलाना है क्योंकि ये बहुत अधिक जानते हैं जो कि यूरोप से अधिक है।[6] इसके लिए वह अपने साले मैकाले के सम्मुख एक बहुत ही विद्ध्वंशकारी योजना प्रस्तुत करता है कि सभी भाषाओं की लिपि रोमन कर देनी चाहिए जिससे सम्पूर्ण भारत में एकरूपता निर्माण हो जाए।[7] एकरूपता क्यों? क्योंकि उनकी पंथिक समझ मुक्तता में विश्वास ही नहीं करती। सामी पन्थी होने के कारण एकरूपता इनके लिए अनिवार्य है जबकि हिंदुओं के लिए एकरूपता बाह्य न होकर आंतरिक होती है जो कि अद्वैत से सम्बंधित है।

ट्रेवलिन के लिए एकरूपता तो मात्र एक बहाना थी। वस्तुतः उसका उद्देश्य लिपियों को समाप्त करके भारतीयों को उनकी भाषाओं से विमुख करना था जिसमें उच्च कोटि का साहित्य रचा हुआ था और जिसे पढ़ कर वे स्वाभिमान से भर जाते थे। यदि सभी भाषाओं की लिपि रोमन हो जाएगी तो कुछ पीढ़ी बाद ये अपनी भाषा पढ़ना भूल जाएंगे और ऐसा होते ही ये अपनी जड़ों से कटकर आत्म विस्मृति के घटाटोप में चले जायेंगे। फिर हम जो चाहेंगे ये वही पढ़ेंगे। किन्तु मैकाले लम्बे समय तक भारत में नहीं रहा और ट्रेवलिन का यह षड्यंत्र परवान न चढ़ सका। कार्ल मार्क्स, जो कि द्वन्दात्मक-भौतिकवाद के प्रणेता माने जाते हैं, भी भारत के वैशिष्ट्य को उजागर करते हुए लिखते हैं कि वह हमारी भाषओं, हमारे धर्मों का स्रोत रहा है।[8]

इस प्रकार भारत न केवल अतीत में स्वयं प्रकाशित रहा, जैसा कि उसका अर्थ है, बल्कि अपने आलोक से उसने शेष विश्व को भी आलोकित किया। उपर्युक्त कुछ सन्दर्भ भारत के गुण-वैशिष्ट्य को उजागर करने के दृष्टिकोण से प्रस्तुत किये गए हैं जिससे कि इस पत्र को पढ़कर अध्येताओं को इसमें लिखी गई बातें काल्पनिक या मनगढंत न लगें। वे स्वयं कुछ राजशास्त्रीय शब्दावली को इस पत्र के माध्यम से पढ़ें और उस पर चिंतन-मनन करके उसे व्यवहार में लावें जिससे विस्मृति के आगोश से हम बाहर आकर पुनः एक बार वैश्विक पटल पर मार्गदर्शक की भूमिका में आ सकें। किन्तु इन सबके लिए भारतीय वृतांत प्रचलन में लाना होगा। उसी दृष्टिकोण से यह पत्र प्रस्तुत किया जा रहा है जिससे हम स्वयं के गौरवशाली अतीत और उसके द्वारा किये गए क्रियाकलापों से परिचित हो सकें।

राष्ट्र

वस्तुतः राष्ट्र को अंग्रेजी के नेशन का पर्याय मानकर हिंदी में प्रचलित किया गया है जबकि ऐसा नहीं है। नेशन शब्द का अभ्युदय पंद्रहवीं सदी के बाद और विकास अठारहवीं सदी में होना शुरू हुआ। वहीं राष्ट्र शब्द का अभ्युदय ऋग्वैदिक काल में हुआ और अथर्ववेद तक तह न केवल सुदृढ़ अवस्था को प्राप्त हो गया था बल्कि उसका आध्यात्मिक परिप्रेक्ष्य भी लोक में अन्तस् तक उतर गया। राष्ट्र शब्द ऋग्वेद के सातवें मण्डल में प्रयुक्त हुआ है जोकि समकालीन नेशन से एकदम भिन्न है।

ऋग्वेद में सर्वप्रथम राष्ट्र की उत्पत्ति राज्यों के व्यावसायिक हितों के टकराव से बचने के परिप्रेक्ष्य में हुई है। इस टकराव से कैसे बचा जाए, इस पर चिंतन-मनन के बाद राष्ट्र के गठन का विचार आया। यहाँ यह ध्यातव्य है कि ऋग्वैदिक समाज न केवल व्यावसायिक था बल्कि वह वैज्ञानिक दृष्टिकोण से भी अग्रणी भूमिका में था क्योंकि पहिये के अविष्कार के साथ उसने कृषि से सम्बन्धित अन्य औजार बना लिए थे। कृषि की महत्ता के चलते पशुओं के साथ उसने प्रकृति से तादात्म्य स्थापित कर लिया था। इस तादात्म्य के चलते जीव-जगत में अद्वैत की प्रतिष्ठापना हो चुकी थी। फलतः स्थैर्य और शांति स्थापित होने लगी थी। राज्यों के मध्य समन्वय व सामंजस्य बनने लगा था। ऋग्वेद में ऋषि इन्हीं सब के लिए प्रयत्नशील दिखता था। इसलिए वह समाज में आत्मभाव की प्रतिष्ठापना के दृष्टिकोण से प्रार्थना करता है- युवोः बृहत्राष्ट्रंधौः इन्वति यानि तुग दोनों का विशाल द्युलोक सभी राष्ट्र को प्रसन्नता देता है।

ऋग्वेद में राष्ट्र सभी के लिए प्रसन्नता का कारण है क्योंकि उससे समाज में शांति स्थैर्य और समृद्धि की प्रतिष्ठापना हो रही है। वह अनेक राजनीतिक इकाइयों के होते हुए भी संघर्ष के स्थान पर समन्वय, सामंजस्य और अद्वैत की प्रतिष्ठापना करता है। ऋग्वेद इस बात का भी सर्वप्रथम उदघाट्न करता है कि नाना प्रकार की राजनीतिक इकाइयों के चलते भी एक राष्ट्र का अभ्युदय सम्भव है। अनेक इकाइयाँ एक राष्ट्र में समाहित थीं, इसका संकेत हमें तब मिलता है जब ऋषि वरुण को राष्ट्राणां राजा कहता है[10] यानि वे राष्ट्रों के राजा हैं। राष्ट्रणां शब्द यहाँ बहुवचन के रूप में प्रयुक्त हुआ है। इस प्रकार अनेक राजाओं या राज्यों के ऊपर राष्ट्र की सत्ता अस्तित्व में आ गई थी। अनेक राज्यों का संकेत तब भी मिलता है जब इंद्र वरुण से कहतें हैं- मम राष्ट्रस्य अधिपत्यम एहि[11] अर्थात मेरे राष्ट्र का अधिपत्य स्वीकार करो। यह मंत्र इस बात का प्रतिपादक है कि वरुण पहले से ही राज्य का संचालन करने में सक्षम थे और उसको राज्य देकर एक राष्ट्र के निर्माण से ही शांति और स्थैर्य सम्भव था।

राष्ट्र के स्वामी का निर्वाचन लोक करता था इस बात के संकेत भी उपलब्ध हैं क्योंकि इंद्र वरुण से कहते हैं- सर्वा: विश: त्वा वाँछन्तु[12] यानि समस्त लोक तुम्हें चाहता है। यहां लोक से अभिप्राय जड़-जंगम सभी से है।[13] इसलिए राष्ट्र को धारण करने वाला राजा शक्तिशाली, पराक्रमी और स्थैर्य प्रदाता हो इसके लिए ऋषि प्रार्थना करता है-

ध्रुवाधौर्ध्रुवा पृथ्वीध्रुवं विश्वमिदंजगत्।
ध्रुवासःपर्वता इमे ध्रुवो राजा विशामयं।।[14]

यानि प्रजा का यह राजा वैसा ही ध्रुव हो जैसा कि ध्रुव स्वर्ग है, जैसी ध्रुव पृथ्वी है, जैसा ध्रुव विश्व है और जैसा ध्रुव पर्वत है। (यहाँ पर ध्रुव से अभिप्राय स्थिर से है और उपमा को वास्तविक रूप में भी समझना चाहिये अर्थात जैसी ध्रुवता प्रतीत होती है किंतु वैसी होती नहीं क्योंकि यथार्थ में तो सभी गतिमान हैं।)

ध्रुव ते राजा वरुणों ध्रुवं देवो बृहस्पतिः ।
ध्रुवं ते इंद्राश्चागनिश्च राष्ट्रं धारयताम ध्रुवं।।[15]

यानी तुग इस राष्ट्र को धारण करो, राजा वरुण और देव बृहस्पति, इंद्र तथा अग्नि इसे ध्रुव करें।

ध्रुवोऽच्युत: प्रमृणीहि शत्रुयतोऽधरान् पादयस्व।

सर्वा दिशः संमनसः सध्रीचीर्ध्रुवाय ते समितिः कल्पतामिह ।।[16]

अर्थात तुम दृढ़तापूर्वक और निश्चयपूर्वक शत्रुओं को पराजित करो और जो लोग शत्रुता का आचरण करें, उन्हें अपने पैरों से कुचल डालो। सब दिशाएँ एक होकर तुम्हारा सम्मान करती हैं और ध्रुवता के लिए तुम्हारी नियुक्ति करती हैं। यहाँ पर समिति का महत्त्व और राजा का निर्वाचन भी स्पष्ट होता है। इसके अतिरिक्त राजा के निर्वाचन का हेतु जहाँ एक ओर राज्य का स्थैर्य था वहीं स्थैर्य के लिए शत्रु दमन भी था। ऋग्वेद में एक और मन्त्र राजा के निर्वाचन का हेतु कर संग्रह भी बताता है। निर्वाचित राजा ही कर संग्रह का अधिकारी था, अन्य कोई नहीं। यदि अन्य कोई कर संग्रह करता था तो वह विधि सम्मत नहीं होता था।

ध्रुवं ध्रुवेण हविषामि सोमम् मृशामसि।

अथो त इंद्र:केवलीविशो बलिहृतस्करात्।।[17]

यानि वह राजा जो निर्वाचित हो, पराक्रमी हो, बलवान हो, वही राष्ट्र को स्थैर्य प्रदान कर सकता था। स्थैर्य के लिए अद्वैत की प्रतिष्ठापना भी भारतीय राष्ट्र के अभ्युदय और संधारण के लिए महत्त्वपूर्ण व्यवस्था है क्योंकि प्रकारांतर से राजा, उसका बल और पराक्रम क्षरण को प्राप्त होते ही हैं। इसलिए ये सब जब क्षरण शील हैं तब ऐसी अवस्था में राष्ट्र कैसे सुदृढ़ रहेगा? इसी अवस्था के लिए ही अद्वैत की प्रतिष्ठापना की गई जो अत्यधिक महत्त्वपूर्ण थी। सभी में एकात्मता की प्रतिष्ठापना होने से यदि कालांतर में राजा बलहीन भी हो जाएगा तो भी राष्ट्र में स्थैर्य बना रहेगा। इसलिये स्थैर्य के लिए एकात्मता महत्त्वपूर्ण है। इसी तत्व को दृष्टिगत रखकर अथर्ववेद का ऋषि कहता है कि-

भद्रम् इच्छन्त ऋषय:स्वरविद: तपो दीक्षाम उपसेदू: अग्रे।

ततो राष्ट्रग् बलग् ओजश्च जातग्।

तदस्मै देवा उपसम् नमन्तु।[18]

अर्थात आत्मज्ञानी ऋषियों ने जगत का कल्याण करने की इच्छा से सृष्टि के प्रारम्भ में दीक्षा लेकर तप किया, उससे राष्ट्र निर्माण हुआ, राष्ट्रीय बल और ओज भी प्रकट हुआ। यहाँ राष्ट्रीय बल से अभिप्राय आत्मिक और संख्यात्मक दोनों से है। सब इस राष्ट्र के सामने नम्र होकर इसकी सेवा करें। इस प्रकार राष्ट्रदेव की प्रतिष्ठापना हुई और सेवा इसका मूलाधार सुनिश्चित हुआ, भोग नहीं। यानि तेन त्यक्तेन भुंजीथा, भोग नहीं। जबकि नेशन का अभ्युदय भोग के बल पर हुआ।[20] इस प्रकार आधुनिक नेशन और भारतीय राष्ट्र में मूलभूत अंतर है और वह अन्तर है भोग और त्याग का।

राजा का निर्वाचन

प्राचीन भारत का लोकतंत्र वास्तविक था। प्रारम्भ में प्रत्यक्ष और कालांतर में उसने प्रतिनिध्यात्मक स्वरूप ले लिया। राजा में अन्यान्य गुणों के साथ लोकप्रियता और शक्तिशाली होना भी महत्त्वपूर्ण था। तभी तो राजा के निर्वाचन के समय उसके इन गुणों का ऋषि बखान करता था। यथा-

आ त्वाहार्षमंयरभूर्ध्रुवस्तिष्ठाविचाचलत्।

विशस्त्वा सर्वा वाच्छन्तु मा त्वद्रष्टमधि भ्रशत।[21]

यानि तुम हर्षपूर्वक हम लोगों में आओ, अविचल रूप से स्थिर हो। सब लोग तुम्हें चाहते हैं, तुम राष्ट्र से भ्रष्ट न हो।

इहैवैधी मा च्योष्ठा: पर्वत इवाविचालत्।

इंद्रेहैव ध्रुवस्तिष्ठेह राष्ट्रमु धारय।।[22]

अर्थात तुम यहाँ पर्वत के समान दृढ़ रहो और तुम्हारा पतन न हो। तुम यहाँ इंद्र के समान अविचल रहो। तुग यहाँ रहो और राष्ट्र को धारण करो। इस प्रकार से राजा का निर्वाचन होता था और वह लोक प्रसादपर्यंत पद धारण करता था। यदि वह लोक का विश्वास खो देता था तो लोक उसे वापस बुला लेता था।

राजा के वापसी का अधिकार

यद्यपि राजा का निर्वाचन जीवनपर्यंत या लोक प्रसादपर्यंत होता था तथापि उसके द्वारा लोक को अप्रसन्न या लोक विश्वास खो देने की अवस्था में वापस बुलाए जाने के प्रमाण भी उपलब्ध हैं। राजा के पद पर बने रहने का मुख्य आधार उसका धर्म आरूढ़ होना होता था। ब्राह्मण ग्रंथों में राजा जब पद की शपथ लेता था तो वह इसके लिए कटिबद्ध होता था और इससे च्युत होने पर उसके सर्वस्व का लोप हो जाता था।[23] राजा वेन जो कि अत्यधिक शक्तिशाली था को तथा राजा नहुष को इसी प्रकार से सत्ताच्युत होना पड़ा था।[24]

राजा की अस्वीकृति का अधिकार

प्राचीन काल में यदि राजा यथोचित गुणों का स्वामी नहीं है तो लोक उसका बहिष्कार करके उसे चुनाव के अयोग्य घोषित कर देता था, चाहे वह कोई भी क्यों न हो। इसलिये राजा के संस्कार के पूर्व उसकी लोकस्वीकृति अनिवार्य होती थी। राजा सगर, जो बड़े शक्तिशाली राजा थे, के बेटे असमंजस को लोक विरोध या अस्वीकृति के कारण ही न केवल राज्य गंवाना पड़ा बल्कि वन को भी जाना पड़ा। बाद में राजा सगर ने लोक स्वीकृति से उसके पुत्र अंशुमन को राजपद पर सुशोभित किया।[25] इसी प्रकार रामायण में भी भरत के राज्याभिषेक के लिए बल दिए जाने पर दशरथ ने श्रीराम के राज्याभिषेक के लिए लोक स्वीकृति का हवाला दिया था और असमर्थता प्रदर्शित की थी।[26] ये सब प्रमाण हैं कि अनुवांशिक होते हुए भी राजा का निर्वाचन अनिवार्य था।

राजा का पुनःनिर्वाचन

राजा के धर्मच्युत होने पर उसे पदविहीन कर दिया जाता था, ऐसा उल्लेख पूर्व में किया जा चुका है। किंतु उसके धर्माचरण पर लौट आने के बाद वह पुनः राज्यपद का अधिकारी हो जाता था इसके भी प्रमाण अथर्ववेद में मिलते हैं। वह जो निर्वासित होकर अन्य देश में विचरण कर रहा है और जो फिर बुलाए जाने के योग्य है, उसे गिद्ध यहां ले आवेंगे। अश्विन उसके लिए मार्ग प्रशस्त करेंगे जिसपर यात्रा करना सुगम होगा। उसके सजात उसके चारों ओर एकत्रित हों। तेरे विरोधी तुझे बुलावेंगे, तेरे मित्रो ने तेरा निर्वाचन

किया है।"[27] इस प्रकार राज्य में दो वर्ग पनपने लगे होंगे। तभी तो मित्रों और विरोधियों का उल्लेख ऋषि ने किया। ऋषि आगे फिर कहता है कि हे राजा! तू अपने विषयों में आ क्योंकि तूने निर्वाचकों की बात मान ली है।[28] पुनःनिर्वाचन संबन्धी एक और मन्त्र अथर्ववेद में उपलब्ध है जो इस प्रकार है-

त्वां विशो वृणतां राज्याय त्वामिमाः प्रदिशः पंच देवी।
वर्ष्मन् राष्ट्रस्य ककुदि श्रयस्व ततो न उग्रो वि भजा वसूनि।।[29]

यानि राज्य के लिए प्रजा तुम्हें वरण करती है, विस्तृत विशाल दिशाएं तुम्हारा वरण करती हैं। राष्ट्र के शरीर के इस उच्च स्थान (सिंहासन) पर आसीन हो और यहाँ से उग्रतापूर्वक सब लोगों को प्राकृतिक वैभव प्रदान करो। यहाँ यह भी ध्यान में आता है कि लोक कल्याण का प्रारूप लोक ही प्रस्तुत करता था, निर्वाचित होने वाला राजा नहीं। तभी तो ऋषि कह रहा है कि तूने निर्वाचकों की बात मान ली है। अर्थात अब वह लोकरंजक भूमिका का ही निर्वहन करेगा। वह लोक या प्रजा के हित में धन का व्यय करेगा। उल्लेख मिलता है कि तू अपना मन धन प्रदान करने में एकाग्र कर। और तब हे बलवान! तू हम लोगों में धन वितरित कर। इस प्रकार राजा जो राज्यारोहण के बाद कर के रूप में धनसंग्रह का अधिकारी हो जाता था, वह उस धन को प्रजा पर ही व्यय करे, स्वयं पर नहीं। इसका यही अभिप्राय है कि लोक कल्याण राज्य और राजा का सदैव मुख्य हेतु रहा है।

समिति

प्राचीन काल में समिति की भूमिका बहुत ही महत्वपूर्ण थी क्योंकि इसी के माध्यम से विश के लोग एक स्थान पर सामूहिक या प्रतिनिधित्यामक रूप में एकत्र आते थे। इस प्रकार से यह विश की सर्वोच्च संस्था थी जो एकत्र रूप से राजा के निर्वाचन में महत्त्वपूर्ण भूमिका निर्वहन करती थी।[30] यह न केवल राजा का निर्वाचन करती थी अपितु उसे पदच्युत करके पुनः चुनने का कार्य भी करती थी। इस प्रकार से यह राज्य के संचालन में महत्वपूर्ण और सर्वोच्च स्थान पर थी[31] और इसकी प्रत्येक बैठक में राजा की उपस्थिति अनिवार्य थी।[32] इसका एकमत होना अनिवार्य था। तभी तो ऋषि इसके एकमत होने की प्रार्थना करता है। इससे यह भी दृष्टिगोचर होता है कि राज्य का संचालन सर्वसम्मति से होता था। इसके लिए समिति में लंबे समय तक चर्चा होती होगी क्योंकि एकमत पर आने के लिए यह अनिवार्य व्यवस्था थी।[33]

राजा और समिति का यह सम्बन्ध बहुत लंबे समय तक चला क्योंकि वैदिक साहित्य में विशेषकर उपनिषदों में भी समिति का उल्लेख मिलता हैं[34] जोकि वेदों के बहुत बाद के ग्रंथ हैं। समिति में सभी सदस्यों के द्वारा बहुत वैदुष्यपूर्ण वक्तव्य दिए जाते थे। इसके लिए वह न केवल अभ्यास करते थे अपितु देव से प्रार्थना भी करते थे जिससे वे समिति में प्रतिष्ठापित हो सकें।[35] समिति के अनेक रूप प्राचीन साहित्य में उपलब्ध हैं। इसकी उपस्थिति ग्राम से लेकर राष्ट्र तक विद्यमान थी।[36] वर्तमान की विधायिका की तुलना इससे की जा सकती है।

सभा

प्राचीनकाल में समिति का महत्व सभा के अभाव में अपूर्ण था। दोनों का उल्लेख प्रायः एक साथ ही किया जाता था। यथा सभा सगिति। किया भी क्यों न जाये जबकि दोनों एक ही पिता की संतान थीं।[37] सभा का

महत्व समिति से कहीं पर भी कम नहीं था बल्कि उसके समकक्ष या उससे अधिक ही था। सभा में भी सभी का एकमत होना अनिवार्य था। इसीलिए सभा को नरिष्ठा कहा गया है जिससे अभिप्राय सभा में उपस्थित सभी के उस निर्णय से है जिसका उल्लंघन न किया जा सके। इस प्रकार इसका निर्णय अंतिम और सभी के लिए बाध्यकारी होता था।[38] अतएव सभा की भूमिका राष्ट्रीय न्यायालय की होती थी। वर्तमान समय के सर्वोच्च न्यायालय को इसके समकक्ष मान सकते हैं।[39]

दो और संस्थाएँ प्राचीन भारत में महत्त्वपूर्ण थीं जिनको विदथ और सेना के नाम से जाना जाता था। विदथ प्रायः धार्मिक क्षेत्र में कार्यरत संस्था थी।[40] इसके महत्व का इसका अनुमान इसी बात से लागाया जा सकता है कि ऋग्वेद में इसका उल्लेख एक सौ बीस बार, सभा का आठ बार एवं समिति का छः बार हुआ है। वहीं अथर्ववेद में इसका उल्लेख बीस, सभा का सत्रह एवं समिति का तेरह बार हुआ है। इससे यह ध्यान में आता है कि ऋग्वेद की तुलना में जहाँ इसका उल्लेख अथर्ववेद में कम हो रहा है वहीं समिति और सभा का उपयोग बढ़ रहा है। चूँकि विदथ एक धार्मिक संस्था थी इसलिए जैसे-जैसे धर्म की प्रतिष्ठापना समाज में होती गई वैसे-वैसे इसकी भूमिका भी कम होती गई। ऋग्वेद की तुलना में अथर्ववेद बहुत ही बाद का वेद है। इससे हम यह अनुमान सहजता से ही लगा सकते हैं। सेना का अभिप्राय राज्य की सैनिक शक्ति से था। सभी नागरिक सैनिक होते थे। विदथ को समाज में धर्म प्रतिष्ठापना के दृष्टिकोण से प्रतिष्ठापित किया गया था क्योंकि यह ऋग्वेद के प्रारंभिक अवस्था की संस्था थी और समाज में धर्म संस्थापना के कार्य में संलग्न थी। यहाँ धर्म से अभिप्राय कर्तव्यों के पालन से है। परवर्ती काल में इसका उल्लेख नहीं मिलता है। सम्भवतः धर्म प्रतिष्ठापना के बाद इसकी भूमिका गौण हो गई होगी क्योंकि कालांतर में भारतीयों को धर्मपरायण संज्ञा से सम्बोधित किया जाने लगा था। वर्तमान के संविधानवाद की तुलना इससे की जा सकती है।

संसद

संसद शब्द भी वैदिककालीन ही है और वेदों में इसका उल्लेख बहुतायत में हुआ है। ऋग्वेद में संसद की महत्ता का प्रतिपादन करते हुए ऋषि इसको पितुमाती अर्थात अन्न-समृद्धि से परिपूर्ण बताता है।[42] अथर्ववेद में संसद का प्रयोग सभा-समिति दोनों के लिए किया गया है। ऋषि कहते है कि इस सारी संसद में भाग्यशाली होऊँ।[43] इस वाक्य से जहाँ सभा और समिति का संयुक्त स्वरूप ज्ञात होता है वहीं यह भी संज्ञान में आता है कि दोनों के सामूहिक अधिवेशन भी आयोजित किये जाते होंगे। तभी तो ऋषि सारी संसद में भाग्यशाली होने की प्रार्थना करता है, नहीं तो सभा या समिति का ही उल्लेख करता। अथर्ववेद का एक मन्त्र संसद में व्यवहार वैशिष्टय पर भी प्रकाश डालता है यानि उसके अन्दर कैसा आचरण हो।[44] संभवतः संसदीय व्यवहार शब्द तभी से शिष्टता का परिचायक हो गया होगा। इस प्रकार से संसद के दोनों सदन जो कि आज भी विद्यमान हैं, वे पुराने समय से ही चले आते हैं।

अराजकता

प्राचीनकाल में अराजकता शब्द एक आदर्श व्यवस्था के रूप में प्रचलित था क्योंकि इस अवस्था में धर्म प्रतिष्ठापना के कारण उसकी भूमिका बहुत महत्वपूर्ण थी। प्राचीन भारत का अराजक शब्द वर्तमान के

अनार्की से सर्वथा भिन्न है क्योंकि अराजकता का अभिप्राय है राज्य की आवश्यकता का न होना है और अनार्की का अर्थ है राज्य के होते हुए भी उसकी अनुभूति का अभाव। सही अर्थों में राज्य की आवश्यकता का अभाव समाज की आदर्श अवस्था थी क्योंकि इसमें व्यक्ति धर्मानुसार अपनी भूमिका निर्वाहन करता था। महाभारत में इस अवस्था का विस्तार से उल्लेख आया है[45] और यह अवस्था ज्ञानियों के द्वारा प्रशंसित बताई गई है। इस प्रकार अराजकता धर्मराज्य या संविधानवाद पर अवलम्बित एक आदर्श अवस्था थी। वह प्रशंसनीय थी न कि निंदनीय। गांधीजी का रामराज्य भी यही है तभी तो उन्हें एक अराजकतावादी कहा जाता है। उपनिवेशी पदावलियों की ग्राह्यता के कारण कालांतर में अर्थ का अनर्थ हुआ है।

जनहित याचिका

वर्तमान में इसको एक नई संकल्पना के रूप में विवेचित किया गया है जिसमें जनता के हितों के दृष्टिकोण से व्यक्ति या व्यक्ति समूहों के द्वारा कार्य किये जाते हैं। आधुनिक काल में जनहित याचिका का चलन अमेरिका में साठ के दशक में हुआ। इसके अभ्युदय का मूल कारण प्रतिनिधित्वविहीन वर्गों के हित संरक्षण के दृष्टिकोण से किए गए क्रिया-कलापों को माना गया और इनमें प्रमुखतः गरीब, पर्यावरणविद, उपभोक्ता, प्रजातीय एवं नृजातीय अल्पसंख्यक तथा अन्य को सम्मिलित किया गया।[46] वहीं भारत में सर्वोच्च न्यायालय ने अपने सुप्रसिद्ध निर्णय में जनहित याचिका को कुछ इस प्रकार से परिभाषित किया है- 'एक विधि न्यायालय में सार्वजनिक हित अथवा सामान्य हित जिसमें जनता या किसी समुदाय के वर्ग का आर्थिक हित है अथवा ऐसा कोई हित जुड़ा है जिसके कारण उनके कानूनी अधिकार अथवा दायित्व प्रभावित हो रहे हों, के मामले में कानूनी कार्यवाई शुरू करना है।'[47]

वस्तुतः जनहितवाद की यह अवधारणा भ्रमकारी है क्योंकि भारत में यह आदिकाल से ही विद्यमान है। शौनकादि ऋषि समूहबद्ध यह कार्य करते थे और नारद ऋषि व्यक्तिगत रूप से। राष्ट्र का अभ्युदय भी लोक कल्याण की ही दृष्टिकोण से हुआ। आदिकाल में युद्धों की भयावहता से संत्रस्त होकर इंद्र ने वरुण से राष्ट्र का नेतृत्व करने का आह्वाहन किया।[48] इस प्रकार इंद्र सृष्टि के प्रथम लोकहित याचक थे जो स्वयं से ही लोक के लिये, लोक के द्वारा लोकहित की याचना करते थे। जब उन्होंने अपनी प्रार्थना में वरुण से प्रार्थना की कि तुम राष्ट्र को अपने आधिपत्य में लो तो ऐसा उन्होंने लोकेच्छा के रूप में किया न कि स्वयं की इच्छा से।[49] अतएव उन्होंने लोकहित याचिका के सिद्धांत के रूप में लोकेच्छा को प्रतिष्ठापित किया न कि व्यक्तिगत या समूहगत हितों को। इसलिये भारतीय परिप्रेक्ष्य में लोकहितकारी व्यवस्था स्वयं लोक है, लोक के द्वारा है और लोक के लिए है। इसमें कोई भी बाह्य कारक हस्तक्षेप नहीं कर सकते।

किन्तु कालांतर में समाज के विस्तृत रूप के कारण यह व्यवस्था ऋषियों के हाथ में आ गई। उसी भूमिका का निर्वाह करते हुए देवऋषि नारद, जो आदि पत्रकार के रूप में भी जाने जाते हैं, सम्पूर्ण सृष्टि का भ्रमण करते थे। सभी की सर्वप्रकार की सूचनाएं उनके पास होती थीं और उनके आधार पर वे कार्यों का सम्पादन भी करते थे। जब एक बार समाज के विस्तार के कारण लोक धर्मच्युत होने लगा और उसमें सन्ताप बढ़ने लगे तब वे भगवान श्रीविष्णु जी के सम्मुख उपस्थित हुए और समाधान मांगा। तब भगवान ने कहा- हे नारद! इस पर शौनकादि ऋषियों ने कार्य कर लिया है, तुम्हें उसे क्रियान्वित करने के दृष्टिकोण से कार्य

करना है।[50] यानि सत्य की प्रतिष्ठापना से ही लोक का सर्वविध कल्याण होगा। आज भी यही एकमात्र निर्णय सर्वकल्याण की गारंटी देता है। इस प्रकार भारतीय समाज में लोककल्याण एक बहुत पुरानी व्यवस्था है। जनहित याचिका भी भारतीय परंपरा है जिसे पश्चिम के अनुगामियों ने नए रूप में प्रस्तुत किया है।

लोककल्याणकारी राज्य

वैदिककाल से लेकर आजतक भारतीय समाज की मुख्य चिंता लोककल्याण ही रही है। इसीलिए राजा को लोकरजंक कहा जाता था। लोकरजंक राजा स्वयं के रंजन की चिंता नहीं करता।[51] वह अहर्निश लोककल्याण में ही संलग्न रहता था। वेद, महाकाव्यों और बाद के अन्य धर्मग्रंथों और नीतिग्रंथो में अनेक उद्धरण उपलब्ध हैं। किंतु उपनिवेशवाद के चलते यह भी यूरोप के द्वारा ही प्रचलन में लाया गया सिद्धांत बन गया।

सरकारों के प्रकार

समकालीन विश्व में चार प्रकार की सरकारों का अस्तित्व है-[52] अंतरराष्ट्रीय सरकार, राष्ट्रीय सरकार, प्रादेशिक सरकार और स्थानीय सरकार(नगरीय और ग्रामीण)। समकालीन विश्व की यह संकल्पना भी प्राचीन भारत से अनुप्राणित है। चक्रवर्ती सम्राट को अंतरराष्ट्रीय सरकार यानि संयुक्त राष्ट्र संघ आदि संगठनो के प्रेरक के रूप में देखा जा सकता है क्योंकि चक्रवर्ती सम्राट की कार्यप्रणाली सभी राज्यों के दैनंदिन क्रियाकलापों में हस्तक्षेप करने की नहीं थी।[53] वह विषम परिस्थितियों में ही हस्तक्षेप करता था। आज भी ऐसा ही होता है। राज्य अपनी व्यवस्था का संचालन स्वयं से करते थे।[54] आज भी राष्ट्रीय सरकार ऐसा ही करती हैं। प्रादेशिक सरकार सामन्तों के द्वारा संचालित रियासत इसके समतुल्य हैं।[55] स्थानीय सरकारों में नगरीय और ग्रामीण शासन सम्मिलित हैं।[56] स्थानीय शासन के दृष्टिकोण से प्राचीन भारत में अरण्य[57] शासन का स्वरूप भी प्रचलन में था। इसको उपनिवेशी शासन व्यवस्था ने स्वार्थ के चलते न केवल नष्ट कर दिया बल्कि उनको जंगली भी सिद्ध करके उनके संसाधनों पर भी कब्जा कर लिया। वेद, रामायण और महाभारत में अनेक प्रमाण उपलब्ध हैं। यथा निषाद, गुहराज निषाद[58] और एकलव्य के पिता श्रृंगवेरपुर के राजा[59] बाली-सुग्रीव आदि।

निष्कर्ष

उपर्युक्त उदाहरणों को भारत के वैशिष्ट्य के दृष्टिकोण से प्रस्तुत किया गया है। इनमें से कुछ पर विद्वानों ने पहले भी प्रकाश डाला है किंतु कुछ विषय प्रथमतः प्रकाश में लाये जा रहे हैं। सुधि विद्वान भारतीय परिप्रेक्ष्य में वर्तमान पदावली को देखेंगे तो और नवीन दृष्टिकोण विकसित होंगे। प्राचीन साहित्य अध्येताओं के लिए कुबेर के खजाने की भांति है जिसमें से जितना चाहो ले लो लेकिन वह समाप्त होने के स्थान पर वृद्धि को प्राप्त होता है। इस साहित्य को जितना हम पढ़ेंगे उतनी नूतन दृष्टियां विकसित होंगी। इसके अतिरिक्त वर्तमान में अन्य बहुत सी पदावलियाँ भी प्रचलन में है यथा नारीवाद, गत पत्र, संप्रभुता, जनगत संग्रह, चुनाव प्रचार, महिला सशक्तिकरण आदि। शब्द सीमा के कारण उन्हें यहाँ पर समाहित कर सकना संभव

नहीं है। यहाँ पर यह भी ध्यातव्य है कि पाश्चात्य चिन्तन में या तो राज्य या पूंजी/बाजार को बलवती बनाने के प्रयास किये गए हैं जबकि भारतीय चिन्तन में समाज ही सर्वोपरि है। इसलिए समाज ही चिन्तन की धुरी रहा है और उसी दृष्टिकोण से विषयों का प्रतिपादन किया गया है। अतएव यह भी आवश्यक हो जाता है कि हम राजनीतिक चिन्तन के फलक का विस्तार करें जिससे नित नूतन संकल्पनाएँ अध्येताओं के सम्मुख आ सकें।

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कौटिलीय अर्थशास्त्र में विद्या विषयक परंपरा

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कौटिल्य का उल्लेख होते ही एक ऐसा दृढ़-निश्चयी व्यक्तित्व सम्मुख उपस्थित हो जाता है जिसने नन्द वंश के नाश और चन्द्रगुप्त को सम्राट बनाने में ही अपना सर्वस्व अर्पित कर दिया किन्तु जब कौटिल्य के व्यक्तित्व पर व्यापक दृष्टिपात करते हैं तो वे बहुमुखी प्रतिभा के धनी दृष्टिगोचर होते हैं।[1] उन्होंने न केवल राजनीति (यहाँ राजनीति से अभिप्राय वे सभी क्रिया-कलाप जो न केवल राज्य की प्राप्ति में सहायक हो अपितु उसके संरक्षण-संवर्द्धन में भी सहयोगी भूमिका निर्वहन करें, से है; इसे ही योगेश्वर श्रीकृष्ण ने योग-क्षेम कहा है) पर विश्व के श्रेष्ठतम ग्रन्थों में से एक 'अर्थशास्त्र' के रूप में प्रणयन किया है अपितु जीवन के अन्य आयामों पर भी अपनी विद्वत्ता का प्रकटीकरण किया है। ऐसी बहुमुखी प्रतिभा का धनी व्यक्तित्व आज से लगभग 2350 वर्ष पूर्व जन्मा।[2] उनके जन्म स्थान को लेकर भी विद्वानों में मतैक्य का अभाव है। लेकिन उनके द्वारा लिखित ग्रंथ "अर्थशास्त्र" पर सभी की सम्मत्ति है कि वह उन्हीं के द्वारा लिखा गया है।[3] यों तो अर्थशास्त्र को राजनीति का ग्रन्थ माना जाता है किन्तु उसके 15 अधिकरण 150 प्रकरण और 180 अध्यायों में राज्य से संबन्धित सभी विषयों पर विस्तार से प्रकाश डाला गया है; इससे उनकी राज्य के प्रति व्यापक दूरदृष्टि का परिचय मिलता है। यहाँ पर हम किसी राज्य के लिए सबसे महत्त्वपूर्ण परिप्रेक्ष्य 'विद्या' पर प्रकाश डालने या विवेचना करने का प्रयास करेंगे।

यद्यपि जिसे हम विद्या कह रहे हैं, वस्तुतः यह समकालीन विश्व में शिक्षा के रूप में प्रतिष्ठापित हो चुकी है। विश्व की तो जाने दीजिए भारत में भी उसे शिक्षा या विद्या कहा जाए, को लेकर संभ्रम की स्थिति है। भारत की समकालीन समस्याओं के अनेक कारणों में से एक कारण विद्या-शिक्षा का संभ्रम भी है।[4] डेलर आयोग की रिपोर्ट इस पर विस्तार से प्रकाश डालती है। अस्तु! इस शोध पत्र में हमारा मुख्य उद्देश्य कौटिल्य के विद्या विषयक विचारों की विवेचना करना ही है। उसी के परिप्रेक्ष्य में हम राज्य की मूल प्रवृत्ति को समझने का प्रयास करेंगें क्योंकि राज्य के योग क्षेम का अवलम्बन विद्या ही होती है। विद्या के बल पर ही एक राजा न केवल लोक अपितु परलोक को भी सुधार सकता है और लोक में भी शान्ति और समृद्धि की स्थापना कर सकता है।

कौटिल्य के विद्या विषयक विचारों का समुच्चय उनके ग्रन्थ के प्रथम अधिकरण के पहले दो प्रकरणों के छः अध्यायों में मिलता है। प्रथम प्रकरण के अध्यायों में से प्रथम में वे विद्या के प्रकारों पर विभिन्न विद्वानों के विचारों से अवगत करवाते हैं। यहाँ पर उन्होंने तीन विद्वानों की शाखाओं का प्रमुखता से उल्लेख किया है। मैंने शाखा (School of Thought) शब्द इस लिए प्रयुक्त किया है क्योंकि वे स्वयं विद्वानों के अनुयायी इस शब्दावली का प्रयोग करते हैं। यथा वे लिखते हैं कि मनु संप्रदाय के अनुयायी आचार्य कुल तीन को ही विद्या मानते हैं। यानि-त्रयी, वार्ता और दण्डनीति। इस संप्रदाय के आचार्य आन्वीक्षकी को त्रयी में ही समाविष्ट मानते हैं।[5]

बृहस्पति संप्रदाय के अनुयायी आचार्य मात्र वार्ता और दण्डनीति को ही(दो को) विद्या मानते हैं। इस सम्प्रदाय के आचार्य त्रयी को सांसारिक लोगों की आजीविका का साधन मानते हैं।[6]

शुक्राचार्य संप्रदाय के आचार्य मात्र दण्डनीति (एक को ही) को ही विद्या मानते हैं क्योंकि दण्डनीति ही संपूर्ण विद्याओं का अवलम्ब और कारण है। जो राजा दण्डनीति में निपुण होता है वह कुछ भी अर्जित कर सकने मे सफल हो सकता है।[7] इस संप्रदाय का सर्वाधिक बल दण्ड पर ही रहता है। यद्यपि इस संप्रदाय के प्रतिनिधि ग्रन्थ शुक्र नीतिसार मे राजा के लिए दण्ड से परे अन्य व्यवहारों का भी उल्लेख है और यह ग्रन्थ कौटिल्य के अर्थशास्त्र के पूर्व का है। कौटिल्य स्वयं अर्थशास्त्र के लेखन के प्रारंभ में "नमः शुक्रबृहस्पतिभ्याम्" लिखते हैं।[8]

उपर्युक्त तीनों विद्वान आचार्यों के संप्रदायों के द्वारा प्रतिष्ठापित विद्या स्वयं में पूर्ण नही है क्योंकि उनके अन्तर्गत जीवन के सभी पक्ष समाविष्ट नहीं होते। साथ ही मनु परंपरा के आचार्य धर्म अवलम्बित परंपरा और वेदाधिष्ठित होने के कारण आन्वीक्षकी को त्रयी के अन्तर्गत ही मान लेते हैं क्योंकि आन्वीक्षकी में सांख्य, योग और लोकायत (नास्तिक दर्शन) होने के कारण वह उसको पृथक से गान्य नहीं करती है। स्वाभाविक ही मनु परंपरा के आचार्य अपनी परंपरा को वेदोक्त मान कर ही ऐसा करते हैं क्योंकि मनु परंपरा का ग्रन्थ वेद विरुद्ध व्यवस्था को कैसे स्वीकार करे जबकि वह स्वयं वेदों का प्रतिनिधि ग्रन्थ माना जाता है। बृहस्पति परंपरा के आचार्य केवल दण्डनीति और वार्ता को ही विद्या मानते हैं क्योंकि त्रयी को वे वैशेषिक ज्ञान के रूप में स्वीकार करते हैं और सामान्य सांसारिक ज्ञान सभी (विशेषकर राजा) के लिए आवश्यक नहीं होता है। यद्यपि बृहस्पति देवगुरु के रूप में मान्य हैं तथापि उनका चिन्तन भी भौतिक क्रिया-कलापों से परिपूर्ण है। संभवतः वे आन्वीक्षकी को भी त्रयी की भांति ही किसी के साथ सम्बद्ध करके विद्या की श्रेणी में नहीं रखते।

शुक्राचार्य की परंपरा के आचार्य, जैसा कि मैंने पूर्व में भी उल्लेख किया है, तो केवल दण्डनीति को ही विद्या मानते हैं क्योंकि यही समस्त संसाधनों की प्राप्ति का साधन है।

किन्तु कौटिल्य उपर्युक्त सभी परंपरा के विचारों के साथ आन्वीक्षकी को भी विद्या विषयक परंपरा में सम्मिलित करते हैं। वे इन सभी की यथार्थता का आधार धर्म और अधर्म को मानते हैं।[9]

धर्म का अभिप्राय बहुत ही गूढ़ है। धर्म का उल्लेख होते ही हम समकालीन परिप्रेक्ष्य में प्रचलित व्यवहार को दृष्टिगत रखकर स्वयं का मन पूर्वाग्रहों में जकड़ कर धर्म अवलम्बित विद्या को संप्रदाय विशेष से जोड़कर देखने लगते हैं। जबकि विद्या का अर्थ भी धर्म की भाँति ही गूढ़ और बहुत ही व्यापक है। विद्या के विषय में ईशोपनिषद कुछ इस प्रकार निर्देश करता है:-

विद्यां चाविद्यां च यस्तदवेदोभयं सह।

अविद्या मृत्युं तीर्त्वा विद्ययामृतमश्नुते॥ ईशो।[10]11

अर्थात् जो विद्या और अविद्या इन दोनों को ही एक साथ जानता है, वह अविद्या से मृत्यु को पार करके विद्या से अमरत्व प्राप्त कर लेता है।

उपनिषद स्पष्ट रूप से भारतीय वैशिष्ट्य को इस श्लोक के द्वारा प्रकट करता है जिसमें प्रत्येक विषय स्वयं में धनात्मक एवं ऋणात्मक दोनों ही को समेट कर चलता है। इस मन्त्र में भी विद्या-अविद्या एक दूसरे के पूरक हैं। विद्या स्वयं में ही अविद्या का भी प्रतिनिधित्व करती है तभी तो उपनिषद दोनों को एक साथ जानने का आग्रह करता है। विद्या का स्वरूप वस्तुत: एकात्म है जो कि जीव से जगत तक व्याप्त है। छान्दोग्योपनिषद इसकी व्यापकता का विस्तार से वर्णन करता है। एक समय नारद मुनि श्री ब्रहमा के मानस-पुत्र सनत्कुमार के सम्मुख उपस्थित होकर अपनी दुविधा का वर्णन करते हैं और उसके समाधान की अपेक्षा करते हैं। श्री सनत्कुमार नारद जी से प्रश्न करते हैं कि तुम जो भी कुछ जानते हो वह मुझसे कहो; तब मैं समाधान प्रस्तुत करुंगा। तब नारद जी ने कहना प्रारंभ किया कि भगवन ! मुझे ऋग्वेद, यजुर्वेद, सामवेद और अथर्ववेद स्मरण हैं, इनके अतिरिक्त पाँचवे वेद के रूप में विख्यात पुराण वेदों का वेद (व्याकरण, इसमें वेदांग सम्मिलित है क्योंकि वेदों के अध्ययन के लिए वेदांग के छ: अंगों का ज्ञान अपरिहार्य है; वेदांग यानि, (1. शिक्षा, 2. व्याकरण, 3. निरुक्त, 4. छन्द, 5. ज्योतिष एवं 6. कल्प), श्राद्धकाल, गणित, उत्पात ज्ञान, निधिशास्त्र, तर्कशास्त्र, नीति, देवविद्या, ब्रहमविद्या, भूतविद्या, क्षत्रविद्या, नक्षत्रविद्या, सर्पविद्या (गरुड़-मन्त्र) और देवजन विद्या-नृत्य संगीत सब ज्ञात है।[11]

ये सब जानने के बाद भी नारद स्वयं को मन्त्रवेत्ता ही मानते हैं और आत्मवेत्ता बनने की अभिलाषा रखते हैं क्योंकि जो आत्मवेत्ता होता है वही ब्रहम को जानता है। तभी तो ईशोपनिषद सभी में ईश्वर के दर्शन करता है। 'ईशा वास्यमिदं सर्वं यत्किन्च जगत्यां जगत'।[12] इसी ईश्वर की प्रतीति को नारद जानना चाहते हैं। नारद से ये सभी सुनकर सनत्कुमार उनसे कहते हैं कि तुम जो भी कुछ जानते हो यह तो नाम मात्र है। इसको सनत्कुमार ने नाम मात्र क्यों कहा? और यदि ये सभी नाम हैं तो ब्रहम क्या है? उसके विषय में मुण्डकोपनिषद कुछ यों कहता है कि शौनक नामक प्रसिद्ध महागृहस्थ ने अंगिरा के पास विधि पूर्वक जाकर पूछा (विधि से अभिप्राय समिधा हाथ में लेकर क्योंकि समिधा का हाथ में होना जिज्ञासा का प्रतीक है और अपने से बड़ों से प्रश्न पूछने का यही विधान है; इसलिए यहाँ पर विधि पूर्वक कहा है) - भगवन्! किसके जान लिए जाने

पर सब कुछ जान लिया जाता है? तब ऋषि अंगिरा ने उत्तर दिया कि विद्या दो प्रकार की हैं; एक परा और दूसरी अपरा।

... परा चौवापरा च।।[13]

आगे वे इनके स्वरूप का वर्णन करते हैं कि ऋग्वेद, यजुर्वेद, सामवेद, अथर्ववेद, शिक्षा, कल्प, व्याकरण, निरुक्त, छन्द और ज्योतिष यह अपरा है तथा जिससे उस अक्षर ब्रहम का ज्ञान होता है वह परा है।[14] ये ईश, मुण्डक और छान्दोग्योपनिषद जिस विद्या की बात करते हैं वस्तुतः वही विद्या कल्याणकारी और मुक्ति प्रदायिनी है अन्य सभी व्यर्थ हैं और इसी अक्षर ब्रहम को जाना जा सकता है। विष्णु पुराण का ऋषि इसको कुछ यों समझाता है कि

विद्या बुद्धिरविधायाम ज्ञानान्तात जायते।

बालोऽग्निं कि न खद्योत मसुरेश्वरमन्यते।।[15]

अर्थात् अज्ञान के कारण ही मनुष्यों की अविद्या में बुद्धि होती है। बालक क्या अज्ञानतावश खद्योत (जुगनू) को ही अग्नि नहीं समझ लेता है। यहाँ पर ऋषि अविद्या के वशीभूत ही मनुष्यों के द्वारा किए जाने वाले कार्यों को अज्ञानता कह रहा है; तो ज्ञान क्या है? ज्ञान है विद्या को विद्या और अविद्या के रूप में समझना। पुराणकार इसको समझाने का प्रयास करते हैं।

तत्कर्म यन्न बंधाय सा विद्या या विमुक्तये।

आयासायापरं कर्म विद्यान्या शिल्पनैपुणम।।[16]

अर्थात् कर्म वही है जो बन्धन का कारण न हो, और विद्या वही है जो मुक्ति की साधिका हो। इसके अतिरिक्त और कर्म तो परिश्रम रूप तथा अन्य विद्याएं कला-कौशल मात्र ही हैं।

इस प्रकार कौटिल्य अपने अर्थशास्त्र में विद्या को समग्रता में स्वीकारने का प्रयास करते प्रतीत होते हैं। वे पहले मनु, बृहस्पति एवं शुक्राचार्य परंपरा के विद्या संबन्धी विचारों का उल्लेख करते हैं और फिर अपने यथार्थवादी दृष्टिकोण के अनुरूप उन तीनों के विचारों को समाविष्ट करके सभी की व्याख्या धर्मावलम्बित करते हैं। इस प्रकार से आस्तिक नास्तिक दोनों ही परंपराएं धर्म के प्रभाव में आकर आस्तिक ही हो जाती हैं क्योंकि विद्या के समान ही कणाद भी धर्म की व्याख्या में समष्टि को समाहित करते हैं जबकि वे स्वयं नास्तिक विचार परंपरा के ऋषि माने जाते हैं। तभी तो वे वैशेषिक दर्शन में लिखते हैं कि

यतोऽभ्युदय निःश्रेयस सिद्धिः सः धर्मः।[17]

अर्थात् जिससे अभ्युदय अर्थात इहलौकिक सुख की एवं जीवन मुक्ति और मोक्ष की सिद्धि हो वही धर्म है। उपनिषद भी इसी अभ्युदय (लौकिक सुख) की दृष्टि से अविद्या और अपरा की बात करते हैं किन्तु पूर्णत्व के लिए विद्या और परा को समाविष्ट करके ही मुक्ति संभव है। विष्णु पुराण वही कहता है और कणाद भी

धर्म के विषय में समन्वयात्मक दृष्टिकोण का प्रतिवादन करता है। इसी धर्म के परिप्रेक्ष्य में मनुस्मृति गुणों का उल्लेख करती है

धृतिः क्षमा दमोऽस्तेयं शौचमिन्द्रियनिग्रहः।
धीर्विद्या सत्यमक्रोधो दशकं धर्म लक्षणम्।[18]

यानि, धैर्य, क्षमा, दम (विकार का हेतु उपस्थित होने पर भी मन को उसमें न लगाना ही दम कहलाता है), अस्तेय (पराए धन में आसक्ति न होना) शौच (पवित्रता) इन्द्रिय निग्रह (इन्द्रिय नियन्त्रण), धीर (शास्त्रार्थ ज्ञान), विद्या (अपरा और परा की समझ, क्योंकि इसी से व्यष्टि से समष्टि के भाव की प्रतीति होती है। इसके अभाव में शेष सभी व्यर्थ हैं) सत्य तथा क्रोध का नियमन ये दस धर्म के लक्षण हैं। इस प्रकार इन गुणों के अभाव वाले समस्त क्रिया-कलाप अधर्म ही हैं। अतः कौटिल्य ने अपने समकालीन और पूर्व के विद्वानों में विद्या को लेकर मत वैभिन्न्य होने के बाद भी आन्वीक्षकी, त्रयी, वार्ता और दण्डनीति को विद्या के रूप में स्वीकार किया क्योंकि वे अपने सभी क्रिया कलापों को धर्म पर अवलम्बित मानते हैं।

1. आन्वीक्षकी: इसको आत्मविद्या सांख्य, योग एवं लोकायत (इसको नास्तिक दर्शन कहा गया है क्योंकि वे वेदों को नहीं मानते) को सम्मिलित माना जाता है।[19] यहां पर यह ध्यातव्य है कि मनु धर्म प्रधान परंपरा के प्रणेता माने जाते हैं और उनकी विचार परंपरा में धर्म का स्थान महत्त्वपूर्ण है। इस परंपरा का मूल आधार वेद हैं; मनु वेदों को लोक का अवलम्बन मानते हैं। इसलिए उन्होंने ऐसी परंपरा जो कि वेदों का निषेध या अमान्य करती हो, को ही विद्या परंपरा में पृथक से स्थान न देकर त्रयी के अन्तर्गत ही मान लिया। क्योंकि, कौटिल्य एक यथार्थवादी चिन्तक माने जाते हैं इसलिए उन्होंने अपने चिन्तन में उन सभी को भी स्थान दिया जो कि वेद परंपरा में विश्वास नहीं रखते थे किन्तु भारतीय जीवन चक्र में उनका न केवल हस्तक्षेप था बल्कि जीवन चक्र को आधार देने में एक महत्त्वपूर्ण योगदान भी था। सही अर्थों में कौटिल्य निषेधकारी प्रवृत्तियों को भी अध्ययन-अध्यापन के रूप में सम्मिलित किए जाने के पक्षधर थे; तभी तो वे अपनी-विद्या परंपरा में आन्वीक्षकी को भी पृथक से सम्मिलित करते हैं।

उमाशंकर ऋषि, माधवाचार्य के सर्वदर्शन संग्रह की पूर्वपीठिका में स्पष्टतः उल्लेख करते हैं कि श्रौत और तार्किक दार्शनिकों में मूल भेद यह है कि श्रौत दार्शनिक वेदों को स्वतः प्रमाण मानते हैं जबकि तार्किक उन्हें परतः प्रमाण मानते हैं। यहाँ पर स्वतः प्रमाण से अभिप्राय है कि वेद स्वयं सिद्ध हैं उन्हें किसी के द्वारा सिद्ध नहीं किया जा सकता वे अपौरुषेय हैं। जबकि परतः प्रमाण मानने वालों का यह मत है कि वेद पौरुषेय हैं और उनकी सिद्धि के लिए हमें दूसरे साधनों पर निर्भर करना पड़ता है। इसलिए वे भी पुरुष प्रणीत हैं।[20] यद्यपि मीमांसा दर्शन ने वेदों को अपौरुषेय ही माना, मनुष्य तो मात्र इनका संकलन कर्ता ही है।[21] संभवतः हो सकता है कौटिल्य ने इन्हें अपनी विद्या परंपरा में सम्मिलित करने के परिप्रेक्ष्य में मीमांसा को ही आधार बनाया हो। जो भी हो, कौटिल्य ने आन्वीक्षकी को विद्या परंपरा में स्थान देकर स्वयं के यथार्थवादी होने की भी पुष्टि की है। कौटिल्य इन चारों विद्याओं की यथार्थता का मूल्यांकन भी धर्म-अधर्म के आधार पर ही करते हैं। इस

प्रकार से वे एक ओर जहाँ यथार्थवादी परिप्रेक्ष्य के आधार पर समावेशण का उदाहरण प्रस्तुत करते हैं वहीं वे दूसरी ओर भारत की सनातन परंपरा में जिसमें धर्म-अधर्म की केन्द्रीय भूमिका है, को विद्याओं के मूल्यांकन का आधार मानते हैं। आन्वीक्षकी को वे इस लिए भी महत्त्वपूर्ण मानते हैं क्योंकि यह मनुष्य में लोक व्यवहार को प्रतिष्ठापित करती है तथा मनुष्य को यथार्थ चिन्तन की ओर अग्रसर करती है। क्योंकि, यह तर्कप्रधान है इसलिए ये सभी विद्याओं का मार्गदर्शन कर सकने में सक्षम है।

2. त्रयी: कौटिल्य के अनुसार साम, ऋक और यजु ये तीनों वेद ही त्रयी के अन्तर्गत आते हैं।[22] यद्यपि, ऋक्वेद ही एक मात्र वेद माना गया है, कालान्तर में यजुर्वेद एवं सामवेद भी ऋक्वेद में से ही अलग हुए। इसके अतिरिक्त अथर्ववेद और इतिहास को भी वे वेदों की श्रेणी में रखते हैं। और फिर वेदांग(शिक्षा, कल्प, व्याकरण, निरुक्त, छन्द और ज्योतिष) कहे गये हैं। इनके सहयोग से वेदों का अध्ययन किया जाता है। त्रयी में जिस धर्म का उल्लेख है वह धर्म स्वयं में चारों वर्ण एवं चारों आश्रमों को समाहित किए हुए है। इस धर्म के माध्यम से सभी वर्ग अपने-अपने विहित कर्मों का पालन करते हैं। धर्म के सम्बन्ध में मैं पूर्व में ही लिख चुका हूँ। त्रयी का अर्थ वेदत्रयी से हैं। वेदों में वर्ण का अभिप्राय कार्य विभाजन से है न कि समाज विभेद से। इसी को श्रीमद्भगवतगीता में भगवान श्री कृष्ण ने बहुत ही सुन्दर ढंग से व्यक्त किया है।

चातुर्वर्ण्यं मया सृष्टं गुणकर्मविभागशः।[23]4/13

यानि ब्राह्मण, क्षत्रिय, वैश्य और शूद्रों का समूह, गुण और कर्मों के विभाग पूर्वक मेरे द्वारा रचा गया है। भगवान श्री कृष्ण यहाँ पर वर्ण की पुष्टि वेदानुसार ही करते हैं। इसका अभिप्राय जिस व्यक्ति में जितने गुणों का न्यूनाधिक्य है वह उसी के अनुसार कर्मों का संपादन करता है। वर्ण का संबंध जन्म से न होकर कर्म से है। इसी की पुष्टि वे 18 वें अध्याय में कुछ इस प्रकार से करते हैं कि हे **परंतप**! ब्राह्मण, क्षत्रिय और वैश्यम् तथा शूद्रों के कर्म स्वभाव से उत्पन्न गुणों के द्वारा विभक्त किए गए हैं-

ब्राहम्णक्षत्रियविषां शूद्राणां च परंतप।

कर्माणि प्रविभक्तानि स्वभावप्रभवैर्गुणैः।।[24]

इस प्रकार त्रयी वर्ण और आश्रम व्यवस्था को धर्म का मूल मानती है, किन्तु जन्मना नहीं अपितु कर्मणा। इस प्रकार कौटिल्य तत्कालीन सामाजिक परिवेश को भी सावधान करते हैं कि वेद में भी और बाद के साहित्य में भी कुछ भी यदि विसंगति पूर्ण रचा गया है तो वह यथावत मान्य न होकर यथार्थवत मान्य होगा। इस प्रकार से कौटिल्य की विद्या परंपरा में आन्वीक्षकी त्रयी की पूरक होकर प्रगट होती है। इसके आगे वे चारों वर्णों के कार्यों का विभाजन ठीक उसी प्रकार से करते हैं। जिस प्रकार से श्रीमद्भगवद्गीता करता है। ब्राहमण के लिए वे कहते हैं-

शमो दमस्तपः शौचं क्षान्तिरार्जवमेव च।

ज्ञानं विज्ञानमास्तिक्यं ब्रहमकर्म स्वभावजम्।

अर्थात् अन्त:करण का निग्रह करना, इन्द्रियों का दमन करना, धर्मपालन के लिए कष्ट सहना, बाहर-भीतर से शुद्ध रहना; दूसरों के अपराधों को क्षमा करना, मन, इन्द्रिय और शरीर को सरल रखना; वेद, शास्त्र, ईश्वर और परलोक आदि में श्रद्धा रखना, वेद-शास्त्रों का अध्ययन-अध्यापन करना और परमात्मा के तत्त्व का अनुभव करना ये सभी ब्राहम्ण के स्वाभाविक कर्म हैं। इस प्रकार से श्री कृष्ण जी ब्राहम्ण के लिए बहुत ही स्पष्ट रूप से करणीय और अकरणीय में भेद कर देते हैं। जो लोग जन्म के बल पर जातीय अहंकार पालें, वे कौटिल्य की विद्या परंपरा का भाग नहीं हो सकते।

क्षत्रिय के कर्मों का निर्धारण करते हुए भी वे स्पष्टत: उल्लेख करते है:-

शौर्यं तेजो धृतिर्दाक्ष्यं युद्धे चाप्यपलायनम्।

दानमीश्वरभावश्च क्षात्रं कर्म स्वभावजम्।[26]

अर्थात् शूरवीरता, तेज, धैर्य, चतुरता और युद्ध में भी न भागना, दान देना और स्वामीभाव ये सभी क्षत्रिय के स्वाभाविक गुण हैं। इस प्रकार त्रयी में वर्ण व्यवस्था का पक्ष तो लिया गया है किन्तु उसका स्वरूप सामञ्जस्यात्मक है और धर्म कोन्द्रित है। इस प्रकार वर्ण व्यवस्था का सामञ्जस्यात्मक और कल्याणकारी रूप उजागर होता है। यद्यपि अपने अर्थशास्त्र में वे श्री कृष्ण भगवान को उदधृत नहीं करते हैं किन्तु वर्णों के कर्मों का निर्धारण वे नितान्त श्रीमदभगवत्गीता के अनुसार ही करते हैं। सन्दर्भ के लिए मैंने श्लोकों को यथा स्थान उद्धृत भी किया है। यह साम्यता भी कौटिल्य के यथार्थवादी होने की पुष्टि करती है। वे वैश्य और शूद्रों के गुणों का वर्णन भी श्रीमदभगवत्गीता के अनुसार ही करते हैं-

कृषिगौरक्ष्यवाणिज्यं वैश्यकर्म स्वभावजम्।

परिचर्यात्मकं कर्म शूद्रस्यापि स्वभावजम्।।[27]

अर्थात् कृषि, गोपालन और क्रय-विक्रय रूप सत्य व्यवहार ये वैश्य के स्वाभाविक कर्म हैं तथा सब वर्णों की सेवा करना शूद्र का स्वाभाविक कर्म है।

आश्रम व्यवस्था को वे जीवन का महत्त्वपूर्ण स्तम्भ मानते हैं। इसलिए वे भी मानव धर्म शास्त्री की ही भांति त्रयी के अन्तर्गत आश्रमों की बात करते हैं। ब्रहमचर्य, गृहस्थ, वानप्रस्थ एवं सन्यास का वे सविस्तार उल्लेख करते हैं।

1. **ब्रह्मचारी** ब्रह्मचारी के धर्म के संबन्ध में वे नियमित स्वाध्याय, अग्निहोत्र, नित्य स्नान, भिक्षाटन, गुरू सामीप्य, गुरू की अनुपस्थिति में शिष्य गुरूपुत्र (जो योग्य हो) या अपने किसी समान शाखाध्यायी के समीप रहे जिससे स्वाध्याय में विघ्न न आवे। इस प्रकार इस अवस्था में जो व्यक्ति अनुशासन बद्ध हो जाते हैं वे जीवन पर्यन्त अनुशासन का पालन करते हुए सुखोपभोग करते हैं।[28]
2. **गृहस्थ:** गृहस्थ को वे अपनी परंपरानुकूल आचरण का निर्देश करते हैं। यथा सगोत्र तथा असगोत्र समाज में विवाह करे; ऋतुगामी हो; देव, पितर, अतिथि और मृत्यजनों को देकर सबसे अन्त में भोजन

करे। इस प्रकार से कौटिल्य भी धर्मग्रन्थों में वर्णित गृहस्थ के कर्मों के अनुसार ही जीवन यापन की बात कहते हैं। भारतीय परंपरा में सही अर्थों मे गृहस्थाश्रम ही शेष आश्रमों का न केवल अवलम्ब है अपितु संस्कृति और अर्थका संरक्षक एवं संवर्द्धक भी है।[29]

3. **वानप्रस्थ:** यह अवस्था सही अर्थों में गृहस्थ और सन्यास के मध्य सन्धिकाल जैसी है जिसमें मनुष्य गृहस्थ भी है किन्तु संयम की साधना में भी रत है। इसलिए कौटिल्य कहते हैं कि वानप्रस्थी ब्रहमचर्य का पालन करें, भूमि पर शयन करें, जटा, मृगचर्म को धारण करें, अग्निहोत्र तथा प्रतिदिन स्नान करें, देव-पितर एवं अभ्यागतों की सेवा-पूजा करें और वन के कन्दमूल-फल पर निर्वाह करें। इससे दृष्टिगत होता है कि ब्रहमचर्याश्रम और वानप्रस्थाश्रम में बहुतायत में साम्यता है।[30]

4. **सन्यासाश्रम:** सन्यासी के कर्त्तव्यों के परिप्रेक्ष्य में कौटिल्य लिखते हैं कि वह जितेन्द्रिय हो, वह सांसारिक कामों को न करे, निष्किंचन बना रहे; एकाकी रहे, प्राणरक्षा मात्र के लिए स्वल्पाहार करे; समाज में न रहे, जंगल में भी एक ही स्थान पर न रहे। मनसा, वाचा कर्मणा अपना बाहर-भीतर पवित्र रखे। इस प्रकार त्रयी एक प्रकार की ऐसी व्यवस्था का समर्थन करती है जोकि धर्मावलम्बित है। कौटिल्य प्रत्येक वर्ण और प्रत्येक आश्रम को धर्म के पालन का निर्देश करते हैं।[31] मानव धर्म शास्त्र ने जिस धर्म की बात कही है, और कणाद जिस धर्म का निर्देश करते हैं जिससे अभ्युदय और नि:श्रेयस दोनो की प्राप्ति होती है, के आधार पर कौटिल्य जीवनचर्या का निर्धारण करते हैं। इस प्रकार कौटिल्य धर्मावलम्बित होते हुए भी यथार्थता पर अधिक बल देते हैं। त्रयी के ऊपर धर्म सूत्रों एवं गृहसूत्रों का प्रभाव स्वत: अनुभव किया जा सकता है किन्तु रुढ़ियों को कौटिल्य ने कहीं पर भी प्रश्रय नहीं दिया है।

3. **वार्ता:** इसके अन्तर्गत कौटिल्य, कृषि पशुपालन और व्यापार को सम्मिलित करते हैं। इसके परिणाम स्वरूप धान्य, पशु, हिरण्य, ताम्र आदि खनिज पदार्थ और नौकर चाकर आदि की प्राप्ति होती है। वस्तुत: इस विद्या का संबन्ध वैश्य वर्ग के साथ जोड़कर देखा जा सकता है। क्योंकि वर्णाश्रम व्यवस्था में कौटिल्य ने जो कार्य विभाजन किया है वह इसी के अन्तर्गत आता है।[32]

4. **दण्डनीति:** कौटिल्य शेष सभी विद्याओं का अवलम्बन इस विद्या को मानते हैं। वह लिखते हैं कि आन्वीक्षकीत्रयी वार्तानां योगक्षेमसाधनो दण्ड:। अर्थात् आन्वीक्षकी, त्रयी और वार्ता की सुख-समृद्धि का आधार दण्ड ही है। तस्य नीतिर्दण्डनीति:। यानि दण्ड (शासन) को प्रतिपादित करने वाली नीति ही दण्डनीति कहलाती है। क्योंकि उसमे ही वह वैशिष्ट्य है जो कि अलब्धलाभार्था; लब्धपरिरक्षणी; रक्षितविवर्धनी; वृद्धस्य तीर्थेषु प्रतिवादनी च। यानि वही (दण्डनीति) अप्राप्त वस्तुओं को प्राप्त करवाती है, रक्षित वस्तुओं की वृद्धि करती है और वही सवंर्द्धित वस्तुओं को समुचित कार्यों में लगाने का निर्देश करती है। उसी पर संसार की समस्त लोकयात्रा निर्भर करती है।[33]

दण्डनीति के सम्बन्ध में प्राचीन आचार्य यानि कौटिल्य के पूर्व का यह मानना है कि समस्त प्राणियों को वश में रखने का एक मात्र उपाय दण्डनीति ही है। किन्तु कौटिल्य इससे सम्मति नहीं रखते क्योंकि वे राजा के सम्यक व्यवहार के पक्षधर हैं यानि न तो राजा दण्ड में सख्ती करे और न ही ढ़िलाई। अर्थात उनका मानना है कि दण्ड का आधिक्य और ढ़िलाई दोनों अवस्था ही राजा के लिए समस्या कारक हो सकती हैं। इसलिए मत्स्य न्याय के उन्मूलन एवं धर्म संस्थापन के दृष्टिकोण से दण्ड अति आवश्यक है। दण्ड के कारण ही लोक धर्माधिष्ठित रहते हैं। दण्डनीति से अभिप्राय प्राचीन वाङ्गमय में सेना एवं शासन यानि, बाह्य एवं आन्तिरिक सुदृढ़ता दोनों से है। जो भी राजा इन दोनों ही परिप्रेक्ष्य में उचित व्यवहार करता है वही सुरक्षित राज्य का संचालन कर सकता है।

धर्माचरण, लोक का शासन अनुरागी या दण्डाधिष्ठित व्यवस्था का अनुपालक होना अति आवश्यक है।[34] क्योंकि योगक्षेम का संरक्षण दण्ड से ही संभव है और दण्ड का क्रियान्वयन विद्या से।[35] हितोपदेश विद्या और विनय का अन्तः सम्बन्ध मानता है; वह कहता है। विद्या ददाति विनयं विनयाद्याति पात्रताम्। पात्रत्वाद् धनमाप्नोति धनात् धर्मं ततः सुखम्।[36] यानि, विद्या से विनम्रता, विनम्रता से पात्रता, पात्रता से धन, धन से धर्म की पूर्ति और फिर सुखानुभूति प्राप्त होती है। कौटिल्य विनय के दो प्रकार बताते हैं वे विनय से अभिप्राय शिक्षा मानते हैं और उसको दो में विभाजित करते हैं 1. कृतक (कृत्रिम, बनावटी, नैमित्तिक) और 2. स्वाभाविक (स्वतः सिद्ध)। शिक्षा सुपात्रों के लिए है वह उन्ही में सुधार कर सकती है कुपात्रों में नहीं।[37] शास्त्रकार ने सही ही कहा है –

विद्या विवादाय धनं मदाय शक्तिः परेषां परपीड़नाय।
खलस्य साधोर्विपरीतमेतत् ज्ञानाय दानाय च रक्षणाय॥[38]

यह सुभाषित कौटिल्य की ही बात की पुष्टि करता है। कौटिल्य सुपात्र के गुणों का बखान करते हैं कि सुपात्र इसलिए योग्य हो सकता है क्योंकि वह शुश्रुषु, श्रवण ग्रहण, धारण, विज्ञान, ऊहापोह (तर्क- वितर्क) में विवेक तथा बुद्धि से काम लेते हैं। इसलिए जो सुपात्र है वही विद्या को स्वाभाविक रूप से जानकर उससे लाभान्वित हो सकता है वही उसके जीवन मे परिवर्तनकारी हो सकती है वही उसे मुक्त करने वाली हो सकती है। ऐसे ही सुपात्रों के लिए विष्णुपुराण ने विद्या को युक्ति प्रदायक बताया है। इस प्रकार से सुपात्र ही विद्या को स्वाभाविक रूप ग्रहण कर सकने में समर्थ होकर स्वयं का और लोक का कल्याण कर सकने में समर्थ हो सकता है शेष तो विद्या का अहंकार पालकर अभिनय कर रहे हैं और ऐसों को ही कौटिल्य ने कृत्रिम विधावान माना है। कौटिल्य स्वाभाविक विद्या के स्वामी से लोक रंजन की अपेक्षा करते हैं। इसीलिए वे ऐसे राजा के द्वारा भी लोक कल्याण में तत्पर रहकर लम्बे समय तक पृथ्वी के निर्बाध शासन की अपेक्षा करते है क्योंकि ऐसे राजा के दुश्मन प्रायः कम ही होते हैं। और जो विद्या प्रणीत आचरण नहीं करते वे कामादि छः शत्रुओं के वशीभूत पराभव को प्राप्त होते हैं।

इस प्रकार कौटिल्य अपने अर्थशास्त्र में विद्या व्यवस्था का न केवल समर्थन करते है बल्कि विद्या को मूल मानकर संपूर्ण ग्रन्थ को विस्तार देते हैं। वह इसके बाद के सभी अधिकरण, प्रकरण और अध्यायों में इन्हीं चारों विद्याओं को विस्तार से समझाने का प्रयास करते हैं। सही अर्थों में कौटिल्य एक ऐसे चिन्तक हैं जो कि भारत की सनातन परंपरा में दृढ़ विश्वासी होते हुए भी देशकाल परिस्थिति के अनुसार होने वाले यथार्थवादी क्रिया-कलापों को अपने चिन्तन में न केवल स्थान देते हैं बल्कि तार्किकता के साथ उन्हें प्रतिष्ठापित भी करते हैं और यही कारण है कि उनका कालजयी चिन्तन आज भी स्वयं की प्रासंगिकता बनाए हुए है।

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जुलाई-दिसम्बर, 2020

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नामूलं लिख्यते किंचित्
नानपेक्षितमुच्यते।
विश्लिष्याश्लिष्य सन्दर्भान्
समस्याः समाधीयते।।

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14. तै.उप. 2/3

15. छांदा.उप. 3/18/4

प्राचीन भारतीय चिंतन की समस्त व्यवस्थाओं का प्राण उसकी न्याय व्यवस्था ही है। प्राचीन भारतीय समाजों में सुख, शान्ति, सुव्यवस्था, स्थिरता, न्याय–अन्याय के मध्य भेद निर्धारण करने, दोषी को दण्डित करने एवं विधि की व्याख्या करने के लिए न्याय–व्यवस्था की स्थापना हुई। न्याय व्यवस्था ने नागरिकों के अधिकार एवं कर्त्तव्यों को विधि द्वारा स्पष्ट करके उसकी सीमा का निर्धारण किया जिससे प्रत्येक व्यक्ति के अधिकारों का संरक्षण हुआ और दूसरे के अधिकारों पर प्रभुत्व जमाने की प्रवृत्ति का ह्रास हुआ। प्राचीन भारतीय शासन प्रणाली का स्वरूप राजतंत्रीय था इसी कारण न्याय व्यवस्था में राजा का स्थान सर्वोत्तम है। प्राचीन भारतीय वांड्मय के चिंतकों ने राजा को यही आदेश दिया कि वह प्रजा का संतुष्ट रखे एवं प्रत्येक व्यक्ति के लिए न्याय का वितरित करे अर्थात् न्याय की समुचित व्यवस्था करना ही राजा का कर्त्तव्य है। महाभारत के शान्तिपर्व में भीष्म ने न्याय की महत्ता को अभिव्यक्त करते हुए कहा कि विधि के शासन में रहने से लोग सुखी रहते हैं।[1] मनु ने भी न्यायप्रिय राजा की प्रशंसा करते हुए कहा कि न्यायपूर्ण व्यवहार से राजा का संसार में यश फैलता है।[2] आचार्य कौटिल्य ने न्याय के लिए व्यवहार शब्द का प्रयोग करते हुए कहा है कि धर्म, व्यवहार, चरित्र और न्यायपूर्वक शासन करता हुआ राजा सारी पृथ्वी का स्वामित्व प्राप्त करता है।[3] आचार्य शुक्र की दृष्टि में राजा का प्रमुख कर्त्तव्य दुष्ट–निग्रह (दुष्टों को दण्डित) करना एवं प्रजा की रक्षा करना है। उचित एवं अनुचित का अनुशीलन करके राजा प्रजा को सत्कर्म में नियोजित करने के लिए जिस कार्य का सम्पादन करता है वह व्यवहार है।[4] इस प्रकार सभी चिंतकों ने राजा को न्याय की व्यवस्था का दायित्व प्रदान किया है। राजा के लिए स्पष्ट घोषणा की गई कि वह न्याय का धारण धर्मानुसार एवं निष्पक्षतापूर्वक ही करे। महाभारत महाकाव्य में वर्णित है कि जब न्याय व्यवस्था का उचित प्रबन्ध नहीं होता तब राजा को स्वर्ग एवं यश की प्राप्ति नहीं हो सकती।[5] आचार्य मनु के मत में धर्मविरूद्ध दिया गया दण्ड राजा के यश एवं कीर्ति का नाश करने वाला तथा परलोक में दूसरे धर्म से प्राप्त होने वाले स्वर्ग का प्रतिबंधक है।[6] इसी प्रकार कौटिल्य ने कहा कि राजा अपनी प्रजा को न्याय प्रदान नहीं करता वह शीघ्र नष्ट हो जाता है। राजा से यह अपेक्षा की गई है कि वह अपनी अपनी न्यायिक शक्ति का प्रयोग विधि के अनुरूप ही करे अन्यथा दण्ड का भागी होगा।[7] आचार्य शुक्र ने अन्यायी राजा के दुष्परिणाम का स्पष्टीकरण करते हुए कहा है कि जो राजा दण्डनीति का समुचित रूप से पालन नहीं करता है, उचित दण्ड नही देता तथा अनावश्यक रूप से अधिक दण्ड देने का अभ्यासी होता है, उस राजा का क्षय अवश्यम्भावी है।[8] इस प्रकार राजा का न्यायिक कर्त्तव्य यही है कि वह अपराध की गुरुता और लघुता देखकर ही न्याय करे क्योंकि न्यायपूर्ण समाज में ही व्यक्ति का जीवन पोषित होता है।

महाभारत में पितामह भीष्म ने न्याय व्यवस्था के सन्दर्भ में कहा है कि राज्य में धर्मशास्त्रों के अनुसार न्याय व्यवस्था की स्थापना होनी चाहिए जिससे सभी के साथ समान व्यवहार किया जा सके।[9] भीष्म ने विधि के चार स्रोत– देव स्रोत, आर्ष स्त्रोत स्रोत लोक स्त्रो स्रोत एवं संस्था सम्मत स्रोत बताये है। देव सम्मत स्रोत स्वयं ब्रह्मा[10] द्वारा निर्मित विधियाँ है। आर्ष स्रोत में ऐसे नियम है जिन्हें मानव जीवन को देशकाल और परिस्थिति के अनुसार अनुशासित करने के लिए ऋषि मुनियों (बृहस्पति, शुक्र, भीष्म)[11] ने बनाया था। लोक सम्मत स्रोत में विधियों का निर्माण जनता[12] की सम्मति से हुआ है। अंतिम संस्था सम्मत स्रोत प्राचीनकाल की संस्था द्वारा निर्मित नियम तथा कुल, धर्म, जाति धर्म, एवं देश धर्म पर आधारित है। इस प्रकार महाभारत काल में विधियों

के निर्माण उपरोक्त आधारों पर किया गया था। ये प्रथायें एवं परम्परायें कालान्तर में राज्य द्वारा मान्यता प्राप्त कर लेती और फिर विधि का स्वरूप धारण कर लेती थी।

मनुस्मृति में राज्य द्वारा लागू किये जाने नियमों को धर्म कहा है। इस धर्म के चार स्रोत वेद, स्मृति, सदाचार और आत्मप्रियता (मन की प्रसन्नता) बताये गये हैं।[13] इन सभी स्रोत में मनु ने वेद एवं स्मृति का यथावत उल्लेख किया है किन्तु अंतिम दो सदाचार एवं आत्मप्रियता के विषय में केवल यही वर्णन किया है।

आचार्य कौटिल्य ने न्याय के चार स्रोत धर्म, व्यवहार चरित्र और राजाज्ञा का वर्णन करते हुए कहा है कि ये विवाद के निर्णायक साधन होने के कारण राष्ट्र के चार पैर माने जाते है। इन्ही पर सारा राज्य टिका है। इन सभी प्रकारों में धर्म से व्यवहार, व्यवहार से चरित्र और चरित्र की अपेक्षा राजाज्ञा श्रेष्ठ है।[14] कौटिल्य के अनुसार धर्म सत्य में, व्यवहार साक्षियों में चरित्र समाज के जीवन में और राजाज्ञा राजकीय शासन में स्थिर रहती है। परिस्थितियों के आधार पर राजा विवादों पर निर्णय किया करते थे

आचार्य शुक्र ने विधि के आधार के लिए श्रुति, स्मृति और आचार को स्वीकृति प्रदान की है।[15] शुक्र के इन स्रोतों के अलावा राजाज्ञा को भी विधि का स्रोत माना गया है।

अतएव प्राचीन भारतीय न्यायिक व्यवस्था में कानून का आधार परम्परागत धर्म, प्रथायें, व्यवहार एवं चरित्र हैं जो राजा की आज्ञा में परिलक्षित होता है।

महाभारत महाकाव्य में न्यायिक संगठन (विशेष न्यायालय, पृथक् न्यायाधीश एवं न्यायिक कार्मिक वर्ग) का स्पष्ट विवेचन नहीं किया गया है। महाभारत के विभिन्न प्रसंगों से यही ज्ञात होता है कि समस्त न्यायिक कार्यों का संचालन राजा के द्वारा ही होता था। राजा ही यथेष्ठ धर्म (श्रुति, स्मृति एवं शिष्टाचार पर आधारित) का संरक्षक एवं दण्डधर था। इसका आशय यह नहीं है कि न्यायिक व्यवस्था में अन्य अधिकारियों की उपस्थिति की उपेक्षा की गई है। भीष्म पितामह ने राजा को स्पष्ट निर्देश दिया है कि वह न्यायधारण करते समय अपने साथ तत्वदर्शी विद्वानों को रखे। जिससे प्रजा को विशुद्ध न्याय की प्राप्ति हो सके, क्योंकि यही राज्य के स्थायित्व का आधार है।[16] न्यायिक प्रक्रिया में विद्वानों के परामर्श का विशेष महत्व था इसीलिए राजा को निर्देश दिया गया है कि वह अनेक तत्वदर्शी श्रेष्ठ विद्वानों के साथ सलाह करके ही अभियुक्त के कथित अपराध, देशकाल, न्याय और अन्याय आदि की विवेचना करने के पश्चात् ही शस्त्रानुसार दण्ड दे।[17] इस प्रकार विदित होता है कि महाभारतकाल में न्यायिक शक्तियों का प्रधान 'राजा' अपराधियों के विवादों का निर्णय विद्वत सम्मति से शास्त्रानुसार करता है।

मनुस्मृति में न्यायिक व्यवस्था के संगठन का स्पष्ट वर्णन किया गया है। न्याय की सबसे बड़ी संस्था 'धर्मसंस्था' का प्रधान राजा होता था। धर्मसभा का एक अध्यक्ष होता था जिसे 'धर्मस्थ' कहा गया है।[18] इसके अतिरिक्त न्यायिक कार्यों में सहयोग देने के लिए तीन अन्य न्यायाधीश होते थे। राजा की अनुपस्थिति में राजा द्वारा नियुक्त विद्वान ब्राह्मण न्यायिक कार्यों को पूर्ण करता था।[19] मनु ने राजा की अनुपस्थिति में शूद्र जाति के व्यक्ति को अनिवार्यतः अनुपयक्त माना है।[20] मनु ने न्यायाधीश की योग्यता को निर्धारित करते हुए कहा है कि न्यायाधीश वह व्यक्ति होना चाहिए जो बाहरी चिन्हों, स्वर, वर्ण, इंगित, आकार, नेत्र और चेष्टा भाषण मुख के विकारों से मनोभाव को जानकर निर्णय कर सके। मनु ने न्यायाधीशों का निर्देश दिया कि वे अर्थ, अनर्थ और केवल धर्म एवं अधर्म का भली–भाँति जानकर वर्णक्रम से न्यायप्रार्थियों के सब कार्यों को करे।[21] इस प्रकार महर्षि मनु न्यायाधीश पद की गरिमा को ध्यान में रखकर न्यायाधीशों के लिए अपेक्षित योग्यता की अनिवार्यता निश्चित करते हैं।

आचार्य कौटिल्य ने न्यायालयों का विवेचन दो मुख्य प्रकार धर्मस्थीय एवं कण्टकशोधन न्यायालय के रूप में किया है। धर्मस्थीय न्यायालय से आशय नागरिकों के पारस्परिक व्यवहार से उत्पन्न होने वाले विवादों से है। इसके अन्तर्गत विवाह, दाय विभाग, उत्तराधिकार, संविदा, गाँव का बाध्यकर मजदूरी नियम, क्रय–विक्रय बयाना, साझेदारी, कन्या प्रकर्म इत्यादि विषयों को सम्मिलित किया गया है। कण्टकशोधन न्यायालय का उद्देश्य राजा तथा राज्य को कण्टकों अर्थात् शत्रुओं से दूर करना था। इसके अन्तर्गत शिल्पियों की धूर्तता से प्रजाजनों को बचाना, व्यापारियों की ठगी से बचाव दैवीय आपत्ति से प्रजा की रक्षा, अकस्मात् मृत्यु के कारणों की जाँच–परख, उच्चाधिकारियों को सम्बन्धित इत्यादि विवाद सम्मिलित थे। कण्टकशोधन न्यायालय के माध्यम से एक तरफ राज्य के विरुद्ध किए जाने वाले अपराधों पर चिंतन–मनन किया जाता था। वही दूसरी तरफ राज्य के व्यावसायियों एवं कर्मचारियों के शोषण और उत्पीड़न से प्रजा की रक्षा की व्यवस्था की जाती थी।

आचार्य कौटिल्य ने विकेन्द्रित न्यायिक प्रणाली को महत्व प्रदान किया है। कौटिल्य ने प्रत्येक राज्य के चार स्थानों पर न्यायालय की स्थापना का सुझाव दिया है। ये चार प्रकार–जनपद न्यायालय, संग्रहण न्यायालय (800 ग्रामों का मुख्यालय), द्रोणमुख न्यायालय (400 ग्रामों का मुख्यालय), स्थानीय न्यायालय (100 ग्रामों का न्यायालय) है इन न्यायालयों में तीन धर्मस्थ (न्यायाधीश) और तीन अमात्यों की नियुक्ति की गई है।[22] न्यायाधीशों की नियुक्ति राजा के द्वारा ही की जाती थी। इस प्रकार आचार्य कौटिल्य ने न केवल न्यायालयों के प्रकारों में विकेन्द्रित व्यवस्था को अपनाया अपितु न्यायिक निर्णयों के लिए एक न्यायाधीश को अनुचित मानते हुए अन्य का भी सम्मिलित किया। कौटिल्य एक यर्थाथवादी चिंतक थे वे भली–भाँति जानते थे कि शक्ति के बँटवारे से निरकुंशता पर नियन्त्रण स्थापित होता है।

आचार्य शुक्र ने न्यायिक व्यवस्था में न्यायालयों को दो भागों स्थानीय न्यायालय (अशासकीय न्यायालय) एवं राज्याधीन न्यायालय (शासकीय न्यायालय) में विभक्त किया है। स्थानीय न्यायालय से अभिप्राय ऐसे न्यायालयों से है जिनका निर्माण स्थानीय संस्थाओं द्वारा किया जाता था। आचार्य शुक्र ने स्थानीय न्यायालय को तीन शाखाओं कुल, श्रेणी एवं गण में विभक्त किया है। जिन्हें सरकार द्वारा स्वतंत्रतापूर्वक न्यायिक कार्य करने की मान्यता प्राप्त थी।[23] शुक्र ने इन तीनों प्रकार के न्यायालय को क्रमानुसार एक को दूसरे की अपेक्षा अधिक अधिकार युक्त माना है। कुल न्यायालय प्रत्येक कुल के निजी आचार, नियम इत्यादि पर आधारित थे। कुल न्यायालय रिश्तेदारों के मध्य समझौता कराने का कार्य करते थे। श्रेणी न्यायालय क्षेत्रीय समस्याओं का निवारण किया करते थे। साधारणतः श्रेणी न्यायालय से अभिप्राय एक ही प्रकार की वृत्ति या शिल्प करने वाले संघ या समुदाय से था।[24] श्रेणी न्यायालय द्वारा दिये गये निर्णयों से असन्तुष्ट पक्ष इसके विरुद्ध अपील गण न्यायालय में कर सकता था। शुक्र द्वारा वर्णित कुल, श्रेणी एवं गण न्यायालयों को डकैती, चोरी इत्यादि जैसे जघन्य अपराधों को सुनने का अधिकार नही था।[25] इस प्रकार आचार्य शुक्र ने त्वरित न्याय प्रदान करने के लिए स्थानीय न्यायालयों की व्यवस्था की है।

आचार्य शुक्र ने राज्याधीन, न्यायालयों को चार प्रकारों–सभ्य न्यायालय, अध्यक्ष न्यायालय, सहस्त्राधिपति न्यायालय एवं राजा की न्याय सभा में विभाजित किया है। सभ्य न्यायालय में न्यायिक अधिकारियों की सदस्य संख्या तीन, पाँच अथवा सात होती थी। इन न्यायाधीशों की योग्यता का निर्धारण करते हुए आचार्य शुक्र कहते है कि व्यवहार का विशेषज्ञ बुद्धिमान, चरित्र, शील तथा गुण से युक्त शत्रु तथा मित्र के साथ समान व्यवहार करने वाले (राग–द्वेष से रहित) धर्म को जानने वाले, सत्यवादी, आलस्य से रहित, क्रोध, काम तथा लोभ को जीतने वाले, प्रिय वचन बोलने वाले ऐसे सभी जातियों के व्यक्तियों को न्यायालय में न्यायाधीश नियुक्त करना चाहिए।[26] इस प्रकार यहाँ यह तथ्य स्मरणीय है कि शुक्र न्यायाधीश की नियुक्ति के आधार जाति बंधन की अपेक्षा योग्यता को निर्धारित करते हैं। शुक्र द्वारा वर्णित अध्यक्ष न्यायालय सभ्य न्यायालय की अपेक्षा उच्च श्रेणी का न्यायालय है। इसमें मुख्य न्यायाधीश को अध्यक्ष कहा जाता है। इसके विषय में कोई विस्तृत एवं स्पष्ट जानकारी शुक्रनीति में वर्णित नहीं है। सहस्त्राधिपति न्यायालय सबसे छोटा न्यायालय है।

इस न्यायालय में गाँव और पुरे के अपराध से सम्बन्धी विवादों की सुनवाई की जाती थी। राजा की न्यायसभा अतिन्क्ति अन्य न्यायालयों की तुलना में श्रेष्ठ है। राजा की न्यायसभा को सर्वोच्च न्यायालय के रूप में स्वीकार किया गया है। यह न्याय की अंतिम संस्था थी इसे प्रारम्भिक एवं अपीलीय दोनों प्रकार के क्षेत्राधिकार प्राप्त थे। सर्वोच्च न्यायालय के अन्तर्गत राजा को विवाद का निर्णय करने का अधिकार प्राप्त नही था। राज्य की न्यायसभा में प्राड्विवाक, अमात्य, ब्राह्मण और पुरोहित के साथ करता था।[27] इस प्रकार आचार्य शुक्र ने न्यायिक व्यवस्था में राजा को सर्वोच्च अधिकारी मानते हुए उसके निर्णय को अंतिम निर्णय माना है। राजा की न्यायिक शक्तियों में राज्य की न्यायसभा के परामर्श का विशेष महत्व था राजा सभासदों की सम्मति के बिना विवेकसम्मत निर्णय नहीं ले सकता था।

न्यायिक प्रक्रिया के विषय में महाभारतकाल में स्पष्ट वर्णन उपलब्ध नहीं है। महाभारतकाल में न्यायिक प्रक्रिया के राजा ही धर्म का रक्षक है वह स्वयं अभियोग की सुनवाई करता था। जब कोई अभियोग राजा के समक्ष उपस्थित होता था तब यर्थाथता की परीक्षा के लिए साक्षी को बुलाया जाता था तथा साक्षी के साक्ष्यों की जाँच निष्पक्षता के साथ की जाती थी। यदि किसी विवाद में कोई साक्षी उपलब्ध नहीं होता था और उस विषय में पैरवी करने वाला कोई स्वामी न हो तब राजा स्वयं ही विवाद की जाँच–पड़ताल करके अपराधी को दण्डित करता था। राजा का कर्त्तव्य था कि वह आयु, शक्ति और काल के अनुरूप ही दण्ड प्रदान करे।[28] एक प्रसंग में कहा गया कि यदि अपराधी धनी हो तो उसे सम्पत्ति से वंचित कर देना चाहिए और वह निर्धन हो तो उसे कारागृह में बंद करके दण्ड देना चाहिए। इसके अतिरिक्त यदि अपराधी राजा के वध, आग लगाने एवं चोरी की इच्छा रखता हो तो वध दण्ड देना ही उचित है।[29] एक स्थल पर कहा गया है कि न्यायिक प्रक्रिया के अन्तर्गत धर्म के अनुसार अभियोग का निर्णय करना राजा का कार्य था परन्तु धर्म विषयक संशय का निराकरण करना परिषद् का कार्य था। इस परिषद् के सदस्यों की नियुक्ति धर्म के ज्ञाता विद्वान ब्राह्मणो की होती थी। महर्षि व्यास कहते हैं कि धर्म के निर्णय में संदेह उत्पन्न हो तो दस वेद–शास्त्राज्ञ अथवा तीन धर्म–पाठक ब्राह्मण जो निर्णय दे उसी को धर्म मानना चाहिए। अतएव राजा सदैव परामर्श से ही न्याय का धारण करता था।

महर्षि मनु ने न्यायपालिका के कार्यक्षेत्र से सम्बन्धित वाद के दो प्रकार हिंसा से सम्बन्धित (फौजदारी), देय धन या भूमि आदि को अदा न करने (दीवानी) से सम्बन्धित वाद बताये है। मनु ने इन विवादों के 18 कारणों[30] का विवेचन करके न्यायपालिका के क्षेत्र व्यवहार को इन्ही विषयों तक सीमित किया है। न्यायपालिका की प्रक्रिया में मनु ने राजा को निर्देश दिया है कि वह न्यायासन पर स्थित होकर सत्य धन, आत्मा, साक्षी, देश, रूप और काल सब को ध्यान में रखकर ही न्याय प्रदान करे। मनुस्मृति में विवाद के विषयों के सत्य का ज्ञान प्राप्त करने के लिए मानुष प्रमाण एवं दिव्य प्रमाण का आश्रय लेना उचित माना है। मनु ने मानुष प्रमाण की तीन श्रेणियाँ क्रमशः लेख साक्ष्य और मुक्ति बतायी है। लेख से अभिप्राय विवाद से सम्बन्धित लिखित प्रमाणों से है। मनु ने लेखों की जाँच में सर्तकता बरतने का आग्रह किया है। साक्ष्यों के प्रमाण में विवादास्पद मामले में कम से कम तीन साक्ष्यों के साक्ष्य को लेना उचित माना गया है किन्तु यदि वादी एवं प्रतिवादी के साक्षियों के साक्ष्य को मानने का ही निर्देश दिया गया है। श्रेष्ठ साक्षी की श्रेणी में मनु ने गृहस्थ, पुत्रवान, स्वदेशीवासी, क्षत्रिय, वैश्य और शूद्र को सम्मिलित किया है। इनमें भी मनु ने उसी साक्षी को श्रेष्ठ कहा है जिसने वास्तव में घटना अपनी आँखों से प्रत्यक्ष रूप में देखा हो या कानों से सुना हो। मनु ने ऐसे व्यक्तियों को साक्षी न बनाने का सुझाव दिया है जो दास, लोकनिन्दित, कुटकर्मकर्त्ता विपिद्धकर्यकर्त्ता वृद्ध, बालक, अशक्त, चाण्डाल, विकेलेन्द्रिय, आर्त, उन्मत्त, कापर, विश्रान्त, क्लान्त, कामातुर, क्षुब्ध आदि हो।[31] मनु के भुक्ति प्रमाण से तात्पर्य यदि किसी व्यक्ति की वस्तु कोई अन्य व्यक्ति दस वर्षों तक उपभोग करे तब मालिक को प्रतिवाद करने का हक नही है क्योंकि उस परिस्थिति में अमुक वस्तु उपयोगकर्त्ता की ही होगी।

मनु ने साक्ष्य से पूर्व वर्णानुसार शपथ लेने का स्वरूप निश्चित किया है। ब्राह्मण वर्ण का

सत्य की शपथ, क्षत्रिय को वाहन या आयुध की शपथ, वैश्य को गौ, बीज और स्वर्ण की तथा निम्न वर्ण शूद्र को इन सबकी शपथ पक्ष रखने से पूर्व लेनी चाहिए।[32] मनु ने झूठी गवाही एवं मिथ्या साक्ष्य देने वालों के लिए कठोर दण्ड की व्यवस्था की है। मनु ने ब्राह्मण को छोड़कर शेष तीनों वर्णों राजा द्वारा दण्डित करके देश से निकालने का आदेश दिया है। मनु के प्रमाण के दूसरा प्रकार दिव्य प्रमाण है। दिव्य प्रमाण का प्रयोग मानुष प्रमाण के अभाव में करने की व्यवस्था थी। मनु ने राजा को निर्देश दिया कि वह यथोचित न्याय ही प्रदान करे।

आचार्य कौटिल्य ने न्यायिक प्रक्रिया के अन्तर्गत दोनों प्रकार के न्यायालय धर्मस्थीय एवं कण्टकशोधन की समान प्रक्रिया का विवेचन किया है। कौटिल्य ने न्यायालय में वाद के प्रस्तुत करने से पूर्व तिथि, करण (विवाद विषय) अधिकरण (घटनास्थल), ऋण, वादी एवं दोनों पक्षों युक्तियों एवं प्रत्युक्तियों का पूर्ण विवरण अंकित करने का निर्देश दिया है।[33] कौटिल्य ने महर्षि मनु के समान साक्ष्य के तीन प्रमाण–लिखित प्रमाण, साक्षी प्रमाण एवं भोग (कब्जा) प्रमाण में विभक्त किया है। इन प्रमाणों की सत्यता सिद्ध होने पर ही इन उपायों का प्रयोग विवाद में करने का विधान बताया है।

कौटिल्य के अनुसार किसी वाद की सत्यता की पुष्टि में पाँच तथ्यों से सहायता प्राप्त होती है। प्रथम प्रत्यक्ष देखा गया अपराध, द्वितीय अपराधी की स्वीकारोक्ति, तृतीय सरलता से जिरह, चतुर्थ सरलता के कारणों का पता लगाना और अंतिम शपथ। जब उपरोक्त प्रमाणों तथा तथ्यों के आधार पर भी अपराध का निर्णय न हो सके तब गुप्तचरों के माध्यन से राजा (धर्मस्थ) को निर्णय देना चाहिए। कौटिल्य ने विवाद में ऐसे साक्ष्यों को उपर्युक्त माना जो विश्वसनीय एवं चरित्रवान हो। कौटिल्य ने किसी पक्ष के व्यक्ति के साथ सहायक, ऋणदाता, ऋण लेने वाला, शत्रु से सम्बन्धित राज्य द्वारा दण्डित के साक्ष्य को स्वीकार करना उचित नहीं माना है। ब्राह्मण, मुखिया, कोठी, पतित, अंधे, बहरे, गूंगे आदि के विषयों में कौटिल्य का मत है कि ऐसे व्यक्ति केवल अपने ही वर्ग के वादों में साक्ष्य देने के लिए सक्षम है। इस प्रकार कौटिल्य ने विवादों की प्रक्रिया में साक्ष्यों की सत्यता को विशेष महत्व दिया है।

आचार्य शुक्र की न्यायिक व्यवस्था में वाद एवं मुकदमों को 'व्यवहार मुकदमा'[34] कहा गया है। आचार्य शुक्र ने न्यायिक प्रक्रिया का क्रमबद्ध उल्लेख करते हुए कहा कि सर्वप्रथम आरोप पत्र को प्रस्तुत करना चाहिए इसे 'आवेदन पत्र' कहा गया उसके पश्चात् राजा द्वारा मुकदमा देखा जाना चाहिए[35] तथा वादी के स्वाभाविक रीति से मुकदमे का कारण पूछा जाना चाहिए।[36] आवेदन पत्र की परीक्षा में अतिरिक्त बातों को बाहर निकालकर वादी के हस्ताक्षर या अगूँठा लगवाना चाहिए। तत्पश्चात् राजा उस पर राज्य की मुहर लगा देता है। राजा की अनुपस्थिति में प्राड्विवाक को यह समस्त कार्य करना चाहिए।[37] शुक्र के विवाद के कारण की सत्यता की जाँच में मनु एवं कौटिल्य की भाँति तीन प्रमाण साक्ष्य, लिखित एवं भोग (कब्जा) बताये हैं। शुक्र के मत में विवाद के ये तीन प्रमाण तीन विधि हैं। इनका प्रयोग क्रम से करना चाहिए किन्तु इन तीनों प्रमाणों के अभाव में गुप्तचर के साक्ष्यों का आश्रय लेना ही उचित है।

शुक्र ने न्यायिक प्रक्रिया में पक्षपात व्यवहार का निवारण करने के लिए कहा है कि राजा को विवादों की सुनवाई सदैव खुले में करनी चाहिए एकान्त में नहीं। राजा का कर्त्तव्य है कि वह क्रोध एवं लोभ से रहित होकर धर्मशास्त्रानुसार प्राड्विवाक, अमात्य, ब्राह्मण, पुरोहित आदि की उपस्थिति में स्थिर और शान्त बुद्धि से निर्लोभी मुकदमों को देखे। इनके साथ ही पचास प्रकार के छलों, दस प्रकार के अपराधों और राजा द्वारा ज्ञेय बाइस पदों से सम्बन्धित मामलों को जासूस या मुखाबिर द्वारा यथाविधि जानकारी प्राप्त करके राजा या अधिकारियों द्वारा स्वतः ही मुकदमा दायर कर देना चाहिए। इस प्रकार शुक्र की न्यायिक प्रक्रिया में मानवतावादी पक्ष का समावेश किया गया है।

शुक्र ने न्यायिक प्रक्रिया के अन्तर्गत झूठी गवाही एवं झूठे प्रमाण प्रस्तुत करने की गवाही को स्वीकार न करके उन्हें दुगुना दण्ड प्रदान करने का निर्देश दिया है। शुक्र ने साक्षी बनने के लिए

किसी वर्ण विशेष का वर्णन नहीं किया है। साक्षी के मतों में यदि भिन्नता हो तब शुक्र ने विवादों का निवारण बहुमत द्वारा करने के लिए कहा है। इस प्रकार आचार्य शुक्र न्यायिक प्रक्रिया कौटिल्य एवं मनु से विभिन्न विषयों पर समानता रखते हुए भी अपनी अद्भूत समझ का परिचय दिया है।

प्राचीन भारत की न्यायिक व्यवस्था में दण्ड का स्थान बहुत ऊँचा था। दण्ड को 'महान देवता' की उपमा प्रदान की गई है। दण्ड की उपयोगिता का मूल कारण यह भी था कि दण्ड के द्वारा व्यक्तियों को उनके स्वधर्म परिपालन में स्थिर किया जाता था। दण्ड व्यक्तियों को धर्मानुकूल आचरण करने के लिए प्रेरित करता था। राजा का पुनीत कर्त्तव्य था कि वह प्रजा को धर्मपालन करने के लिए प्रेरित करे एवं यदि कोई व्यक्ति धर्मविरुद्ध आचरण करें तो उसे दण्ड देकर उचित मार्ग पर लायें किन्तु राजा को केवल धर्मस्थ न्याय का धारण करके ही दण्ड शक्ति का प्रयोग करने का अधिकार था इसके विपरीत यदि राजा दण्ड का धारण करता था तो प्रजा राजा के आदेश का विरोध करती थी और राजा के यश का नाश होता था। भारतीय परम्परा के अन्तर्गत दण्ड धर्म के अधीन था। धर्म से ही सारे संव्यवहार संचालित होते थे। दण्ड का महत्व इतना अधिक था कि व्यक्ति के जीवन की चार विद्याओं में आन्वीक्षिकी, त्रयी और वार्ता को दण्ड के अधीन माना गया है। इसके साथ ही राजा मानव जीवन में पुरुषार्थ की प्राप्ति में दण्डनीति का आश्रय लेकर ही धर्म, अर्थ और काम का सम्यक् पालन करके जीवन के ध्येय को प्राप्त करता था। दण्ड राजा की अनुपम शक्ति है जिसके प्रयोग से न केवल प्रजा की रक्षा होती है बल्कि प्रजा अपने धर्म का पालन करने में भी प्रेरित होती है। राजा को यह आदेश दिया गया था कि वह सम्यक् दण्ड का पालन करे क्योंकि उचित दण्ड से न केवल न्याय प्राप्त होता है बल्कि सुख की भी अनुभूति होती है। दण्ड शक्ति की प्रभावकता का महत्व दण्ड के उचित पालन में निहित है। उचित दण्ड समाज में स्थिरता प्रदान करता है। अतएव राजा का कर्त्तव्य है कि वह विदत्त पुरुषों से चिंतन करके एवं न्याय अन्याय के भेद को जानकर ही दण्ड शक्ति का प्रयोग करे।

महाभारत महाकाव्य में दण्ड की विशद् व्याख्या उपलब्ध है। महाभारत दण्ड की परिभाषा, स्वरूप, प्रभाव एवं महत्व का तर्कसंगत विवेचन किया गया है। महाभारत के शान्तिपर्व में दण्ड को परिभाषित करते हुए कहा गया है कि शासक के प्रजारक्षक दायित्व दण्ड के नाम से जाना गये है।[38] दण्ड सम्पूर्ण जगत को नियमों के अन्दर रखने वाला है तथा इसका मुख्य उद्देश्य प्रजा को दुष्टों की उद्दंडता से बचाना है।[39] इस प्रकार प्रकृति के नियमों में बाँधकर रखते हुए दुष्ट प्रवृत्ति के लोगों के अत्याचार से संरक्षण करने वाले उपाय का नाम 'दण्ड' है। दमन एवं दण्ड की प्रक्रिया का नाम दण्ड है।

महाभारत में दण्ड की उत्पत्ति का कारण दैवीय अनुग्रह है इसीलिए दण्ड का महान देवता माना गया है। शान्तिपर्व में दण्ड को 'चतुर्दैष्ट' कहा गया है। प्रजा समूह से धन वसूल करना, राज्य से कर लेना, वादी प्रतिवादी से दूना धन ग्रहण करना और कायर ब्राह्मणों से सर्वस्व वसूल करना, यही दण्ड का चतुर्भज रूप है। वादी–प्रतिवादी निवेदन और उत्तर दान आदि आठ प्रकार के कारणों से दण्ड भ्रमण करता है, इसी कारण दण्ड को 'अष्टपाद' कहा गया है। शान्तिपर्व में दण्ड की क्रान्ति का वर्णन करते हुए कहा गया–

नीलोत्पलदलश्यामश्चतुर्दंष्टश्चतुर्भुजः।

अष्टपात्रैकनयनः शंकुकर्णोर्ध्वरोमवान्।।

जटी द्विजिहस्ताग्रस्थे मृगराजतचुच्छदः।

एतद्रूपं विभर्त्युगं दण्डं नित्यं दुरधरः।।[40]

दण्ड नीलोत्पल के समान श्याम है, इसके चार भुजा, आठ पद, और अनेक नयन है। इसके

कौवे के समान और रोये और उठे है। सिर पर जटा और मुख पर जिह्वा है। मुख का रंग ताम्र के समान और शरीर व्याघ्र चर्म से आच्छादित है। इस प्रकार दुर्धर्ष दण्ड सदा भयंकर रूप धारण किये रहता है। इसके अतिरिक्त दण्ड को अनेक नामों में अभिव्यक्त किया गया है।[41]

महाभारत महाकाव्य में दण्ड की महत्ता का विवेचन करते हुए अर्जुन कहते हैं कि दण्ड समस्त प्रजा का शासन और पालन करता है। सम्पूर्ण प्राणियों की निद्रावस्था में दण्ड जागता रहता है, इसी कारण पंडित लोग दण्ड को ही धर्म कहकर वर्णन करते हैं। दण्ड ही धर्म, अर्थ और काम का रक्षक है। इसी से दण्ड त्रिवर्ग में वर्णित हुआ है। प्रजाओं के धनधान्य आदि सब कुछ दण्ड से ही रक्षित होते हैं।[42] इस प्रकार दण्ड शासन का प्रहरी है जो प्रजा की रक्षा करता है। महाभारत में स्पष्टतः कहा गया कि दण्ड की शक्ति राजा में निहित है। राजा का कर्त्तव्य है कि वह सम्यक्, सुविचारित एवं पक्षपातरहित होकर धर्मानुसार दण्ड प्रदान करे। महाभारत में दण्ड अपराध, देशकाल एवं परिस्थिति के अनुरूप ही प्रदान करने का आग्रह किया है। महाभारत में दण्ड के विभिन्न प्रकारों वाग्दण्ड, धनदण्ड, कामदण्ड तथा वधदण्ड का उल्लेख किया है।

दण्ड के सभी सिद्धान्तों महाभारत में सुधारात्मक दण्ड को विशेष महत्व प्रदान किया गया है। भीष्म के अनुसार यदि कोई व्यक्ति चोरी करता है तब राजा को उसके भरण–पोषण की व्यवस्था करनी चाहिए क्योंकि यदि ब्राह्मण चोर बन जायेगा तो उसमें राजा का ही दोष है। परन्तु यदि राजा उसके भरण–पोषण की व्यवस्था कर दे और उसके पश्चात् भी वह पूर्ववत् चोरी करता रहे तो उसे बांधव सहित देश से निष्काषित कर दे।[43] महाभारत में अनेक ऐसे प्रसंग हैं जिनमें अपराधियों को क्षमा[44] प्रदान की गई है। इस प्रकार महाभारत महाकाव्य में दण्ड की उत्पत्ति सर्वरक्षण एवं सर्वकल्याण की भावना से हुई जो दुष्टों को दण्डित करके सृष्टि में धर्म की प्रस्थापना करता है।

महर्षि मनु ने दण्ड को न्याय का प्रस्थापक मानते हुए राजा से न्यायपूर्ण व्यवहार करने का आग्रह किया है। मनु ने कहा कि देश, काल, शक्ति, विद्या का विचार करके ही राजा को अन्याय करने वाले व्यक्तियों को उचित दण्ड देना चाहिए। मनु ने दण्ड की व्याख्या करते हुए कहा कि दण्ड का धृति और समीक्षा के साथ प्रयोग करने से प्रजा का रंजन होता है किन्तु असम्यक् प्रयोग करने से सर्वनाश हो सकता है इसीलिए राजा को दण्ड का सम्यक् प्रयोग करना चाहिए।

मनु ने चार प्रकार के दण्ड– वाग्दण्ड (प्रथम अपराधी को), धिग्दण्ड (दुष्कर्म अपराधी को), धनदण्ड (आर्थिक जुर्माने) एवं वधदण्ड (शारीरिक ताड़ना) के अतिरिक्त कारगार दण्ड, जाति बहिष्कार दण्ड, प्रायश्चित दण्ड, निर्वासन दण्ड, और सम्पत्ति दण्ड का उल्लेख किया है। मनु की दण्ड व्यवस्था में दण्ड के तीन उद्देश्य थे– प्रतिशोधात्मक, निवृत्तात्मक एवं सुधारात्मक। मनु की दण्ड व्यवस्था में राजा को निर्देश दिया गया कि वह अपराध की गुरुता एवं लघुता को देखकर ही दण्ड प्रदान करे। मनु ने दण्ड की विशिष्टता का वर्णन करते हुए कहा है कि दण्ड वास्तव में राजा है पुरुष है, नेता है, शासक है और वही चारों आश्रमों के धर्म का प्रतिभू है। दण्ड सब प्रजाओं पर शासन करता है। दण्ड ही सबकी रक्षा करता है, दण्ड ही रक्षकों को निद्रित होने पर जागा रहता है, इसलिए ज्ञानी पुरुष दण्ड को ही धर्म कहते हैं। विचारपूर्वक दिया हुआ दण्ड सब प्रजाओं का प्रसन्न करता है, बिना विचार किए दण्ड का विधान करने से वह सब प्रकार के नाश करता है।[45] उचित रीति से दण्ड विधान करता हुआ राजा धर्म, अर्थ, काम इन तीनों की वृद्धि को प्राप्त होता है। जो राजा विषयाक्त, क्रोधी, खोटे विचार का होता है। वह उसी दण्ड से मारा जाता है।[46] अतएव राजा को धर्मस्वरूप दण्ड का ही धारण करना चाहिए।

आचार्य कौटिल्य ने दण्ड की उचित व्यवस्था करना राजा का एक महत्वपूर्ण कर्त्तव्य माना है। कौटिल्य ने दण्ड को धर्म, अर्थ, काम का रक्षक कहा है और राजा द्वारा इसके सम्यक् प्रयोग पर बल दिया है।[47] कौटिल्य के अनुसार दण्ड अपर्याप्त वस्तु को प्राप्त कराता है, उसकी रक्षा करता है। कौटिल्य के अनुसार अपर्याप्त वस्तुओं को प्राप्त कराता है, उसकी रक्षा करता है। रक्षित वस्तु

किसी वर्ण विशेष का वर्णन नहीं किया है। साक्षी के मतों में यदि भिन्नता हो तब शुक्र ने विवादों का निवारण बहुमत द्वारा करने के लिए कहा है। इस प्रकार आचार्य शुक्र न्यायिक प्रक्रिया कौटिल्य एवं मनु से विभिन्न विषयों पर समानता रखते हुए भी अपनी अद्भूत समझ का परिचय दिया है।

प्राचीन भारत की न्यायिक व्यवस्था में दण्ड का स्थान बहुत ऊँचा था। दण्ड को 'महान देवता' की उपमा प्रदान की गई है। दण्ड की उपयोगिता का मूल कारण यह भी था कि दण्ड के द्वारा व्यक्तियों को उनके स्वधर्म परिपालन में स्थिर किया जाता था। दण्ड व्यक्तियों को धर्मानुकूल आचरण करने के लिए प्रेरित करता था। राजा का पुनीत कर्त्तव्य था कि वह प्रजा को धर्मपालन करने के लिए प्रेरित करे एवं यदि कोई व्यक्ति धर्मविरूद्ध आचरण करें तो उसे दण्ड देकर उचित मार्ग पर लायें किन्तु राजा को केवल धर्मस्थ न्याय का धारण करके ही दण्ड शक्ति का प्रयोग करने का अधिकार था इसके विपरीत यदि राजा दण्ड का धारण करता था तो प्रजा राजा के आदेश का विरोध करती थी और राजा के यश का नाश होता था। भारतीय परम्परा के अन्तर्गत दण्ड धर्म के अधीन था। धर्म से ही सारे संव्यवहार संचालित होते थे। दण्ड का महत्व इतना अधिक था कि व्यक्ति के जीवन की चार विद्याओं में आन्वीक्षिकी, त्रयी और वार्ता को दण्ड के अधीन माना गया है। इसके साथ ही राजा मानव जीवन में पुरुषार्थ की प्राप्ति में दण्डनीति का आश्रय लेकर ही धर्म, अर्थ और काम का सम्यक् पालन करके जीवन के ध्येय को प्राप्त करता था। दण्ड राजा की अनुपम शक्ति है जिसके प्रयोग से न केवल प्रजा की रक्षा होती है बल्कि प्रजा अपने धर्म का पालन करने में भी प्रेरित होती है। राजा का यह आदेश दिया गया था कि वह सम्यक् दण्ड का पालन करे क्योंकि उचित दण्ड से न केवल न्याय प्राप्त होता है बल्कि सुख की भी अनुभूति होती है। दण्ड शक्ति की प्रभावकता का महत्व दण्ड के उचित पालन में निहित है। उचित दण्ड समाज में स्थिरता प्रदान करता है। अतएव राजा का कर्त्तव्य है कि वह विदत्त पुरुषों से चिंतन करके एवं न्याय अन्याय के भेद को जानकर ही दण्ड शक्ति का प्रयोग करे।

महाभारत महाकाव्य में दण्ड की विशद् व्याख्या उपलब्ध है। महाभारत दण्ड की परिभाषा, स्वरूप, प्रभाव एवं महत्व का तर्कसंगत विवेचन किया गया है। महाभारत के शान्तिपर्व में दण्ड को परिभाषित करते हुए कहा गया है कि शासक के प्रजारक्षक दायित्व दण्ड के नाम से जाना गये है।[38] दण्ड सम्पूर्ण जगत का नियमों के अन्दर रखने वाला है तथा इसका मुख्य उद्देश्य प्रजा को दुष्टों की उद्दंडता से बचना है।[39] इस प्रकार प्रकृति के नियमों में बाँधकर रखते हुए दुष्ट प्रवृत्ति के लोगों के अत्याचार से संरक्षण करने वाले उपाय का नाम 'दण्ड' है। दमन एवं दण्ड की प्रक्रिया का नाम दण्ड है

महाभारत में दण्ड की उत्पत्ति का कारण दैवीय अनुग्रह है इसीलिए दण्ड का महान देवता माना गया है शान्तिपर्व में दण्ड को 'चतुर्दष्ट' कहा गया है। प्रजा समूह से धन वसूल करना, राज्य से कर लेना, वादी प्रतिवादी से दूना धन ग्रहण करना और कायर ब्राह्मणों से सर्वस्य वसूल करना, यही दण्ड का चतुर्भज रूप है। वादी–प्रतिवादी निवेदन और उत्तर दान आदि आठ प्रकार के कारणों से दण्ड भ्रमण करता है, इसी कारण दण्ड को 'अष्टपाद' कहा गया है। शान्तिपर्व में दण्ड की क्रान्ति का वर्णन करते हुए कहा गया–

नीलोत्पलदलश्यामश्चतुर्दष्टश्चतुर्भुजः।

अष्टपात्रैकनयनः शकुकर्णोर्ध्वरोमवान् ।

जटी द्विजिहस्ताभास्यो मृगराजतनुच्छदः।

एतद्रूपं बिभर्त्युगं दण्डो नित्यं दुराधरः।।[40]

दण्ड नीलोत्पल के समान श्याम है, इसके चार भुजा, आठ पद, और अनेक नयन है। इसके

भौंह के समान और रोये और उठे है। सिर पर जटा और मुख पर जिह्वा है। मुख का रंग ताम्र के समान और शरीर व्याघ्र चर्म से आच्छादित है। इस प्रकार दुर्धर्ष दण्ड सदा भयंकर रूप धारण किये रहता है। इसके अतिरिक्त दण्ड को अनेक नामों में अभिव्यक्त किया गया है।[41]

महाभारत महाकाव्य में दण्ड की महत्ता का विवेचन करते हुए अर्जुन कहते हैं कि दण्ड समस्त प्रजा का शासन और पालन करता है। सम्पूर्ण प्राणियों की निद्रावस्था में दण्ड जागता रहता है, इसी कारण पंडित लोग दण्ड को ही धर्म कहकर वर्णन करते हैं। दण्ड ही धर्म, अर्थ और काम का रक्षक है। इसी से दण्ड त्रिवर्ग में वर्णित हुआ है। प्रजाओं के धनधान्य आदि सब कुछ दण्ड से ही रक्षित होते हैं।[42] इस प्रकार दण्ड शासन का प्रहरी है जो प्रजा की रक्षा करता है। महाभारत में स्पष्टतः कहा गया कि दण्ड की शक्ति राजा में निहित है। राजा का कर्त्तव्य है कि वह सम्यक्, न्यायोचित एवं पक्षपातरहित होकर धर्मानुसार दण्ड प्रदान करे। महाभारत में दण्ड अपराध, देशकाल एवं परिस्थिति के अनुरूप ही प्रदान करने का आग्रह किया है। महाभारत में दण्ड के विभिन्न प्रकारों वाग्दण्ड, धनदण्ड, कामदण्ड तथा वधदण्ड का उल्लेख किया है।

दण्ड के सभी सिद्धान्तों महाभारत में सुधारात्मक दण्ड को विशेष महत्व प्रदान किया गया है। भीष्म के अनुसार यदि कोई व्यक्ति चोरी करता है तब राजा को उसके भरण–पोषण की व्यवस्था करनी चाहिए क्योंकि यदि ब्राह्मण चोर बन जावेगा तो उसमें राजा का ही दोष है। परन्तु यदि राजा उसके भरण–पोषण की व्यवस्था कर दे और उसके पश्चात् भी वह पूर्ववत् चोरी करता रहे तो उसे बांधव सहित देश से निष्काषित कर दे।[43] महाभारत में अनेक ऐसे प्रसंग हैं जिनमें अपराधियों को क्षमा[44] प्रदान की गई है। इस प्रकार महाभारत महाकाव्य में दण्ड की उत्पत्ति सर्वरक्षण एवं सार्वकल्याण की भावना से हुई जो दुष्टों को दण्डित करके सृष्टि में धर्म की प्रस्थापना करता है।

महर्षि मनु ने दण्ड को न्याय का प्रस्थापक मानते हुए राजा से न्यायपूर्ण व्यवहार करने का आग्रह किया है। मनु ने कहा कि देश, काल, शक्ति, विद्या का विचार करके ही राजा को अन्याय करने वाले व्यक्तियों को उचित दण्ड देना चाहिए। मनु ने दण्ड की व्याख्या करते हुए कहा कि दण्ड का धृति और समीक्षा के साथ प्रयोग करने से प्रजा का रंजन होता है किन्तु असम्यक् प्रयोग करने से सर्वनाश हो सकता है इसीलिए राजा को दण्ड का सम्यक् प्रयोग करना चाहिए।

मनु ने चार प्रकार के दण्ड– वाग्दण्ड (प्रथम अपराधी को), धिग्दण्ड (दुष्कर्म अपराधी को), धनदण्ड (आर्थिक जुर्माने) एवं वधदण्ड (शारीरिक ताड़ना) के अतिरिक्त कारागार दण्ड, जाति बहिष्कार दण्ड, प्रायश्चित दण्ड, निर्वासन दण्ड, और सम्पत्ति दण्ड का उल्लेख किया है। मनु की दण्ड व्यवस्था में दण्ड के तीन उद्देश्य थे– प्रतिशोधात्मक, निवृत्तात्मक एवं सुधारात्मक। मनु की दण्ड व्यवस्था में राजा को निर्देश दिया गया कि वह अपराध की गुरूता एवं लघुता को देखकर ही दण्ड प्रदान करे। मनु ने दण्ड की विशिष्टता का वर्णन करते हुए कहा है कि दण्ड वास्तव में राजा है पुरुष है, नेता है, शासक है और वही चारों आश्रमों के धर्म का प्रतिभू है। दण्ड सब प्रजाओं पर शासन करता है। दण्ड ही सबकी रक्षा करता है, दण्ड ही रक्षकों को निद्रित होने पर जागा रहता है, इसलिए ज्ञानी पुरुष दण्ड को ही धर्म कहते हैं। विचारपूर्वक दिया हुआ दण्ड सब प्रजाओं का प्रसन्न करता है, बिना विचार किए दण्ड का विधान करने से वह सब प्रकार के नाश करता है।[45] उचित रीति से दण्ड विधान करता हुआ राजा धर्म, अर्थ, काम इन तीनों की वृद्धि को प्राप्त होता है। जो राजा विषयाक्त, क्रोधी, खोटे विचार का होता है। वह उसी दण्ड से मारा जाता है।[46] अतएव राजा को धर्मस्वरूप दण्ड का ही धारण करना चाहिए।

आचार्य कौटिल्य ने दण्ड की उचित व्यवस्था करना राजा का एक महत्वपूर्ण कर्त्तव्य माना है। कौटिल्य ने दण्ड को धर्म, अर्थ, काम का रक्षक कहा है और राजा द्वारा इसके सम्यक् प्रयोग पर बल दिया है।[46] कौटिल्य के अनुसार दण्ड अपर्याप्त वस्तु को प्राप्त कराता है, उसकी रक्षा करता है। कौटिल्य के अनुसार अपर्याप्त वस्तुओं को प्राप्त कराता है, उसकी रक्षा करता है। रक्षित वस्तु

का बढ़ाता है और बढ़ी हुई वस्तु का उपयोग करता है।[49] समाज और सामाजिक व्यवहार दण्ड पर ही निर्भर है। अतः दण्ड का उचित प्रयोग आवश्यक है। इसीलिए दण्ड न तो औचित्य से अधिक होना चाहिए न ही औचित्य से कम। यथोचित दण्ड देने वाला राजा ही पूज्य होता है।

आचार्य कौटिल्य ने आपराधियों के लिए तीन प्रकार के दण्ड कायदण्ड, अर्थदण्ड एवं बंधनागार दण्ड की व्यवस्था की है। कौटिल्य ने कारागार में रहने वाले आपराधियों की व्यवस्था में स्त्री एवं पुरुषों के लिए पृथक्–पृथक् करने का परामर्श दिया है। कौटिल्य ने शुभ अवसरों पर कैदियों को जेल से मुक्त करने के पक्ष में है। इसके साथ ही किसी नये प्रदेश में विजय प्राप्त करने पर युवराज के राज्याभिषेक पर, राजपुत्र के जन्म के उत्सव आदि पर कैदियों की सजा कम अथवा रिहा कर देना चाहिए।

कौटिल्य ने दण्ड का निश्चय करने में अपराध की मात्रा, अपराध की परिस्थिति, अपराधी की सानर्थ्य, अपराधी का वर्ण, लिंग, अवस्था, अपराधी की आयु तथा सुधार की स्थिति को ध्यान में रखा जाता था। वर्णित व्यवस्था में लिंग, वर्ण एवं आयु के आधार पर यह ज्ञात होता है कि कौटिल्य दण्ड देने में समानता के सिद्धान्त पर विश्वास नहीं रखते हैं। महिलाओं, बच्चों एवं ब्राह्मणों को कम दण्ड देने का विधान किया है। कौटिल्य ने दण्ड के सिद्धान्तों का विवरण मनु के समान ही किया है। केवल वे मनु की भाँति दण्ड के आध्यात्मिक एवं नैतिक प्रयोजन को स्वीकार नहीं करते हैं। इस प्रकार कौटिल्य की दण्ड व्यवस्था में मानव अपराध का कोई पक्ष ऐसा नहीं है जिसका विवेचन न किया गया हो।

आचार्य शुक्र ने दण्ड की अंतिम शक्ति राजा को प्रदान की है। शुक्र ने दण्ड को ऐसा साधन माना है जिससे असत् आचरण से निवृत्त होती है। दण्ड के महत्व को व्यक्त करते हुए आचार्य शुक्र ने कहा है कि दण्ड के भय से प्रजा अपने धर्मों में निरत रहती है तथा विभिन्न प्रकार के अवैध, अनैतिक, समाजविरोधी कृत्यों से विमुख रहती है। शुक्र की दण्ड व्यवस्था निरोधात्मक एवं सुधारात्मक सिद्धान्तों पर आधारित है। शुक्र ने दण्ड के अनेक प्रकारों का विवेचन करते हुए शासक द्वारा समुचित दण्ड प्रदान करने की आवश्यकता का प्रतिपादन किया है।

आचार्य शुक्र ने अपराधों के चार भेदों–कायिक, वाचिक, मानसिक एवं सांसर्गित को स्वीकार किया है।[49] कायिक श्रेणी में शारीरिक आघात द्वारा किये जाने वाले अपराधों को स्वीकार किया गया। वाचिक श्रेणी के अन्तर्गत वाणी द्वारा किये जाने वाले अपराधों को सम्मिलित किया गया है। मानसिक श्रेणी के अन्तर्गत में मन से किये जाने वाले अपराध को शामिल किया गया है। सांसर्गिक अपराध की श्रेणी में ऐसे अपराध सम्मिलित किए गये जो किसी अपराध के आपराधिक कृत्यों में साथ रहने अथवा प्रत्यक्ष या परोक्ष सहायता पहुँचाने के द्वारा किए जाते हैं। शुक्र ने इन चार प्रकारों के अतिरिक्त अपराधों के सन्दर्भ में दो सामान्य उपश्रेणियों– बुद्धिकृत (जानबूझकर किये गये अपराध), अबुद्धिकृत (बिना किसी निर्धारित मन्तव्य के अनायास हो गये अपराध) की गणना की है। इन सभी अपराधों को शुक्र ने पुनः दो भेद–कारित (स्वयं किया गया या करवाया गया अपराध) एवं अनुमोदित (स्वयं व्यक्तिगत न भाग ले) में विभक्त किया है। उपरोक्त समस्त श्रेणियों के अपराधों को अपराधों की आवृत्ति एवं अंतराल के आधार पर चार श्रेणियों– सुकृत्कृत (एक बार किया गया अपराध), अभ्यस्तकृत (बार–बार किया गया अपराध), अभ्यस्तकृत (निरन्तर किया गया अपराध) एवं स्वभावकृत (सामान्यतः अपराध में वृत्ति हो जाने) में विभाजित किया है।[50]

अपराध की विभिन्न श्रेणियों का अध्ययन करने के पश्चात् यह ज्ञात होता है कि शुक्र मानव स्वभाव की दुष्प्रवृत्ति को भली–भाँति जानते थे। उन्होंने अपने वर्गीकरण में ऐसे अपराधों का भी उल्लेख किया है जो जानबूझकर किये जाते हैं। इस आधार पर हम कह सकते हैं कि शुक्र ने अपराधों के प्रकारों में व्यवस्थित वर्गीकरण प्रस्तुत किया है। शुक्र का आपराधिक वर्गीकरण अपराधी के दण्ड को निश्चित करता है जिससे वह मनुष्य जिसके विरुद्ध आपराधिक कार्य हुआ

है, उसे त्वरित न्याय प्राप्त होता है। आचार्य शुक्र ने दण्ड के स्वरूप अपराधी को प्राणदण्ड न देने की अनुशंसा की है किन्तु राजद्रोह जैसे गम्भीर अपराध में प्राण दण्ड देने का निर्देश दिया है।

उपरोक्त विवेचित शुक्र की न्याय व्यवस्था के विषय में कहा जा सकता है कि शुक्र ने मनु एवं कौटिल्य के बहुत सारे विचारों को अपनाने के बाद भी अपने युग से अग्रगामी होने का प्रमाण प्रस्तुत किया है। शुक्र ने न्यायाधीशों की नियुक्ति के विषय में कहा है कि विशेषज्ञ, विद्वान, चरित्रवान, शीलगुण से सम्पन्न, सत्यवादी, आलस्यरहित, काम–क्रोध, लोभ पर विजय प्राप्त करने वाले, मधुर भाषी को न्यायाधीश बनना चाहिए। शुक्र ने न्यायाधीशों की चारित्रिक योग्यता के पश्चात् न्यायाधीशों की शैक्षिक योग्यता को मान्यता प्रदान करके पेशागत योग्यता के समक्ष वर्ण जाति को नगण्य माना है। आचार्य शुक्र ने न्यायिक व्यवस्था के सर्वोच्च पद पर 'राजा' को स्थान प्रदान करके न्याय की असीम शक्तियाँ राजा में निहित की किन्तु राजा को प्राड्विवाक, अमात्य, पुरोहित से परामर्श करके ही न्यायिक कार्यों को सम्पन्न अधिकार प्रदान किया है। शुक्र ने राजा से आग्रह किया है कि वह न्यायिक कार्यवाही को एकान्त स्थान पर न करे प्रजा को निष्पक्ष न्याय प्रदान करने के लिए यह एक उपयोगी निर्णय था। यथोचित दण्ड प्रदान करने का निर्देश स्पष्ट करता है कि शुक्र की न्याय व्यवस्था में अपराधी को अपराध की लघुता एवं गम्भीरता के अनुरूप दण्ड प्रदान किया जाता था। इस प्रकार शुक्र द्वारा वर्णित न्यायिक व्यवस्था सृष्टि के स्थायित्व और सभ्यता की उन्नति तथा विकास के साथ आबद्ध है।

लेखक आलेख प्रस्तुति हेतु भारतीय समाज विज्ञान अनुसंधान परिषद् द्वारा प्रदत्त पोस्ट डॉक्टरल फेलोशिप के अंश और आर्थिक सहयोग के लिए आभारी है।

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वर्तमान भारतीय प्रजातान्त्रिक शासन
सक्रियता की उपयो

प्राचीन समय में राजतंत्र को श्रेष्ठ शासन व्यवस्था
लोकतंत्र ही शासन की सर्वश्रेष्ठ प्रणाली है। अतः विश्व व
शासन व्यवस्था को अपनाया गया है। भारत में भी लोकत
गई है। लोकतंत्र के दो रूप हैं – प्रत्यक्ष प्रजातन्त्र और
जनता स्वयं शासन की शक्ति का प्रयोग करती है, परन्तु
की अधिकता, क्षेत्र की विशालता एवं भाषा की विविधता
है अतः आधुनिक समय में विश्व की अधिकांश देशों में अ
इसमें जनता स्वयं शासन की शक्ति का प्रयोग न करके
से शासन शक्ति का प्रयोग करती है। इसी कारण अप्रत्
कहा जाता है। भारत में लोकतंत्र के अप्रत्यक्ष या प्रतिनिधि
शासन में शक्तियों का विभाजन एवं विकेन्द्रीकरण, जनत
शासन, नागरिकों को अधिकारों एवं स्वतंत्रताओं की प्राप्ति
निष्पक्ष न्यायपालिका, शक्ति का पृथक्करण, एक से अधिक
प्रत्त दल द्वारा सरकार का निर्माण, नियतावधि में निर्वाचन
लोकतन्त्र की उपरोक्त विशेषताओं के संरक्षण में यथासंभ
भूमिका प्रदान की है।

भारतीय संविधान द्वारा भारत में लोकतांत्रिक व्यवस्था
को मर्यादित शक्तियाँ ही प्राप्त होनी चाहिए। शासन को र
न्यायिक पुनरावलोकन की व्यवस्था की गई है। वर्तमान में
उसे यह शक्ति भी प्राप्त होनी चाहिए कि यदि कार्यपालिक
की अनदेखी करें अथवा मनमाना आचरण करने की प्रवृत्ति
कर्त्तव्यपालन के सम्बन्ध में आवश्यक निर्देश दे और मन
पुनरावलोकन व्यवस्थापिका को मनमाने कानून निर्माण पर
सक्रियता कार्यपालिका को कर्त्तव्यपालन की दिशा में प्रवृत्त
साधन है। न्यायिक सक्रियता की स्थिति को न्यायपालिका
है, जिस देश में न्यायिक पुनरावलोकन की व्यवस्था है।
पुनरावलोकन की शक्ति का ही विस्तार है।[1]

भारतीय संविधान की प्रस्तावना में सामाजिक, आर्थि
किया गया है। न्याय प्रदान करने का प्रमुख दायित्व न्याय
न्यायपालिका के रूप में सर्वोच्च न्यायालय, उच्च न्यायालय
की गई है। संविधान द्वारा न्यायपालिका को संविधान, संघ
के संरक्षण का दायित्व सौंपा गया है। न्यायपालिका को
पुनरावलोकन एवं न्यायिक सक्रियता की शक्ति प्रदान की
की एक नवीन प्रवृत्ति है, जिसे विगत कुछ दशकों पूर्व ही
शक्ति के माध्यम से न्यायपालिका अपनी परम्परागत भूमि
और आर्थिक न्याय (हित) के लिए कार्य करती है।

न्यायिक सक्रियता का अभिप्राय न्यायपालिका का स

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Editor
Manas Chakrabarty

व्याघ्री यथा हरेत् पुत्रान्
दंष्ट्राभ्यां न च पीडयेत्।
भीता पतनभेदाभ्यां
तद्वद्वर्णान् प्रयोजयेत्।।

Rani Chennamma

The Quarterly Journal of Indian Political Science Association

महती महीयताम्

INDIAN POLITICAL SCIENCE ASSOCIATION

The Indian Journal of Political Science

ournal of Political Science IJPS is the quarterly peer-reviewed journal published by the Indian Political Science Association in September and December every year. Started in 1939, the IJPS e most reputed and refereed journals of Political Science at level and, in fact, the foremost journal of the discipline at the l. We feature research articles pertaining to issues and practices Science, Public Administration, International Relations, overnance in India and around the world and also select papers plinary nature that delineates the trajectory, progress and issues nporary world and it is also a platform to culminate into a ngst the scientists of the field. It also invites books for review. able to be published after peer review.

as over the last eighty years evolved as a major publication of rks on ideas and issues important to the study of politics. It mote greater collaboration and exchange of ideas among ntists in India and abroad. The position of the Editor of the l of Political Science had been occupied by renowned political ie country at various points of time.

now completed 80 years of its publication. The periodicity and IJPS at national and international levels has also increased The website of the journal www.ijps.net has been providing dated information. The national and global abstracting and e papers published has also been restored to a great extent. The rnal has grown substantially and its representative character journal truly a publication of a national body with global has become the best avenue of interaction and dialogue n political scientists as well as international community.

Editor

Manas Chakrabarty

Ansuiya Nain
Sanjeev Kumar Sharma

The present research paper is undertaken to apprise the reader of the conditions which prevailed in India through ages. It is however, hoped that an overall picture of the society will be delineated in a general way bringing out the highlights while projecting the trajectory from the study of literacy records. We have attempted to find, locate, understand, and narrate some aspects of good governance discussed at length in the ancient Indian Sanskrit texts in general with special reference to Rajadharma. Therefore, the real objective of Rajadharma is welfare of all, supremacy of the public good, growth of all and good for all. The detailed description of multiple dimensions of Rajadharma has found considerable mention and explanation in ancient Indian works on Dharmasutra, epics, Smriti works and Neeti treatises. Treatise in ancient India provides substantially detailed, deep, independent, organized, and systematic description of Rajadharma and the related concepts, more profusely than any other contemporary works.

Keywords: Rajadharma, ancient India, Mahabharat, Inteilectual tradition.

There has been a growing interest among the intelligentsia about the past of India. Social workers, legislators and administrators are keenly feeling the need of re-orientation in the social conditions and outlook. Some liberal thinkers might argue about the diminished significance of ancient political systems sayingwhat is gone is past and also humiliate any attempts at knowing, studying and researching about Ancient India, the idea mostly is ridiculed as obsolete and parochial, the answer lies in the eternal quest of satisfying one's eagerness and curiosity about ancient past, knowing about the detailed account will elaborate on the wisdom of our forbears which may be of some use in pointing to the direction towards which the politics of modern Indian should lead. Human nature has been same thus certain basic things are same now as they were centuries ago, which could be used as a guiding light to steer the wheels of statecraft on the path of righteousness. The present society is a child of the past. Any reform, even partial enquires knowledge of the history of the social conditions. Whatever is old is not sacrosanct; likewise everything modern cannot be accepted as infallible. Before we initiate any reforms we must have knowledge of the origin and evolution of the sociological ideas. A social practice mostly originates in a most casual way and thus passes through many changes. A systematic consideration of the historical perspective reveals the true nature of the original customs. Henceforth, we could arrive in a position to assess the value and relevance of it and also whether it should be given up or some minor changes could be imbibed to make it more feasible for the society as a whole. Moreover, the evolution of the Indian society from the earliest times is a curiosity to the historians, scholars and general readers alike.

Few Indian political scientists have observed that "for a considerably long time it was commonly believed that the ancient Indian people knew only the monarchical form of government and that the democratic elements were absent in the ancient Indian polity. Later research attempts in the subject carried on since the beginning of this century have completely refuted such a belief. We are fortunate in possessing innumerable references, both religious and secular, which prove beyond any doubt the existence of highly developed democratic institutions in ancient Indian society."[1]

Again, it was argued that "the most original aspect of the theory of kingship in the Dharmasutras is concerned with the principle of the king's obligation towards his subjects. The Dharmasutras acquaint us with fairly developed administrative machinery consisting of the king and of his officials with definitive executive or judicial functions."[2]One

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pre-Independence Indian political scientist is of the view that "There is no reason why an Indian should not study the Smriti writers or the Arthasastra writers with the same scientific interest. It is this almost complete neglect of Indian data that is responsible for the failure of Indian scholars to produce any great work with due originality in the field of political science."[3] He was particularly harsh after a gap of more than thirty years when he wrote: when it came to a question of the study of political thought it was again a study of the thought of European thinkers not only the great among them but also the more obscure. It had nothing to do with the Indian polity. It had no bearing on Indian society or its structure. The colonial rulers as well as the European intellectuals put the label of oriental despotism on the polity which existed for ages in India and concluded that there was nothing to study about it. It was on this kind of political science that Indian political scientists were nurtured and fed. It was all an artificial food not suited to them and incapable of making them intellectually strong and healthy. They became intellectual slaves to the west and they naturally behaved like all slaves."[4]

According to Indian seers, the initial stage of the evolution of state, usually termed as state of nature by Western thinkers, was the Prajapati state. This kind of state finds its mention in the Shantiparva of Mahabharata. There was no state nor a king, nor a regulator, nor was anyoneassigned with the task of giving punishments. People were living together peacefully and protecting each other according to their prescribed Dharma.

न वै राज्यं न राजाऽसीत् न दण्डो न च दाण्डिकः।

धर्मेणैव प्रजाः सर्वाः रक्षन्ति स्म परस्परम्।[5]

This is not a situation of lawlessness or of any anarchy. Although it was not the ideal state rather this is a depiction of the initial nature of the public order prevailing in society wherein evil tendencies of people had not started maligning their individual character and disrupting the societal order. But somehow as the wheel of the time turned people started following bad habits and evil began fast spreading. They started violating the guidelines of Prajapati state and differed from their path of Dharma. Under the given circumstances, Brahma was requested to find solution to this precarious condition of society who later composed a Neetishastra which included Dharma, Artha and Kama into its fold. Therefore, it was called Trivarga Shastra. In order to provide easy understanding and common understanding of this Trivarga Shastra many Dharmashastras were written which later on gave birth to the institution of king.

The path of the Dharma was to be followed by everyone in its purest terms by putting in supreme efforts. The realization, knowledge and observance of one's own Dharma, henceforth, were the necessary pre-conditions of achieving the holistic welfare of the population. This multi- level observance of Dharma by the ruler and the ruled is the gateway of the terrestrial delight called Sukham. The uncompromising Dharmic adherence to the Artha is the root of Dharma. This Artha can be protected only through a Rajya which is required to be deeply benevolent and, therefore, the possession of the seat of power and authority must not vitiate the minds of the rulers and hence they must not deviate from following their own Dharma. This benevolence could only be achieved when the ruler has sufficient inner control over his senses. They also have been expected to be the rulers of not only the states but also of their senses. The one, who has achieved victory over one's own senses, is the supreme deserving of all the material and spiritual accomplishments.

सुखस्य मूलं धर्मः। धर्मस्य मूलमर्थः।

अर्थस्य मूलं राज्यम्। राज्यमूलमिन्द्रियजयः।

इन्द्रियजयस्य मूलं विनयं। विनयस्य मूलं वृद्धोपसेवा।

वृद्धसेवायाविज्ञानम्। विज्ञानेनात्मानंसम्पादयेत।

सम्पादितात्माजितात्मा भवति।

जितात्मा सर्वार्थः संयुज्यते।

अर्थसम्पत्प्रकृतिसम्पदं करोति।[6]

This delineation by Kautilya has since long been the guiding light of the authors of ancient India on politics and governance. We may find ample amount of indications of these stages of good governance in Mahabharata at scattered places but Kautilya was able to delineate the trajectory in a more formulated manner.

A comprehensive study of the works of Valmiki, Vyas and Kalidasa provides us with an enlightening realization that these three immensely powerful and influential writers of ancient India had one thing in common. These three were unique and consistent not

only in their conception of Bharata as a Rashtra (a culturally unified nation) even while understanding and recognizing the variety and diversity of political regimes, but also in acknowledging the contours of cultural contexts and an inherent belonging creating a national consciousness. The geographical mappings, the commonalities of places of social and cultural significance, the age-certified reverence to rivers, teerthas (places of worship and intellect), inter-connectedness of the storylines, overwhelming adherence to Dharma, observance of Varnashrama structures, respectful references to earlier sages, thinkers, writers and ideas, appreciation of Santana Dharma and its tenets, frequent mentions of natural national boundaries of Bharata from mountains to the ocean, etc. are many common threads clearly seen in the literature of all these three writers. Besides this, all of them have demonstrated a commonly accepted idea of governance with specified objectives and limitations on the state authority. These three have constantly referred small states as Pradesh. The broader understanding of the ancient Indian political thinking could be widened by the acknowledgement of this fact that these three had a distinctively clear idea of Bharata as a Rashtra and identified their writings with not the smaller units but Bharata as a whole. And this fact makes them distinctive, special and exceedingly amazing ambassadors of India's glorious past.

It is argued that there are traces of political thought in ancient India even before the systematic knowledge of Rajadharma came to light in the Shantiparva of Mahabharata. Jayaswal elaborates, "We find Hindu Republics existing and flourishing as early as the age of the AitareyaBharmana. Ancient Hindus had already developed technical constitutions of various classes with specific procedures of Abhisheka for each class. They must have experimented in those systems for some centuries before the composition of the AitereyaBrahaman. The date of this Vedic work is to be regarded as 1000 B.C. Towards the end it mentions King Janamejaya, son of Parikshit. According to the Aitareya Brahmana, the greater portion of Aryan India-North, West and South was covered with republican constitutions. Except the Madhyadesha, where monarchy prevailed, further east in the Prachi there was the constitution called Samrajya which literally means a combination of monarchies, i.e., a federal imperialism around one dominant member. Except the Doab and Magadha, the whole country was republican. Such was nearly the case also in the time of Buddha, as it appears from Pali authorities."[7]

Three versions exist of the origin of political science in ancient India. The two are from the Mahabharata and one from the Kamasutra of Vatsyayana. In ancient India, 'trivarga' ideal was considered important, according to which Dharma, Artha and Kama were the three goals of life. Separate books were written on these goals. These were Dharmashastras, Arthashastras and the Kamashastras. Dharma stood for righteousness in life, Artha stood for acquisition of means of livelihood and Kama stood for pleasure. Earlier, Arthashastra was a part of Dharmashastra, but by the 5th century B.C., it got separated and the science of politics branched off Dharmashastra.[8] According to K.P. Jayaswal, the science of a politics in ancient India must have originated in 650 B.C.'A.S. Altekar wrote, if the quotations from works of predecessors of Kautilya can be taken as representative of these contents, we may well conclude that there was a fairly strong school of politics in India from 500 B.C.[10]Therefore, the real objective of Rajadharma is welfare of all, supremacy of the public good, growth of all and good for all.While opening the text, the AushanaSashastra said."नमोस्तु राज्य वृक्षा यषाड गुण्याय.....Salute to the state (tree) which had branches of six expedients of foreign policy and four devices like conciliation as flowers, and its pursuit accrues fruits in the form of trivargra: Dharma, Artha and Kama."[11]

Statecraft in ancient India was known by various names by different scholars. The terms used were Rajadharma, Dandaneeti, Neetishashtra, Arthashashtra, etc. In the initial phases of its existence, it was termed as Rajadharma but we find substantial literature with ample amount of indications of the term Dandaneeti in some other treatises, and then works following them on the statecraft used the term Arthashashtra, which is believed to be having a long tradition of sacred textbooks on the science of governance. In the later period, we have also come across works on statecraft under the category of Neetishashtra, Rajneetishashtra, Rajyaneetishashtra and Rajneeti Ratnakar. The detailed description of multiple dimensions of Rajadharma has found considerable mention and explanation in ancient Indian works on Dharmasutra, epics, Smriti works and Neeti treatises. Etymologically Rajadharma emanates from

two root terms- Rajan and Dharma. The composition of these two terms culminates into a unique noun, which could also be used as verb in specific contexts. The Sanskrit root term of Raja creates the noun Rajan, which means pleasing the populace or welfare of the subjects. Term 'Dharma' has its roots in Dhri, which connotes sustaining or upholding something. Ancient Indian political treatises have used the term Rajan, generally symbolizing the king. This term has also been used in Purushasukta of Rigveda for a group of warriors. Kautilya also in some places have used the term 'Rajan' for Kshatriyas.

One of the stalwarts of modern Indian commentators on ancient Indian tradition of political thinking K.P. Jayaswal comments, "the treatises on political theories and practical governance were originally called DandaNiti or the principles of Governance and Arthashastra or the code of commonwealth. Kautilya defined Artha as human population, i.e., territory with human population. The code of Artha (Commonwealth) is a code dealing with the means (art, Upaya) of acquisition and growth of that territory. DandaNiti was the term used by Ushanas, while Artha Shastra was used by Brihaspati, for their respective works which are considered as celebrated works of Hindu classical times. A treatise, rather an encyclopedia of knowledge under the title DandaNiti, accredited to Prajapati, finds its mention in the Mahabharata. The subject is also called Raja-Shastra or the code for the rulers and Raja Dharma or the law for the Rulers, in the Shanti-Parvam of the Mahabharata is called Rajadharma in several places."[12]According to U.N. Ghoshal, the Arthashastra was a comprehensive science, of which Dandaniti was only the branch.[13]In view of A.S. Altekar, Dandaniti deals with the totality of social, economic and political relationships and indicates how they are properly organized and integrated with one another. All relationships says Ushanasa, are rooted in Dandaniti.[14]

Shukra was a radical thinker who held that Dandaniti is the only science that should be studied, as all the sciences are parts of Dandaniti and its pursuit included all undertakings in the world. Thus, he not only valued politics but also state as it facilitated the pursuit of Dharma and Artha. Although Shukra was not considered a follower of materialistic philosophy of Lokayata such as Brihaspati but their ideologies seemed to be identical, as both of them were hard realists and rationalists and rejected the Vedic dogma. They held pursuit of Artha and Kama Purusharthas most important. He held that politics was the most important science, and operations of all sciences were part of it.[15]According to Dr Ghoshal, 'Politics, according this ultra-political school was master science providing key to all sciences. According to him, 'this constituted the landmark in the history of Indian political thought, for; they mark a fresh instance of early application of the spirit of rationalism to politics.[16]

Mahabharata prescribes the theory of divine origin and social contact as an alternative to the theory of 'The Law of the Fish (matsyanyaya). Further elaborating on the concept of matsyanyaya, Mahabharata says that as the bigger fishes consume smaller fishes in the ocean, so do the powerful and mighty agonize and loot the weak. This anarchical situation is not favourable to or in the welfare of any living creature or the system as a whole. This would lead to a situation of consistent injustice with feeble people and as a result they might be harassed andbe compelled to continue living in persecuted conditions throughout their life. In order to change this state of anarchy, the state has come into existence. Most of the ancient Indian writers have been vocally critical of the perceptible anarchy and have advised to get rid of it as early as possible. And this had resulted into a robust discourse on the necessity and inevitability of the emergence and origin of the state.

The seven elements of the state have been described and discussed in an analytical and systematic manner in almost all the noteworthy works of ancient India like Mahabharata. Manusmriti, Kautilya Arthashastra, Shukraneeti, Kamandaka Neetisara, etc. We may find insignificant difference in sequence and the hierarchy of these seven elements of the state in the writings of various thinkers but the commonality of these seven elements of the state is representative of overarching acceptability of the primary idea of Saptanga.

Mahabharata has dealt with the question of the superiority of these seven elements of the state. Contemporary discourses on the elements of modern state has also time and again addressed the question about which among these holds more significance than the other. In this context, the pertinent question finds definitive discussion during a dialogue between

Queen Sulabha and King Janak, wherein, it is said that from time to time all the corresponding parts of the body prove their significance and utility but the importance of each of the elements is dependent upon its particular ability to perform the specifies task. Therefore, the superiority of any of the elements of Saptanga of state is to be decided according to its performance in their specifically assigned field. The same idea has also been endorsed by Manu while he mentions that the nature and profile of each of the elements of Saptanga is the basis of the determination of its specific place. However, Manu has added emphasis on the sequencing of these seven elements, which will determine the importance of that particular element, but despite that all of them have to be cooperating, work collectively and complimentary to each other. Kautilya in his Arthashastra, gives added importance to kingship in comparison to other elements because the king, according to him, has to work as the coordinator of all the seven elements. Shukracharyahas also followed the line of his predecessors and has attributed central importance to king, as it is him who provides the base for the body of the state to build upon and bears the pressure as well as provides the strength to sustain.

The Brihadaranyaka Upanisnad said that Dharma was the king of kings, and with the help of Dharma only the weak could rule over the strong. Thus, there is transition to more abstract thinking as new society required the concepts such as Dharma, Artha and Kama to deal with the complexities of emerging needs of the society.[17]Therefore, we may tend to believe that endeavouring the welfare of the populatica by performing his responsibilities as Dharma by the king is to be understood as Rajadharma. Mahabharata highlights the duties of the king assigned for public welfare as 'Sanatan Dharma' of the kings.राज्ञां धर्मः सनातनः।

The sources of the Dandanitihave been mentioned in Mahabharata at multiple places with clarity, lucidity, details, and consistency. It proclaims that for the sole purpose of bringing living people out of the utter state of confusion and to provide protection for the material activities and to ensure overall well-being of the people. the provisions made as regulations are the scope of Dandaniti.

असम्मोहाय मर्त्यानामर्थं संरक्षणाय च।
मर्यादास्थापिता लोके दण्डसंज्ञा नरेशांपति।[18]

Ancient Indian political thinkers have attempted to create a strong state through acknowledging the existence of seven elements to give shape to a formal state. It has been observed that the king must not only coordinate among the other elements according to their nature, profile and characteristics but should also judiciously punish the violators of the law. Mahabharata clearly mentions that anybody, howsoever significant position one could be holding, if found violating the jurisdiction of these seven elements of the state has to be dealt with severe punishment. Thus, the Saptanga of the state is the gateway of procuring Yogakshema of individuals and society.According to Sharma, the Aitareya Brahmana enumerated ten forms of governments, such as Swarajya, Rajya, Vairajya and Bhaujya in different areas, which showed to that the king's power, was established over fixed areas. The Shatapatha Brahmana called the king Rashtrabhrita or sustainer of the realm.[19]Thus, according to him, the later Vedic state signified four important aspects: (a) formation of the government which realized regular taxes from the people, (b) territorial identity acquired through the clan or tribal names, (c) division of labour in four different Varna and (d) the appropriation of surplus from the agriculture to sustain emerging organs of the state.[20]

It has, thus, been noticed that the study of politics in ancient India has been described through a variety of terms such as *Rajadharama, Dandaniti. Arthashastra, Rajyshastra*and *Nitishastra*. *Dandaniti*is the most frequently used term among them. Jayaswal has argued that the definition of Dandaniti by Kautilya is inclusive to a great extent. This definition explains the treatise of Arthashastra in terms of policy providing sustenance and protection to the people and the earth inhabited by people and the methodologies adopted for the welfare of both of them: नृणुष्याणांवृत्तिरर्थः मनुष्यवतीभूमिरित्यर्थः तस्याः पृथिव्याः लाभपालनोपायः शास्त्रमर्थः-शास्त्रमिति। वृत्तिःPalana has the sense of growth, not mere maintenance. This is borne out the description of DandaNiti given by Kautiiya. दण्डनीतिः अलब्धलाभार्था, लब्ध परिरक्षिणी,रक्षितविवर्धिनी वृद्धेषुतीर्थेषुप्रतिपादिनी च, अलब्धलाभोलब्ध परिरक्षणंरक्षितविवर्धनंचेत्यानुबन्धीin Nitivakyamritam defined it as described."[21]Basham observes that 'though India had no formal political philosophy, the science of statecraft was much cultivated, and a number of important books on this topic have survived. *Dandaniti*, the administration of force or *Rajniti*, the conduct of kings, was a severely practical science, and the texts blatantly dismisses the philosophical

aspect of politics but give comprehensive and detailed advice on the organization of the state and the conduct of governmental affairs."[22]

A number of Arthashastra schools and teachers existed before Kautilya. He mentions four schools of Arthashastra, namely that of Manu, Ushanasa, Brihaspati and Parashara. He also provided insight into the views of thinkers such as Vishalaksha, Bharadvaja, Vatavyadhi and Kaunapadanta.[23] The Shantiparva named seven teachers as originators of Rajshastra or the science of politics. These teachers were Manu, Brihaspati, Ushanas, Vishalaksha, Bharadvaja, Mahendra and Gaurishiras.[24] To the early Arthashastra thinkers belong the credit of separating politics from theology and raising it to the dignity of independent science. With them came a rich store of new material in the shape of categories and concepts belonging to the foundations of the science of government.[25]The Dharmasutras which flourished from the 6th century BC to the 3rd century B.C. included Rajadharma section which dealt with the duties of the king. They also discussed the principles of Apaddharma.[26]In addition, the Buddhist - Pali literature mentions a teacher like Potthapada.[27]Kautilya, the Mahabharata, the Ramayana, the Manusmriti, the KamandakiyaNitisara, the Mudra Rakshasa, the DashkumarCharitam and Buddha Charita also mentioned these thinkers. Thus, there is an agreement among the scholars that there existed a number of Arthashastra thinkers in ancient India.[28]

We know that the Mahabharata is the largest epic and constitutes eighteen parvas (sections). The key ingredient of this treatise is the description of the socio-political conditions of that period leading to the Great War. But because of the very nature of Indian writings, the book essentially includes so many aspects of human life inasmuch as it has been said that it incorporates all that had happened on earth till that time. To make it worth reading, there are a number of long and short stories embedded with the philosophical and enumerative body text in such a manner that one can easily get confounded with the variety of issues the book has touched upon.

The epic Mahabharata is one such treatise in ancient India which provides substantially detailed, deep, independent, organized, and systematic description of Rajadharma and the related concepts, more profusely than any other ancient Indian works. Rajadharma finds mentions and descriptions in Adiparva, Sabhaparva, Virataparva, Udyogaparva, Bheeshmaparva, Shantiparva, Anushashanaparva, Ashwamedhikaparva and Ashramavasikaparva. Out of the 18 parvas of Mahabharata, Shantiparva, in particular, is an encyclopedia of most of the relevant characteristics aspect of Rajadharma. Three sub-sections of Shantiparva, namely, Rajadharmanushashanaparva, Apaddharmaparva and Mokashadharmaparva, explain the concept of the Rajadharama in great details. Shantiparva of Mahabharata accepts Brihaspati, Vishalaksha, Shukracharya, Indra, Ushana, Maheendra, Bhardwaja, Gaurshira as propounders of the science of politics. The origin of Rajadharma has been closely associated with Brahma, who is said to have composed a work having one hundred thousand chapters. It has been described that the God himself consented to the authenticity of the work composed by Brahma by pronouncing that this will regulate the Dharma of the entire Lokatantra (democracy).

In this backdrop we have attempted to find, locate, understand, and narrate some aspects of good governance discussed at length in the ancient Indian Sanskrit texts in generalwith special reference to kingship.Manu has described Rajadharma as a political discourse. Mahabharata is presumably the first Indian treatise dealing with the science of governance in a systematic manner. It contains one huge *Rajadharama*section discussing various aspects of governance besides *Sabhaparva*and *Vanaparva*. The *Rajadharma* section of Mahabharata constitutes one significant part in *Shantiparva*. After the completion of great Mahabharata war, the winning group of Pandavas headed by the eldest of them, Yudhishthira, approaches their grandfather Bhishma for seeking guidance to run the administration of the state. As per the story Bhishma was lying on the *sharshayya*(the bed of thorns) in the war field and waiting for his death which would be embraced only in Uttarayana. Yudhishthira requests Bhishma to teach him with the ways of good governance. The whole episode is embodied in the *Shantiparva*of Mahabharata. Though the ensuing discussion about the *Rajadharma* is lengthy enough and spreads into one hundred thirty chapters on *Rajadharma* and forty-two chapters on *Apaddharma*, the main theme of this voluminous part of Mahabharata is the functions, duties, role and characteristics of a good, popular and dutiful king.

Manu refuses to provide differentiation between the king and the state and emphasizes upon the divine origin of kingship. In his words, all the people in this anarchical world were victims of overwhelming terror and therefore, with the sole purpose of the protection and welfare of the entire universe, the God has created the institution of the king. In the sequence, Manu quantified three reasons for the origin of kingship. One was the existence of anarchy in state of nature, two the state was originated for the protection of the subjects and third as well as the main reason was the assignment of the king by the God. The state through its origin attempts to provide wholeness to human existence, bringing everyone out of the state of fear and anarchy Manu says when the king fails to unremittingly inflict punishments on offenders the powerful will torture the weak, like fishes fried on gird irons.[29] Men are dominated by the fear of punishment, rare is the man who is moral for the sake of morality; it is the terror of punishment that enables all men to enjoy their earnings or possessions.[30] Such a truthful, intelligent, inflictor of punishments, who is possessed of good deliberations and understands the principles of virtue, desire and wealth, men call the king.[31]

यदि न प्रणयेद्राजा दण्डंदण्डयेष्वतन्द्रितः।
शूलेमत्स्यानिवापक्ष्यन् दुर्बलान्बलवत्तरः।। मनुस्मृतिVII 20

सर्वोदण्डजितोलोको दुर्लभो हि शुचिर्नरः।
दण्डस्य हि भयात्सर्वं जगद्भोगाय कल्पते।। मनुस्मृतिVII 22

तस्याहुः संप्रणेतारं राजानं सत्यवादिन्।
समीक्ष्यकारिणं प्राज्ञं धर्मकामार्थकोविदन्।। मनुस्मृतेVII 25

Kautilya does not specifically discuss the origin of state. However, in the thirteenth chapter of the first part of Arthashashtra, we find some symbolic elements of discussion on the origin of the state through a dialogue between two of the spies of the king, wherein, one of them describes the demerits of anarchy by mentioning the concept of 'Justice of Fish 'and the 'Might is right' and the persecution of the feebler by the stronger. To rectify the situation at hand and to provide relief to the subjects from the fear of anarchy, people at large appointed Manu as their king. It was decided to contribute one sixth of the agricultural produce, one tenth of the income from trade and a little quantity of gold was also to be given to the king as tax revenue. On the basis of the prescribed tax slabs from the income of the people, the king was to assume the entire responsibility of the Yogakshema of the subjects. This idea is understood to be the acknowledgment and endorsement of the social contract theory of the origin of the state by Kautilya.

Shukraniti also discusses the origin of the state with a perspective of the divine theory but makes partial modifications in the conventional idea of the theory of divine origin of the state. While Shukraniti agrees to the king being a consortium of the theory of divine elements, yet, Shukra argues that the ultimate aim of the king is to not only provide protection and security to his people but also to collect substantially appropriate revenue to sustain the kingship. Most of the propounders or propagators of the divine theory of origin of state have considered king to be equivalent to God but Shukradoes not completely endorse the concept of king being a direct God. Rather, the king is neither the God incarnate nor is his rights divine. Shukra describes in detail the divinity of his duties and responsibilities. According to him, the characteristics and the functioning of the king can be categorically named under three types, Satvika, Rajasika and Tamasika. On the basis of the qualities reflected in the king, he can be classified into Rakshaanshi (Demon), Manavaanshi (Human), Devatanshi (Divine). Therefore, a king who has Satvika qualities and function accordingly could be called a divine king, and hence, none other can be called such. It is evident from the above description that the divine theory of origin of the state propounded by Shukra has significant originality when compared to other relevant theories.

While discussing the profile and functioning of Sabha, ParasharGrihyasutra proclaims that a Sabha shines out only when it has proper coordination and the members are well meaning. Therefore, this highlights the requirement of harmony, coordination, and cooperation among the members of Sabha besides appropriate selection of the members to the Sabha.

सहधर्मेण सदिमर्दभात्तीति सभा।[32]

Baudhayan Dharmasutra requires the king to select and appoint a Purohit as the first step so as to acquire essential advice in matters related to Dharma, as to ensure Dharma is the top priority of the king in all his actions. सर्वतो धुर्यपुरोहितं वृणुयात्।[33]GautamDharmasutra and ApastambaDharmasutra speak of the qualities of a good king. In this connection, it is expected that the

king must be knowledgeable, well-versed in sacred texts, benevolent, free from vices like jealously, greed, anger, lust, infatuation, etc. and above all, must be a great communicator. He must be able to anticipate and visualize forthcoming events and be ready to learn and act as well as modify his course of action if required by the situation. These characteristics would make him a perfect king who is able to deliver through his good governance mechanisms.

राजाप्राड्विवाको ब्राह्मणो वा शास्त्रवित् ।[34]

शिष्टाः खलु विगतमत्सराः नैरहंकाराक्षुभ्मीधान्याः ।

अलोलुपाः दम्भदर्भलोभमोहक्रोध विवर्जिताः ।[35]

धर्मेणाधिगतो येषां वेदस्सपरिब्रह्मण ।

शिष्टास्तदनुमानज्ञाः श्रुतिप्रत्यक्षहेतवः ।।[36]

Narada Smriti prescribes a golden rule for judicial administration and proclaims that all the techniques of conflict resolution must result in pacifying all the sides and satisfying their stands. This is key to judicial governance. In the present-day management sciences, we study Mary Parker Follet who in modern times talks of integration as the best method of conflict resolution which is essentially laid by the ancient seers thousands of years ago.

यत्रसम्योजजनः सर्वः साध्वेतदेतिनन्यते ।

स निःशल्योविवादः स्यात् सशल्यः स्यादतोऽन्यथा ।।[37]

Gautam Dharmasastra describes that in the matters of tax collection. the king may levy the taxvarying according to individuals, institutions, and conditions. This is not essentially the one-sixth part but may be one-eighth or one-tenth part also in certain exigency situations.

राज्ञोबलिदानं कर्षकैर्दशमष्टमं षष्ठंवा ।[38]

We have found that, at different places and in different instances, there is a considered view of all the writers on Indian polity, Dandaniti or Rajadharma that the king must attain self-control only by acquiring control over his organs, the king can be successful and can performwell. Otherwise he would be engulfed by the surrounding vices and would become vulnerable to his opponents. Therefore, he should put in all efforts to gain control and mastery over his body and mind.

जितेन्द्रियोहि शक्नोति वशेस्थापयितुं प्रजा ।[39]

आत्माजेयः सदाराजा ततोजेयाश्च शत्रवः

अजितात्मान रपतिर्विजेयेत कथं रेपून् ।[40]

एकस्य हि योशक्तोमनसः सन्निवर्हणे

महीं सागरपर्यन्तां स कथं धवजेष्टति ।[41]

The shloka from AtriSmrtu is an excellent example of Indian tradition of defining the scope of Rajadharma. The ancient Indian philosopher prescribes that the Dharma of a king essentially includes giving punishment to the wicked, providing shelter to the people, escalating the treasury through judicious means, unbiased administration, and security of the state. This wonderful definition of Rajadharma is true depiction of ancient India idea of good governance.

दुष्टस्यदण्डः स्वजनस्य पूजा न्यायेन कोशस्य हि वर्धनं च ।

अपक्षपातः निजराष्ट्ररक्षा पञ्चैव धर्माः कथिता नृपाणाम् ।।[42]

Kautilya explains that a king must ensure a sound, systematic and organized public order through the power of punishing the offenders and ensuring the strict adherence to law and order and also by observing his own Dharma and ensuring that people of the state work according to their Dharmas and jurisdiction.

चतुर्वर्णाश्रमोलोको राजादण्डेन पालितः

स्वधर्मकर्माभिरतो वर्ततेस्वेषु वर्त्मसु ।।[43]

The relatively later Indian philosopher Somadeva Suri also proclaims that the Rajadharma ensures the protection and fruitfulness of Dharma which is realized in reality through state.अथ धर्मफलाय राज्याय नमः ।[44] *Shantiparva* of Mahabharata provides a great deal of information about political ideas of ancient India and is indisputably the finest treatise on ancient Indian politics. Some of the writers have observed that the sovereignty was embodied in the king in ancient India. Thus, royal sovereignty was the true symbol of the authority of the state.[45]

The king, according to Vyas should protect warriors, elite and intellectuals.

शूराश्चार्याश्च सत्कार्या विद्वांसश्च युधिष्ठिर

योगिनो धनिनश्चैव परिपाल्या विशेषतः ।[46]

He should involve people with excellence in *Anvikshiki, Tryai, Varta, Dandaniti*in most of the functions of the state.

तार्कशास्त्रकृताबुद्धिर्धर्मशास्त्रकृता च या

दण्डनीतिकृताचैव त्रैलोक्यस्यापि साधयत् ।।

आन्वीक्षिकीत्रयीवार्तादण्डनीतियुपारगाः ।

ते तु सर्वत्र योक्तव्यास्ते च बुद्धे परंगताः ।।[47]

According to Mahabharata the sphere of the state activity is extended to almost all the walks of life. The state in ancient India was, thus, the primary equipment of the welfare of the people. It was in this backdrop that serious, methodical and proper study and prescription of the functions and various aspects of state have been considered necessary. The king is the first and foremost part of the state. Most of the well-being of the state depends on the king. Therefore, all the writers of ancient Indian polity have given the king the prime importance it deserves due to his unparallel position.

Mahabharata announces that whosoever entertains the citizenry as a whole and attempts for their welfare is called Rajan. The oath taken by the king makes it explicitly clear that he enters into a moral contract with the society while taking over as the king. A number of shlokas in Mahabharata and at some other places denote this strongly. "Whatever you gentlemen tell me, proper for me to do in accordance with the science of politics; I will do for you without any objection."

वन्मांभवन्ती वक्ष्यन्तिकार्यामर्थसमन्वितम् ।

तदहं वः करिष्यामिनात्रकार्या विचारणा ।।[48]

अद्यारभ्य न मे राज्यंराजाऽयं रक्षतुप्रजाः

इतिसर्वप्रजाविश्वं साक्षिणं श्रावयेन्मुहुः ।।[49]

There is one very interesting anecdote in chapter twenty third of *Shantiparva*in Mahabharata. After the Great War, Yudhisthira finds that he is the king of a state, which is carved upon the dead bodies of millions of warriors, his relatives and great people of that period and thus leaving behind thousands of widows and orphans. The aftermath of the bloodshed of war creates a sense of alienation in the mind of Yudhisthira. He expresses his wish to renunciate the kingship to go to the forest for *tapasya*. Bhima, Arjun, Draupadi, etc. go on persuading Yudhisthira to forget about the results of war and get into action as a dutiful king to fulfill the responsibilities towards the population.(This discussion is spread into thirty-six chapters of Shantiparva of Mahabharata) Finally, Vyasa, the grand old man of the family narrates a story of two brothers, which serves the purposes of suggesting the appropriate functional role to Yudhisthira as well as putting forward the functional differentiation of the various organs of state. Everybody in the society has to perform some specified roles which are termed as his Dharma, and any violation of the rules is against the norms of the society and therefore, requires punishment from the authority designated for that purpose.

एष धर्मः क्षत्रियाणां प्रजानां परिपालनम् ।

उत्थोऽन्योमहाराज मा स्म शोके मनः कृथा ।।[50]

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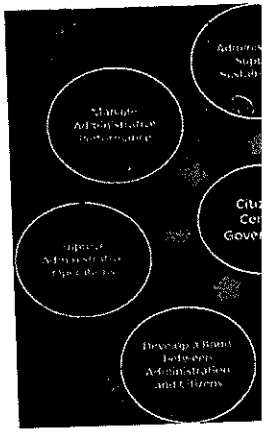
PUBLIC SERVICE DELIVERY AS A CITIZEN CENTRIC G MODEL: A THEORETICAL PERSPECTIVE

Socio-technical innovations are providing an opportunity for the social contract l and citizenry to shift towards more collaborative governance. These innovations responsive and accountable public policies, goods and services for sustainable human beings and governance process. Accountable governance is not only answer regarding decisions taken by the government but also responsible for safeguarding a revenue raised from taxpayers. Regarding delivery of public services, there is a nee of effective, efficient and economical one. Now, Government intends to provide ti delivery through e-technologies.

Key words: Public Service Delivery, E-Governance, Citizen-centric Governance, C Citizen Charter, Administrative Reforms Commission, Administrative Cultur Operations

Introduction:

Sustainable development and good governance are complementary and supplementary to each other. In the Parliamentary form of democratic government, the governance process is responsible for attaining the objectives of welfare state. The representative democracy can be supplemented with more participatory form. So, deliberative democracy is considered as one possible way to address the sub-national as well as transnational levels.[1] Traditionally, the Westminster model of parliamentary democracy was based on ministerial responsibility and administrative accountability. The members of Parliament are responsible and accountable to the citizen. The concept of citizen-centric governance highlights the quintessential idea of democracy. Public service delivery exhibits the supply side of citizen centric administration. People's participation in governance can also be seen as the demand side of citizen centric administration. Public service delivery is the pivot of modern state functions and citizen centric governance. The main characteristics of citizen centric governance are given in the below



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MANAGEMENT OF DISASTERS IN INDIA: THE FEDERAL CONUNDRUM

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Abstract
Despite being one of the most disaster prone countries in the world, the management of disasters in India seems to suffer from a number of infirmities having serious implications for the efficient and effective system of disaster management. The federal conundrum is one such challenge which keeps on troubling the proper management of disasters from time to time. The crux of the matter relating to federal puzzle in disaster management is that while the management of disasters needs to be a decentralised and more importantly localised process, an exactly opposite position ordains in India in both theory as well as practice. This paper seeks to critically dwell deep into the federal riddle underpinning the management of disasters focusing primarily on its legal and administrative aspects.
Keywords: Management of disasters, federal system, water, Disaster Management Act, administrative machinery

Introduction

Federal nature of polity presents a complex setting for the operation of disaster management system in India. Generally, given the typical and localised nature of disasters, their management can neither be uni-linear nor centralised. In most of the countries, in general, and federal countries, in particular, therefore, disaster management has been taken to be the primary responsibility of the states. The national government is supposed to provide only indirect and back up support to the concerned state governments. The national agencies created for the purpose of managing disasters act more as the coordinating agency than as the controlling authority. For instance, 'in the United States, government's response to disasters begins with local governments and follows a series of pre-specified steps through the state and ultimately to the national government.'[i] Thus, the Federal Emergency Management Authority (FEMA) in America is responsible merely for providing critical support to the states in their management of emergency situations. In exceptional circumstances only, the agency takes the centre-stage in supplementing the efforts of states machinery in planning and executing the responses to a calamitous situation.

However, the state of affairs in disaster management appears to be the other way round in the case of India. Factually, it is reckoned as one of the most disaster prone countries in the world with vast diversity in terms of numerous geo-climatic regions.[ii] But it has not been able to evolve a comprehensive and effective machinery of disaster management to work in sync with the spirit of federalism. Undoubtedly, the primary responsibility for managing disasters at the local level rests with states. Yet, much of the logistical paraphernalia, trained manpower, knowledge reposition and, above all, financial resources remain under control of the central government. Such a seemingly paradoxical situation has more often than not created tensions, if not chasm, between the two levels of government during the course of managing a disaster.

Thus, the realm of disaster management is arguably a patent case of federal enquiry in which the roles and responsibilities of different levels of the governments are to be examined. In order to put such an enquiry in perspective, the constitutional vision and statutory stipulations, administrative and financial arrangements, and related issues on disaster management need to be explicated. Such a scrutiny could be done through the constitutional texts, statutory enactments, and executive orders. Only then the

goals set for the decade, a number of initiatives were taken. Important among these included formulating comprehensive policies on disaster management and creating certain dedicated institutions for better management of disasters. But there was inadequate thinking and undue hurry shown in materialising the goals of the IDNDR. Still, the net positive result of such initiatives has been that a new vision dawned on overhauling the overall policy perspective and administrative set-up of disaster management. This eventually culminated in the enactment of the Disaster Management Act, 2005 by the Parliament. It thereby established the central government as the main actor in the scheme of disaster management in the country.

The major changes brought about by the Act in the realm of disaster management do not appear to be progressive in nature especially with regard to the federal aspects. Rather, it just seeks to make the vision of disaster management in India contemporaneous with the global perspectives and practices but without outlining concrete measures for building a safer and disaster free India in accordance with its own specific requirements.[iv] Undoubtedly, the Act goes for subtle acknowledgment of the vast geo-climatic diversity, and the inherent federal character of its politico-administrative set-up. Accordingly, it delineates such a policy framework and administrative machinery that seek to address some of the concerns of federal matrix of the country as well. But the moot point is that in almost all the stipulated structures and provisions of the Act, the centre dominates. State's role as first and foremost manager of the disasters stand compromised in view of the dominant and in certain cases commanding role of the central agencies in the given fields

Imperatives of federalism

In a way, the federal dimension of disaster management emanates from the fact that India is one of world's most diverse countries. This diversity is reflected in terms of geography and climate, in addition to social and cultural aspects of the life of people. The imposing Himalayas in the north and north-east make the region highly prone to natural disasters like earthquake, avalanches etc. The vast stretch of the seas and ocean belt essentially turns the coastal areas as hot beds for disasters such as cyclones and tsunamis, among others. Similarly, the monsoonal character of the Indian weather system makes its rain system highly unpredictable. As a result, a large tract of land remains rain-fed without any assured supply of water in times of need. Such areas are chronic sites of deficient rain where drought of varying degree seems to be the cruel reality of life for the masses. On the other hand, vast areas adjoining borders with Nepal and the catchment of the Brahmaputra in Assam are perennial theatre of devastating floods stalking almost every year without fail. Apart from these regular and identified regions prone to different types of natural disasters, many unforeseen and sudden disasters are also there. For instance, disasters like flash floods, cloud bursts, landslides etc. also take place from time to time. This, in a way, completes the vicious circle of natural disasters likely to ravage the country at any point of time. The situation is further accentuated with the danger of man-made disasters. So, disasters such as industrial disasters, rail, road or air accidents, terrorist strikes and other calamities keep on taking place due to the negligence and recklessness of the people responsible for managing public utilities and spaces.

Practically, no region or peoples of the country can claim immunity from the lurking dangers of disasters. There remains a possibility of either natural or manmade disasters striking at any time and place. Hence, what has always been required is a viable, efficient and effective system of disaster management. Such a system must be capable of dealing with any sort of disaster by ensuring the minimum loss of life and physical assets. But the crucial point that arises here pertains to the nature of disasters and their implications for federal matrix of disaster management in the country. Interestingly, there is the diverse character of geo-climatic conditions and continuous threats of manmade disasters in

Criticality of water

In the specific context of disaster management, interestingly, water, as a subject of legislative competence is of unique significance. It is a natural endowment having wider implications for figuring out the role of centre and states in the management of natural disasters. Occurrence of the most of natural disasters in India, barring the notable exception of earthquake, is related to water Impliedly, therefore, the level of government vested with legislative competence over water is logically supposed to have primary role in legislating on it. It also gets the power of implementing the policies and programmes concerning management of disasters related to water. But in reality, the existing situation seems to be quite paradoxical in India. As a matter of fact, with the exception of inter-state rivers, water is considered as a state subject.[v] But most, if not all, of important legislations on water, particularly relating to management of disasters are enacted by the central legislature. Hence, quite often, it turns out to be a matter of intense debate whether water should be transferred to the Concurrent List of the Seventh Schedule.[vi] Curiously, the experts on water in India such as Ramaswamy R. Iyer argue vehemently for moving water from the State List to the Concurrent List. However, none of the committees and commissions set up to review the centre-state relations in the country has recommended such a move "largely because it seemed unrealistic."[vii] As a result, the federal paradox of competence with states and domineering legislations by the centre on the subject of water continues in India. Obviously, such a situation is fraught with undesirable implications for management of natural disasters.

As far as constitutional provisions are concerned, Entry 56 of Union List is of critical importance It envisages legislative power of the central government over 'regulation and development of inter state rivers and river valleys to the extent to which such regulation and development under the control of the Union are declared by Parliament by law to be expedient in the public interest.' As regards the competence of state governments, Entry 17 of State List holds the key. It provides that states can legislate on the subjects of 'water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.'

On the conjoined reading of these provisions, two broad conclusions may be drawn regarding their implications for disaster management. One, these constitutional provisions pertain exclusively to water that arguably may have impact on only certain specific natural disasters such as flood and drought. Insofar as other manmade disasters like industrial accidents, and natural disasters like earthquake, cyclones, landslides, avalanches etcetera are concerned, these provisions are silent and therefore irrelevant for them. Two, even with respect to the water-related natural disasters, the constitutional scheme of things are decisively weighed in favour of the central government. For, the provisions of entry 17 of List II are made subject to the overriding provisions of entry 56 of List I In other words, the states competence to make laws on water and related issues is confined only to their territorial jurisdiction. Beyond that it is the other state or the central government that can make laws.

Inter-state rivers

Obviously, given the interstate character of most, if not all, of the rivers causing disasters in their catchment areas, the power of a state government is quite limited. So, for any long term and coordinated effort at securing a disaster free life for people, it is the central government that can make laws on interstate rivers. Clearly, the federal deficit is quite evident in the constitutional scheme of things as far as the legislative competence of the states is concerned.

As a subject of legislative competence, disaster management may, thus, impliedly be taken to be part of the provisions of article 248 dealing with residuary power of legislation. It provides that parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or

in accordance with the provisions of the Act, the structural set up for disaster management has been created in the federal mode. But the spirit of federal ethos seems to be patently wanting in the working of the machinery. Moreover, the detailed action plan on the structure and functioning of disaster management machinery has also been inadequate. Further, the Act fails to address the other pertinent issues like classification of disasters, declaration of disaster-prone zones, streamlining of responsibilities and involvement of local communities.[xi] In the absence of clear demarcation of such issues and challenges, federal management of disasters cannot be practised in letter and spirit. And, the net losers on this count are likely to be the state governments, given their position of being the primary responders and managers of the disasters. A case in point in this context is that of Uttarakhand. Here the state government was blamed for inept handling of the Himalayan tsunami in the state in 2013 whereas a number of central agencies failed to discharge their responsibilities in both pre and post disaster periods.[xii]

Conclusion

To sum up, the haphazard and top-heavy system of disaster management in the country may be attributed in part to the play of politics. The absence of a long term and well considered policy of managing disasters in the post-independent times further accentuated the situation. In this context, utter neglect to the issues of both natural and manmade disasters has been shown by the central government. In fact, the central government seems to have had no inkling for quite a long time that disasters have been unavoidable part of human life. So, their timely and efficient management will save numerous precious lives. At the same time, that will also be a viable economic proposition given massive damages done to the assets and infrastructures by the disasters year after year. At the state level, the governments continued with the colonial policy of treating disasters as unfortunate events. To them, the adverse impact of disasters could be mitigated only by providing relief to the victims of such disasters. In nutshell, the central government appeared oblivious of the enormity of stakes involved in evolving an efficient and effective system of managing disasters. Similarly, the state governments showed an utmost lack of innovation and fresh perspectives on the subject. Thus, both treated disasters as routine affairs that can be managed by giving alms to the people in the times of crisis. However, both the levels of governments have been found to be quite assertive when it came to claim eminent domains on the powers and functions relating to disaster management. This has created occasional frictions between the two levels of governments. But as the state of disaster management stands in the country, it seems to be a foregone conclusion that the Centre's dominance in the realm of disaster management has come to stay with relative marginalisation of the authority of states despite their being the first responders to the incidents of disasters.

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MANAGING THE MENACE: INDIA'S RESPONSE TO COVID-19 PANDEMIC*

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Abstract
The outbreak of Corona Virus Disease of 2019 (Covid-19) pandemic can unquestionably be reckoned as one of the calamitous episodes in the modern times whose repercussions would be felt for a very long period of time. The unique feature of this pandemic has been the novelty of the virus whose functional dynamism could simply not be deciphered by the scientists and researchers associated with virology and medicine. This naturally let loose the virus as a serial killer indiscriminately devouring each and every person coming face to face with it. In such a catastrophic situation, the people tasked with the responsibility of managing the public health appeared left with no option than to grope in the dark for some clues to reign in the ferocious march of the virus. The most interesting fact in this regard is that with no standard protocol for treatment and universal framework for protection from the fatal disease, almost all the countries in the world tried to evolve their own responses to the pandemic with varying degrees of successes. This paper seeks to analyse India's response to Covid-19 pandemic.
Keywords: Pandemic, Preparedness, Prevention, Mitigation, Response

Introduction

Covid-19 has emerged as an unprecedented biological disaster posing seemingly insurmountable challenge before humanity. The devastating impact of this disaster has been so colossal that many countries helplessly kept on counting dead bodies of their citizens without being able to do much. Initially, not left with many effective preventive measures, a number of countries including India decided to clamp sustained lockdowns whose economic repercussions have really been debilitating not only for the poor and vulnerable but also rich and resourceful.[i] The novelty of the corona virus has further complicated the matter as the existing medicines, vaccines and lines of treatment have been found ineffective or inadequate to stop Covid-19 from turning into a global pandemic.[ii] Moreover, the burden of its impact has been so enormous that very few, if any, countries appeared in a position to extend desired level of support and assistance to others. For instance, many big countries of Western Europe and the United States have been so badly battered by Covid-19 that they did not appear to be in a position to mitigate its devastating impact in an efficient and effective manner. Interestingly, the march of Covid-19 to the relatively poorer countries of Asia and Africa has relatively been somewhat subdued, and the number of deaths in these countries is far less as compared to Europe and America. Nevertheless, in the initial absence of any universal protocol for containment of the pandemic or treatment of the infected persons, each country was left with no choice but to evolve its own framework of responding to the Covid-19 pandemic.[iii]

The outbreak of Covid-19 in the Wuhan region of China was the beginning of a pandemic whose devastating impact continues to wreak havoc in different parts of the world in varying degrees. With increasing inputs pouring in regarding conversion of Covid-19 into a global pandemic just after its rapid spread in Europe and America, the governments in India, both central as well as states, began to gear

problem of Covid-19. Thus, amidst the lurking danger of the deadly novel corona virus, prevention appeared as the best bet for the governments, and for that they could not visualise any other measure than the unprecedented nationwide lockdown for months together. Amidst these alarming situations, a number of state governments also appeared groping in dark on how to deal with the menace and were eagerly looking at the central government to find some cue on how to go about limiting the damages likely to be caused by the Covid-19 pandemic.[vii]

Prevention

The basic philosophy guiding the strategy of government of India in dealing with Covid-19 has apparently been the conventional wisdom that prevention is better than cure.[viii] This wisdom could not have been truer than in the case of Covid-19 for two interrelated reasons. Firstly, given the novelty of the corona virus, no proven medicine, vaccine or line of treatment has been available for Covid-19 anywhere in the world. Secondly, and more importantly, India's disaster management machinery, in general, and derisory public healthcare system which has been found wanting even in providing basic healthcare to the teeming billions, in particular, looked thoroughly unprepared to deal with Covid-19 pandemic. Strategically, therefore, the most feasible course of action for the government appeared to be thwarting the spread of the novel corona virus by imposing the norm of social distancing amongst the people. This objective could, however, not have been achieved by any measure less than that of nationwide complete lockdown. The strategy of complete lockdown, indeed, appeared as the masterstroke for Indian government as it could kill two birds with one stone in its dealing with Covid-19. On the one hand, as the people would not be able to move out and go places, it would not only result in mandatory social distancing, the potential carriers of the corona virus would remain confined to particular places only. On the other, sufficient time would also be afforded to authorities not only to augment the public healthcare infrastructure but also retrofit the system with specific equipments and techniques to deal with the patients of Covid-19.

Once the strategic blueprint to meet the challenges arising out of Covid-19 on both short and long term basis was charted out, it was the time to rollout a slew of concerted measures, at the core of which lay a nationwide lockdown. Given the atrociousness of this move, and perceptible bottlenecks in its effective execution, the Prime Minister Modi decided to take up the cudgels on his own. He knew it well that unless the mass of common people are not taken into confidence, and assured of their social security, the nationwide lockdown would not be going to yield desirable result.[ix] He, therefore, addressed the nation on 24 March 2020 and required the people to observe 21 days complete lockdown beginning that night and lasting 14 April, which was later extended till 3 May 2020 and afterwards. Given that it was a complete lockdown, all means of public transport including railways, metros, flights and buses were suspended. Likewise, apart from shutting down all industrial and commercial activities, all sorts of social, religious and political mass gatherings were also prohibited. In certain states like Punjab, general curfew was clamped by police to thwart any mass gathering of people. Only the supply of essential goods and maintenance of emergency services like health, sanitation, and law and order were exempted from this clampdown. People, in general, were, otherwise, required to remain indoors as and where they were, irrespective of their joys or sorrows.[x]

Mitigation

Imposition of countrywide lockdown for prolonged period was, however, just the beginning of a multipronged strategy for management of Covid-19 pandemic. Even at this stage itself, authorities had to face three formidable challenges upon which depended the accomplishment of the objectives of

travel history and corona symptoms of people. In areas where even a single person was found corona positive, not only the patient was isolated and sent to dedicated hospital, a trail search of all the people who might have come into his/her contact in the last two weeks was also launched to identify and quarantine such people in order to contain the spread of corona virus.

As part of effective response to Covid 19, various districts of India were divided into three different micro-zones. Areas with confirmed corona patients were declared as 'red zones' while 'orange zones' were the regions with potential corona infected people. 'Green zones' consisted of areas with no confirmed or potential corona cases. Further, in the metro cities like Delhi and Mumbai, areas having many corona patients were declared as 'hot spots' in order to focus special attention on such areas. These areas were like 'containment zones' requiring extraordinary preventive measures in order to confine the corona virus to those areas only. The basic strategy followed in these areas consisted of isolating and shifting the Covid-19 patients to the dedicated hospitals, quarantining all the inhabitants, and intensive sanitisation of all the probable things and surfaces that could have acted as retainers of corona virus. People were compulsorily required to wear face mask and follow all other preventive measures particularly social distancing and frequent washing of hands. Since people were not allowed to move out, all essential goods and services were supplied to them at their doorsteps. In many cases such as in Delhi, interstate movement was also restricted by sealing of borders by neighbouring states. Massive and repeated testing of people throughout these times remained the key to detect new patients and remain updated on the health conditions of other people. To carry out all these operations, exemplary role was played by policemen, doctors, nurses, sanitation workers, among others, who were collectively called as 'corona warriors'. These people are considered as the vital components of futuristic healthcare framework in the country.[xii] For the people who suffered from Covid-19, elaborate arrangements were made by governments to provide treatment to them. Accordingly, not only prominent government hospitals were converted into dedicated corona isolation and treatment centres, many private hospitals and health centres were also taken over by government to make them corona treatment centres. The major challenge, however, before the doctors treating Covid-19 patients was absence of any proven medicine or line of treatment. So, what they primarily did was to treat the symptoms of Covid-19 on the pattern of a viral infection by administering medicines like paracetamol, hydroxychloroquine, and certain immunity booster drugs. Later, plasma therapy was also tried in treating corona patients but disagreements persisted regarding its efficacy. Given the choking of pulmonary system as its primary attribute, Covid-19 majorly claimed lives of people above 55 years of age though people of lower age groups became its prime target in the second wave. Yet, a lot of patients with robust immunity could indeed survive the corona infection and were discharged healthy after treatment. Treating corona patients was, however, a complicated and risky affair, and a large number of health workers themselves got infected in the course of performing their duties. The possibility of recurrence of corona infection was also there. Nevertheless, massive expansion in health infrastructure, albeit temporary, during Covid-19 pandemic could undoubtedly help in bolstering the disaster management machinery with particular focus on achieving the sustainable development goals in India.[xiii]

Conclusion

India has been one of the few countries which have indeed been able to wage a formidable and timely war against Covid-19. Credit must be given to the top political leadership and other disaster managers who could very well realise the proportions of the challenge of Covid-19, on the one hand, and the inadequacy of Indian healthcare infrastructure to meet that challenge. In such circumstances, they were

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TRADITION OF SOCIAL VOLUNTEERISM IN INDIA*

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Abstract

Volunteerism is the foundation of modern social life. Volunteering to help others is considered one of the intrinsic virtues of human nature. It acts as the catalyst for arousal of public spirit in a person. In accordance with this virtue, people have been coming to the help and support of each other. Such help is more passionately required in times of distress. Thus, volunteerism for helping those affected by calamitous situations must have been part and parcel of collective human life since the beginning of human civilisation. This may be true for all civilisations and societies. But the richness of the tradition of social volunteerism in India is quite impressive. This paper seeks to discuss the tradition of social volunteerism drawing on both historical antecedents as well as contemporary pointers with special reference to social volunteerism in times of disasters and other difficult situations.
Keywords: Volunteerism, Tradition, Disaster, organisations, Indian culture

Introduction

The trajectory of social volunteerism in India has been chequered though varied. The idea of social volunteerism in the country is deeply embedded in its social and cultural ethos whose diversified manifestations in a number of core values of life have given it a distinct shape. As a matter of fact, India has traditionally been a civilisation driven by its social and cultural forces rather than the political regime or the authority structures. This phenomenon can be illustrated by the fact that the social and cultural practices of the people, to a great extent, have remained intact despite the tumultuous political history the country has passed through over centuries. The society has had its own distinct set of rules and customs which to varying extent has been binding on different social groups irrespective of the political processes and ruler's preferences.[i] This characteristic trait of Indian people has in fact been at the root of not only the sustenance of a particular pattern of life which Indian masses have been

their will. The range of activities undertaken by voluntary participants in difficult situations may include search, rescue, relief, mitigation, preparedness, response, restoration, rehabilitation and redevelopment. These activities are undertaken side by side the governmental endeavours that constitute the mainstay of any crisis management operation.

Volunteerism over times

The roots of social volunteerism in India can be traced from the ancient times. Given the fact that the civilisational march of India has a hoary past, the period of ancient India has also spanned over thousands of years with perceptible transformations taking place periodically in the political and economic systems of the people with marked regularity or permanence in the social and cultural value systems. What is therefore significant to note is the fact that while the system of governance or political regime kept on changing from time to time, the core values of society rooted in the societal beliefs and cultural practices remain by and large intact even till date. It is therefore not surprising to find remarkable similarity with the present day practices of social volunteerism in India with the practices followed in the past with just minor variations conditioned by advancements in the system of delivery of the service while the passion and emotions with which the services used to be delivered exhibiting profound continuity with the past.

A fundamental transformation was brought in the history of India with the arrival of Arab traders and victors who in the course of time became rulers of the country. Since the new ruling class came to India with its own set of religious beliefs, cultural practices, social formations, and everyday life patterns, it was not surprising to find a subtle transformation in the system of social volunteerism as well whose roots appeared set for slight loosening if not total break from the past. The foundational ethos to the ruling system of the new rulers was provided by their religious faith in Islam which turned out to be the critical input in the reshaping of almost all walks of life of the people as far as they pertained in some way to the preferences or practices of the rulers and elite classes of the new political order. What therefore characterised the system of social volunteerism during the medieval times was the gradual shift from the general commitment to the virtue of social volunteerism on the part of the common people to a watchful eye on the systems and patterns which the new ruling class might adopt in terms of different kinds of voluntary endeavours in society

The arrival of European traders in India was a point of the beginning of a period of great upheaval given their penchant for transforming their concerns in the country from trading to becoming ruler of the native people In this regard, it is worthwhile to mention that while traders from many European countries reached India and tried to establish their colonies in the country, eventually it were the British who were able to make their writ run over a large part of India in comparison to other European colonisers. Further, the arrival of European colonisers in India was presumably loaded with their considered opinion that they are setting up their colonies in India with the solitary aim of exploiting its resources and people without being much concerned about their development, welfare and long term concerns for their well being. For this reason partly, the British did not wish to establish their

governmental action, much of the activities relating to disaster relief have been undertaken by voluntary or non-governmental organisations. Historically, roots of voluntary actions in disaster relief could be traced back to the antiquity when certain public spirited people would initiate philanthropic or charitable activities during crisis situations. But the earliest recorded references to voluntary action for disaster relief are found in the ancient classics such as *Arthashastra* of Kautilya.[vi] In the modern times, organised endeavours for voluntary action in crisis situations are generally traced to the establishment of the International Committee of the Red Cross (ICRC) in 1863. Subsequently, a number of other voluntary organisations also came into being during the two world wars. However, real spurt in the number of voluntary organisations both at the national as well as international levels came after the Second World War. Gradually, with the mainstreaming of disaster management in development process, a number of developmental voluntary organisations also joined the bandwagon of voluntary action in crisis management.

Contemporary period is reckoned as the times of globalisation of humanitarianism. Social volunteerism in crisis management has also not remained untouched by this global phenomenon. With the increasing incidents of disasters and other crisis situations across the globe, governmental actions have not been found to be sufficient enough to cope with the calamity. This obviously has left much scope for the voluntary organisations to take active part in providing relief to the victims. Interestingly, the role of international voluntary organisations in crisis relief has markedly increased in comparison to the national agencies. The primary reason for such a paradoxical situation is the strong financial base of the international voluntary bodies and their vast experiences in undertaking rescue and relief operations. In fact, many of the international voluntary organisations have specialised in conducting certain disaster relief activities better than many governments.[vii] As a result, their interventions in times of disasters are found to be more reassuring then the support of governmental agencies. The apolitical nature of their organisation and activities also ensure unrestricted access to the international voluntary organisations to almost all parts of the world irrespective of the system of government.

Voluntary organisations[viii]

In accordance with the rich tradition of social volunteerism in India, the number of voluntary organisations has blossomed in the country over the years. Among such organisation, while a number of them are quite old organisations, a good number of the have also come up in relatively recent times in the wake of complex problems facing the life of people. Anyway, real time support and assistance to the victims of disasters in India are provided by a number of international voluntary organisations.[ix] At the top of these bodies, stand the *Red Cross* which has pioneered the disaster relief and humanitarian assistance to the people suffering from the vagaries of nature or manmade disasters. Having a global reach with sufficiency of funds and trained manpower, it acts as one of the first responders in times of disasters in any part of the world. It generally busies itself with providing preliminary support in terms of search, rescue and relief. The endeavour of Red Cross consists of providing holistic support to the disaster victims, right from the search and rescue to sheltering them in relief centres and taking care of their basic needs of life.[x] Interestingly, it has helped in reuniting thousands of families that were separated in the course of certain disasters. Another organisation formed on the pattern of Red Cross is called *Red Crescent*. Now, the two have joined hands together to evolve joint endeavours for

orientations, these organisations have played significant role in mounting stupendous search, rescue and relief operations in times of a disaster. Many of these organisations have been providing different kinds of assistance and support to the disaster affected people in various parts of the country even before disaster management became a subject of governmental action The range of their activities spread to almost all the critical supports that are needed in the wake of disaster. The role of these organisations has been found to be very commendable during many of the disasters the most recent of which was the Kerala floods since 2018.

Not to be left behind in providing relief to the disaster affected people, a number of Hindu organisations and individuals also joined the bandwagon of voluntary action in the field of disaster management. Some of the major organisations of this genre are *Ganga Action Parivar, Indo-Global Social Service Society, Karuna Social Service Society, Jai Nanda Devi Self Employment Training Institute, and Sewa Bharati.* Many of these organisations are all India in character and are the first responders to any kind of crisis situation whether natural or manmade. Apart from them, a few of professional societies have also been set up to work on the long term sustainable management of disasters. Some of these organisations are *Sustainable Environment and Ecological Development Society (SEEDS), Appropriate Technology India, Help a Child of India* etc. These organisations have indeed been able to work hard in the times of disaster to make sure that no person should be left unsearched and without rescue. Despite a number of financial and logistical constraints, the national voluntary organisations have made wonderful attempts in soliciting public support in terms of both cash and kinds to provide relief to the disaster victims. Finally, a host of self help groups, resident welfare associations as well as other training and research institutes also join hands together to act and to liaise between the common people and governmental agencies for disaster relief supplies and operations. In recognition of their valuable role, theses bodies have been made partners with the National Disaster Management Authority (NDMA) in undertaking both short and long term measures for disaster management in the country.[xiii]

Conclusion

Social volunteerism has undoubtedly come of age in India. Drawing on the rich tradition of service and renunciation, social volunteerism has reached a stage of such efficiency and effectiveness that it can become a very valuable support for the government to manage all kinds of crisis situation unfolding in a gradual or sudden manner. In this regard, the critical situations arising in the wake of the outbreak of Covid-19 pandemic is one such contingency where the social volunteerism came to the much needed rescue of the millions of people stranded in extremely difficult situations in different parts of the country. In those trying times, the voluntary organisations and a number of independent volunteers provided all kinds of desirable support and assistance to the sufferers of the Covid-19 pandemic. Contemporaneously, with the downsizing of the state and diminishing concern of the government to address the issues of sufferings and distresses of the people, social volunteerism seems to be the only viable medium through which needful could be done to the people in need and suffering.

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Notes and References

भारतीय स्वातन्त्र्य समर में सन्यासियों की भूमिका :

प्राचीन काल से लेकर आज समाज के संरक्षण, संवर्धन में ऋषि, मुनि,और सन्यासियों की भूमिका से सभी परिचित हैं। जब-जब समाज पर किसी ने भी किसी प्रकार का अनाचार किया तब - तब ये आगे आए और समाज को नेतृत्व प्रदान किया। यद्यपि समाज के दैनंदिन जीवन मे ये हस्तक्षेप नहीं करते हैं तथापि आवश्यकता पड़ने पर अग्रिम पंक्ति में दिखते हैं। समाज और सन्यासियों का अन्तर्सम्बन्ध बहुत ही घनिष्ट होता है। सन्यासियों की कोई व्यक्तिगत पूंजी नहीं होती , यह समाज ही उनकी पूंजी होता है । अतएव ये न केवल उसकी साज संवार करते हैं बल्कि उस्के विस्तार में भी प्रयत्नशील रहते हैं। यही कारण है कि इन्हें जब समाज दुर्बल दिखा तब इन्होंने न केवल उसकी सहायता की बल्कि उसको सर्व प्रकार से नेतृत्व भी दिया। भारतीय स्वतंत्रता संग्राम में भी इन्होंने 1772 से लेकर 1947 तक नाना प्रकार की भूमिकाओं का निर्वहन करते हुए आंदोलन को गतिशीलता प्रदान की किन्तु उनके इस भूमिका को उजागर नहीं किया गया । 1772 से 1782 तक बंगाल का सन्यासियों का आंदोलन आज भी लोक मानस की स्मृतियों में जीवंत है किंतु अकादमिक जगत ने अपने निहित स्वार्थों के चलते उसे दृष्टि ओझल किया हुआ है। इसी आंदोलन की आधूरी कसक 1857 के संगठित स्वातन्त्र्य समर तक आकर जीवत सम्पर्क स्थापित करती है लेकिन हठधर्मी बुद्धिजीवियों ने इसपर भी दृष्टिपात नहीं किया और इसमें जो कमी रह गई वह प्रकारांतर से 1920 के असहयोग आंदोलन सहित अनेक प्रकार से दृष्टिगोचर होती है किंतु शैक्षणिक नेतृत्व कर्ताओं को वह भी नहीं दिखाई दिया। लगभग 190 वर्षों तक कम्पनी और ब्रिटिश पार्लियामेंट के द्वारा भारत का विभिन्न प्रकार से शोषण किया गया और उसके विरोध स्वरूप सन्यासी समाज के साथ पूरे समय कंधे से कंधा मिलाकर न केवल लडे हैं अपितु समय समय पर नेपथ्य और मोर्चे से उनको नेतृत्व भी दिया है जोकि समाज की जीवंतता का परिचायक है। सम्भवतः इसीलिए इन अकादमिक नेतृत्व कर्ताओं ने इस तत्व को दृष्टिओझल रखा जिससे उनके द्वारा भारत को जड़ समाज बताने की व्यंजना झूठी न पड़ जाए। उन्हीं सब क्रियाकलापों को सप्रमाण अध्येताओं के सम्मुख प्रस्तुत करना मेरे इस लेखन का उद्देश्य है जिससे वे सत्यता से परिचित होकर सन्यासियों और समाज के सम्बन्धों को समझ सकें।

प्राचीन भारत में सन्यास आश्रम, आश्रम व्यवस्था का शिखर होता था। यह अपने अनुभवों से समाज का आवश्यकता अनुसार मार्गदर्शन भी करता था और स्वयम के मुक्ति के उपायों में भी संलग्न रहता था। कालांतर में सीधे ही आश्रम व्यवस्था के सोपानों को किनारे करके सन्यास ग्रहण किया जाने लगा। इसके चलते आश्रम व्यवस्था का महत्व थोड़ा कम हो गया।

आदिजगतगुरु शंकराचार्य ने इसी व्यवस्था को पोषित किया और फिर भारत के चारों कोनों पर चार मठों की स्थापना करके इस व्यवस्था को संरचनात्मक स्वरुप प्रदान किया जोकि दशनामी के नाम से जानी गई। दशनामी से अभिप्राय है कि इसमें दस नामों के साधुओं के समूह होते हैं

जोकि गिरी, पूरी,भारती, अरण्य,बन,सरस्वती, तीर्थ,आश्रम, सागर,और पर्बत के नाम से जाने जाते हैं। बाद में इसी व्यवस्था में से सन्यासियों की दो शाखाएं नागा साधु और गोसाईं साधु के रूप में प्रचलन में आईं। गोसाईं से अभिप्राय गृहस्थ जीवन अपना कर एक ही स्थान पर बसने वाले से है।इनमें से नागा साधुओं का तो एक ही रूप रहा जोकि विशेष अवसरों पर हमें देखने को मिलता है और वे सर्वश्रेष्ठ भी माने जाते हैं।ये दोनों ही परंपरा स्वधर्म के लिए अपना सर्वस्व अर्पित करने को ततपर रहीं। धर्म संरक्षण के लिए इन्होंने स्वयम को शस्त्र बद्ध भी किया जिससे आवश्यकता पड़ने पर ये सेनाओं को सहयोग भी कर सकें। इस प्रकार वीतरागी जीवन जीते हुए इन्होंने समाज के संरक्षण के संकल्प को शस्त्र और शास्त्र दोनों के माध्यम से जहां जैसी आवश्यकता हुई, पूरा किया। ये सन्यासी अपने अनुयायियों सहित पूरे भारत में विद्यमान रहे और आज भी इनकी गद्दियां और आश्रम सर्वत्र देखे जा सकते हैं।

गोसाईं परम्परा के सन्यासी लम्बे समय तक कृषि और व्यापार में भी संलग्न रहे हैं, इस बात के प्रमाण बहुतायत में उपलब्ध हैं। ये ब्याज पर पैसा भी देते थे और सैन्य रूप में भी अपनी सेवाएं आवश्यकता अनुसार देशी राजाओं को उपलब्ध करवाते थे । इनकी सम्पतियाँ सम्पूर्ण भारत में पाई जाती हैं। वस्तुतः दशनामी सन्यासियों की पहिचान लम्बे समय तक ज्ञान और शक्ति दोनो के रूप में रही है। क्योंकि धर्म की रक्षा में दोनों ही कि भूमिका महत्वपूर्ण होती है। कालांतर में उपनिवेशी वृत्तांत के चलते समाज ने इनके त्याग और तपोमय जीवन को ही दृष्टिगत रखकर शेष भूमिका को दृष्टिओझल कर दिया। इतिहासकारों ने भी इनके सैन्य स्वरूप और स्वधर्म संरक्षण में उसकी भूमिका को उजागर नहीं किया। सम्भवतः ऐसा उपनिवेशी दृष्टिकोण से किया गया होगा। नहीं तो ऐसे क्या कारण थे कि भारतीय स्वातन्त्र्य समर में इनकी भूमिका 1772 से प्रारम्भ होकर 1920 के असहयोग आंदोलन तक सशक्त रही किन्तु कहीं पर भी इसका व्यापक उल्लेख नहीं मिलता है। समाज के इतने महत्वपूर्ण वर्ग की भूमिका को कमतर कर देना अकादमिक दृष्टि से गम्भीर अपराध है। जो वर्ग समाज के हित पोषण में सदैव साथ रह हो उसे एकदम से समाज से अलग कर देना उपनिवेशी निहितार्थ के लिए ही किया गया होगा क्योंकि तभी चर्च और उसके मठों की महत्ता प्रतिष्ठापित हो सकती थी। दशनामी सम्प्रदाय में विवाह और सम्पत्ति रखना और उसकी वृद्धि करने दोनों ही मान्य था। वे त्याग, तप, और सम्पत्ति अर्जन साथ साथ कर सकते थे। अस्तु।

सन्यासियों की धर्म संरक्षण में जो योद्धा की भूमिका थी वह अचानक इतिहास के पन्नों से क्योंकर हट गई यह भी अध्ययन का विषय है।किंतु ऐतिहासिक साक्ष्य इस बात की पुष्टि करते हैं कि इन्होंने बड़ी लड़ाइयां लड़कर धर्म के संरक्षण में महत्वपूर्ण भूमिका निभाई है। जे एन फरकुहर लिखते हैं कि दशनामी सम्प्रदाय के गिरी और पुरियों ने 1567 में थानेश्वर की लड़ाई में अकबर से युद्ध किया था। कालांतर में इनका योद्धा का रूप और सुदृढ़ हो गया क्योंकि मुस्लिम फकीरों ने इनके साथ लड़ाई हिन्दू धर्म के प्रतिनिधि के रूप में प्रारम्भ कर दी। इस प्रकार से

बाद में मुस्लिम शासकों से धर्म और फकीरों से स्वयम की रक्षा के लिए अस्त्र -शस्त्रों को धारण और उपयोग प्रारम्भ कर दिया। 16 वीं सदी प्रसिद्ध सन्यासी मधुसूदन सरस्वती जी ने अपने सम्प्रदाय और हिन्दू समाज के संरक्षण की दृष्टि से उस समय के कुख्यात फकीर मलंग को परास्त करने के लिए अपने सम्प्रदाय में गैर ब्राहमणों को भर्ती करना प्रारम्भ कर दिया। । यहीं से वे अस्त्र शस्त्र और सम्पत्ति धारण करने लगे। और फकीरों के आतंक से मुक्ति के लिए दशनमियों में ब्राहमणों सहित क्षत्रिय, वैश्य और शूद्र भी सन्यस्त होने लगे। इस प्रकार से धर्म संरक्षण में इनकी भूमिका महत्वपूर्ण हो गई। कालांतर में सन्यासियों ने देशी राजाओं के साथ मिलकर अनेक लड़ाईयां लड़ीं। अस्तु, उनका वृतांत देना यहां आवश्यक नहीं होने के कारण 1772 -73 के सन्यासी आंदोलन की ओर चलकर विषय का निरूपण करते हैं।

1757 में प्लासी की झड़प के बाद बंगाल के नबाव सिराजुद्दौला के साथ मनमानी सन्धियों के माध्यम से अंग्रेजों ने मीर जाफर को बंगाल का नबाव घोषित कर दिया और मालगुजारी के अधिकार स्वयम ले लिए। बंगाल की लूट में अंग्रेज पहले ही लाखों की लूट करके इंग्लैंड भेज चुके थे। शस्य श्यामला भारत माता को कैसे लूटना है और उससे स्वयम और इंग्लैंड को किसप्रकार से समृद्ध करना है, यह वे जान गए थे। लगान और व्यापार दो सो मजबूत माध्यम थे भारत को लूटने के और इनमें भी लगान सबसे सरल माध्यम था, अंग्रेजों ने इसे ही अमल में लिया। यधपि 1757 के बाद अंग्रेजों को बंगाल पर आधिपत्य जमाने के लिए की और युद्ध करने पड़े उनमें से बक्सर का युद्ध भी है । इस युद्ध में सन्यासी भी अंग्रेजों के विरुद्ध लड़े थे। युद्धों को विभिन्न प्रकार की तिकड़मों के द्वारा ये अपना अधिकार क्षेत्र बढ़ाते रहे। इस प्रकार 1772 तक बंगाल, मद्रास और बम्बई इनके अधिकार में आ गए। इनके नियंत्रण के लिए कम्पनी ने तीन गवर्नर नियुक्त कर दिए। यह सर्वविदित ही है कि बंगाल में 1769-70 में भीषण अकाल पड़ा था किंतु उसके बाद भी बंगाल की मालगुजारी में तीन गुना बढ़ोतरी हुई थी क्योंकि मालगुजारी सख्ती से वसूली गई थी। यहां यह ध्यातव्य है कि इस अकाल में बंगाल की एक तिहाई आबादी और पूरी फसल नष्ट हो गई थी। अंग्रेजों के इस कुकृत्य से जनता त्राहि त्राहि कर उठी और स्थान स्थान पर उसने अंगेजों के तिरुद्ध क्रांति का बिगुल फूंक दिया और इस क्रांति या आंदोलन का नेतृत्व कालांतर में सन्यासियों ने किया। में पूर्व में ही उल्लेख कर चुका हूँ कि सन्यासियों का एक वर्ग जो दशनामी सम्प्रदाय के रूप में जाना जाता है वह आततायियों से संघर्ष रत था ही , उसी सम्प्रदाय ने 1773 में एक बार फिर अंग्रेजों के तिरुद्ध क्रांति या आंदोलन का नेतृत्व किया। यह आंदोलन इतना प्रचंड था कि दस वर्षों तक इसने बंगाल को आंदोलित किए रखा। इसकी भीषणता के वेग का अनुमान इससे ही लगाया इन सकता है कि इसने 10 वर्षों तक बंगाल की नाकेबंदी किए रखी। रसियन इतिहासकार अंटोनोवा लिखते हैं कि " सन्यासियों के हिन्दू सम्प्रदाय के नेतृत्व में ब्रिटिश अमलदारी के विरुद्ध सशत्र आंदोलन की वर्षों तक चलता रहा। एक बार तो सन्यासियों के की दल जिमें दसियों हजार लोग सम्मिलित थे कलकत्ते की

सीमाओं तक पहुंच गए थे। हेस्टिंग्स ने उनके दमन के लिए ब्रिटिश सैनिकों की कमान में सिपाहियों के कुछ नियमित टुकड़ियां भेजीं । सन्यासियों के समर्थन को कमजोर करने के लिए उसने एक परिपत्र जारी किया जिसमें स्पष्टतः उल्लेख था कि जो भी आंदोलनकारी सन्यासियों का सहयोग करते पाया जाए उसे वहीं उसके गांव में ही सबके सामने फांसी दे दी जाए जिससे अन्य कोई आंदोलन का हिस्सा बनने की हिम्मत न कर सके तथा गांव के अन्य लोगों से भारी दंड वसूला जाए और आंदोलनकारी के पूरे परिवार को गुलाम बना लिया जाए। आंदोलन इतना भीषण और व्यवस्थित था कि हेस्टिंग्स को सन्यासियों को बंगाल की सीमा से बाहर करने में अपना पूरा कार्यकाल ही लगाना पड़ा यानी 10 वर्ष।

यह अकाल न केवल प्राकृतिक था बल्कि अंग्रेजों ने अपनी कुत्सित वृत्तियों के वशीभूत भंडारण करके इसे भयभयता भी प्रदान कर दी थी जिस कारण भारी जान की हानि हुई थी और जबरिया वसूले गए लगान से मानवता को शर्मिंदा किया था। यह कृत्य अंग्रेजों के बड़े भाग पर काबिज होने के बाद का पहला था। अंग्रेजों को इससे परेशानी तो हुई थी किन्तु इस घटना ने भारत के शोषण के ने क्षितिज उन्हें प्रदान कर दिए थे। इस बाद उन्होंने जब चाहा तब भारत में कृत्रिम अकाल पैदा किया और बहुतायत में धन कमाया। सन्यासियों के लिए यह असहनीय था। इसलिए उन्होंने इसे नेतृत्व प्रदान किया। इस आंदोलन के दो पहलू हमारे सम्मुख प्रकट होते हैं। एक सन्यासियों का सैन्यीकरण धर्म की रक्षा के लिए हुआ था । दूसरा वे स्वयं भी कृषि,व्यवसाय आदि गतिविधियों का संचालन धर्मपरायण होकर करते थे और ये सभी व्यवहार उनका उस समाज के साथ ही होता था जिसका अंग्रेज शोषण कर रहे थे। वे व्यवसाय सम्बन्धी कार्यों में भी इतने पारंगत हो गए थे कि वारेन हेस्टिंग्स उन्हें उनके इस वैशिष्ट्य के चलते ईस्ट इंडिया कम्पनी में उच्च पद देना चाहते थे किन्तु उन्होंने उच्च पद के स्थान पर धर्माचरण करते हुए अंग्रेजों से संघर्ष का मार्ग चुना। विलियम पिंच लिखते हैं कि सन्यासियों की सफलता व्यवसाय आदि में इसलिए नहीं थी के वे इसमें कुशल हो गए थे बल्कि इसलिए थी क्योंकि उनके पास पर्याप्त सैन्य बल था जिसका उपयोग वे आवश्यकता पड़ने पर करते थे। ये वर्ग अपने हितों के संरक्षण के साथ साथ मठों और तीर्थ मार्गों का भी संरक्षण करता था। अंग्रेजों का इस क्षेत्र में अनाधिकृत हस्तक्षेप हो जाने के कारण 18 वीं सदी के अंतिम दशकों में इनका अंग्रेजों के साथ संघर्ष रहा। 18 वीं और 19 वीं सदी में सामाजिक क्रांति के दो स्वरूप देखने को मिलते हैं । एक जिसमें समाज पर अंग्रेजी व्यवस्था का प्रभाव पड़ रहा है या समाज को अंग्रेजी व्यवस्था में ढाला जा रहा है और दूसरा जोकि भारतीय अस्मिता के लिए उनसे शोषण कर रहा है। भारतीय और पाश्चात्य विद्वानों ने पहले वाले स्वरूप का तो बहुतायत में उल्लेख किया है किंतु दूसरे का नहीं किया क्योंकि उससे उनका मिथक टूट सकता था। इस लिए उन लोगों की दृष्टि में सन्यासी आंदोलन की पृष्ठभूमि पर लिखी गई बंकिमचन्द्र की कालजयी कृति आनन्दमठ की भूमिका गौण हो जाती है। यह पुस्तक लिखी तो 1892 के आसपास है किंतु इसका कथानक 18 वीं सदी

का सन्यासी आंदोलन ही है। जिसमें माता भूमि पुत्रोअहम पृथिव्या: के सम्बंध का बहुत ही सटीक वर्णन किया गया है। यह पुस्तक अपने कथानक के माध्यम से न केवल 18 वीं सदी के साथ जोड़ती है बल्कि 19 वीं और 20 सदी के लिए प्रेरणा प्रदायक गीत भी प्रदान कर देती है जिसने न केवल बंगाल अपितु सम्पूर्ण भारत में मातृ भूमि के लिए अपने प्राणों का उत्सर्ग करने वाले असंख्य नवयुवकों की खड़ा कर दिया। इस का गीत वन्देमातरम नवयुवकों में प्राणवायु सदृश सिद्ध हुआ। सुकुमार सेन इस आंदोलन को बंगाल तक सीमित होने के बाद भी इसके राष्ट्रीय महत्व को रेखांकित करते हैं। यह पुस्तक न केवल सन्यासियों की भूमिका को उजागर करती है बल्कि बहुत ही सरलता से 19 वीं सदी में 18 वी सदी के हवाले से हिंदुत्व के स्वरूप की व्याख्या भी कर देती है जब रामसिंह उपन्यास के अंत में अच्छाई बुराई को हिन्दू मुस्लिम की परिधि से बाहर करते हुए कहता है कि कोई मुस्लिम होने से खराब और हिन्दू होने से अच्छा या हिन्दू होने से खराब और मुस्लिम होने से अच्छा नहीं हो जाता, अच्छे और बुरे दोनों ही में समान रूप से होते हैं। तुलसी बाबा ने रामचरितमानस के सुन्दरकाण्ड में इसी विषय को कुछ यों लिखा है कि सुमति कुमति सब के उर रहहिं ,नाथ पुराण निगम अस कहहिं। इस लिए तन्देमातरम गीत भी सामान रूप से दोनों ही के लिए सम्पूज्य होना चाहिए था किंतु कुछ सकुंचित सोच वाले लोगों ने इसे हिंदुओं तक सीमित करके बंकिमचन्द्र की दृष्टि को कुंड कर दिया। क्योंकि वंदेमातरम गीत की पृष्ठभूमि को समझे बिना इसका महत्व नहीं समझा जा सकता। भवानन्द जोकि सन्यासी है और उसके साथ महेंद्र सिंह है, दोनों जंगल से जा रहे हैं। अंग्रेजों से मुठभेड़ हो जाती है इसमें भवानन्द के हाथों पिस्तौल से हवलदार का वध हो जाता है। ये सिपाही अपने अंग्रेज अफसर की देखरेख में भारतीयों का शोषण करके जो लूटरूपी लगान वसूले है लेकर जा रहे थे। भवानन्द की टोली ने कुछ आततायियों का आवश्यकता अनुसार वध करके उस लूट को अंग्रेजों के द्वारा ले जाये जाने से रोका था। इस पूरे घटनाक्रम को देखकर महेंद्र सिंह का मन वितृष्णा से भर गया और उसने इन सन्यासियों को लुटेरा मां लिया।इसलिए वह रास्ते में चलते हुए भवानन्द से बात करना नहीं चाहता है तब उस चुप्पी को तोड़ने के लिए भारतमाता की तंदना करते हुए तह उसका जीतंत स्वरूप प्रकट करता है और फिर महेंद्र सिंह इस का भाव समझने के लिए भवानन्द से जिज्ञासा प्रकट करता है और पूछता है कि ये माँ कौन है। भवानन्द कुछ बोलते नहीं हैं और गाते रहते हैं । फिर महेंद्र स्वयम से ही उत्तर देता है कि यह तो देश है, यह माँ तो नहीं।

अब भवानन्द समाधान प्रस्तुत करता है और कहता है कि हम किसी और मां को नहीं मानते यह देश ही हमारी माँ है और स्वर्ग से भी बढ़कर है। हमारा कोई नहीं सब कुछ यह देश ही है। अब महेंद्र को अच्छा लगने लगा अतएव उसने और गाने को कहा और देखा कि सन्यासी गाते गाते रोने लगा। तब महेंद्र सिंह ने उससे पूछा कि तुम कौन हो। वह बोला हम सन्तान हैं, माता की संतान। अथर्ववेद का वाक्य माता भूमि पुत्रोअहम पृथिव्या: को ही सरल शब्दों में बता दिया।

महेंद्र ने खजाने को अंग्रेजों के द्वारा ले जाए जाने से रोकने के आचरण को लूट के रूप में समझ कर जिज्ञासा प्रकट की, कि ये सब क्या है? फिर भवानन्द ने समझाया कि ये रुपये उनके नहीं , हमारे ही हैं। तुम लोगों ने उन्हें लूटने का अवसर दिया हुआ है " देखो कितने देशी शहर हैं -मगध, मिथिला, काशी ,कराची,दिल्ली,कश्मीर-उन जगहों की ऐसी दुर्दशा हैं? किस देश के मनुष्य भोजन के अभाव में घास कहा रहे हैं?किस देश की जनता काटे खाती है, लता -पत्ता खाती है?किस देश के मनुष्य स्यार, कुत्ते और मुर्दे कहते हैं।" यह दशा अंग्रेजों के आने के बाद देश की हुई थी उससे पहले देश ऐसा नहीं था। सन्यासियों ने इस ओर सभी का ध्यान न केवल आकृष्ट किया बल्कि 1772-73 से प्रारम्भ करके 1855 तक और फिर 1920 में असहयोग आंदोलन के साफल्य तक अपनी भूमिका को जीवंत बनाए रखा। ऐसा इसलिए हो सका क्योंकि वे इस भूमि के साथ माता -पुत्र का सम्बन्ध जो मानते थे। वस्तुतः यह सम्बन्ध जैविक है जोकि परस्पर सुखानुभूति के लिए प्रयत्नशील रहता है। यदि माता को कष्ट है तो पुत्र व्यथित रहेगा और पुत्र को कष्ट है तो माता व्याकुल रहेगी और ऐसा तब तक रहता है जब तक दोनों के कष्ट शमित नहीं हो जाते। इसलिए 1782 में सन्यासियों को बंगाल से बाहर करने के बाद भी यह अनुभूति समाप्त नहीं हुई । पुत्र माता के कष्टों के लिए छटपटाते रहे। 1782 के आंदोलन का नेतृत्व दशनामी सम्प्रदाय ने किया था , यह सम्प्रदाय सम्पूर्ण भारत में व्याप्त है। 1857 के स्वातन्त्र्य समर का ताना बाना भी इसी के नेतृत्व में बना गया।

जैसाकि हमें विदित ही है कि 1857 का स्वातन्त्र्य समर का स्वरूप अखिल भारतीय था फिर भी अनेकानेक यूरोपीय इतिहासकारों और उनकी होंडाहौड़ी भारतीय इतिहासकारों ने भी उसे सिपाही विद्रोह के नाम से ही उल्लिखित किया है क्योंकि ऐसा करने से इंग्लैंड में बैठा हुए उनके मालिकों को कम्पनी के अधिकारियों की अक्षमता ज्ञात हो जाती तथा भारत जैसे विशाल उपनिवेश को उन्हें मुक्त करना पड़ सकता था। इसलिए उन्होंने इसे यहां वहां होने वाले सिपाही विद्रोह के रूप में ही प्रचारित किया किन्तु यह विद्रोह नहीं था अपितु अखिल भारतीय स्वातन्त्र्य समर था जिसका ताना बाना सन्यासियों ने बुना था और इसकी तैयारी 1855 के आस पास से ही प्रारम्भ हो गई थी। इस आंदोलन में दशनामी संगासिरों ने महत्तपूर्ण भूमिका निभाई थी। विष्णुभट्ट गोडसे वर्साइकर पुणे के निकट वर्साइकर स्थान के रहने वाले थे और शेक 1778 में ये धार्मिक अनुष्ठान संपन्न कराने के लिए पुणे गए थे , वहीं इन्हें यह ज्ञात हुआ कि वैजी बाई शिंदे जोकि ग्वालियर के महाराजा सिंदिया की दादी थीं वे मथुरा में सर्वतोमुखी यज्ञ करवाने जा रही हैं जिसमें लाखों रुपये व्यय होने थे और उसके सम्पादन के लिए सर्वदूर से विद्वानों की आवश्यकता थी। विष्णुभट्ट भी अपने काका के साथ यज्ञ सम्पादन से कुछ धनोपार्जन और देशाटन हो जाएगा इस लिए ग्वालियर के लिए प्रस्थान किए थे। इन्होंने अपनी यात्रा फाल्गुन मास की पंचमी दिन मंगलवार शके 1778 को प्रारंभ की थी और उसके कुछ दिन बाद ही ये महाकाल की नगरी उज्जैन के निकट पहुंच गए थे, वहीं इन्हें यह सूचना प्राप्त हो गई थी कि

क्रांति का शुभारंभ हो चुका है। यद्यपि ये इस विषय में बहुत जागरूक नहीं थे किंतु पढ़े लिखे होने के कारण ये सब कुछ अपनी स्मृति में रखे रहे और बाद में इसको इन्होंने अपनी मातृभाषा गराठी गें गाझा प्रवास के नाम से लिखा। बाद में,इसका हिंदी अनुवाद अमृतलाल नागर और अंग्रेजी अनुवाद मृणाल पांडे ने किया। इससें इसकी प्रगाणिकता स्वराम सिद्ध हो जाती है। इसी पुस्तक में ये लिखते हैं कि महू की छावनी में एक बंगले में दैनिक क्रियाओं से निवृत होने के लिए हम रुके, वहीं हमें ज्ञात हुआ कि भविष्य में क्रांति होने वाली है। यह सूचना इनको सेना के सिपाही ने दी थी जोकि क्रांति की पूर्व तैयारियों को देखकर ही अपने घर के लिए प्रस्थान किया था। उसी ने इन्हें यह बताया कि अंग्रेज सरकार हिन्दू मुसलमानों के धर्म के विरुद्ध आचरण कर रही है और इसके लिए उसने कलकत्ते में अनेक राजे महाराजों की सभा बुलाई है। यहीं इन्हें कारतूस और गे सुअर की चर्बी की बात भी ज्ञात हुई। भविष्य में क्रांति होगी और सेना के जवान गोला, बारूद, मैगजीन और खजाना सब अपने कब्जे में कर लेंगे तथा छावनी को आग लगा देंगे। यह सूचना मेरठ की छावनी से पत्र द्वारा जगह जगह की छावनियों को भेजी जा रही थीं। इन बातों से यह तो ज्ञात होता ही है कि 1857 की क्रांति कोई सैनिक विद्रोह नहीं था क्योंई विद्रोह की उत्पत्ति अकस्मात होती है और क्रांति की व्यवस्थित । यहां भी सभी कुछ व्यवस्थित ही घट रहा था। दूसरे राजे रजवाड़े जो बड़े बड़े यज्ञ और दानादि कर रहे थे उनके पीछे की भूमिका भी किसी ज्ञानी ध्यानी की बनाई हुई लगती है। सत्यकेतु विद्यालंकार लिखते हैं कि यह प्रेरणा निश्चित ही सन्यासियों के द्वारा संचालित थी और उसकी पुष्टि के लिए वे अंग्रेजों के द्वारा गठित एक कमीशन का हवाला देते हैं। वह कमीशन मेजर एच बी देवरा और कैप्टिन जे एल पीअर्स का था। इस कमीशन के सम्मुख एक ऐसे बाबा को गवाही के लिए प्रस्तुत किया गया था जिसको की मैसूर के निकट कुछ ऐसे पत्रों के साथ गिरफ्तार किया गया था जोकि वह दक्षिण के राजाओं को देने के लिए ले जा रहा था और उन पत्रों में उन राजाओं को अंग्रेजों के विरुद्ध लड़ने का आह्वान किया गया था। इस बाबा ने कमीशन को अपना नाम सीताराम बताया था। यह गवाही 18 जून से 25 जून 1858 तक चली थी। बाबा से उन पत्रों के विषय में पूछा गया तो बाबा ने प्रारंभ गें कुछ भी नहीं बताया किन्तु जब उसे प्रताड़ित किया गया तो उसने कुछ बातें बताईं।

बाबा ने कहा कि इस क्रांति के पीछे दस्स बाबा नाम का एक सन्यासी है जोकि कांगड़ा से आगे कालीधार का निवासी है और नाना साहब का गुरु है। दस्स बाबा का एक शिष्य जिसका नाम दीनदयाल है, जो दक्षिण भारत गें सक्रिय है और हम लोगों के साथ सक्रिय है। दीनदयाल ही दस्स बाबा के पत्रों को तिरूपति के शिवराम बाबा तक पत्र पहुंचाने का माध्यम बना है। दक्षिण भारत के मैसूर सहित सभी राजाओं को इस क्रांति में सम्मिलित होने और उत्तर भारत के राजाओं के सहयोग का आह्वान किया गया है। सीताराम बाबा के अनुसार दस्स बाबा की आयु 125 वर्ष से अधिक थी।

अंग्रेजों ने जब इस क्रांति की रूप रेखा के विषय में पूछा तो सीताराम बाबा ने बताया कि लगभग 20 वर्ष पूर्व और उस समय दस्स बाबा ने सिंधिया सहित अन्य राजाओं को अंग्रेजों के विरुद्ध लड़ने के लिए प्रेरित किया था किंतु साफल्य प्राप्त नहीं हुआ। बाबा सक्रिय रहे और पुनः एक बार क्रांति को संगठित करने के लिए वे 6 वर्ष पूर्व सिंधिया की दादी बैजी बाई से गहाकाल की नगरी उज्जैन में जाकर मिले थे। बैजी बाई स्वयं अंग्रेजों के विरुद्ध क्रांति की तैयारी कर रहीं थीं और यह बात उन्होंने बाबा को बताई थी। बाबा ने यह सूचना नाना साहब को स्वयं दी और बैजी बाई के साथ सहयोग करने का आदेश भी दिया। यहां यह ध्यातव्य है कि नाना साहब भी अपने स्तर पर क्रांति की तैयारियों के लिए विभिन्नस्थानों के राजाओं और अंग्रेजों की छावनियों से क्रांति के लिए सम्पर्क कर रहे थे। उत्तर से दक्षिण की कमान दस्स बाबा ने अपने शिष्यों के माध्यंम से संभाली हुई थी जबकि पश्चिम की ओर नाना ने स्वयं सम्पर्क बनाने के लिए प्रवास किया था। उत्तर प्रदेश के 1957 में राज्यपाल रहे और भारतीय स्वतंत्रता के अग्रणी योद्धा,संविधान सभा के सदस्य तथा प्रकांड विद्वान कन्हैयालाल माणिकलाल मुंशी ने भी यह बात अपने दादा जी के हवाले से स्वीकार की थी कि नाना साहब भुज स्थित हमारे घर आए थे भोजन भी किया था तथा वे अंग्रेजों की छावनियों के सैनिकों से सम्पर्क कर रहे थे। यहां यह उल्लेख करना महत्वपूर्ण हो जाता है कि सिंधिया, गायकवाड़ और नाना साहब स्वयं मराठा थे और अंग्रेजों ने 1808 में मराठों को युद्ध में हराया था। तो, हो सकता है कि इन सभी के मन इन वह बात भी हो और अंग्रेज 1850 के बाद जिस प्रकार से हिंदुओं के दैनंदिन जीवन में हस्तक्षेप करने लगे थे उसने सोने पर सुहागा की भूमिका निभाई थी। दस्स बाबा जैसे सन्यासियोंका भारत व्यापी सम्पर्क भी इसी दृष्टिकोण से सक्रिय हुआ था। ब्रिटिश शासन को अधिक सुदृढ़ करने और वह लम्बे समय तक स्थायी रहे को दृष्टिगत रखकर 1853 में एक ब्रिटिश पार्लियामेंट ने एक कमीशन बनाया था । ये सब विषय उस समय के राजे महाराजों के संज्ञान में रहे होंगे और भारत में गम्भीर विषयों पर सन्यासियों से मार्गदर्शन प्राप्त करने की परंपरा रही ही है। इस बार भी ऐसा ही हुआ होगा । फलतः सभी ने एक साथ क्रांति का अलख जगाने का प्रयत्न किया। इन सभी कड़ियों को जोड़ने पर क्रांति की भावभूमि स्पष्ट होने लगती है। आस्तु।

सीताराम बाबा की साक्षी से एक बात और स्पष्ट होती है कि यह एक सुनियोजित रूपरेखा तैयार करके प्रारम्भ की जाने वाली क्रांति थी । बाबा को ज्ञात था कि क्रांति जैसे कार्यों में धन का बहुत अधिक व्यय होता है और कोई राजा धन के अभाव का बहाना न बना पाए इसलिए उन्होंने दीनदयाल बाबा जोकि दक्षिण में जागृति का कार्य कर रहा था के पास बहुत अधिक मात्रा में हुंडिया थीं जोकि दाक्षिण के साहूकारों के नाम थीं। साहूकारों की भूमिका और सम्बन्धों का महत्व देशी राजे, सन्यासियों तथा अंग्रेजों सभी के लिए बहुत अधिक था। इस बात की पुष्टि विष्णुभट्ट गोडसे ने भी अपनी पुस्तक माझा प्रवास में विस्तार से की है और अनरेज 1757 में इसको प्रत्यक्ष अनुभव कर चुके थे। इसलिए दस्स बाबा ने अपने शिष्यों को हुंडिया देकर भेजा था

जिससे क्रांति की सुनिश्चितता रहे। दीनदयाल बाबा दक्षिण भारत में क्रांति की अलख जगाने के लिए दस्स बाबा की ओर से अधिकृत व्यक्ति ठै और सर्वाधिकार उसे प्राप्त थे। इसके साथ विभिन्न श्रेणियों के बाबा थे जिन्होंने ये पत्र आदि सामग्री अपनी मालाओं,जटाओं आदि में छुपाई हुई थीं। सीताराम बाबा की साक्षी कुल 8 दिन तक चली जोकि 58 परिस्थाओं में संकलित हुई। यहां पर सर्वाधिक महत्वपूर्ण बात यह है कि सन्यासियोंका जीवन देश धर्म के संरक्षण के लिए था उसी के लिए इन्होंने शास्त्र और शस्त्र दोनों को धारण किया था। 1757 के बाद इन्होंने अंग्रेजों के विरुद्ध बक्सर के युद्ध में भाग लिया था और 1763 से लेकर 1800 तक इनका संघर्ष आ ग्रेज़ों के विरुद्ध सतत चलता रहा था और इस संघर्ष में सैंकड़ो की संख्या में सन्यासी और अंग्रेजों के सिपाही हताहत हुए थे। ये बात सन्यासियों को तो ध्यान में रही ही , अंग्रेज भी इसे नहीं भूले होंगे। 1857 के स्वतंत्रता संग्राम को भी गति देने में इनकी भूमिका महत्वपूर्ण रही थी। सीताराम बाबा की साक्षी में दस्स बाबा का उल्लेख तो आता है किंतु अन्य विषय उसके द्वारा उद्घाटित नहीं होते क्योंकि वह न तो कभी उनसे मिल ठै और न ही अधिक सूचनाएं उसके पास थीं। वह तो दीनदयाल बाबा के माध्यम से ही दस्स बाबा को जनता था। किंतु 1857 की क्रांति पीछे सन्यासियों की महती भूमिका थी इसकी पुष्टि अन्य स्रोतों से भी होती है। जदुनाथ सरकार, जे एन फरकुहर फ्रेंच स्कॉलर तथा विलियम पिंच तो अपनी पुस्तकों में करते ही है किंतु एक और पुस्तक जोकि जे एफ फोनथोर्न द्वारा 1896 में मरियम - ए स्टोरी ऑफ द इंडियन म्युटिनी ऑफ 1857 लिखी गई। यह पुस्तक मूल रूप में फ्रेंच में थी किन्तु 1896 में यह अंग्रेजी में छपी। यह पुस्तक प्रथम दृष्टया बंकिमचन्द्र की आनन्दमठ की प्रतिकृति लगती है जोकि 1882 में छपी थी । इसमें और आनंदमठ में भावनात्मक पक्ष को छोड़कर पर्याप्त साम्यता है। दोनों ही पुस्तकों का आधार सन्यासियों की भूमिका है। बंकिमचंद्र ने अपनी पुस्तक में भावनात्मक पक्ष को उजागर करके राष्ट्र की जैविक अवधारणा और माता भूमि पुत्रोअहम पृथिव्या: के भाव को प्रगट किया है और यह पुस्तक विदेशी के द्वारा लिखी जाने के कारण मात्र तथ्यात्मक है और भावनात्मक पक्ष दृष्टिओझल है जोकि स्वाभाविक भी है। किंतु यह पुस्तक भी 1857 की क्रांति को सन्यासियों द्वारा अभिप्रेरित मानती है। मुझे इस पुस्तक का उल्लेख कहीं पर भी नहीं मिला है।

इस पुस्तक की प्रस्तुति भी आनंदमठ सदृश ही है और मेरठ इसके केंद्र में है। इस पुस्तक के चौथे अध्याय के कुछ प्रसंगों का मैं अपने शब्दों में उल्लेख करना समीचीन समझता हूँ। 15 मई तक क्रांति ने आकार ले लिया था एक बाबा जोकि व्यक्तित्व से रहस्यमयी प्रतीत होते थे वे गुलाब बाड़ी के समीप डेरे में विराजमान थे और एक दिन पूर्व ही हाथी पर बैठकर नगर के मध्य से शोभायात्रा के रूप में डेरे पर आए थे। बाबा की दिव्यता का अनुमान इस बात से ही लगाया जा सकता है कि उनके ऊपर चांदी का चँवर डुलाया जा रहा था और बहुत से लोग घोड़ों पर और पैदल उनके साथ साथ चल रहे थे तथा नगरवासी इस शोभायात्रा को बहुत ही कौतूहल से देख

रहे थे। साधु ने भगवे रंग का चोगा कोपीन सहित पहना हुआ था, गले मे रुद्राक्ष की माला और मस्तक पर रामानन्दी तिलक सुशोभित हो रहा था। व्यक्तित्व की विशालता पुतलियों की स्थिरता से शतगुणित हो रही थी। बाबा के विषय में यह भी चर्चा थी कि वह पूर्व में अयोध्या का जागीरदार था बाद में सन्यासी होकर त्रिलोकनाथ के रूप में सैनिकों को क्रांति के लिए जागरूक करता दिग दिगन्त में घूम रहा था। मेरठ आगमन भी इसी निमित्त हुआ था। उसके डेरे पर सामान्य सिपाही से लेकर अफसर तक सब आते थे। वह कभी सार्वजनिक भाषण आदि नहीं करता था।

बाबा के डेरे पर कुछ लोग मिलने आने वाले थे आने के समय के निर्धारण के लिए कूट संकेत गधे का रेंकना सुनिश्चित किया गया था। जब गधा रेन्का तब अब्दुल रऊफ खान,निजाम अली खान, कालकप्रसाद, घनश्याम सिंह और जोरावरसिंह आदि ने डेरे में प्रवेश किया। सभी ने बाबाजी का यथायोग्य अभिवादन किया और प्रत्युत्तर में बाबा ने उन्हें आशीर्वाद दिया। कुशलक्षेम के बाद सभी ने बाबा की इच्छा जाननी चाही और फिर बाबा से सब स्थानों के समाचार पूछे। बाबा ने उनसे कहा कि मैं पूर्व से पश्चिम और उत्तर से दक्षिण हो आया हूँ , सब ठीक है। सभी स्थानों पर तपाती और लाली पहुंच गई हैं। यह क्रम एक शहर से दूसरे शहर तक अनवरत चल रहा है। बाबा ने कुछ उत्साहवर्धक बातें कहकर सिपाहियों के हल समाचार जाना। बाबा ने फिर व्यंग्यात्मक स्वर में पूछा कि दुष्टों को भी इसकी कुछ सूचना है कि उनके पैरोंके नीचे की जमीन खिसकने वाली है। प्रत्युत्तर में अब्दुल रऊफ ने कहा कि नहीं उन्हें कुछ ज्ञान नहीं है। 1857 का स्वतंत्रता संग्राम एक सुनियोजित पद्धति से लड़ा जाने वाला संग्राम था। इसमें हिन्दू मुस्लिम दोनों ने सन्यासियों के नेतृत्व में सहभागिता की थी और प्रत्यक्ष नेतृव कर्ता थे नाना साहब, अजीमुल्ला खान और तात्या टोपे आदि। सन्यासियों की भूमिका को हमने मरियम उपन्यास के द्वारा समझने के पर्यटन किए हैं। हम सभी जानते हैं कि उपन्यासों में बहुत से नाम काल्पनिक होते हैं किंतु बहुत सी घटनाएं सत्य होती हैं। इस उपन्यास के साथ भी ऐसा ही है। बाबा का नाम आदि काल्पनिक हो सकते हैं किन्तु घटनाओं की सत्यता का ज्ञान एक और स्रोत से हो जाता है। मुजफ्फरनगर में सोरम की सर्वखाप पंचायत के अभिलेखों से भी दसनामी सन्यासियों के सहभागिता की पुष्टि होती है। सन्यासियों की पहली सभा 1855 के प्रारंभिक काल में हरिद्वार में हुई थी , इसमें बहादुर शाह के पुत्र फिरोजशाह, राय साहब मराठा जोकि नाना साहब ही रहे होंगे,बाला साहब मराठा सम्भवत: तात्या टोपे, रंगू बापू,अजीमुल्ला खान और रमजान बेग उपस्थित थे। इस सभा की कुल संख्या 1500 के आस पास थी। इसी सभा में स्वामी स्वामी ओमानंद के नेतृत्व में चपाती और कमल के फूल के वितरण की योजना बनी थी। स्वामी ओमानंद की आयु उस समय 160 वर्ष थी और इनके शिष्य पूर्णानन्द की आयु 132 वर्ष और इनके शिष्य विरजानन्द की आयु 110 वर्ष थी। उस समय स्वामी दयानंद मूलशंकर के नाम से ही जाने जाते थे और 25-26 वर्ष की आयु के थे। वे पूर्णानन्द से विद्या अध्ययन करने के

लिए आए थे किंतु वयोवृद्ध होने के कारण उन्होंने मूलशंकर से कहा कि मेरे शिष्य विरजानंद के पास जाकर अध्ययन कर। लेकिन उससे पहले देश धर्म के भले के लिए कुछ कार्य करे। इसके बाद से मूलशंकर आंदोलन की प्रत्येक सभा का अनिवार्य अंग बन कर रहे।

इसी प्रकार की दूसरी सभा अक्टूबर 55 में गढ़मुक्तेश्वर में कार्तिक मास में लगने वाले मेले में मेले से थोड़ी दूरी पर हुई। पूर्णानन्द इस सभा के प्रधान थे और रुड़की के पास स्थित गुरुलिग पंथ स्थान के प्रमुख फखरुद्दीन पिरान कलियर उप प्रधान थे। इस सभा की उपस्थिति लगभग 2500 थी। स्वामी पूर्णानन्द ने बहुत ही ओजस्वी भाषण दिया जोकि अभिलेखों के अनुसार इस प्रकार है " मुल्क को फिरंगी के भरोसे मत छोड़ो , वे बेदीन हैं । जिनका कोई कॉल फेल नहीं है।ये राजा नहीं बल्कि तिजारती लुटेरे और जरपरस्त हैं।ये हमारे मुल्क की तमाम मखलूक के हर इंसान की जिंदगी के दुश्मन हैं और ये तुम्हारा खून और गोश्त कहा जाएंगे। इनसे बचो।ये तुम्हारी नस्लों को नेस्तनाबूद कर देंगे और मुल्क में खुद आबाद होकर रहेंगे। इन्हें अपने मुल्क से निकालो।" इस भाव और ओजपूर्ण भाषण से सन्यासियों की चिंता समझ मे आती है। वे न स्वयं संघर्ष कर रहे थे बल्कि अपने समस्त संसाधनों को भी इसमें लगाए हुए थे।

ऐसी ही तीसरी सभा 11 अक्टूबर1855 को हरिद्वार के पहाड़ों में हुई थी और इसका आयोजन भी स्वामी पूर्णानन्द ने किया था। जिसमे भी लगभग 565 साधु और 195 मुसलमान फकीर सम्मिलित हुए थे। स्वामी विरजानंद भी इस सभा में थे और मूलशंकर भी। इस सभा को भी पूर्णानन्द और फखरुद्दीन ने सम्बोधित किया था।

स्वामी पूर्णानन्द का आश्रम हरिद्वार के पास कनखल में है और 1857 के आंदोलन को संगठित करने में इनकी बहुत महत्वपूर्ण भूमिका थी । प्रारम्भ में कमीशन के सम्मुख साक्षी देते समय सीताराम बाबा ने जिस दस्स बाबा का उल्लेख किया है हो सकता है कि वे स्वामी पूर्णानन्द ही हों क्योंकि उनका आश्रम तो कनखल में है और वे रहने वाले पंजाब के। 18 वी सदी में जो सन्यासी आंदोलन बंगाल में हुआ था, उससे भी ये गुरु शिष्य सम्बंधित रहे हों। यदि सम्बंधित न भी रहे हों तो परिचित अवश्य रहे होंगे। 18 वीं सदी का सन्यासी आंदोलन भी दशनागियों के द्वारा ही संचालित है और 1857 का भी। इसलिए सम्बन्ध सम्पर्क हो सकता है। अस्तु।

अक्टूबर55 वाली सभा में स्वामी विरजानन्द भी थे, इन्होंने 1857 के आंदोलन को गतिशील बनाने में बहुत अधिक परिश्रम किया था। इन्होंने और इनके शिष्यों ने 1854 के आसपास से ही यह वातावरण निर्मित करना प्रारम्भ कर दिया था कि जो भी व्यक्ति मथुरा की यात्रा करेगा उसके सब पाप नष्ट हो जाएंगे और उसकी सैट पीढ़ियां भवसागर से पर हो जाएंगी। मुसलमानों ने भी मथुरा की मस्जिद में नमाज पढ़ने का फतवा दिया था। परिणामतः 1857 के पूर्व ही पूरे भारत से हिन्दू मुसलमान मथुरा आने लगे थे। स्वामी विरजानन्द ने मथुरा को अपना केंद्र उसकी पहुंच को दृष्टिगत रखकर बनाया होगा क्योंकि वह जल और थल दोनों मार्गो से ही सुगम है।

सम्भवतः सिंधिया की दादी बैजी बाई ने भी मथुरा में धार्मिक अनुष्ठान करना यही सब सोचकर

सुनिश्चित किया होगा।अस्तु।

विरजानन्द ने काशी में शिक्षा पाई थी और उनके शिष्य सम्पूर्ण भारत में फैले हुए थे। 1944 में वे अलवर आ गए थे और यहां के राजा विनय सिंह को उन्होंने सँस्कृत सिखाई थी। राजा विनयसिंह के माध्यम से अनेक परिचय अन्य राजाओं से भी हुआ। वे प्रज्ञाचक्षु थे और उनका व्यक्तित्व विलक्षण था। अलवर माथुर पासपास ही हैं, उसके व्यापिकर और धार्मिक महत्व से वे परिचित थे इसीलिए उन्होंने अपने गुरु पूर्णानन्द की इच्छा पूर्ति के लिए मथुरा को केंद्र बनाया जिससे क्रांति की तैयारियों पर किसी की दृष्टि न पड़े।

क्रांति की गतिविधियों के सम्पादन के दृष्टिकोण से एक सभा 1856 में मथुरा में हुई थी। इस सभा में हिन्दू मुसलमान दोनों ने सहभागिता की थी। सभा में स्वामी विरजानन्द को पालकी बिठाकर लाया गया था। ई समें बहादुर शाह जफर का बेटा, नाना साहब, अजीमुल्ला खान, रंगू बापू आदि उपस्थित थे। इन सब ने स्वामी विरजानन्द को प्रणाम करने के उपरांत उनके चरणों में भेंट स्वरुप अशरफिया प्रस्तुत की थीं। बाद में एक हिंदी साधु और एक मुसलमान फकीर ने खड़े होकर स्वामीजी की प्रशंसा की और उनकी उपस्थिति को अपना सौभाग्य बता

डा० राम मनोहर लोहिया

(1910-1967)

के

हिन्दू धर्म सम्बन्धी विचार

(मूल लेखों एवं भाषणों से संकलित)

अनुक्रमणिका

डॉ० राम मनोहर लोहिया और हिंदुत्व

प्रो० पवन कुमार शर्मा*

लोहिया जी का जीवन परिचय

डॉ० लोहिया जी के पूर्वज मूलतः माँ विंध्यवासिनी के क्षेत्र यानी मिर्जापुर के रहने वाले थे। वे अग्रवाल वैश्य थे और कपड़े और लोहे का व्यवसाय करते थे, लोहे के व्यवसाय के कारण ही लोहिया कहलाए। इनके बाबा श्री शिव नारायण जी मिर्जापुर से कालांतर में श्री अयोध्या जी आकर बस गए थे। इन्हीं के चौथे पुत्र श्री हीरालाल का विवाह मिथिला क्षेत्र की रहने वाली श्रीमती चंदा के साथ हुआ और इनके घर में ही 23 मार्च 1910 (अक्षय तृतीया, चैत्र कृष्ण तृतीया) को डॉ० लोहिया का जन्म हुआ। जन्म के ढाई वर्ष बाद ही इनकी माता का निधन हो गया और उनका लालन.पालन इनकी दादी और उनके पड़ोस में रहने वाली नाइन सरयू देवी ने किया। सरयू देवी का बेटा जोकि आयु में इन से 8-10 वर्ष बड़ा था इनका एकमात्र सखा था। 15 वर्ष की अवस्था, (1925) में, इन्होंने मैट्रिक की परीक्षा उत्तीर्ण की। इनके पिता कांग्रेस में सक्रिय थे, ये भी उनके साथ कांग्रेस के कार्यक्रमों में प्रायः जाते थे। ऐसे ही एक कार्यक्रम में, मुंबई में, (1920, में) इनको गांधीजी से प्रत्यक्ष आशीर्वाद प्राप्त हुआ। 12वीं की परीक्षा इन्होंने

महामना मदन मोहन मालवीय द्वारा स्थापित काशी हिंदू विश्वविद्यालय से 1927 में उत्तीर्ण की। बाद में परिवार के कोलकाता आ जाने के कारण यहीं से 1929 में इन्होंने बी0ए0 की परीक्षा उत्तीर्ण की। तदोपरांत, उच्च अध्ययन हेतु इन्होंने इंग्लैंड के लिए प्रस्थान किया । यहाँ पर कुछ समय व्यतीत करने के बाद ये जर्मनी गहुंचे और बर्लिन विश्वविद्यालय से मास्टर करने के बाद प्रोफेसर सर बर्नर जैम्बार्ड के सान्निध्य में, 1932, में 'नमक सत्याग्रह' पर डॉक्टरेट की उपाधि अर्जित की। 1933 में भारत वापसी पर कांग्रेस के अंदर स्थापित विदेश विभाग के सचिव नियुक्त हुए। समाजवादी विचारों से संपन्न होने के बावजूद भी इन्होंने भारत और भारतीयता के उत्स को नहीं छोड़ा और उसके गुण वैशिष्ट्य का विश्लेषण करते रहे। भारतीयता का यह श्रेष्ठ चिंतक 30 सितंबर 1967 को कालकवलित हुआ ।

सारांश

भारत में समाजवादी आंदोलन की नयी के रूप में डॉ० राम मनोहर लोहिया, आचार्य नरेंद्र देव एवं लोकनायक जयप्रकाश नारायण को देखा जाता है। ये सभी समाजवादी चिंतन से न केवल अनुप्राणित थे बल्कि उसकी प्रतिष्ठापना के लिए प्राणपण से सक्रिय भूमिका का निर्वहन भी करते थे । किंतु इनके समाजवादी चिंतन का उत्स पश्चिमी न होकर भारतीय ही था, तभी तो, ये सदैव अपने चिंतन में भारत और भारतीयता को प्रश्रय देते थे । हिंदू धर्म का वैशिष्ट्य इनके चिंतन का मूल आधार था और वही इनके लेखन और क्रियाकलापों में सर्वत्र परिलक्षित भी होता है। धर्म की वैज्ञानिकता और विभिन्न स्वरूपों से वे भली.भांति परिचित थे । इस आलेख में डॉ० राम मनोहर लोहिया जोकि बीसवीं सदी के एक प्रमुख समाजवादी के रूप में स्थापित थे और स्वयं की उपस्थिति राजनीतिक और सामाजिक

प्रो० पवन कुमार शर्मा
आचार्य एवं अध्यक्ष , राजनीति विज्ञान विभाग एवं निदेशक, पं० दीनदयाल उपाध्याय शोधपीठ, चौधरी चरण सिंह विश्वविद्यालय, मेरठ

धरातल पर समान रूप से अंकित कराते रहते थे के, हिंदू धर्म संबंधी विचारों को प्रकट करने के साथ.साथ उस में सन्निहित व्यापकता (महापुरुष, तीर्थस्थान, भाषा, नदियों आदि) को भी प्रस्तुत किया जा रहा है । क्योंकि धर्म स्वयं में ही बहुत व्यापक है, उसे किसी संकुचित दायरे में व्यक्त नहीं किया जा सकता । डॉ० लोहिया ने अपने विचारों में इसी भाव को यत्र तत्र व्यक्त किया है ।

प्रमुख शब्द – राम, कृष्ण, शिव, नदियाँ, रामायण, ब्रहम, भाषा, लिपि, राष्ट्रीय एकता ।

रामायण

भक्ति काल के अग्रणी कवियों में तुलसीदास जी की गिनती होती है। वे न केवल भक्त कवियों में श्रेष्ठत्व को प्राप्त थे अपितु वे समाज के एक कुशल पारखी भी थे। मुगल काल में भारत में जो कुछ भी घटा वे उससे न केवल परिचित थे बल्कि उस सब के समाधान कारक भी थे। भारत में राम और गांव के संबंधों से वे भलीभांति परिचित थे और इसी परिचय की पुष्टि के लिए उन्होंने लोक भाषा में रामायण का प्रणयन "रामचरितमानस" के रूप में किया था। राम भारत के प्राण हैं और वे भारत की सीमा भी हैं । डॉ० लोहिया के जन्म का और बचपन का अयोध्या के साथ संबंध रहा है। अतएव वे राम की महिमा और रामायण के महात्म्य से भली प्रकार से परिचित थे और इसी परिचय को उन्होंने अपने विचारों में बहुत ही मीमांसात्मक रूप में प्रस्तुत किया है। वे लिखते हैं कि "..... **दृष्टि गहरा और व्यापक हुए बिना न आनंद मिलता है,** न **समझ** । तुलसी की **रामायण में आनंद के साथ साथ धर्म भी** जुड़ा हुआ है, **धर्म शाश्वत् मानी** में और **वक्ती भी** । तुलसी **की कविता से निकली** है **अनगिनत रोज की उक्तियां और कहावतें**, जो **आदमी को टिकाती हैं और आदमी को सीधे रखती हैं**....।"[1] ते आगे पुनः लिखते हैं कि "..... तुलसी **महान हैं, यह कहना आवश्यक है । जरूरत है**, बताने की **उन चीजों को जिनमें उनकी महत्ता** फूटती **है** । तुलसी के **बारे में मैं अपनी निजी राय बता** दूं, जिसको **मानना जरूरी नहीं** है, तुलसी **एक रक्षक कवि** थे। जब **चारों ओर से अभेद्य हमले हों, तो बचाना, थामना टेक देना, शायद ही** तुलसी से बढ़कर **कोई कर सकता है**"[2] रामायण के वैशिष्ट्य को वे जिस प्रकार से रेखांकित करते हैं उस

प्रकार से उनकी परिपाटी का अन्य नेता या विचारक नहीं करता । वे लिखते हैं कि "**आनंद प्रेम और शांति का आह्वान तो रामायण में है ही,** पर हिंदुस्तान **की एकता जैसा लक्ष्य** भी स्पष्ट है। **सभी जानते हैं कि राम** हिंदुस्तान **की उत्तर दक्षिण की एकता के** देवता थे, पूर्व पश्चिम **एकता के देवता थे** कृष्ण, और आधुनिक **भारतीय भाषाओं** का गूल स्रोत **रामकथा** है। कम्बन की **तमिल रामायण**, एकनाथ की **मराठी रामायण**, कीर्ति वास की **बांग्ला रामायण और ऐसी ही** दूसरी रामायणों ने **अपनी अपनी भाषा को जन्म और संस्कार दिया** ।"[3]

रामायण में तुलसीदास ने जिस प्रकार से जगत के निरूपण में " सियाराम" का दर्शन किया है, उस पर तुलसी बहुत ही बेबाकी से टिप्पणी करते हैं। वे लिखते हैं कि "**राघव है तुलसीः** क्या **ममता, क्या नारी हृदय की चीख , क्या नर नारी आदर्श जीवन की** सूचना । आखिर **उसने संसार को** किस रूप में **जाना है, सियाराम मय सब जन जानी'। नर और नारी का स्नेह मय संबंध** बराबरी की **नींव पर हो सकता है** । ऐसा संबंध **कोई समाज अभी तक नहीं जान पाया** । सीता और राम में पूरी बराबरी **का स्नेह नहीं था** । समाज के **अंदर व्याप्त गैर बराबरी का कण उसमें ही पड़ गया । फिर** भी **जितना ज्यादा** सीता, द्रौपदी **और पार्वती इत्यादि को** ऊंचे और स्वतंत्र **आसन पर बैठाया है,** उससे **ज्यादा ऊंचा नारी का आसन** दुनिया में कहीं **और कभी नहीं** हुआ। यदि दृष्टि ठीक है तो राम कथा और तुलसी **रामायण की कविता सुनने या पढ़ने से नर नारी के सम** स्नेह **की ज्योति मिल सकती है** ।"[4]

रामायण में वर्ण (रंग) आधार पर भी बहुत ही बुद्धिमता से विदेशियों के द्वारा उत्पन्न संभ्रम पर प्रश्नचिन्ह लगाते हैं कि "....**राम और भरत दोनों सांवले** हैं । इन **महान तथ्यों के सामने**, कैसे कहा **गया है कि रामायण आर्यों का ग्रंथ है अथवा उत्तर वालों का** ।"[6] ते आगे पुनः लिखते हैं कि " मुझे ऐसा लगता है कि आम, द्रविण और मंगोल भेद गढ़े गए हैं, विशेषकर विदेशियों ने।"(पृ०-13) इस प्रकार से वे रामायण के द्वारा लोक व्यापी परंपरा का मूल्यांकन करते हैं और स्वयं की भारतीय दृष्टि का परिचय भी देते हैं।

ब्रहम ज्ञान

डॉ० लोहिया वेदों के सार तत्व के रूप में उपनिषदों में वर्णित ब्रह्म के विषय में बहुत ही स्पष्टता के साथ विवेचना करते हैं । वे लिखते हैं कि "**लेकिन फिर भी इतना मैं** कहूंगा कि **जितना मजा मुझे उपनिषद के दर्शन में आया, उतना शायद, या ऐसा** कहूं, उससे **ज्यादा और कहीं नहीं आया** । उपनिषद **वेदों का एक निचोड़** है, पूरा **निचोड़ नहीं** । **उपनिषद में दर्शन को आप संगीत के रूप में पाएंगे** । सारी दुनिया में **दर्शन गद्य में है । पुराने जमाने में कहीं कहीं कुछ कविता करने की कोशिश की गई जैसे रोम, इटली वगैरह में, लेकिन वह दर्शन नहीं, वह ज्यादातर नीतिशास्त्र है । केवल हिंदुस्तान में दर्शन संगीत के रूप में कहा गया। जब दर्शन और** संगीत का **जोड़ हो जाए तो मजा ही आएगा । मैं आपको दो** पूरे श्लोक **तो नहीं** सुनाऊंगा, क्योंकि पूरे तो **इस वक्त याद भी नहीं आएंगे 'अग्निर्ययेको भुवनं प्रविष्टो' और फिर उसके बाद है: रुपं रुपं प्रतिरुपो वभूब'।**

अग्नि, वायु, इसी **तरह से दो.तीन भौतिक** पदार्थों को लेकर **बीच में और बहुत से आते** हैं । अर्थ **है कि अग्नि एक है लेकिन वह संसार में जब** धुसती है, **प्रविष्ट होती है, तब उसके** नाना रूप **हो जाया करते हैं । जैसे अग्नि है, वायु** है, **उसी तरह से आत्मा है । इन श्लोकों को अगर मन में** गुनगुनाओ या **जोर से ही सुनो तो मजा तो मिलता ही है और फिर ब्रह्म ज्ञान का वह स्वरूप आपके मन के सामने आता है जिसमें** आदमी **अपनी सीमित करने वाली चमड़ी के बाहर निकल कर बाकी सब से अपनापन अनुभव करने लगता है । चमड़ी हमारी सीमा है** । जैसे **देश की सीमा होती है जैसे हमारी सीमा चमड़ी है** । इसी के अंदर **हम हैं । इसी के अंदर न केवल शरीर है,** बल्कि उसके साथ **साथ हमारा** मन जुड़ा **है और नतीजा यह होता है कि अपना** घर, **अपना बाप, अपनी बीवी, अपने बच्चे, यह सब अपनापन इसी चमड़ी के अंदर रहते** हुए **आ जाया करता है** ।"""" ब्रह्म **ज्ञान में जो चीज** मुझे अच्छी लगती है, वह यह कि आदमी **अपने संकुचित शरीर और मन से हटकर लोगों से अपनापन महसूस** करें । यह है असली **ब्रह्म ज्ञान**" ।' डॉ० लोहिया यहां पर "सर्वं खलु इदम ब्रहम" को सहज और सरल रूप में व्याख्यायित कर रहे हैं।

ब्रह्म के विषय में उनका इतना विषद ज्ञान उनके भारतीय दृष्टि का ही परिचायक है।

राम, कृष्ण और शिव

राम, कृष्ण और शिव हिंदुत्व का व्यवहारिक स्वरूप है। सरल शब्दों में कहें तो यह अधिक उचित होगा कि वह हिंदुत्व के दार्शनिक आधार " सच्चिदानंद" का **सामान्य रूप में प्रगटीकरण हैं** जो कि इस धरती पर मनुष्यों की **भांति ही सुखों दुखों को भोगते भी हैं और उनसे मुक्त** भी रहते हैं। **समय-समय पर वे मानवीय संवेदनाओं का साक्षात्कार भी करते** हैं और **लौकिक सहयोग से उनसे पार भी पाते** हैं । संपूर्ण हिंदू समाज इन तीनों से परे स्वयं की या इस सृष्टि की **कल्पना भी नहीं** कर सकता। इन तीनों पर ही **मानो सृष्टि** अवलंबित है ऐसा लोहिया जी के विचारों से भी प्रतीत होता है। राम कृष्ण और शिव की त्रयी मैं उन्होंने सर्वप्रथम राम फिर कृष्ण और सबसे बाद में शिव के स्वरूप को व्याख्यायित किया है। हम उसी रूप में उसे समझने का प्रयास करते हैं। वे लिखते हैं कि "**राम और कृष्ण और शिव हिंदुस्तान की उन तीन चीजों में** है- मैं उनको **आदमी कहूं** या देवता, इसके **तो कोई खास मतलब नहीं होंगे- जिनका असर** हिंदुस्तान के दिमाग **पर ऐतिहासिक लोगों से भी ज्यादा है ।**[8] राम कृष्ण और शिव की व्यापकता के विषय में वे समाज और उनके अंतर संबंधों को कुछ यों प्रगट करते हैं कि " **राम कृष्ण और शिव ये कोई एक दिन के बनाए हुए नहीं है। इनको आपने बनाया। इन्होंने आपको नहीं बनाया। आमतौर से तो आप यही सुना करते हो कि राम और कृष्ण और शिव ने हिंदुस्तान या हिंदुस्तानियों को बनाया। किसी हद तक, शायद यह बात सही भी हो लेकिन ज्यादा सही यह बात है कि करोड़ों हिंदुस्तानियों ने युग युगांतर के अंतर में हजारों बरस में राम कृष्ण और शिव को बनाया। उनमें अपनी हंसी और सपने के रंग भरे और तब राम और कृष्ण और शिव जैसी चीजें सामने हैं।**"[9] राम, कृष्ण और शिव के स्वरूपों को वर्णित करते हुए वे लिखते हैं कि " **राम और कृष्ण तो विष्णु के रूप हैं और शिव महेश के। मोटी तौर से लोग यह समझ लिया करते हैं कि राम और कृष्ण तो रक्षा या अच्छी चीजों की हिफाजत के प्रतीक हैं और शिव विनाश या बुरी चीजों के**

नाश के प्रतीक हैं।''[10] वे आगे इनकी भूमिका की व्याख्या करते हैं कि ''राम की सबसे बड़ी महिमा उनके नाम से मालूम होती है, जिसमें उन्हें मर्यादा पुरुषोत्तम कहकर पुकारा जाता है। जो मन में आया सो नहीं कर सकते। राम की ताकत बंधी हुई है, उसका दायरा खिंचा हुआ है। राम की ताकत पर कुछ नीतियां शास्त्र की धर्म की या व्यवहार की, या अगर आप आज की दुनिया का एक शब्द ढूढें तो विधान की मर्यादा है।'''' लेकिन इतना कह देना काफी होगा कि पुराने दकियानूसी लोग भी जो राम और कृष्ण को विष्णु का अवतार मानते हैं राम को तो सिर्फ 8 कलाओं का अवतार मानते हैं और कृष्ण को 16 कलाओं का अवतार ।[11] कृष्ण संपूर्ण और राम अपूर्ण। अपूर्ण सही नहीं होगा लेकिन अपना मतलब बताने के लिए मैं इस शब्द का इस्तेमाल किये लेता हूं । ऐसे मामलों में कोई अपूर्ण और संपूर्ण नहीं हुआ करता, लेकिन जाहिर है जब एक में 8 कलाएं होंगी और दूसरे में 16 कलाएं होंगी तो उससे कुछ नतीजे तो निकल ही जाया करेंगे ।[12]

वे कलाओं के भेद की बात को स्पष्ट करने के लिए आगे एक दृष्टांत देते हैं कि ''भागवत'' में एक बड़ा दिलचस्प किस्सा है। सीता खोई थीं तब राम को दुख हुआ था। दुख ज्यादा हुआ। किसी हद तक मैं समझ भी सकता हूं, गो कि लक्ष्मण भी वहां पर था और देख रहा था। इसलिए राम का पेड़ों से बात करना और रोना वगैरह कुछ ज्यादा समझ में नहीं आता। अकेले राम रो लेते, तो बात दूसरी थी, लेकिन लक्ष्मण को देखते हुए, पेड़ से बात करना और रोना वगैरह, जरा ज्यादा आगे बढ़ गई बात ।[13] यहीं पर वे राम को रोता हुआ देखकर चंद्रमा के हंसने की बात भी लिखते हैं और बाद में 8 और 16 कलाओं के भेद को स्पष्ट करने के लिए कृष्ण के महारस का उल्लेख करते हुए लिखते हैं कि'.... शारद हजार दो हजार बरस बाद जब कृष्ण के रूप में वे आए तो फिर एक दिन हजारों गोपियों के बीच में कृष्ण ने भी अपनी लीला रचाई। वे 16000 थीं या 12000 थीं, इसका मुझे ठीक अंदाजा नहीं। एक एक गोपी के अलग अलग से, कृष्ण सामने आए और बार.बार चंद्रमा की तरफ देखकर ताना मारा, बोलो अब हंसो। जो चंद्रमा राम को देखकर हंसा था जब राम रोए थे, उसी चंद्रमा को उंगली दिखाकर कृष्ण ने ताना

मारा कि अब जरा हंसो, देखो तो सही। 16 कला और आठ कला का यह फर्क रहा ।"[14] आगे भी 16 कलाओं के विस्तार का रहस्य कृष्ण के जीवन चरित्र के द्वारा उद्घाटित करते हैं कि"..... 16 **कला है । मर्यादा नहीं, विधान नहीं है,** यह ऐसी **लोकसभा है जिसके ऊपर विधान की कोई रुकावट नहीं है मन में आए सो करो**। धर्म की **विजय के लिए अधर्म से अधर्म करने को तैयार रहने का प्रतीक कृष्ण हैं**।"""" **कृष्ण 16 कलाओं का अवतार किसी चीज की मर्यादा नहीं । राम मर्यादित अवतार, ताकत के ऊपर सीमा जिसे वे उलांघ नहीं सकते थे**। कृष्ण **बिना मर्यादा का अवतार।**"[15] राम मर्यादित हैं और कृष्ण मर्यादाओं से परे। कृष्ण की मर्यादाओं से परे की भूमिका को वे परमार्थी के रूप में व्यक्त करते हैं। कृष्ण हरेक के लिए सरल नहीं है ।

राम के मर्यादित स्वरूप को वे गांधी जी के साथ जोड़ते हुए लिखते हैं कि "**जब कभी गांधी जी ने किसी नाम को लिया, तो राम का लिया।** कृष्ण का **नाम भी ले सकते थे। लेकिन नहीं।** उन्होंने एक **गर्यादित तस्वीर हिंदुस्तान के सामने रखनी थी, एक ऐसी ताकत जो अपने ऊपर नीति,** धर्म या **व्यवहार की रुकावटों को रखें,** मर्यादा **पुरुषोत्तम का प्रतीक**।"[16] इस प्रकार लोहिया भी राम को मर्यादित और श्रीकृष्ण को व्यवहारिक रूप में प्रस्तुत करते हैं और लिखते हैं कि" मैं, **इस समय, बुनियादी तौर से राम और कृष्ण के बीच इस फर्क को सामने रखना चाहता** हूं कि **एक तो मर्यादा पुरुषोत्तम** है, एक **की ताकतों के ऊपर रोक** है, और दूसरा **बिना रोक का, स्वयंभू** है। यह सही **है कि वह राग से परे है, राग से परे रहकर** सब कुछ कर **सकता है और उसके लिए कोई नियम और उप नियम नहीं** ।"[17]

राम और कृष्ण से भारत का कण कण व्याप्त है और शिव से संपूर्ण परिवेश आच्छादित है। इस विषय को डॉ० लोहिया कुछ यूं प्रस्तुत करते हैं कि "**वह नीलकंठ शिव, जिसके हर काग का औचित्य उसके अंदर बना** हुआ है। वह मर्यादा पुरुषोत्तम राम और वह योगेश्वर कृष्ण जो लीला करके चंद्रमा को ताना मारा करता है। यह सब किसी भी **आदमी के दिल को बड़ा करने वाले किस्से हैं** ।"[18] लोहिया भारत की नाड़ी को एक कुशल वैद्य की भांति समझते हैं और उसी अनुरूप व्याख्या करते हैं। राम और कृष्ण को वे मात्र उत्तर दक्षिण और

पूर्व पश्चिम को जोड़ने वाला देव ही नहीं मानते बल्कि वे इन दोनों को भारत की प्रकृति और संस्कृति का वाहक भी मानते हैं। तभी तो वे बहुत ही सरल शब्दों में जमुना, सरयू, बांसुरी और धनुष के रूपक पर लेखनी उठाते हैं और लिखते हैं कि "**और सिर्फ** जमुना **और सरयू में ही ऐसा करने की कोशिश नहीं की** गई । जब तुलसीदास **गए जमुना के किनारे, तो उन्होंने सिर नवाने से इंकार किया, यह सब जानते** हुए कि सब **एक ही माया है। लेकिन उन्होंने कहा कि भई हाथ में** धनुष **बाण लो,** अपनी मुरली **अलग रखो तब मैं अपना सिर नवाऊंगा**। तो फिर मुरली **अलग हुई, धनुष बाण हाथ में आया**, जमुना **और** सरयू **एक हो गईं**।"[19] इस प्रकार वे जहां एक और इन दोनों को भारत के क्षितिजों को मिलाने वाला बताते हैं वहीं इनको मध्य से संयोग रूप में प्रस्तुत करके व्याख्या को मोहकता प्रदान करते हैं। इस प्रकार वे राम, कृष्ण और शिव को इस प्रकार से विवेचित करते हैं कि तीनों एक.दूसरे के पूरक हों। वे लिखते हैं कि " **राम, कृष्ण और शिव भारत में पूर्णता के तीन महान स्वप्न** हैं । **सबका रास्ता अलग अलग है । राम की पूर्णता मर्यादित व्यक्तित्व में है**, कृष्ण की **उन्मुक्त या संपूर्ण व्यक्तित्व में और शिव की असीमित व्यक्तित्व में, लेकिन हर एक पूर्ण है** ।[20]

शिव

वस्तुतः शिवजी को आदि अनंत माना जाता हैं आदि जगतगुरु शंकराचार्य ने निर्वाण षटकम् में इसी प्रकार की अभिव्यक्ति की है । डॉ० लोहिया भी उसी सनातनता का उल्लेख अपने विचारों में करते हैं। वे लिखते हैं कि," **शिव एक निराली छटा वाला है दुनिया भर में ऐसी कोई** किवदंती **नहीं जिसकी न लंबाई है, न चौड़ाई है और न मोटाई** । एक **फ्रांसीसी लेखक ने शिव के बारे में कहा था** कि वह तो एक '**नॉन डाइमेंशनल मिथ**' हैं (अंग्रेजी शब्द है फ्रांसीसी नहीं) **यानि ऐसी किंवदन्ती जिसकी कोई सीमा नहीं है, जिसकी कोई हदें नहीं है, न लंबाई है, न चौड़ाई, न मोटाई । किवदंतियाँ** दुनिया में **और जगह भी हैं,** खास **तौर** से पुराने मुल्कों **में, जैसे ग्रीक आदि में** बहुत हैं । **जहां नहीं है? बिना किंवदन्तियों के कोई देश रहा ही नहीं** और जितने पुराने देश हैं **उनमें किवदंतियाँ ज्यादा है** । **मैंने** शुरू में **कहा था कि एक तरफ**

'हितोपदेश' और पंचतंत्र की गंगा दत्त और प्रियदर्शन जैसी बच्चों की कहानियां है, तो दूसरी **तरफ, हजारों बरस के काम के नतीजे स्वरुप**।" कुछ लोगों में ..... **हंसी और सपने भरे हुए** हैं, **ऐसी किवदंतियाँ हैं** ।"[21] डॉ० लोहिया सही लिखते हैं। वे भारत के जनमानस से न केवल गहरे जुड़े थे बल्कि वह उनके अंतस में भी पैठा हुआ था । भारत की किंवदंतियों के विषय में सर विलियम जॉन्स भी कुछ ऐसा ही लिखे हैं कि कथाएं तो बाइबल की भी हैं परंतु उनमें वह कसाव नहीं है जो कि हिंदुओं की भाषा में हैं ।[22] तथा वे हितोपदेश को विश्व की नैतिकता सिखाने के ग्रंथ में स्थापित करते हैं ।[23] भगवान शिव की महत्ता न केवल लोहिया मानते हैं बल्कि महापंडित राहुल सांकृत्यायन भी शिवजी से कितने प्रभावित थे कि उनको भी भारतीयता का प्रतिनिधित्व प्रदान करते हैं। पंडित विद्यानिवास मिश्र उनको स्मरण करते हुए लिखते हैं कि सांकृत्यायन रूस में रहते थे तो वहां पर उनकी एक कैथोलिक महिला के साथ संतान उत्पन्न हुई। वह महिला कैथोलिक ईसाई थी । उनके एक पुत्र हुआ उसका नाम था ईगोर। एक दिन उसने राहुल सांकृत्यायन से पूछा की माँ के जैसे ईश्वर हैं (अपनी मां को ईसा मसीह के आगे पूजा करते देखने पर) वैसा हमारा नहीं है। विद्यानिवास जी लिखते हैं कि बहुत परिश्रम के बाद सांकृत्यायन कहीं से भगवान शिव का चित्र लाकर अपने पुत्र को दिए । ईगोर ने उनके चित्र को लेकर अनेक प्रश्न किए। सांकृत्यायन ने कहा कि ऐसा ही है हमारा भगवान/ तो भगवान शिव सही में अद्भुत और आदि अनंत हैं ।[24]

भगवान शिव की आदि अनंतता के विषय में फिर एक किस्सा लिखते हैं कि "**शिव ही एक किवदंती हैं जिनके न आगा है न पीछा । यहाँ तक कि वह किस्सा मशहूर है कि जब ब्रह्मा और विष्णु आपस में लड़ गए। यह देवी देवता** खूब लड़ा **करते** हैं, कभी कभी **आपस में तो शिव ने उनसे कहा लड़ो मत। जाओ तुम में से एक मेरे सिर का पता और दूसरे मेरे पैर का पता लगाएं और फिर लौटने पर आकर मुझे मुझसे कहो । जो पहले पता लगा लेगा, उसकी जीत हो जाएगी। दोनों पता लगाने निकले। शायद अब तक पता लगा रहे हों ।"" खैर किस्सा यह है कि बहुत अरसे के बाद मैं न जाने कितने लाखों बरस के बाद ब्रह्मा और विष्णु दोनों लौट कर आए और शिव**

से बोले कि भई पता तो लगा नहीं । उन्होंने कहा कि फिर क्यों लड़ते हो यह फिजूल है ।"[25] जगत गुरु आदि शंकर ने भी सही कहा है आदि अनंत। भगवान शिव के लोकाचारी स्वरूप का उल्लेख करते हुए लोहिया जी लिखते हैं कि "शिव का वह किस्सा भी आपको याद होगा शिव ने सती को मना किया था कि देखो तुम अपने बाप के यहां मत जाओ क्योंकि उसने तुमको बुलाया नहीं। बहुत बढ़िया किस्सा है यह । शिव ने कहा था कि जहां पर विरोध हो गया हो वहां पर बिन बुलाए मत जाओ, उसमें कल्याण नहीं हुआ करता है । पर फिर भी सती गईं । यह सही है कि उसके बाद शिव ने अपनी वक्ती तौर पर जैसा मैंने कहा, वही काम खुद अपने आप में उचित है बहुत जबरदस्त गुस्सा दिखाया था और उसकी पलटन कैसी थी। धगद धगद धगद ज्वल ललाट पट्ट पावके, किशोर चन्द्र शेखरे, शिव की तस्वीर आंख के सामने आती है वह किस तरीके की है। जटा में चंद्रमा है लेकिन लपटें ज्वाला की निकल रही हैं, धगद धगद हो रहा है ।
सब तरह की, एक बिना सीमा की किंवदन्ती सामने खड़ी हो जाती है शक्ति की-, सैलाब की, सब तरह के लोगों को साथ समेटेने की ।"[26] सही अर्थों में भगवान शिव सर्वांकिश हैं उनकी सर्वांकशता सर्बख्यात है। डा० लोहिया हिन्दुत्व के व्यवहार की बहुत ही विशद व्याख्या करते हैं। कर्म और संचित कर्मो का जो संयोग है उस पर वे बहुत गूढ़ विचार प्रगट करते हैं और लिखते हैं कि "..... लेकिन बुनियादी तौर पर हिन्दुस्तान का असली कर्म सिद्धान्त यही है कि जहाँ तक बन पड़े अपने आपको कर्म की फाँस से रिहा करो। यह सही है कि पुराने संचित कर्म हैं, उनसे तो छूट सकते नही; तो उनको भुगतना पड़ेगा; वे तो और नए कर्मों में आएंगे ही, लेकिन कोशिश यह करो कि नए कर्म न आएँ । हिन्दुस्तान की सभ्यता का यह मूल. भूत आधार कभी नहीं भूलना चाहिए कि नए काम मत करो, पुराने कामों को भुगताना ही पडेगा और जब कामों की श्रृंखला टूट जाएगी तभी मोक्ष मिलेगा। और शिव जैसी किंवदंती और इस तरह के विचार मिल लाने के बाद, कई बार तामस भी आ जाता है । उसके साथ साथ एकाएक कोई विस्फोट हो जाया करता है ।"[27] हिंदू समाज में कर्म सिद्धांत की अत्यधिक महत्ता है । श्रीमद्भागवत

गीता में ही श्री कृष्ण भगवान ने कर्म को ही मनुष्य का मूल अधिकार घोषित किया है ।[28] हितोपदेश भी कर्म को ही महत्वपूर्ण मानता है तथा प्रारब्ध की बात करने वालों के लिए भी इस जन्म में कर्म करने को कहता है, ऐसा इसलिए क्योंकि इस जन्म का कर्म ही उनके अगले जन्म का प्रारब्ध होगा ।[29] इस प्रकार हिंदू धर्म में ही मनुष्य, मात्र अपने कर्मों को भोग कर मोक्ष को प्राप्त होता है।

हिन्दू संस्कृति में नदी का स्थान

वेदों में नदियों को माँ कहा गया है और इन्हें सदैव ही बहुवचन में उच्चारा गया है ।[30] क्योंकि नदी वस्तुतः बहुवचन को ही स्वयं में समेट कर न केवल चलती हैं बल्कि प्रस्तुत भी करती हैं । इसीलिए हिन्दू संस्कृति में इनका स्थान प्रत्यक्ष और गुप्त दोनों ही रूपों में पर्याप्त रहा है और है भी। इन्हीं सब विषयों को दृष्टिगत रखकर डा० लोहिया अपने विचारों को प्रकट करते हुए लिखते हैं कि" **हिन्दुस्तान का मौजूदा जीवन और पुराना इतिहास सभी बहुत कुछ नदियों के साथ साथ** चला, यों **सारी** दुनिया **में, लेकिन यहाँ ज्यादा । अगर मैं राजनीति न करता और स्कूल में अध्यापक होता**, तो इसके **इतिहास को समझता** । राम **की अयोध्या** सरयू के **किनारे, कुरू और पांचाल** और **मौर्य तथा** गुप्त **गंगा के किनारे**, और मुगल और शौरशेनी **नगर और राजधानियां यमुना के किनारे रहीं । बारहों मास पानी के कारण शायद विशेष जलवायु** के **कारण, या हो सकता है, विशेष संस्कृति के कारण ऐसा हुआ** हो । **एक बार मैं महेश्वर नाम के स्थान पर** गया, जहाँ अहिल्या अपनी **ताकता से गद्दी पर बैठी थीं** । वहाँ **पर एक संतरी था उसने** पूछा कि तुम **किस नदी के हो** । दिल में घर कर जाने वाली बात है । **उसने शहर नहीं पूछा । भाषा भी नहीं** पूछी । जितने **साम्राज्य** बढ़े, किसी न किसी **नदी के किनारे बढ़े चोल** कावेरी **के किनारे -,पांडया वैगेईके, और पल्लव पालार के किनारे बढ़े।**"[31]

हिन्दुस्तान के तीर्थ

भारत संस्कृति प्रधान देश रहा है। इसलिए यहाँ के समस्त उपक्रम भी संस्कृति परक ही रहे हैं। भारत का प्रत्येक परिप्रेक्ष्य संस्कृति अवलम्बित है, यहाँ तक कि शासन और प्रशासनिक व्यवस्थाएँ भी । भारतेन्दु हरिश्चन्द्र ने अपने एक निबन्ध में हिन्दू त्यौहारों को म्युनिसिपलिटी का स्तर प्रदान किया है। इस प्रकार हिन्दू

त्यौहार और तीर्थ स्थल न केवल संस्कृति के वाहक हैं बल्कि वे इसे सुदृढ़ता भी प्रदान करते हैं। लोहिया इस विषय को बहुत व्यापकता से न केवल समझाते हैं बल्कि वे उसको यथा स्थान अपने भाषणों और लेखों में उल्लिखित भी करते हैं । यथा "**तुलनात्मक दृष्टि से** हिन्दुस्तान के **तीर्थ-केन्द्र बड़ी सांत्वना देते हैं । किसी भी महान मन्दिर के एक कोने में आप खड़े हो जाइये, एकाध धण्टे में ही आप सारे हिन्दुस्तान को वहाँ पर चलते-फिरते देख सकते हैं। हम एक हैं, इतने एक हैं कि इस समय लगता है कि किसी में** इतनी शक्ति **नहीं कि वह हमें तोड़कर दो बना सके** । दुर्भाग्य से **यात्री आत्मकेन्द्रित होता है। स्थानीय लोगों को और सहयात्रियों के नाना प्रकार को अगर वह** सहानुभूति से **देखे और सुने**, तो उसे **राष्ट्रीय एकता में बड़ी आंतरिकता** का अनुभव **होगा।** पर **आज वह एक खास जगह के एक खास देवता के साथ आंतरिकता की खोज करता है और, इसलिए** समूचे देश में **अब तक** पूजा **करने में असमर्थ हूँ**, और **शायद हमेशा ही असमर्थ रहूँगा । किन्तु समय निकाल कर** काम द्वारा **पवित्र किए गए स्थानों पर कहीं से आने वाले, कि** देश का **कोई हिस्सा नहीं** छूटता, अपने देश **वासियों** को मैं पूजा **करते देखना चाहता हूँ** ।"[32] वे इन तीर्थ स्थलों के महत्व को दृष्टिगत रखकर तत्कालीन सरकारों की उपेक्षा की आलोचना भी करते हुए लिखते हैं कि"..... **मैं आज द्वारिका, रामेश्वरम्, अयोध्या और बनारस जैसे महानतम तीर्थ-स्थानों की मारक उपेक्षा पर जोर देना चाहता हूँ । 80 लाख से अधिक व्यक्ति प्रति वर्ष इनकी यात्रा करते हैं। अच्छे मकानों और आवास की आधुनिक सुविधाओं की प्रदर्शनियाँ दिल्ली में करना धन का मुजरिमाना अपव्यय है,** जब कि **थोड़े से अतिरिक्त** खर्चे से **इन महान तीर्थ-केन्द्रों का जीर्णोद्धार हो सकता है और ये शिक्षाप्रद उदाहरण बन सकते हैं** । भारत सरकार **इस काम से भागती** है, शायद, **इस आधार पर कि ये हिन्दू तीर्थ स्थल हैं और ऐसा प्रकट करना चाहती है कि वह स्वयं हिन्दू नहीं है।**"[33]

वर्णमाला और भाषा

किसी भी समाज के उन्नयन में वर्णमाला, भाषा, बोलियों और शिक्षा का महत्व पूर्ण योगदान होता है और इस योगदान को ही केन्द्र में रखकर समाज को स्वयं

के क्रिया-कलापों का नियमन करना चाहिए। क्योंकि वर्णमाला और भाषा की व्युत्पत्ति इस संसार का सबसे अधिक क्रांतिकारी काम है। स्टीफन हांकिग सभी लिपियों और भाषाओं को जैविक सिद्धान्त पर अवलम्बित मानते हैं ।[34] लोहिया जी भी अपने विचारों में इनकी साम्यता पर (विशेषकर भारतीय) खुलकर विचार प्रकट करते हैं। वे लिखते हैं कि "**भारतीय वर्णमाला पर, इधर मैं विचार कर रहा था। वे सभी नागरी वर्णमाला के भेद हैं, तमिल** भी । **तमिल वर्णमाला,** सिर्फ **नागरी वर्णमाला** में बूंद **भर जोड़-घटाव है।**

बिल्कुल **साफ तौर पर, या तो उपलब्ध सामग्री (उदाहरणार्म** तालपत्र **या भोज पत्र) या सभी को, वर्णमाला को** भी, सुन्दर **बनाने की** पूर्ती **भारत की आन्तरिक प्रवृत्ति** का **परिणाम है उड़िया और बंगला ।"**[35] वे फिर आगे लिखते हैं कि "सभी **भारतीय वर्णमालाएँ एक ही मूल की हैं** । ..... क्योंकि **पिछले महीनों से भाषा और अक्षर के रहस्य के प्रति** मेरी बुद्धि **ज्यादा सचेत हो गयी, मैंने एक खोज** की । **लिखावट में भी, उड़िया अक्षर, भारत की बुनियादी वर्णमाला** का **एक प्रकारान्तर** है। उसके **एक-एक अक्षर की आकृति प्रायः नागरी अक्षर जैसी है, पर वह एक प्रकार की गोलाई से, लगभग पूर्ण चन्द्र जैसी गोलाई से घिरा है।**[36]

वे पुनः लिखते हैं कि "**उर्दू को छोड़कर, भारतीय वर्णमालाओं की ध्वनि 99 प्रतिशत और आकृति 80 प्रतिशत के ऊपर समान है। अक्षर की ध्वनि और इसकी आकृति ही किसी वर्णमाला को अपना विशिष्ट रूप देते हैं। भारतीय वर्णमालाओं के अत्यन्त बहुसंख्यक अक्षर ध्वनि में ठीक एक जैसे हैं; बहुत थोड़े अक्षर, जो अन्य अक्षरों से भिन्न है, प्रतिभा की ध्वनि को ही व्यक्त करते हैं ।**[37]

लिपि वगैरह के बारे में एक बात और कह दूँ । गलती में शयद हमारे लोग जब अंग्रेज हरफ मिटाते हैं तो उसके साथ-साथ ये अंक जैसे 1, 2, 3 जो लिखे रहते हैं, उनको भी कभी-कभी मिटा देते हैं। अंक अंग्रेजी के नहीं हैं। ये अन्तर्राष्ट्रीय अंक हैं। ये अन्तर्राष्ट्रीय अंक भी अपनी पैदाइश में हिन्दुस्तानी अंक हैं। हजार-डेढ हजार वर्ष पहले हमारे मुल्क से अरबी लोग इनको ले कर गये थे और सारी दुनिया में इनको फैलाया। ये हिन्दुस्तान के

ही अंक हैं। जैसे मैंने तेलुगु और नागरी लिखावट में 'ल' वाली मिसाल दी वैसे ही '3' को लो। जो नागरी का '3' है और वह जिसे अंग्रेजी का समझा जाता है दोनों में क्या फर्क है। अंग्रेजी के '3' को एक पूँछ लगा दो तो पह नागरी का तीन हो गया।"[38]

अगर ऐंग्लो-इंडियन प्रतिनिधि का अलग से लोकसभा में बैठना जरूरी है तो कम-से-कम चुन कर आना चाहिए। सरकार की कृपा से नहीं। जब तक सरकार उनको नामजद करती रहेगी, तब वह अंग्रेजी भाषा का गुलाम होगा, अपनी मातृभाषा का भक्त नहीं। वह अलगाव की बातों में सरकार से ऐंठेगा, लेकिन बाकी सभी बुनियादी मामलों में सरकार का पिट्ठू रहेगा। वह खुद को और अपनी बिरादरी को इस भूल का शिकार बनाए रखेगा कि ईसामसीह अंग्रेजी बोलते थे। वैसे भारतीय ईसाई भी भूल के शिकार हैं, किसी हद तक। ईसा मसीह दरअसल अरमेयक बोलते थे जो आज की हिन्दी के ज्यादा नजदीक थी, बनिस्बत आज की अंग्रेजी के ।[39]

भारतीयता का प्रतीक रामायण मेला

राम भारत का उत्स हैं; इस तथ्य से कोई भी स्वयं को पृथक नहीं कर सकता। डा० लोहिया जी भी इससे अछूते नहीं हैं। वे 12वीं की परीक्षा काशी हिन्दू बिश्वविद्यालय से उत्तीर्ण कर के ही कलकत्ता गए थे । काशी में प्रचलित रागायण मेले की सामाजिक और सांस्कृतिक महत्ता से वे परिचित थे और वह उनके अन्तस में प्रतिष्ठापित थी। इसलिए वे इस पर व्यापकता से न केवल दृष्टिपात करते हैं बल्कि उस पर लिखते भी हैं । **"यों रामायण मेला अयोध्या में होता तो अच्छा, किन्तु अयोध्या सदातीर्थ होने के कारण और चित्रकूट रमणीक होने के कारण पहला प्रयास चित्रकूट में ही अच्छा रहेगा।" मेले के मुख्य हेतु के विषय में वे लिखते हैं कि" इस मेले के मुख्य तात्पर्य हो सकते हैं 1. आनन्द, 2. दृष्टि, 3. रस संचार, 4. हिन्दुस्तान को बढ़ावा।"**[40] इस प्रकार वे मेलों के विषय में भारतीय दृष्टिकोण का प्रतिपादन करते हैं। आगे वे तुलसी रामायण के साथ इसे जोड़ कर देखते हैं और लिखते हैं कि **"तुलसी की रामायण में आनन्द के साथ-साथ धर्म भी जुड़ा हुआ है। धर्म शाश्वत मानी में और वक्ती भी। तुलसी की कविता से निकली हैं रोज की उक्तियाँ और कहावतें, जो आदमी को टिकाती हैं और सीधे रखती हैं"**[41]

जैसा कि हमें विदित है कि तुलसी भक्तिकाल के शिरोमणि कवि हैं । और उस समय की परिस्थितियों के अनुरूप ही उन्होंने मर्यादा पुरूषोत्तम के चरित्र का बखान करके लोक को जागृत करके यह समझाया कि लोक की समस्याओं के समाधान के लिए लोक को ही संगठित होकर संघर्ष करना होगा। स्वयं श्री राम ने भी यही किया था । वही समझाने के लिए डा० लोहिया लिखते हैं कि **"तुलसी एक रक्षककवि थे । जब चारों और ओझल हमले हों, तो बचाना, थामना, ठेला देना, शायद ही तुलसी से बढ़कर कोई कर सकता है। जब साधारण शक्ति आ चुकी हो, फैलाव, खोज, प्रयोग, नूतनता और महाबल अथवा महाआनन्द के लिए दूसरी या पूरक कविता ढूंढनी होगी।"**[42] वे तुलसी को राष्ट्रीय जागृति के कवि के रूप में लेते हैं और राम को भारतीय संस्कृति के आधार स्तम्भ के रूप में प्रकट करते हुए उनके चहुँमुखी प्रभाव पर प्रकाश डालते हुए लिखते हैं कि **"आनंद, प्रेम और शान्ति का आह्वान तो रामायण मेले का मुख्य प्रयोजन है ही, हिंदुस्तान की एकता जैसे सांप्रतिक लक्ष्य भी प्राप्त किए जाएंगे। सभी जानते हैं कि राम हिंदुस्तान के उत्तर-दक्षिण की एकता के देवता थे, पूर्व-पश्चिम एकता के देवता थे कृष्ण, और कि आधुनिक भारतीय भाषाओं का मूल स्त्रोत राम-कथा है । कंबन की तमिल रामायण, एकनाथ की मराठी रामायण, कीर्तिदास की बंगला रामायण, और ऐसी ही दूसरी रामायणों ने अपनी-अपनी भाषा को जन्म और संस्कार दिया। तुलसी की रामायण को केंद्रित करके इन सभी रामायणों पर विचार किया जाएगा, और बानगी के तौर पर उनका भी पाठ होगा ।"**[43] इससे वे धर्म की बहुत ही गूढ़ परिभाषा करते हुए लिखते हैं कि" **अब समय आ गया है कि धर्म को दीर्घकालीन राजनीति और राजनीति को अल्प कालीन धर्म माना जाए। दोनों के बीच का रिश्ता अन्वेषण-योग्य है। धर्म मुख्यतः अच्छाई करता है और अच्छाई की स्तुति, जबकि राजनीति मुख्यतः बुराई से लडती है और बुराई की निंदा करती है । सिर्फ अच्छाई की स्मृति में धर्म निर्जीव हो जाता है और ऐसे ही सिर्फ बुराई से लड़ने से राजनीति बल हीन हो जाती है"**[44] डा० लोहिया ने बहुत ही सजीव सम्बन्ध बताया है धर्म और राजनीति का। किन्तु भारत के कर्ता-धर्ताओं ने तो धर्म को साम्प्रदायिक घोषित करके उसे संकुचितता प्रदान कर दी है; जिससे उसके अर्थ बदल गए हैं । डा० लोहिया ने स्वयं की व्यापकता के आधार पर उन्हें संशोधित करने के प्रयास किये । धर्म की व्यापकता और संकुचितता को वे कवियों के ही धरातल पर समझने और समझाने का प्रयास करते हैं और लिखते हैं कि **"जहाँ धर्म निरपेक्ष**

कवि शेक्सपीयर और गेटे या कालिदास भी पाठक में, उसकी समीक्षा बुद्धि को अवरुद्ध किए बिना कविता और विस्तीर्ण वातावरण निर्मित करते हैं, वहाँ रामायण जिस किसी विषय पर जो कुछ कहती है उसे पवित्र बना देती है। कम से कम अधिकांश पाठकों और श्रोताओं पर यही असर पड़ता है ।"[45] इतना ही नहीं रामायण सम्पूर्ण जीव-जगत में राम की प्रतीति भी करवाती है ।

रामायण मेले की उपयोगिता को वे कुछ यों स्पष्ट करते हैं कि "रामायण मेला हिन्दुस्तान के दिमागी जीवन को एक नई दिशा देगा, अगर वह धार्मिक कविता के सर्वश्रेष्ठ अंग और भृष्ट अंग में विवेक करना सिखाए। इसलिए मैं उम्मीद करूगाँ कि अगुआगिरी करने वाली नारी उसी झूम से उन चैपाइयों को पढ़ेगी जैसे दूसरी चैपाइयों को। मन में, जहाँ जैसी जरूरत होगी, वह पात्र पर हंस लेगी या तुलसी पर।"[46] रामायण एक व्यापकता का ग्रन्थ है और उसको प्रत्येक व्यक्ति स्वयं के मनोभावों के अनुसार स्वीकारता है। यह स्वातन्त्र्य स्वयं तुलसी भी प्रदान करते हैं तभी तो लिखते हैं जाकी रही भावना जैसी, प्रभु मूरत देखीं तिन तैंसी । यही दृष्टि सृष्टिवाद है ।

राष्ट्रीय एकता

इतना ही नहीं लोहिया विदेशी लोगों के द्वारा भारत में विभेदकारी क्रिया-कलापों पर भी कटाक्ष करते हुए लिखते हैं कि "मुझे ऐसा लगता है कि आर्य, द्रविड और मंगोल भेद गढ़े गए हैं, विशेषकर विदेशियों ने गढ़े हैं। यदि ये थे भी, तो 3-4 हजार वर्ष पहले। अब वे बिल्कुल झूठे हैं। इसी एक झूठ के सहारे हिन्दुस्तान का पूरा इतिहास, साहित्य, भूगोल और संस्कृति इत्यादि अब तक पढ़ाए जाते हैं। इससे अनर्थ हो रहा है। भारत की भाषाओं का वर्गीकरण भी झूठा है। तमिल का 'मैलम' और संस्कृत-हिंदी का मयूरम एक ही है। यू, और ए, अथवा इ, और ल, का परिवर्तन भाषाशास्त्र का एक मान्य नियम है। बहुतेरे शब्द इसी तरह के हैं। यह मैं नहीं कह सकता कि तमिल से संस्कृत-हिंदी ने लिया अथवा उल्टे मार्ग से। इसमें मुझे कुछ दिलचस्पी नहीं । मुझे दिलचस्पी इसमें है कि एक दूसरे से लेते रहे और एक होते रहे हैं। केवल कुछ गिनतियाँ अथवा कुछ आरंभिक शब्दों के आधार पर आर्य, द्रविड या आस्ट्रिक भाषाओं का बतंगड़ खड़ा कर देना मूर्खता है। 4 हजार वर्ष पहले भी, शायद ऐसा नहीं था। इन 3 हजार वर्षों में तो बिल्कुल ऐसा नहीं रहा है ।"[47]

इस प्रकार से वे अपने विचारों के माध्याम से न केवल उपनिवेशी वृतांत को अमान्य करते हैं बल्कि उससे जो भ्रम उत्पन्न हुआ और जो नुकसान हुआ पर, अपनी चिन्ता भी व्यक्त करते हैं। यही चिन्ताएँ डा० लोहिया को अन्यों से पृथक करती हैं और इसी आधार पर उन्हें पढ़ा और पढ़ाया जाना चाहिए, जिससे भारत का गुण-वैशिष्ट्य हमारे युवा वर्ग के सम्मुख आ सके ।

सन्दर्भ

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Psychological Theme in William Faulkner's Novel "The Sound and the Fury"

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Introduction :

During the late nineteenth century, psychology came to be acknowledged and accepted scientific field. The discovery of this new branch of science has had a profound effect upon literature that has been written after its adoption. Psychology became a topic of great intrigue and interest. This new found interest in psychology led to the assimilation of psychological concepts and ideas into the American Literature of the turn of the century, as well as the literature of modern times. Writers of the late nineteenth century and early of mid-twentieth centuries were influenced by many famous psychologists of the day.

Wilhelm Wundt, one of the first well known psychologists and founder of the structuralist field of psychology asserted that human experience could be broken down into the "most fundamental elements, or 'atoms' of thaught"[1] William James, the prominent American psychologist and author of the psychological view of functionalism, argued that human perceive things in a continuous strem of consciousness.

Early psychological concepts even pervade the works of some of the most famous and widely read authors of the day such as Ernest Hemingway. Hemingway's well-know work The Snows of Killimaniaro indicates that Hemingway was also influenced by the new field of psychology. In this work Hemingway incorporates psychology into the literary frame work and technique of the piece, unlike Gertrude who portrays psychology through her characters and plat into much of the literature of the time. This accurate portrayal of the human experience, as the noted critic William Howells asserts, should be the author's ultimate goal. He declares that in literature "the only beauty is truth to the human experience."[2]

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Tragic Vision in Arthur Miller's All My Sons

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Abstract

Tragedyis different from the tragic vision. Tragedy as defined by Aristotle"- the imitation of an action that is serious and also as having magnitude, complete in itself -with incidents arousing pity and fear where with to accomplish its catharses of such emotion"[1] is difficult to superimpose by a new definition. However any piece of literary art, which has high seriousness, as Mathew Arnold said of it, in it or is dealing with dark side of life, has also come under this type of genre. Tragedy is a form of drama exciting the emotions of pity and fear. Tragedy is more of a dramatic from in relation to the art having the maximization of characteristics effect which is its end. And in between arousing pity and fear It is "Mimesis and Imitation of what is in the worldabout us."[2]

The play "All My Sons" takes the title from the swan-song of Joe Keller, the tragic character in the play. His sens of guilt drives him to suicide, and statement that he was ending his life to make amends for the twenty one pilots, who met their end by using the cracked cylinder heads dispatched from the factory of Joe Killer. Larry's death brings home Joe the truth that not only Larry but also those twenty one pilots were his sons. The major theme "All My Sons" is the tragic conflict between the family loyalties and the social responsibility. Joe Killer is ordinary fair-to medium individual whose love for his family boundless. Being an uneducated man, not given too much reading, he lives in narrow world consisting of his family and a few neighbors. A confusion of values overwhelms his mind, for he is obsessed with his own happiness and of those he loves, but his son Chris speaks of the universe of people to which he has the responsibility. His personal tragedy triggers from his adherence to the American value system which is antagonistic to social welfare.

Keywords: Magnitude, Accomplish, Arousing, Self-Deception, Betrayal, Guilt, American Dream, Responsibility.

Introduction

Tragic vision, as against tragedy. Is the artist's vision, which creates a tragic split of the writer as man and as an artist that characterizes itself in his writings. It dramatizes same basic truth of life that is seen by Miller viz. in Henry James's "The portrait of a lady" and before him, in Shakespeare and Hardy, there is emitted a tragic experience which for them is and was the result of how they looked at life. It was their truth and is of all of the human beings. In this way.

The tragic vision is that view of life, that outlook, that attribute, which has its genesis in the artist's contemplation of the world vis-à-vis his man's place in it. It is formulated on its own, quite naturally. Its constituents may also be the characteristics inherited from birth and the experience observed and undergone circumstantially. Bath contribute to its formation at a conceptual level. The troubles and moments of deep depression and disillusionment undergone by Miller in his life commune with his hereditary traits and the result was the formation of this vision which became a dominating feature of his temperature.

This often made him to question the fundamentals of life. Pessimism is its way of looking, Then, at things, matters and life, at the metaphysical level. In tragic temper and maturity of outlook, Miller falls in the line of Shakespeare, Thomas Hardy and the tragic writers like Steinberg O' Neill and others "to grace the high hills of English literature."
The Play "All My sons" maid its first appearanceon the stage in January1947.Wigh this play, Miller achieved his first sage triumph. In this play, as in his other early plays, Miller represents capitalism as creating an exploitative system which denies individual identity. Capitalism, according to Miller, creates false needs and implies that the satisfaction of those

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needs would resolve a longing. Which is in truth spiritual in origin. Capitalism is substitute role for identity and replaces the individual with economic relationship.

"All My Sons" (1947) is a play with a social thesis.The story was intended by Miller to arouse the social consciousness. In this play, the hero Joe Keller Kills himself and meets his tragic end finally. This is a story about a manufacture whose defective airplane parts cause the death of his son and other aviators in wartime. The hero, Joe Keller is a successful businessman who has earned a lot of money by manifesting defective cylinders during the world war second. The defective cylinders, supplied by him, led to the death of 21 pilots. At his trial, he denies the responsibility; letting his timid partner Steve Deever take the blame and the punishment. Having been exonerated, Joe Keller has successfully reestablished his business and though his neighbors still believe him to be guilty, they have apparently accepted him back into his social life but relied at his acquittal is diluted by grief at the loss of his son Larry, reported missing in action dead when the plat opens, about three and a half years later that son's fiancée Annie (daughter of Joe Keller's business partner who is in jail) arrives to marry the dead boy's brother Chris Keller. Annie's arrival brings about a crisis in Keller's family, and especially for Kate Keller who has always refused to accept the fact of the death of her son Larry, and who had so far been seeing Annie's failure to marry anybody else as a proof of Annie's similar faith in his being still alive.The planed marriage between Annie and Chris therefor means that Kate Keller must abandon her fond belief that her Larry is still alive. But acceptance of Lorry's dearth also forces her to acknowledge some connection between the death and what she knows to be her husband's guilt. The situation becomes more complicated when Annie's brother George arrived to confront Joe Keller with that guilt. And although George failed to obtain a confession from Joe Keller the planned marriage between Annie and Chris brings about that confession because Chris's mother plays her final cord in order to prevent marriage, which could mean the end of her belief and her hope in Larry's continued survival. She reveals her husband's quilt to her son Chris. But a letter, which Annie now reveals, finally defeats her and her husband. In this letter the missing son Larry had announced his intention to commit suicide because his father's dishonest action in having supplied defective equipment to the Air force. Finding himself compelled to accept the responsibility for his dishonest action, Joe Keller shoots himself.

Miller's own comments on this play are worthy of notice. He tells us that the play begins in an atmosphere of undisturbed normality and that the first act was designed by him to be a slow affair, infect, says Miller, he had even tried to make the start of the play somewhat boring, His object being to horrify the audience when the first hint of crime committed by Joe Keller is dropped. The horror according to Miller would result from the contrast between the serenity of the civilization on view and the threat to that civilization from the stirrings of the human conscience. Miller then goes on to say that the crime in the play is not one which is about to be committed but which had been committed long ago. The damage, which the crime could do, has already been done, and been done irreparably. The only thing, which now remains to be dealt with, is the conscience of his son Chris in the face of what he has come to know about his father.

The play is an assertion of the need for the individual to accept full responsibility for his action, to acknowledge the reality of a world in which the brother hood is an active principle rather than simple plety. It is an assault on a materialism which is seen as being at odds with human values, on a capitalist drive for profits, which is inimical to the elaboration of an ethic based on the primacy of human life and the necessity to acknowledge a social contract. Indeed Joe Keller defends himself by insisting that his own values are those of the world in which he moves, as he asks rhetorically, "who worked for nothing in that war? When they work for nothing, I will work for nothing. Did they ship a gun on a truck out Detroit before they got their price? Is that clear? It is dollars and cents, nickels and dimes what is clear? Half the goddam country is a gotta go if I go." [3]

(Act III, p. 125) and his son are forced to acknowledge this, laminating that, "This is the land of the great big dogs, you don't live a man here, and you eat him! That's the principle, the only one we live by it's just happened to kill a few people this time, that's all. The world is that way, how can I take it out on him?" 4 (Act III , p 86) yet he still continuous to press his demand of the ideal until and his father can no longer live with his guilt and his suddenly intensified loneliness. This is the base of the sub-merged theme that shows concern with a principle mechanism of human behavior and with self interest as a spectra behind the mask of idealism

Chris is not the only character whose actions are dictated by guilt. Joe Keller himself offers to help his partner and his son. His wife struggles to maintain the illusion that her son Larry is alive rather than admit to her husband's guilt and acknowledge her own status as beneficially of that crime and more crucially, Ann herself finally insists on showing both Joe and his wife their son's letter partly in order to facilitate her own marriage and partly to purge her sense of guilt.

Thus the play concerns with egotism much more basic then that displayed by materialistic society. This fact is identified but not examined. His characters move in the world of failed dreams; they are betrayed by tone and event desperately bending the word to accommodate their need for meaning and companionship. They see themselves as victims and struggle to find happiness and purpose in adopting themselves to the given situations.

As the play opens, however Chris has decided to assert himself, to claim the things in life and the position in life, which he feels should rightfully be his, and as the initial step he has invited Ann to his family home. He is trying to describe to Annie his feelings. He says. "And I got an idea watching them go down. Everything was being destroyed, see but it

seemed to me that a new thing was made.A kind responsibility man for man." 5 (Act I,p 36)

His decision brings him into immediate conflict with his mother Kate Keller who looks upon the possible marriage between Chris and Ann as public confirmation of Larry's death. Kate insists that Larryis still alive and would come back home one day. She says to Chris, "your brother's alive darling because he's dead, your father Killed him. Do you understand me now? As long as you live that boy is alive: god does not let a son be killed by his father. Now you see don't you? Now you see. "(Act II p. 73)

At first Joe Keller seems only peripherally involved in this conflict; his attempt to evade demand that Kate be forced to accept Larry's death carries only ambiguous suggestion of insecurity. However at the end of act Kate, emotionally exhausted by the fruitless effort of use George's diverse accusations as a means of driving out Ann and opposed for the first time by the declared disbelief of both husband and son, breaks dawn and reveals the actual basis of her refusal; if Chris lets Larry go, then he must let his father go as well. What is revealed here is that Kate is fundamentally like her husband, only what is persona or immediate, is real for her.If Larry is alive then in a sense the war has no reality and Joe Keller's crime do not mean anything: their consequences are nearly distant echoes in an real, and Joe is guilty of murder, even by an act of association, guilty of murdering his own son. Her own desperate need to reject Larry's death against all odds and upon whatever flimsy scrap of hope has been the reflex of her need to defend relation to her husband against whatever in herself what might be outraged by the truth about him. It is Larry living not Larry dead that she clings to and she does this because, to admit his death would make both life and love more difficult. Moreover, as is generally true of Miller's important women, Kate's final loyalty is to her husband; to him a living, substantial being, she has made irrevocable commitment in love and sympathy, which no knowledge about him, can destroy.

There is no doubt at all that Chris is devoted to both his parents; but there is also no doubt at all that thinks it to be his duty to stand by truth. This men loves his parents, but at the same time he follows truth because he has a strong moral sense. He also says that he is unable to take any action against his father because he has become a practical man and because his practical approach to life has made a coward of him. Thus here we again witness a conflict between Chris' duty as a man of truth and his love for his father. He tells Annie that there would be no point in sending his father to jail because by doing so, he would not be able to bring back to life those pilots who had lost their lives on account of father's folly in having supplied defective cylinder heads to the air force. When his father defends on the ground that he had committed the crime for the sake of his family, Chris says that he had always harbored a high opinion about his father but that his father has proved to be on ordinary man. Thus here Chris expresser his disappointment at finding that his father had done something which could not have been expected of him Chris then suddenly makes up his mind He reads art to his father the letter which Larry had disclosed his decision to commit suicide because of Joe Killer's fraudulent action in supplying defective equipment to the air force and thereby causing the death of a large number of air pilots. As Denies welland says.

Aim of the Study

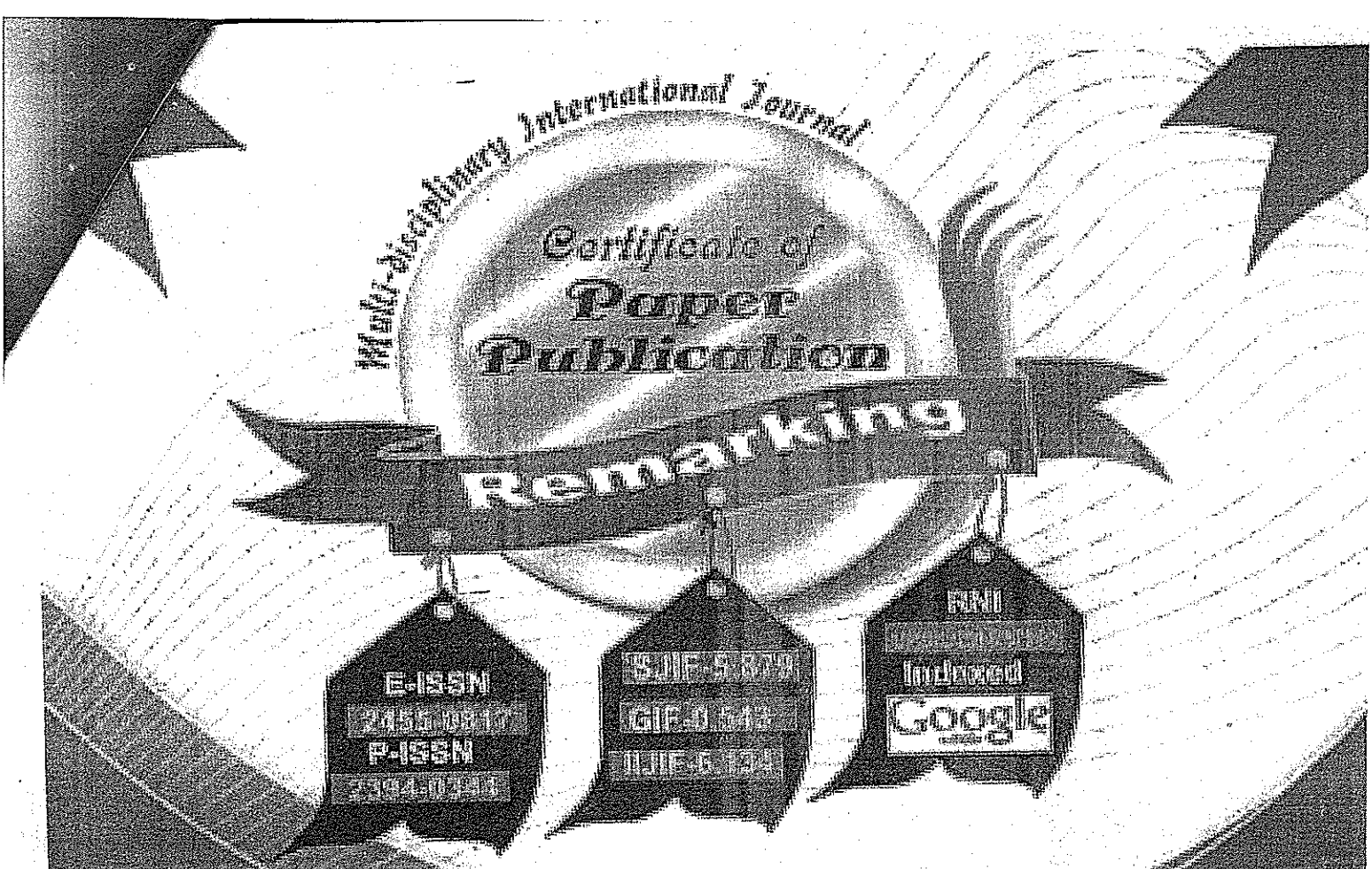
In my paper i want introduce tragedy in twentieth century. Because we many confusion to define tragedy.

Conclusion

The central theme of Miller has always been integrity of the individual to words his fellows but the cast of that integrity for mast of his characters has been life itself. "[7]

Endnotes

1. *Aristotle, The poetics (New York:- Oxford University Press, 1965) P-16*
2. *Ibid P – 21*
3. *Arthur Miller, collection of plays with an introduction (New York: The Vinking Press, 1957) P-125*
4. *ibid P -86*
5. *ibid P – 36*
6. *ibid P -73*
7. *Ronald Hayman, "Arthur Miller" (NewYork: - Ungan Publishing Company, 1972) P-5*



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Advocate District court Meerut

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LEGAL POSITION OF DIVORCE IN DIFFERENT COMMUNITIES: INDIAN PERSPECTIVE

Dr. Sushil Kumar Sharma*

Divorce under Hindu Law

The Hindu Marriage Act, 1955 came into existence, eight years after the independence of the country. Sub-sections (1) and (1 A) of section 13 of the Hindu Marriage Act, 1955 prescribes the grounds on which either of the parties can seek a decree of divorce from a court of law having jurisdiction to entertain such petition.

Grounds for Divorce

Following are the grounds under which either of the parties are' entitled to seek a decree of divorce under section 13 of the Hindu Marriage Act, 1955:

(a) Adultery :"Adultery" means the offence of incontinence by married persons (Stroud's dictionary)

What amounts to adultery : In Mahalingam Pillai v. Amsavalli [1], and Douglas v. Douglas [2], it has been observed that one general intercourse after the solemnisation of marriage Is sufficient to make a case. An attempt at general intercourse is not enough. Some penetration, however brief, must be proved. In Rxford v. Rxford [3] it was held that a wife allowing herself to be artificially inseminated with semen of a person other than her husband, cannot be said to have committed adultery.

Burden of Proof : It is very difficult to produce direct evidence to prove an act of adultery The act of adultery, therefore, has to be inferred by the tending circumstances, i.e., the inclination of the spouse and the opportunities available. Adultery is a matrimonial offence as well as criminal offence. The requirement of proof in a criminal case more strict than in a matrimonial case. In the former case the act to be proved beyond reasonable doubt, whereas in the latter the evidence is based on the inferences and probabilities.

(b) Cruelty : Under clause (ia) of sub-section (1) of section 13 and under sub-section (1) of section 10 of the Hindu Marriage Act 1955, cruelty is a ground for divorce and judicial separation respectively Whether the act or conduct complained of is covered under the grounds of cruelty or not, will always be decided on facts and circumstances in each case.

* Advocate District court Meerut.
[1] 1956 (2) MLT 289, 1956 Mad LI 259.
[2] (1950) 2 All ER 748 (753)
[3] (1921) 58 CLR 259

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What amounts to cruelty : Under the English Law, legal concept of cruelty is conduct of such a character as to cause danger to lift, limb or health (physical or mental) or as to give rise to a reasonable apprehension of such danger. Before the amendment of the Hindu Marriage Act, which was brought in the year 1976, the rigid meaning and interpretation was given to the ground of cruelty. The court held that as cruelty has not been define under the Act.

Persistence in inordinate sexual demands or malpractices by either spouse can be cruelty if it injures the other spouse.

Classification of Cruelty :

Physical Cruelty. It is a settledlaw that physical violence is not a necessary ingredient of cruelty. Unending accusations and imputations can cause more pain and misery than a physical beating. Therefore, it goes without saying that the act of cruelty consists of mental torture or physical violence. If it is a physical violence, there will be no problem for a court to arrive at a decision while determining a case presented before it but in case of mental torture or harassment, the courts find it comparatively more difficult to conclude.

Mental Cruelty : An act of mental cruelty is far more severe and dangerous than an act of physical violence. Mental cruelty can be inflicted by many ways. A false criminal case to harass the husband would be an act of cruelty. Refusal to have marital intercourse, false complaints to the employees by the wife, an act of nagging, false, scandalous, malicious and baseless charges, etc., come wider the purview of mental cruelty.

(c) Desertion : Clause (ib) of sub-section (1) of section 13 of the Hindu Marriage Act, 1955, provides desertion as a ground for obtaining a decree of divorce from the court This ground is available to both the spouses under the Act. Under this provision a decree of divorce can be obtained from the court on the ground that the other party has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition. "in this sub-section the expression 'desertion' means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the willful neglect of the petitioner by the other party to the marriage, and its grammatical variations and cognate expression shall be construed accordingly".

(d) Conversion or Change of Religion : Under section 13(l)(ii) of the Hindu Marriage Act, 1955, if one of the spouses adopts another religion, he or she ceases to be a Hindu. But by embracing another religion the marriage does not stand dissolved. Under this provision, only the spouse who has not changed his/her religion is entitled to file a petition for a decree of divorce on the ground that the other spouse has ceased to be a Hindu and has embraced another religion.

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(e)Insanity : Section 13(1)(iii) of the Hindu Marriage Act, provides for a decree of divorce if it is established that dottier spouse has been incurably of unsound mind or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with him. Under section 13(1)(iii) of Hindu Marriage Act, unsoundness of mind or mental disorder is a ground for divorce. The Act goes' on to specify as to what is meant by "mental disorder" under an explanation to the section, which appears as under :

(a) The expression "Mental Disorder" means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia;

(b) The expression "psychopathic disorder" means persistent disorder or disability of mind (whether or not including sub normality, aggressive or seriously irresponsible conduct on the part of the either party and whether or not it requires or is susceptible to medical treatment.

Proof of Insanity—The onus of proving that the respondent is of incurably unsound mind or that he is suffering from mental disorder is on the petitioner.

(f) Leprosy : Under clause (iv) of sub-section (1) of section 13, H the other spouse, has been suffering from a 'virulent and incurable form of leprosy', it is a ground for divorce. Thus in order to be entitled to a decree of divorce under this clause, the petitioner party has to prove that his/her spouse has been suffering from leprosy, and that it is such a form of leprosy which is not only virulent but also incurable.

(g) Venereal Disease : Venereal disease, if in a communicable form, is also a ground for obtaining a decree of divorce under section 13(1)(v) of the Hindu Marriage Act

Thus, not only the respondent must be suffering from a venereal disease, like syphilis, gonorrhoea, or soft chancre, but the disease should also be such as to infect others who come in contact with the injected.

(h) Renunciation of World : Section 13(1)(vi) makes the. "renouncement of world by entering any religious order", a ground for divorce. However, this ground cannot be availed by the spouse renouncing the world but only by the other spouse. According to the Supreme Court in Sital Das v. Sant Ram [4] the renunciation must be complete and final and must be effected with the ceremonies and rites prescribed by the order which he enters. Thus, a mere declaration by a person that he is a sanyasi is not sufficient.

(i) Presumption of Death : If a person "has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of it, had

[4] AIR 1954 SC 606

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that party been alive", the other spouse, may, seek divorce under section 13(1)(vii) of the Act. In view of section 108, Evidence Act, 1872, the burden to prove, that a person who has not been heard of for more than seven years, is still alive is on the person who affirms it, as section 108 of that Act raises a presumption of death where the person concerned has not been heard of for the said period.

The 'persons who would naturally have heard' are, the petitioner and other near relatives or his close friends.

(j) Unviolated Judicial Separation : Section 13(1A)(i) provides that either of the parties to a marriage may seek dissolution of marriage on the ground that "there has been no resumption of cohabitation between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were the parties"

(k) Non-resumption of cohabitation after passing of a decree for restitution of conjugal rights : Like section 13(1), (1A), non-restitution of conjugal rights between the parties for a period of one year or upwards after the passing of a decree for restitution of conjugal rights, is also a ground for divorce under section 13(1A)(ii) of the Act Under this clause also, the court would have to consider under sub-section (1) of section 23 whether the petitioner is taking advantage of his or her wrong in pleading that there has been no restitution of conjugal rights after passing of a decree for that and therefore, the provisions of section 13(1A)(ii) are to section 23(1)(a).

Once right to obtain divorce under section 13(1A)(ii) has accrued to the spouse who has come to the court to seek divorce on grounds of the non-compliance of the decree for restitution of conjugal rights for the requisite period, the spouse can insist on a decree of divorce and can refuse to yield to the efforts for reconciliation and such refusal would not come within the ambit of the word 'misconduct'.

Divorce under Muslim Law

Islam with its realistic and practical outlook on all human recognizes divorce, but only as a necessary evil, inevitable in certain circumstances. The analysis of marriage and divorce laws recognized by Islam clearly shows that the marital ties is to be respected and continued as far as possible. The marriage under such extreme circumstances may be dissolved by the parties or by the court.

Among all the nations of antiquity the power of divorcer was exclusively rested in the husband, and the wife was under no circumstances entitled to claim a divorce.

These social and moral ids and injustices engaged the attention of the Prophet of Islam. Fully conscious of the evils flowing from divorce, he framed the laws of marriage and divorce in

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order to remove these evils. These laws ensured permanence of marriage, without impairing individual freedom. They display a wrongful insight into human nature, in as much as they never loose sight of exceptional circumstances, requiring special treatment.

The 'Mussalman' law of divorce is the logical sequence of the status of marriage. As it regards marriage as purely civil contract, it confers on both the parties to the contract the power of dissolving the tie or relationship under certain specified circumstances. The Islamic law did not take away the prevalent customary right of the husband to divorce his wife unilaterally but imposed numerous restrictions, on the exercise of this right.

The rules governing divorce are enunciated thus :

First, divorce cannot be given without a valid reason. Second, divorce will take effect not immediately on pronouncement but after the expiry of the prescribed period of time. Third, after the divorce, the wife would stay with her husband, for the full period of Iddat, provided the reason for the divorce is not adultery on her part, in which case she can certainly be evicted out of his home. Fourth, before giving divorce, the husband must carefully ponder over the contemplated move and make sure that the is not transgressing the limits prescribed by Allah and that he is not exceeding his rights and thus committing a sin.

The Quran says that divorce should not be given without a good cause, but the good cause is not clearly specified, as it is not possible to take into account all possible circumstances The only thing clearly mentioned is that divorce can be given for bad conduct. The cause of the divorce between Zainab and Zaid bin Sabit was temperamental incompatibility.

Writing a little earlier, another great jurist of the community undoubtedly the greatest alim of his time, Hakim al Ummat, Maulana Ashraf Ali Thanavi had come out with a clear verdict that :

"Where a husband thrice says talaq, talaq, three divorces becomes effective; also if he uses thrice some words implying a talaq, three divorces will become effective. But, if he intends only one talaq has said it twice only to assert, only talaq will be effective."91

Forms of Dissolution of Marriage

Talaq (Repudiation) or divorce is an Arabic word which means "undoing of or release from a knot". It is used by Muslim jurists to denote the release of a woman from the marriage tie, and means a divorce [5]. The word 'Talaq' is usually rendered, as repudiation [6] It comes from a root (Talaqa) which means "to release (an animal) from tether". Whence, to repudiate the wife, or

[5]Ibn Qudamah Almughni. Cairo 1376 A.M. Vol VII. p. 96
[6]Fayzee A.A., Outlines of Mohammadan Law, 1974, p 150, Delhi

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free her from the bondage of marriage. In law, it signifies the absolute power, which the husband possesses of divorcing his wife of all times.

The marriage under Muslim Law may be dissolved in any one of the following ways :

(1) by the husband at his will, without the intervention of a court;

(2) by mutual consent of the husband and wife, without the intervention of a court;

(3) by a judicial decree at the suit of the wife.

TALAQ BY THE HUSBAND

Talaq-al-Sunnat : The Hanafis recognize two kinds of talaq, namely, (1) Talaq al Sunnat, that is, talaq according to the rules laid down in the sunnat (traditions) of the Prophet; and (2) Talaq-al-Bidaat, that is, new or irregular talaq.

Talaq Ahsan: This consists of a single pronouncement of divorce made during a tuhr (period between menstruations) followed by abstinence from sexual intercourse for the period of iddat. On the lapse of the term of three tuhr the talaq becomes irreversible. When the marriage has not been consummated, a talaq in the ahsan form may. be pronounced even if the wife is her menstruation.

Where the wife has passed the age for periods of menstruation the requirement of a declaration during a tuhr is inapplicable; furthermore, this requirement only applies to an oral divorce and not a divorce in writing.

Talaq Hasan: This consists of three pronouncements made during successive tuhrs, no intercourse taking place during any of the three tuhrs. When the last pronouncement is made talaq becomes irreversible.The first pronouncement should be made during a tuhr, the second during the next tuhr, and the third during the succeeding tuhr.

Talaq-al-Bidaat or Talaq-i-Badai : This consists of :

(i) three pronouncements made during a single tuhr, either in one sentences, e.g., "I divorce thee thrice", or in separate sentences, e.g., "I divorce thee, I divorce thee, I divorce thee" or,

(ii) a single pronouncement made during a tuhr clearly indicating an intention irrevocably to dissolve the marriage, e.g., . divorce thee irrevocably".

A talaq in the ahsan mode becomes irrevocable and complete in the expiration of the period of iddat.

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DIVORCE BY THE WIFE

Khula : A divorce by khula is a divorce with the consent, and at the instance of the wife, in which she gives or agrees to give a consideration to the husband for her release from the marriage tie In such a case the terms of bargain are matters of arrangement between the husband and wife, and the wife may, as the consideration, release her 'dyn Maher' (dower) and other rights, or make any other agreement for the benefit of the husband. Failure on the part of the wife to pay the consideration for the divorce does not invalidate the divorce, though the husband may sue the wife for it.

Mubara'at : A mubara'at divorce like khula is dissolution of marriage by agreement, but there is a difference between the origin of the two When the aversion is on the side of the wife, and she desires a separation, the transaction is called khula. When the aversion is mutual, and both the sides desire a separation, the transaction is called mubara'at. The offer in a mubara'at divorce may be proceed from the wife, or it may proceed from the husband, but once it is accepted, the dissolution is complete, and it operates as a talaq-i- bain' as in the case of khula.

Talaq-e-Taliq: It means contingent divorce. Under the Hanafi law the pronouncement of divorce may take effect immediately or at some future specified time or event, a condition may be attached to it and it will be vafid. So there can be a contingent divorce.

JUDICIAL DIVORCE AT THE SUIT OF WIFE (FASKH)

The Dissolution of Muslim Marriages Act, 1939, constitutes the most important enactment among various legislative measures sealing with Muslim personal law in India. Initially passed by the Central legislature of British India, the Act is now applicable in various part the Indian subcontinent (with certain changes in Pakistan and Bangladesh).

Grounds of Decree for Dissolution of Marriage : Section 2 of the Act lays down that a woman married under Muslim law shall be entitled to obtain decree for the dissolution of her marriage on any one or more of the following grounds namely :

(i) That the whereabouts of the husband have not been known for a period of four years provided that a decree passed on this ground shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfied his conjugal duties, the court shall set aside the decree.

(ii) That the husband has neglected or has failed to provide her maintenance for a period of two years.

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(iii) That the husband has been sentenced to imprisonment for a period of seven years or upwards, provided that no decree, shall, however, be passed on this ground until the sentence has become final.

(iv) That the husband has failed to perform, without reasonable cause his marital obligations for a period of three years.

(v) That the husband was impotent at the time of marriage and continues to be so provided that before passing a decree on this ground, the court shall, on application by the husband, make an order requiring the husband to satisfy the court within a period of one year from the date of such order that he ceased to be impotent, and if the husband so satisfied the court within such period, no decree shall be passed on tots ground

(vi) That toe husband has been insane for a period of two years or is suffering from leprosy or a virulent disease.

(vii) That she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated toe marriage before attaining toe age of eighteen years, provided that toe marriage has not been consummated (option of puberty).

(vi) That the husband beats her with cruelty.

(ix) Any other ground, which is recognized by as valid for; dissolution of marriages in Muslim Law.

Though this form of divorce is also mentioned in toe Shariat Act, 1937, it is very rare in India and of no practical importance. In ilaa the husband swears not to have intercourse with the wife and abstains for four months or more The husband may revoke the oath by resumption of marital life. After the expiry of the period of four months, in Hanafee law toe marriage is dissolved without legal process; but aliter in Ithanaa Asharee and Shafai law where legal proceedings are necessary. This form is obsolete in India. A case of ilaa was unsuccessfully raised before Allahabad High Court long ago.[7]

Zihaar (Injurious Assimilation)

The Shariat Act, 1937, also recognizes the right of wife to obtain divorce on the ground of Zihaar. It is a form of inchoate divorce. It literally means 'a divorce by unlawful compensation'.

In zihaar the husband swears that to him the wife is like the back of his mother. If he intends to revoke his declaration, he has to pay money by way of expiation or fast for a certain period.

[7] Bibi Rebana v. Iqhsdaruddin, 1943 All 295; For detail see K N Ahmad, Muslim Law of Divorce, Chapter on ilaa

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After the oath has been taken, the wife has the right to go to court and obtain divorce or restitution of conjugal rights on expiation.

Liaan (Mutual Imprecation)

In Muslim law the right of the wife to get a divorce on the husband imputing false un-chastity to her fell under a doctrine is known as liaan. The Quran and Hadith both guarantee dissolution of marriage by way of liaan.

The procedure of liaan may be described briefly as follows :

A husband accuses his wife of adultery but is unable to prove the allegation. The wife in such cases is entitled to file a suit for dissolution of marriage. It is to be observed that a mere allegation on oath, in the form of anathema, does not dissolve the marriages. A qadi must intervene; in Indian law, a regular suit has to be filed. The High Court of Bombay has laid down that, three conditions are necessary for a valid retraction :

(a) the husband must admit that he has made a charge of adultery against wife;

(b) he must admit that he was false, and;

(c) he must make the retraction before the end of the trial [8]

Divorce under the Parsi Marriage and Divorce Act, 1936

The Parsis in India are governed by the Parsi Marriage and Divorce Act, 1936, as amended by the Parsi Marriage and Divorce (Amendment) Act, 1988, in respect of their matrimonial matters.

Grounds for Divorce

Under the said Act, following grounds have been enumerated for seeking the dissolution of marriage :

(a) Continuous Absence for Seven Years : Section 31 of the Act provides that "If a husband or wife shall have been continually absent from his or her wife or husband for the span of seven years, and shall not have been heard of as being alive within that time by those persons who would have naturally heard of him or her, had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved".

(b) Non-consummation of Marriage : Under clause (a) of section 32 it is provided that any married person may sue for divorce on the ground that the marriage has not been

[8] Mohammadali Mahomed Qureshi v. Hazarabi, 1955 Bom. 265.

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consummated within one year after its solemnization owing to the willful refusal of the defendant to consummate it.

Thus two conditions are to be satisfied under the provision. There should be non-consummation of marriage within one year after the marriage, and that such non consummation should be due to willful refusal of the defendant

(c) Unsoundness of Mind : Clause (b) of section 32 makes unsoundness of mind of the defendant at the time of marriage, a ground of divorce, if he/she remains suffering up to the date of the suit

However, to avail this ground two more conditions are also to be satisfied, (i) that the plaintiff was ignorant of the fact at the time of marriage, and (ii) that the suit is filed within three years from the date of the marriage.

(d) Pregnancy by a Person other than Plaintiff : If at the time of marriage the defendant was pregnant by some person other than the plaintiff, it is a ground for seeking divorce under clause (c) of section 32.

However, for availing this ground it has to be shown, (i) that the plaintiff was ignorant of the said fact at the time of Marriage, (ii) that the suit has been filed within two years from the date of Marriage, and (iii) that marital intercourse has not taken place after the plaintiff came to know of the said fact.

(e) Adultery, Fornication, Bigamy, Rape or Unnatural Offence : If a defendant is guilty of committing adultery or fornication or bigamy or rape or an unnatural offence, the divorce may be granted to the petitioner under clause (d) of section 32. However, a suit seeking divorce under this clause must be filed within two years of plaintiffs coming to know of the fact.

(f) Cruelty : Under clause (dd) of section 32, cruelty is a ground for divorce.

(g) Grievous Hurt, Venereal Disease, Compelling to Prostitution : Clause (e) of section 32 provides that the plaintiff may file for divorce on the ground "that the defendant has since the marriage voluntarily caused grievous hurt to the plaintiff or has infected the plaintiff with venereal disease or, where the defendant is the husband, has compelled the wife to submit herself to prostitution".

(h) Sentence for Seven Years : If the defendant is undergoing a sentence of imprisonment for seven years or more for an offence under the Indian Penal Code, 1860, the plaintiff may file for divorce under clause (f) of section 32.

However, to avail this ground, the defendant must have undergone at least one year's imprisonment out of the said period prior to the filing of suit under this clause. Further, such

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imprisonment must have become final, in the sense that no appeal or revision is left to be filed against order of such sentence of imprisonment.

(i) Desertion : Deserting the plaintiff for at least two years is also a ground for divorce under clause (g) of section 32.

(j) Non-resumption of Cohabitation after Passing of Maintenance Order : Under clause (h) of section 32, if an order has been passed against the defendant by a Magistrate awarding separate maintenance to the plaintiff, and the parties have not had marital intercourse for one year or more, a decree for divorce may be sought.

(k) Conversion : Clause (j) of section 32 provides that if the defendant has ceased to be a Parsi by conversion to another religion, the plaintiff may file for divorce.

(l) Non-resumption of Cohabitation :

This ground is pari materia with sub-section (1A) of section 13 of theHindu Marriage Act, 1955.

(m) Divorce by Mutual Consent :

A suit for divorce under this proviso may be filed by both the parties to a marriage on the ground:

(i) that they have been living separately for a period of one year or

(ii) that they have not been able to live together; and

(iii) that they have mutually agreed that the marriage should be dissolved.

However, no suit under this proviso can be filed, unless one year has lapsed since the date of the Marriage, at the time of filing of the suit.

DIVORCE UNDER THE SPECIAL MARRIAGE ACT, 1954

The Special Marriage Act, 1954, which applies to all citizens irrespective of caste, creed or religion, can safely be called a national matrimonial law for its uniformity and lack of discrimination. The marriage conceived under the Act is monogamous, and the dissolution is judicial. Under the said law all modern matrimonial relief, in the event of the breakdown of marriage, are available to both the spouses.

Grounds for Divorce

Sections 27 and 28 of the Act are the provisions dealing with grounds for divorce available under the Act. These are as follows :

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(a) Adultery : This clause is in similar terms as clause (i) of sub-section (1) of section 13 of the Hindu Marriage Act.

(b) Desertion : Under clause (b) of sub-section (1) of section 27 of the Act, if the respondent "has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition", it is a ground for seeking divorce.

It is well-settled that to constitute desertion there must be : (i) the factum of separation;

(ii) the intention to bring cohabitation to a permanent end;

(iii) the element of permanence, which is the prime condition, requires that both these essential ingredients should continue during the entire period mentioned under the statute.

(c) Sentence of Imprisonment for Seven Years : In view of clause (c) of sub-section (1) of section 27, the petitioner may file for divorce on the ground that the respondent "is undergoing a sentence of imprisonment for seven years or more for an offence defined in the Indian Penal Code".

(d) Cruelty : Treating the petitioner with cruelty also affords a valid ground for divorce under clause (d) of sub-section (1) of section 27, as under clause (ia) of sub section (1) of section 13 of the Hindu Marriage Act, 1955.

The ground of cruelty is available both under section 13 of the Hindu Marriage Act and section 27 of the Special Marriage Act.

(e) Insanity : Clause (e) of sub section (1) of section 27 states that the petitioner may sue for divorce if the respondent "has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent.

(f) Venereal Disease : Under clause (f) of sub-section (1) of section 27, if the respondent suffering from venereal disease is in a communicable form, entitles the petitioner to divorce.

(g) Leprosy : Clause (g) of sub-section (1) of section 27 provides that if the respondent has been suffering from leprosy, the disease not having been contracted from the petitioner, the petitioner may seek divorce.

(h) Presumption of Death : Under clause (h) of sub-section (1) section 27 the petitioner may seek divorce on the ground that the respondent has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive.

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(i) Rape, Sodomy, Bestiality : Under clause (i) of sub-section (1A) of section 27, a wife may seek divorce on the ground that her husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality.

(j) Non-resumption of Cohabitation after Passing of a Decree for Maintenance : A wife may also sue for divorce under clause (ii) of sub-section (1A) of section 27 on the ground that in a suit under section 18 of the Hindu Adoptions and Maintenance Act, 1956, or in a proceeding under section 125 of the Code of Criminal Procedure, 1973 (or under the corresponding section 488 of the Code of Criminal Procedure, 1898) a decree or order, as the case may be, has been passed against the husband awarding maintenance to the wife notwithstanding that she was living apart and that since the passing of such decree or order, cohabitation between the parties has not been resumed for one year or upwards.

(k) Non resumption of Cohabitation after Passing of a Decree for Judicial Separation or Restitution of Conjugal Rights : Sub-section (2) of section 27 provides that either party to a marriage may seek divorce on the ground that there has been no. resumption of co-habitation between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation or a decree for restitution of conjugal rights in proceeding to which they were the parties.

(l) Divorce by Mutual Consent : Under section 28 of the Act, divorce by mutual consent may be sought by the parties to the marriage by presenting a joint petition on the ground that they have not been able to live together and they have mutually agreed to dissolve the marriage. Only if, On the motion of both the parties made not earlier than six months after the date of the presentation of such petition and not later than eighteen months after the said date, if the petition is not withdrawn in the meanwhile,

In view of section 29 of the Act, no petition for divorce can be presented before the expiry of one year from the date of entering the certificate of marriage in the Marriage Certificate Book. However, the Court may, upon an application, allow a petition to be presented before one year on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent

Orders and decrees passed by the Special Marriage Act, 1957 are appealable as per the provisions of section 39 of the Act.

DIVORCE UNDER FOREIGN MARRIAGE ACT, 1969

This Act was brought into existence to make provisions relating to marriages of citizens of India outside India. Section 30 of the Foreign Marriage Act, 1969, repeals the India Foreign Marriage Act,

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The Foreign Marriage Act, 1969 therefore, deals with the marriages between the parties at least one of whom is a citizen of India and such a marriage is solemnized in a foreign country but registered under the provisions of tire Foreign Marriage Act. The central govenmrnt may declare that marriage solemnized under the law in force in such foreign country shall be recognized by Courts in India as valid.

Grounds for Divorce

All the grounds for seeking divorce as provided for in the Special Marriage Act, 1954 have been recognized as grounds for divorce under the Foreign Marriage Act, 1969 too. In this respect section 18(1) of the Act states "subject to the other provisions contained in this section, the provisions of Chapter VI (Nullity of Marriage and Divorce), of the Special Marriage Act,

1954 shall apply in relation to marriages solemnized in a foreign country between the parties of whom at least one is a citizen of India as they apply in relation to the marriages solemnized under that Act".

Therefore, section 18 of the Foreign Marriage Act provides for granting matrimonial relief under the Special Marriage Act, 1954 not only in relation to the marriage solemnized under the Foreign Marriage Act but also in relation to any marriage solemnized in a foreign country between the parties of whom at least one is a citizen of India. The provisions of the Special Marriage Act, 1954, apply in relation to marriages solemnized in a foreign country between parties of whom one at least is a citizen of India as they apply in relation to marriages solemnized under the Foreign Marriage Act, 1969.

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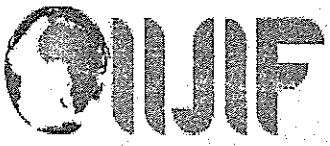

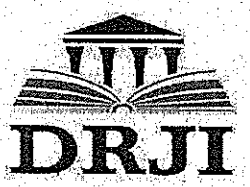

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E- Waste Protection Through National Green Tribunal in India: An Analysis

Apeksha Chaudhary*& Prof. Vaibhav Goel Bhartiya •

Abstract

India is becoming the big market of E- waste. It is becoming a serious issue in our country, driven by the rapidly increasing quantities, as well as its toxic nature and the economic value of the recycled substance. E-waste has an adverse effect on the human rights of the individuals and environment too, which is the essential part of the right to life. Lack of awareness among the public and stakeholders about the proper disposal policies of e- waste causing problems to their day to day life style. This is alarming time to take some strict action to control the e- waste pollution in India. As per the Supreme court judgments and Law Commission Report (2003),National green tribunal was constituted for the preservation and protection of the environment and prove a mile stone in improving the environmental condition of the country. The main objective of this research paper is to analysis the role of national green tribunal for controlling the problem of E- waste management and for the protection and preservation of environment in India

Key words: E-waste, National green tribunal, environment, human rights, Central Pollution Control Board.

INTRODUCTION:

E-Waste stands for Electronic-Waste. It is the term used to describe old, end-of-life or discarded electronic appliance. It includes This may include items such as computers, servers, mainframes, monitors, CDs, printers, scanners, copiers, calculators, fax machines, battery cells, cellular phones, transceivers, TVs, medical apparatus and electronic components besides white goods such as refrigerators and air-conditioners.

'E-waste' means electrical and electronic equipment, completely or in part discarded as waste by the consumer or bulk consumer as well as rejects from manufacturing, refurbishment and repair processes. Electrical and electronic equipment means equipment which is dependent on electrical currents or electro-magnetic fields to be fully functional.

E- Waste:

Section 3(r) of e-waste (Management) Rules, 2016: 'E-waste' means electrical and electronic equipment, whole or in part discarded as waste by the consumer or bulk consumer as well as rejects from manufacturing, refurbishment and repair processes.

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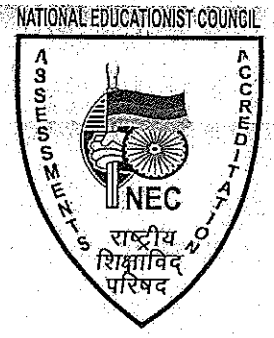

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(English Section)

ANALYSING THE RELEVANCY OF SEDITION LAWS VIS-À-VIS FREEDOM OF SPEECH AND EXPRESSION IN INDIA[1]

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Abstract

Free speech and free expression, is one of the most crucial right in democracy. It opens up a channel of free discussion and debate, help in formation of public opinions on political, social and economic matter, allow individual to attain self-fulfilment and make easy balance between stability and social change. Due to this reason freedom of speech and expression consider as the first condition of liberty and also place first and foremost in hierarchy of liberties as well as assist and protect all other liberties. Second press commission of India in its report regarded this freedom as mother of all liberties. The freedom of speech and expression are sometime posing a difficult question i.e., what extent government can monitor the individual conduct. However, no right is absolute or completely unrestricted. Reasonable restrictions should always place on each and every freedom to maintain public order, sovereignty and integrity of state. Article 19(3) of International Covenant on Civil and Political Rights is corresponding to article 19(2) of Indian constitution which impose reasonable restriction on freedom of speech i.e., for security of state, friendly relation with foreign state, decency or morality. The section 124A of Indian Penal Code is one species of these restriction i.e., offence of sedition. Although restriction on ground of sedition not get place in Indian constitution but it is a part of penal code of India. The significance of this provision in a diverse and independent India is matter of constant debate. One side observe this provision as vestige of colonial rule thereby inappropriate in democratic India and there are proper statutory and constitutional safeguard in Indian law even without section 124A. While other side feel necessary stay of this section due to growing threat to national security.

Keywords: democracy, liberty, freedom of speech & expression, sedition, constitution etc.

FREE SPEECH AND SEDITION LAW: BEFORE INDEPENDENCE

Indian Penal Code[2] (hereinafter IPC) was drafted on the direction of first law commission of India, setup in 1834 under the charter of 1833. Commission was presided by the Lord Thomas Babington Macaulay who also drafted the IPC during his time in Bengal presidency in 1830s. Although sedition as an offence

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[2] To see bare act of IPC visit: https://legislative.gov.in/sites/default/files/A1860-45.pdf. (May 02, 2019), (4.00pm)

was not a part of original penal code when it was enacted in 1860. Many historians have their own views on this omission but when this matter was asked from Mr. James Stephen who was also a father of Indian Evidence act, he referred the letter written by Sir Barnes Peacock to Mr. Maine where he commented, — "I have watched into my records and I think the omission of a provision in lieu of section 113 of the original Penal Code must have been through mistake [...] I think however that it was an oversight on the part of the committee not to substitute for section 113".[3] Thereafter Mr. James set out to correct the omission. Consequently, through special act XVII of 1870, section 124A[4] sedition as an offence included in penal code. But the real reason for adding this section in IPC was divided into two views one was Britishers view and other is Indian views. Mr. Stephen from British side observe that if sedition law is absent from Indian Penal Code, then offence of sedition should be punished under harder common law of England while Indian View was that due to Wahabi activities and rising of insurrection against Britishers lead to adding of this section [5] After enter into code section 124A, was first amended in 1898 under IPC (amendment) act 1898, this act amend the punishment and definition of sedition law earlier provision define sedition as 'exciting or attempt to excite feeling of disaffection to the government establish by law' but amended provision also define 'bringing or attempt to bring hatred or contempt towards the government establish by law' are punishable with transportation of life or any shorter term[6]. The aim of provision was to penalise the disaffection towards government[7]. In Queen Empress vs. Bal Gangadhar Tilak[8], Justice Strachey interpret disaffection as "It means enmity, hatred, hostility, dislike, contempt and every form of ill-will towards the Government. 'Disloyalty' is however the best general word, which comprehends every possible form of bad will towards the Government. To pressurize the Indian freedom fighters and to stop the public meeting west minister parliament pass the Prevention of Seditious Meeting act 1907. Which replaced by act of 1911. Two similar decisions were given in Queen Empress vs. Ramchandra Narayan[9] and Queen Empress vs. Amba Prasad[10] where attempt to excite feeling of disaffection towards government were defined "similar to an attempt to build dislike towards the Government established by law, to excite political discontent, and alienate the people from their allegiance" and in latter case similar interpretation of disapprobation were given.

FREEDOM OF SPEECH AND SEDITON LAW: AFTER INDEPENDENCE

India free from colonial rule and sovereign in 15 August 1947. There was much curiosity in Indians that how this political law was used by the government against the convict of this sedition law because framers of Indian Constitution denied to include this law in constitution as restriction on freedom of speech and expression but it persists in penal code of independent India and Britisher use it to stifle the voice of

[3] Quoted in Arvind Ganachari, Nationalism and Social Reform in a Colonial Situation (Kalpaz, 2005).

[4] Section 124A of IPC read as follow:

124A. Sedition. —Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in [India], shall be punished with 16[imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine

. Explanation 1. —The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2. —Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3. —Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.]

[5] R. SAMMADAR, EMERGENCE of the POLITICAL SUBJECT 45 (2010); NARAHARIK AVIRAJ, WAHABI and FARAZI REBELS of BENGAL 72 (1982).

3 See K.I. Vibhute, P.S.A. Pillai's Criminal Law 335 (Lexis Nexis Butterworths, Nagpur, 2017)

[7] n see W.R. Donogh, A Treatise on the Law of Sedition and Cognate Offences in British India (Thacker, Spink and Co., Calcutta, 1911)

[8] (1917) 19 BOMLR 211; to see full case visit: https://indiankanoon.org/doc/1188602/. May 02, 2019), (4.00pm)

[9] ILR (1898) 22 Bom 152.

[10] 0 ILR (1897) 20 All 55.

freedom fighters. After independence the first case book under section 124(A) was Ramesh Thapar vs. State of Madras[11] it came for consideration to supreme court in which court held "unless the freedom of speech and expression endanger the security of state or tend to overthrow the state government, any law imposing restriction upon the same would not fall within the purview of article 19(2) of constitution. In case of Tara Singh Gopi Chand vs. The State[12], Punjab high court held that section 124A of IPC was unconstitutional, because it contravenes the right of free speech under the article 19(1)(a)[13]. Court observes that "— sedition law, though important during a reign of foreign rule has now become unsuitable in present situation." Due to the ruling of supreme court in Ramesh Thapar were court held article 19(1)(a) restricted on the reason of nation security. Accordingly, first constitution amendment was done which added two more restriction on article19(2) namely 'friendly relation with foreign state' and 'public order.'

In Ram Nandan vs. State of Uttar Pradesh[14] court excerpted the line of Pt Jawahar Lal Nehru who introducing first constitutional amendment bill in 1951, related to sedition he stated "Now so far as I am analyse that provision of sedition law is highly obnoxious and objectionable and it should have no place for historical and practical reasons, if you like, in any body of laws that we might pass. We should rid it from this provision sooner. We have other laws to deal with these situations, because all of us have enough experience of it in a variety of ways and apart from the logic of the situation, our urges are against it." The constitutional validity of section 124(A) was challenged in Kedar Nath Singh vs. State of Bihar[15] where court upheld the validity of 124(A) and ensure that public disorder was necessary ingredient for section 124A. Following this rule supreme court in Bilal Ahmad Kaloo vs State of Andhra Pradesh[16] quashed the charges of 124A because appellant fail to prove that accuse done anything which might cause public disorder or threaten the existence of government.

INTERNATIONAL JURISDICTION OVER SEDITION LAW AND FREE SPEECH AND EXPRESSION

- UNITED STATES OF AMERICA VIEW:

Through the Sedition Act of 1798[17], sedition was mad punishable in United States. However, this act repealed in 1820. But again, enacted by U.S Congress in 1918 to save Americans interest from first world war.[18] When we remind the history of US the constitution of United States, forbid the states from enacting any legislation which diminish the effect of first amendment i e , right to expression. Question was arisen among jurist that whether first amendment aimed to eliminate seditious libel. However, many conflicting views are come. In case of Schenck v. United States[19], court adjudicate the validity of Sedition Act 1918 and also, laid down the clear and present danger test for limiting freedom of expression court. Under Alien Registration Act 1940[20], sedition was

[11] 1950 AIR 124, 1950 SCR 594
[12] 1951 CriLJ 449
[13] Article 19(1)(a) of constitution read as follow:
(1) All citizens shall have the right—
(a) to freedom of speech and expression
[14] AIR 1959 All 101
[15] 1962 AIR 955, 1962 SCR Supl. (2) 769
[16] AIR 1997 SC 3438
[17] Section 2 of the Sedition Act, 1798 defines sedition as : To write, print, utter or publish, or cause it to be done, or assist in it, any false, scandalous, and malicious writing against the government of the United States, or either House of Congress, or the President, with intent to defame, or bring either into contempt or disrepute, or to excite against either the hatred of the people of the United States, or to stir up sedition, or to excite unlawful combinations against the government, or to resist it, or to aid or encourage hostile designs of foreign nations
[18] This Act was a set of amendments to enlarge Espionage Act, 1917.
[19] 249 U.S. 47 (1919).
[20] To see Alien Registration Act 1940 visit: https://loveman.sdsu.edu/docs/1940AlienRegistrationAct.pdf (May 10, 2019), (2.00 pm).
Section 1 and 2 of above act read as follow:

brought as an offence. This act also known as Smith Act and penalise supporting of aggressive overthrow of government. But this challenge in Dennis vs. United States[21] where court upheld the arrest and apply the

"Clear and present danger" test and observe "...the words [of the act] cannot mean that, before the Government may act, it must wait until the putsch is about to be executed, the plans have been laid and the signal is awaited. If Government is aware that a group aiming at its overthrow is attempting to indoctrinate its members and to commit them to a course where by they will strike when the leaders feel the circumstances permit, action by the Government is required. The argument that there is no need for Government to concern itself, for Government is strong, it possesses ample powers to put down a rebellion, it may defeat the revolution with ease needs no answer. For that is not the question. Certainly, an attempt to overthrow the Government by force, even though doomed from the outset because of inadequate numbers or power of the revolutionists, is a sufficient evil for Congress to prevent The damage which such attempts create both physically and politically to a nation makes it impossible to measure the validity in terms of the probability of success, or the immediacy of a successful attempt[22]".

- **AUSTRALIAN VIEW:**

Common law of sedition was inherited by Australian states and its territories but Queensland, Western America and Tasmania codified the law at early of twentieth century.[23] In 1920 sedition as an offence was added in the Crimes Act 1914 of Australia. This date was also the date of origination of Communist Party of Australia. In 1984 Hope Commission was composed to recommend the definition of sedition law in Australia and it should be aligned with the definition of Commonwealth[24]. Afterwards Gibbs committee in 1991 again reviewed the sedition provision. However, conviction was limited to the acts that stipulate violence for the purpose of disturbing or overthrowing constitutional authority. For above purposes changes were made in section 7 of Anti-Terrorism ACT 2005 and also in section 80.2 an 80.3 of Criminal Code act 1995. Australian Law Reform Commission (hereinafter ALRC) recommended the change of the term sedition to any other word[25]. ALRC recommendation was accepted and through the National Security

Section 1. (a) It shall be unlawful for any person, with intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States— (1) to advise, counsel, urge, or in any manner cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States; or (2) to distribute any written or printed matter which advises, counsels, or urges insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States

Sec. 2. (a) It shall be unlawful for any person— (1) to knowingly or wilfully advocate, abet, advise, or teach the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or by the assassination of any officer of any such government; (2) with the intent to cause the overthrow or destruction of any government in the United States, to print, publish, edit, issue, circulate, sell, distribute, or publicly display any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence. (3) to organize or help to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any government in the United States by force or violence; or to be or become a member of, or affiliate with, any such society, group, or assembly of persons, knowing the purposes thereof.

[21] 341 U.S. 494 (1951)

[22] Consultation Paper on Sedition issue by Law Commission of India. Page no. 7, para 2; for pdf visit: https://lawcommissionofindia.nic.in/reports/CP-on-Sedition.pdf. (May 10, 2019), (2.00 pm).

[23] See Australian Law Reform Commission Review of Sedition Laws Issues Paper 30, 2006, 33. The common law of sedition is retained in Victoria and New South Wales. See Gareth Griffith NSW Parliamentary Library Research Service "Sedition, Incitement and Vilification: Issues in the Current Debate", Briefing Paper No 1/06, February 2006, chapter 3 for the law of sedition in NSW

[24] Royal Commission on Australia 's Security and Intelligence Agencies, Report on the Australian Security Intelligence Organization (1985) cited in Australian Law Reform Commission, —Report on Fighting Words. A Review of Sedition Laws in India‖ (July 2006)

[25] The ALRC report suggested that "The Australian Government should remove the term „sedition 'from federal criminal law. To this end, the headings of Part 5.1 and Division 80 of the Criminal Code (Cth) should be changed to „Treason and urging political or inter-group force or violence ', and the heading of s 80.2 should be changed to „Urging political or inter-group force or violence '.

This ALRC report knows as —Report on Fighting Words; to see full report visit: https://www.alrc.gov.au/wp-content/uploads/2019/08/ALRC104.pdf

Legislation amendment act 2010, the word sedition was replaced from the act and ne word 'urging violent offence' were added.

- **UNITED KINGDOM VIEW**

The one of the initial cases which establish the seditious libel in U.K was De Libellis Famosis[26]. The reason given for making sedition law is to prevent speeches hostile for the necessary respect to government[27]. The vestige of sedition law can be trac e to the Statue of Westminster 1275[28], where king consider to be the holder of divine right[29]. In R vs. Sullivan case Fitzgerald J define sedition as "sedition is itself a broad term and hold all those actions, whether by words or writings responsible for disturbing the peace of nation[30]" In United Kingdom the beginning of campaign to eliminate the seditious libel was marked by the United Kingdom Law Commission Working Paper which investigate the 'whether modern democracy needs law of seditious libel[31]'. The new Human Right Act[32] enacted in 1998 which make presence of sedition libel law irrelevant because sedition law tenets contravene with above act and European Convention of Human Rights Finally in 2009 sedition as an offence was abolished and deleted from Section 73 of Coroners and Justice Act, 2009[33]

CASES THAT HIGHLIGHTED THE DEBATE OVER SECTION 124A IN INDIA

John Stuart Mill[34] said 'a good government is that where the intelligence of people is promoted'. He advocated for the uninterpreted flow of expression and idea in society and for stability of society and no one should allow to supress the voice of citizens.

The debate over sedition law and freedom of speech are highlighted in case of Brij Bhusan vs. State of Delhi[35] and Ramesh Thapar vs. State of Madras[36] where court held that no law restricts freedom of speech on the ground of 'disturbance of public order' and law restrict freedom it is unconstitutional. Court also defines 'disturbance of public order' "as nothing less than endangering the foundation of state or threaten to overthrow." These judgements of supreme court, promoted the first constitution amendment. In which article19(2) rewritten undermining the 'security of the state' was replaced with 'in the interest of public order.[37]' In the case of M/S Aamada Broadcasting

[26] 77 Eng. Rep. 250 (K.B. 1606).

[27] William T. Mayton, —Seditious Libel and the Lost Guarantee of a Freedom of Speech‖ 84 Colum. L. Rev. 91 (1984).

[28] To see Statue of west minister 1275 visit: https://ucadia.s3.amazonaws.com/acts_uk/1200_1299/uk_act_1275_statute_westminster.pdf. (May. 15, 2019) 4.00 pm

[29] See English PEN, A Briefing on the Abolition of Seditious Libel and Criminal Libel (2009).

[30] R v. Sullivan (1868) 11 Cox C.C. 44 at p. 45 cited in United Kingdom Law Commission, —Codification of the Criminal Law: Treason, Sedition and Allied Offences‖, Working Paper no. 72, available at: http://www.lawcom.gov.uk/wp-content/uploads/2016/08/No.072-Codificationof-the-Criminal-Law-Treason-Sedition-and-Allied-Offences.pdf (last visited on Sep. 15, 2021) at 4.00pm

[31] Working Paper No. 72

[32] To see Human Right Act 1998 visit: http://www.unesco.org/education/edurights/media/docs/e25aa4bc217eb36d75471f751fb531874ce1fe8d.pdf. (May 15, 2019) 4.00pm

[33] Section 73: Abolition of common law libel offences etc the following offences under the common law of England and Wales and the common law of Northern Ireland are abolished—

(a)the offences of sedition and seditious libel;

(b)the offence of defamatory libel;

(c)the offence of obscene libel.

To see full act visit: https://zakon.co.uk/admin/resources/downloads/coroners-and-justice-act-2009.pdf (May 15, 2019) 4.00pm

[34] an English philosopher, political economist, Member of Parliament (MP) and civil servant

[35] 1950 AIR 129, 1950 SCR 605

[36] AIR 1950 SC 124.

[37] Article 19(2) before amendment:

Co. Pvt. Ltd. vs. The state of Andhra Pradesh & others[38], three judges division bench of supreme court held that 'there is need to define the limit of sedition law' due to rises of misuse of sedition law by authorities. High Court of Punjab and Haryana in Tara Singh Gopal Chand vs. The State[39] held that section 124A of IPC was unconstitutional because it violates right of free speech. After in 1958 case of Sabir Raza vs. The State[40] court held that speech even if disrupt the public order cannot penalise under section 124A. in Ram Nandan vs. State of UP[41], the Allahabad high court struck down section 124A as unconstitutional because it put restriction on free speech was not in interest of public interest. After wards Kedarnath Singh[42] judgement came which is consider as the most authoritative judgement of supreme court on section 124A In this court check the validity of this provision, five judges constitutional bench sit and overrule all decision of high courts and upheld validity of sedition law and treat section 124A as valid exception of freedom of speech and expression.

CAN EVERY CRITICISM OF GOVERNMENT AMOUNTS TO SEDITION?

Supreme court of India in its many decisions observe that every criticism of government not amount sedition. The intention of speaker should be check before considering the act seditious. In Balwant Singh vs. State of Punjab[43] refuse to punish two convicts who are guilty of casual raising of slogans against state, court reasoned that raising few lonesome slogans occasionally without not anymore not create any fear to government and also not rise the feeling of enmity or hatred among different group of communities. The decision shows the intention of apex court to widened the scope of freedom of speech and expression. Also, in Javeed Habib vs. State of Delhi[44] honourable court held - "criticization of actions of government, holding a view or opinion against Prime Minister action, drawing presumption from the action and speeches of chief of government that, particular chief was against particular community, cannot be considered as sedition under Section 124A of the IPC. The criticism of the government is the 'hallmark' of real democracy. As a matter of fact, the soul of democracy is criticism of the Government. The democratic system which necessarily includes an advocacy of the replacement of one government by another, gives the right to the people to criticize the government. In India, the political parties are more known by the leaders of that party. In such party's leader is an embodiment of the party and the party is known by the leader alone. In case of Sanskar Marathe vs. State of Maharashtra & another,[45] court differentiate between the 'disloyalty and criticism' and observe "... disloyalty to Government which is established by law is not the same thing as commenting in strong terms upon the acts of Government, or its agencies, so as to improvement the condition of the people or to secure the cancellation or alteration of those acts by legal means.

Nothing in sub-clause *(a)* of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State.

Article 19(2) after amendment:

Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of [the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.]

[38] W P (Crl.) No. 216/2021 (X)

[39] 1951 CrlLJ 449

[40] Cri App No. 1434 of 1955.

[41] AIR 1959 All 101, 1959 CriLJ 1

[42] AIR 1954 SC 660: Bench of five Judges name: BENCH: SINHA, BHUVNESHWAR P. (CJ) DAS, S.K. SARKAR, A.K. AYYANGAR, N. RAJAGOPALA MUDHOLKAR, J.R

[43] AIR 1995 SC 1785.

[44] (2007) 96 DRJ 693.

[45] 2015 Cri LJ 3561.

Can criticization of supreme court judgement on National Judicial Appointment Commission[46] amounts to sedition. Apex court in Arun Jaitley vs. State of Uttar Pradesh[47] held that it was only a fair criticism and not amounts to sedition.

CONCLUSION

In democratic nation people have freedom to show their liking towards their nation in their own way. Whether through constructing criticism or debates, disliking government policies or through peace strike. While these expressions are might be unpleasant for government or to their supporters but this expression not be labelled with seditious act. In my view the word sedition is a dangerous word, person charge with sedition law became a terrorist in eyes of nation and society where he lives and from prison to outside world, he faces extreme defamation and anger of people whether charges impose on him are declared false or malicious. So, I observe that government have to issue strong guideline to save this provision from misuse and allow authorities to use this law with great caution.

[46] To see THE NATIONAL JUDICIAL APPOINTMENTS COMMISSION ACT, 2014 ACT NO. 40 OF 2014, please visit on: https://legislative.gov.in/sites/default/files/A2014-40.pdf. (May. 22, 2019); (5.00 pm)
Purpose of NJAC enactment: An Act to regulate the procedure to be followed by the National Judicial Appointments Commission for recommending persons for appointment as the Chief Justice of India and other Judges of the Supreme Court and Chief Justices and other Judges of High Courts and for their transfers

[47] 2016 (1) ADJ 76

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Concept of Corporate Social Responsibility and Company Act 2013

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Abstract -- Company, since it thrives in the very social eco-system, is obligatory to community. The spatial and temporal endurance of socially accountable, legal and environmentally sound market solutions shall be. Governmental efforts to place CSR in the core business agenda recognise the policy commitment to fostering socio-responsive enterprise in a region. The present article is the result of a country-specific analysis analysing CSR mandates, especially the Companies Act 2013, in a historical context in India in general. Desk analysis is the methodology of the sample. The study found that India's recent mandate in this regard is to bring CSR commitments together in a phase of internalization and institutionalisation of corporate success.

Keywords – Corporate Social Responsibility, Corporate Philanthropy, CSR, Companies Act 2013, State Engagement in Business

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1. INTRODUCTION

Social corporate responsibility (SCR) may be characterised as a company's sense of responsibility to the world and to the society in which it works (both ecological and social). This duty can be fulfilled by companies by waste and emission control procedures, educational and social programmes, environmentally sustainable practises and related activities. CSR isn't all gifts or charity. CSR is a way that companies will visibly add to the common benefit while doing business. Socially conscious enterprises are not restricted to the use of capital in businesses that only raise their income. They use CSR for integration in the activities and development of the organisation with fiscal, environmental and social goals. CSR is said to enhance its consumers and society's brand image.

2. CSR

In order to engage with, and behave with, stakes stakeholders, CSR applies to the notion that businesses would participate in socially and environmentally-relevant causes. CSR is referred to as the "Triple Bottom-Line Approach" to assist the company to further its business needs and the corporation's broader commitments. CSR differs from charity acts such as sponsorships and other philanthropic activities, as this latter can serve as a corporate strategy at a shallow or surface level but the latter attempts to examine the long-standing socioeconomic and environmental problem in a detailed manner.

The promotion of CSR should be promoted for small or medium-sized enterprises (SMEs), not over-extending their resources so small, taking the corresponding fiscal skills into account. The Triple Bottom Line (TBL) CSR is designed to provide developing countries with a three-pronged strategy to improve their socio-economic development and enable them to become more competitive, in line with UNIDO. TBL allows private enterprises and organisations to coordinate their operations in a social, economic and environmental manner. This would allow countries to meet long term Sustainable Development Objectives (SDGs). Companies should be allowed to undertake cost-effective CSR programmes to support UNIDO-based culture and the community.

2.1 Need of CSR

CSR is accountable either specifically or implicitly for creating a great deal of goodwill for businesses. This contain These

- Enhance staff loyalty and enable firms to maintain them for a longer term.
- Enhance the legitimacy of businesses and help them access a larger market share.

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Judicial Trends Towards Diversity in Divorce Laws

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The enactment and enforcement of law depends upon determination and firmness of the executive. Many time legislature makes the law under public pressure but leaves loopholes which put hindrances in the implementation of law. In such circumstances judiciary comes forward to expound the law and enforce it. The judicial review of administrative decisions has been developed to appraise and scrutinise the tendencies of ignoring rules and adopting arbitrariness in implementing law drafted by the government and its administrative wings. *De Smith* in his work *Judicial Review of Administrative Action* (1995) enlisted some of the factors leading to lethargy of the enforcement agencies. These include: bad faith, dishonesty, unreasonableness, reliance on extraneous circumstances, failure to reconsider relevant matter and disregard of public policy. Nevertheless, judiciary has played pivotal role to provide remedies and reliefs to the sufferings.

The practice adopted, so far by the Hon'ble Supreme Court and High Courts in judicial review of the complex issues relating to social justice and women empowerment and its various components has been conspicuous. Before taking a decision, they used to refer the matter to professionals and technical bodies and commissions for advice.

CRUELTY AS A GROUND FOR DIVORCE

The notion of 'Cruelty' as a ground of divorce has gone through substantial expansion over the last four decades. In contemporary legal discourse, a wide range of issues of matrimonial conflict can be brought within its purview. This has led to cruelty being the most widely used ground of matrimonial misconduct. Prior to the 1976 amendment to HMA and SMA, cruelty was defined within the narrow confines of conduct which would be harmful or injurious to the petitioner. Hence it was necessary to base the allegation of cruelty upon acts of physical violence.

In 1975, in the leading case *Dastane v. Dastane*[1], the Supreme Court held that the standard of proving cruelty is not 'beyond reasonable doubt' as per the principles of English law. It was held that behaviour which would cause a reasonable apprehension in the mind of the petitioner that it will be harmful or injurious for him or her to live with the respondent would constitute 'cruelty'. The Supreme Court warned that the courts are not dealing with 'ideal' couples but with a particular man and a particular woman before it. Their social context is a relevant factor while determining the extent of cruelty that is inflicted by one spouse upon the other. In the following year, the Marriage Laws (Amendment) Act, 1976 widened the scope of the statutory provision to include conduct due to which it would be impossible for the petitioner to live with the respondent without agony, torture, or distress.[2]

No to Reside in the Joint Family by Wife : Since the joint family system still prevails among many rural and even urban communities, a woman's desire to set up a separate nuclear, family often leads to matrimonial conflicts leading to divorce. Within a traditional set up, this demand may be construed as cruelty. But there, are several judgements which have acknowledged the changing social scenario and the needs of a modern, educated woman to break away from the traditional joint family set up.

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In *Rakesh Goyal v. Deepika Goyal*[3], it was held that repeated demands of the wife for a separate residence do not amount to cruelty. The high court commented that the courts cannot be oblivious to present-day trends in society wherein most newly-wed women want their privacy and want to live separately from their in laws. In *Ratna Banerjee v. Chandra Madhab Banerjee*[4] it was held that if the husband is in a transferable job and stays at different places away from the parental house, the demand of the wife to stay with him would not amount to cruelty. In *Arun Chettri v. Madhu Chettri*[5], it was held that reluctance of the wife to live with her husband's mother and sister does not amount to cruelty

ADULTERY AS A GROUND FOR DIVORCE

Adultery was the first matrimonial fault introduced as a ground for divorce. Adultery is both matrimonial as well as a criminal offence. A husband cannot obtain divorce on the ground of adultery merely because the wife was a victim of rape. In *Rajesh Kumar Singh v. Rekha Singh*[6], the petition filed by the husband for divorce on the ground of the wife's adultery was dismissed by the trial. In appeal, while affirming the order of the trial court, the Allahabad High Court held that the allegations against the wife were frivolous. The court clarified that the wife did not have any illicit relationship and that on the contrary, she was gang raped. There is a fundamental difference between the two: one is with consent and the other is without consent", the court clarified. Regarding her refusal to disclose this fact to the husband, the court further commented: "Rape leaves physical as well as emotional scars on the victim. Her physical wounds may have healed but the emotional scars, though less visible, are more difficult to treat. The wife was not disclosing the entire picture, as it was natural for any woman to be hesitant to talk about such a gruesome crime against her."

The primary requirement of the ground for adultery is that the erring spouse should have consented to the act of adultery. Without consent, sexual relations outside wedlock do not constitute adultery. Similarly, if the party lacks the mental capacity to give consent on account of being a minor or a person of unsound mind, the presumption is that intercourse was not voluntary. Hence, the act cannot be used as a ground for divorce.

If the husband is able to prove that he had no access to the wife at the time when the child was conceived, it will be conclusive proof of adultery. Though there is a presumption of paternity under Section 112 of the Indian Evidence Act, it is a rebuttable and if the husband is able to make out a prima facie case of non-access, the courts may grant permission for DNA testing to disprove paternity. In *Jyothi Ammal v. K. Anjan*[7], the husband's plea of adultery was upheld on the basis of the report of DNA test excluded the husband as the father of the child and he was awarded a decree of divorce on the ground of adultery. The courts need to exercise great caution while deriding cases which contain flippant allegations against the moral character of women by their husbands. In *Meera v. Vijay Shankar Talchidia*[8], the trial court had awarded a decree of divorce to the husband on the ground of adultery and cruelty. In appeal, the Rajasthan High Court set aside the decree and commented:

NON-PERFORMANCE OF MARITAL OBLIGATIONS BY WIFE

The contract of marriage encompasses within it the right of mutual conjugality. Hence denial of sexual relationship to the spouse is construed as cruelty. Non-consummation of marriage, denying sexual access, and incapacity to perform sexual acts are matrimonial offences which will entitle the other spouse to either dissolve or annul the marriage. While the obligation is mutual, more often than not, it is the women who are called upon to fulfill this obligation. Hence withdrawal from sexual contact becomes a ground for divorce. In *Samar Ghosh v. Jaya Ghosh*[9], while examining allegations of mental cruelty on the ground of the wife's refusal to cohabit with her husband, the Supreme Court ruled that it amounts to mental cruelty and held.

NORMAL QUARREL IS NOT AMOUNT TO CRUELTY

A term which is used frequently while determining the extent of cruelty is 'normal wear and tear of married life.' Courts have held that the normal wear and tear of married life and minor quarrels do not constitute cruelty. To constitute cruelty under matrimonial statutes, the conduct of the other spouse has to be such that the affected spouse cannot reasonably be expected to live with him or her. Allegations of cruelty have to be weighty and not frivolous.

In *Asha Gupta alias Anju Gupta v. Rajiv Kumar Gupta*[10], while setting aside the decree of divorce granted to the husband by the trial court, the high court held minor quarrels cannot be construed as cruelty. The court also commented that irretrievable breakdown of marriage cannot be invoked for dissolving the marriage. In *Nitin Tidke v. Sujata*[11], it was held that a mismatch of personalities and friction caused thereof is not cruelty. The husband could not prove that he had suffered mental agony to such an extent that it could no longer be possible to continue co-habitation, in *Prar Nath v. Pushpa Devi*[12] and *Sukhwinder Kaur v. Jatinderbir Singh*[13], it was held that the wife staying away from the matrimonial home for a few days cannot be construed as cruelty. It was held that divorce cannot be granted based on general pleadings without citing specific incidents. In *C.R. Chenthilkumar v. K. Sutha*[14], the husbands allegations that the wife refused to cook food and to have sexual intercourse, that she was mentally abnormal and she deserted the matrimonial home were not supported by appropriate evidence. The court commented that the allegations amount to ordinary wear and tear of matrimonial life and cannot be construed as cruelty. In *Jitender Singh v. Yeshwanti*[15], the parties stayed together as husband and wife even after filing of divorce petition. Hence it was held that the alleged cruelty was condoned and the matrimonial bond was not ruptured beyond repair. The court also commented that a solitary incident of cruelty cannot be a ground for dissolution of marriage. Further, it was held that the ground of irretrievable breakdown of marriage cannot be invoked when one of the spouses is genuinely interested in living with other, forgiving and forgetting existing bitterness.

WIFE'S DEMANDS FOR A LAVISH LIFE

The desire to continue one's education or even for a better quality of cosmetics cannot be construed as cruelty. In *Padam Singh v. Anita Bai*[16], it was held that the wife's demands for a better quality of face powder and to go shopping or not behaving properly with her husband or mother-in-law are not acts which amount to cruelty. The husband failed to produce reliable evidence that the behaviour of his wife was so cruel as to cause reasonable apprehension that it is not possible to continue married life. The court commented : 'It is clear that the wife has not deserted the husband but the wife was living separately because the husband refused to keep her in the matrimonial house.'

WHEN THE HUSBAND IS GUILTY OF MISCONDUCT

If the husband himself is guilty of a matrimonial misconduct, he cannot take advantage of his own wrong and obtain a decree of divorce. In *S.K. Karg v. Chanchal Kumari*[17], a the Punjab and Haryana High Court held that baseless allegations of cruelty constitute mental cruelty of the gravest land. Merely a claim that the wife used to beat the children cannot be construed as cruelty against the husband. On the other hand, it was proved that the husband caused injuries to the wife, resulting in a fracture of her arm for which she had to be operated upon. The court commented that it was the husband who had treated the wife with cruelty. In *Vinod Kumar Gupta v. Santosh Gupta*[18], it was held that if the wife is unable to receive proper treatment for mental stress caused by the husband and this aggravated her mental strain, it cannot be construed as cruel behaviour towards him.

ALLEGATIONS OF CRUELTY BY WIFE UPHELD

In order to obtain a decree of divorce, the allegations have to be grave and weighty and the husband should be able to prove them. The following instances were held to be sufficiently grave to award the husband a decree of divorce.

In *Mayadevi v. Jagadish Prasad*[19] it was proved that the wife used to demand money from the husband for her father and would quarrel with him if it was not paid. She would often not provide food to her husband, threaten to kill the children and implicate him in a false dowry case, mercilessly beat up the children and often tie them with ropes. While she was pregnant with the fourth child, she pushed her three children into a well and jumped in after them. She was rescued, but the three children died. A case of murder registered against her was pending. The Supreme Court held that the wife's conduct amounted to cruelty and confirmed the decree of divorce granted by the lower courts.

ALLEGATIONS OF CRUELTY BY HUSBAND UPHELD

In the following cases, the wife's allegations of cruelty against the husband were upheld and she was granted a decree of divorce. In *Binod Biswal v. Tikli @ Padmini Btswal*[20], the wife alleged cruelty on the part of her husband. She also alleged sexual misbehaviour on the part of her father-in-law but the same could not be proved The family court upheld her plea and granted her divorce. The court also ordered maintenance of Rs. 400 per month and return of her stridhan. In an appeal against the order filed by the husband, the high court upheld the decree of divorce.

In *Puran Singh v. Shanty Devi*[21], if was held that false charges of adultery levelled against the wife by the husband amounts to cruelty. The decree of divorce granted by the family court and maintenance of Rs. 400 per month awarded to her was upheld by the high court. In *Man Mohan Vaid v. Meena Kumari*[22161], the marriage was inter-caste, contracted by the couple against the wishes of their parents. Thereafter the husband failed to not only protect the wife against humiliation and mental torture caused by his father and sister, but was himself guilty of beating and humiliating her and demanding dowry. It was held that the trial court was justified in holding the husband guilty of cruelty.

DESERTION AS A GROUND FOR DIVORCE

The Supreme Court and several high courts have explained the notion of constructive desertion and held that the husband, who had caused the wife to leave, is guilty of constructive desertion. Further, he cannot take advantage of his own wrong. *Bipinchandra v. Prabhavati* and *Lachman v. Meena* are two landmark rulings of the Supreme Court which extended the scope of constructive desertion. Both these cases were filed by husbands. The trial court awarded them the decree of divorce on the ground of their wives' desertion. In appeal, the Bombay High Court set aside the decree of divorce, which the Supreme Court upheld.

Bishwanath Panday v. Anjana Devi[23], where the wife was living separately in a room, provided by the husband under compromise in proceedings for maintenance and the husband had another woman living with him, it was held that the separation does not amount to desertion by the wife. In *Bhupinder Kaur v. Budh Singh*[24], the husband obtained divorce on the ground that his wife deserted him twenty two years ago. This was decreed in his favour. In appeal, the high court held that the husband had made no effort to take custody of the children, send them money, or resume cohabitation with his wife. The fact that the wife did not attend the cremation of the husband s parents or the fact that she did not file for restitution of conjugal rights cannot give rise to cruelty or desertion on her part.

MENTAL ILLNESS

Mental illness is a ground for annulment for marriage as well as for divorce. For annulment, unsoundness of mind vitiates consent for a valid marriage and the other spouse can file for annulment on this ground. To qualify as a ground for divorce, the person must be unfit to carry on the normal responsibilities of married life. Section 13(1) (iii) stipulates that to be a ground for divorce, the respondent must be of incurably unsound mind or suffering from mental disorder of such kind and to such an extent that the petitioner cannot be reasonably expected to live with the respondent.

In a recent case, *Vinita Saxena v. Pankaj Pandit*[25], the Supreme Court upheld the wife's plea that her husband was suffering from schizophrenia. After an elaborate discussion on this mental disorder, the court ruled that the wife had provided ample medical evidence to prove the ground and is required to prove no other ground. The marriage had lasted only five months and was not consummated because the husband was incapable of performing his matrimonial obligations due to his mental disorder. The lower courts disbelieved the wife's contentions. But the Supreme Court held that due to the mental disorder of her husband, the wife had suffered cruelty by and at the behest of her husband. The court held : Facts and circumstances as well as aspects pertaining to humanity and life give sufficient cogent reasons to allow the appeal and relieve the wife from the shackles and chains of her husband to live her own life.

VENEREAL DISEASES

Venereal diseases and sexually transmitted diseases like HIV/AIDS, syphilis, and gonorrhea are also grounds for divorce. Venereal disease as a ground is rarely used to file for divorce and hence, there are hardly any reported cases in recent times concerning divorce under this particular ground.

The petition for obtaining a divorce by mutual consent has to be presented jointly by the husband and wife, adopting a standard format. Apart from the date of marriage and a few basic personal details of the parties, the petition should include the following standard averments :

(i) That the husband and wife are living separately for a period of more than one year and they are not be able to live together any longer. The Supreme Court has now defined 'living separately' as 'not living as husband and wife', or in other words not having a conjugal (sexual) relationship. Hence, a couple residing under the same roof is not prevented from filing for divorce by mutual consent if they affirm that they have ceased to have a conjugal relationship for a period of one year.

(ii) A clear declaration that all efforts at reconciliation have failed and there is no possibility of resuming matrimonial cohabitation.

(iii) That the spouses are desirous of obtaining a decree of divorce by mutual consent.

In *Leela Mahadeo Joshi v. Mahadeo Sitaram Joshi*, the Bombay High Court held that if the necessary ingredients are proved, courts do not have the jurisdiction to deny the decree of divorce. In this case, an elderly couple had approached the family court at Mumbai for a decree of divorce by mutual consent, which rejected their petition on the ground that the parties had not proved that they were unable to live together. The trial court concluded that the dissolution of marriage was sought with some ulterior motive such as saving the property from prospective actions of the creditors and that the divorce appeared to be an eye-wash. The high court commented:

It appears to us that the learned trial judge was disinclined to grant divorce to parties who had lived together in matrimony for long years. However, we do not think that personal predilections should be allowed to influence the provisions of a statue. If the necessary ingredients have been proved, there is no other course left open to a trial judge but to comply with the law.

The *Bombay High Court in Miten v. Union of India*,[26] has held that the period of one year of 'living separately' is necessary for filing of petition under Section 13B. The court held that its waiver is not permissible as per any settled cannons of interpretation.

Usually, consent terms are filed along with the petition regarding property division, lump sum settlements and alimony to the wife or monthly maintenance, custody of children and terms of access to the non-custodial parent, as well as maintenance to children. The consent terms, which are mutually agreed upon, are binding on the parties and can be enforced by the court. These consent terms are in the nature of a private agreement between the parties, which, after obtaining the official seal of the court, become part of the consent decree. The terms and conditions cannot violate the rights of minors and should not be against public policy.

WITHDRAWAL OF CONSENT

It is mandatory for the court to ascertain the consent of the parties at the expiry of the six months statutory waiting period and prior to passing the decree of divorce. Within this period, either party can withdraw the consent to the divorce, by filing an application before the court stating that he or she does not wish to give consent for a divorce. When such a declaration is made, the court is bound by it and will not grant a decree of divorce. In such an eventuality, the option open to the other spouse is to file for a contested divorce by relying upon a fault ground such as adultery, desertion, cruelty, or any other ground as stipulated under the relevant matrimonial statute. The legal position regarding withdrawal of consent is reflected in the following judgments:

In *Suroshata Devi v. Omprakash*, the court held that the significant aspect of this provision is that there should be mutual consent when the parties move the court with a request to pass a decree of divorce. The court should be satisfied about the bona fides and the consent of the parties. Otherwise, the court should make an enquiry. If there is no mutual consent at the time of the enquiry, the court has no jurisdiction to pass a decree of divorce. A decree which is passed at the instance of one of the parties and without the consent of the other cannot be regarded as a decree by mutual consent.

The Supreme Court in *Smruti Pahariya v. Sanjay Pahariya*[27] reaffirmed this position and held as follows: "We are of the view that it is only on the continued mutual consent of the parties that decree for divorce under Section 13B of the said Act (HMA) can be passed by the Court. If petition for divorce is not formally withdrawn and is kept pending then on the date when the Court grants the decree, the Court has a statutory obligation to hear the parties to ascertain their consent. From the absence of one of the parties for two to three days, the Court cannot presume his/her consent as has been done by the learned family court Judge....." In this case when the husband did not appear before the family court at Mumbai, the presiding judge adjourned the matter to the next date, but upon the request of the wife, the case was preponed prior to the date and passed a decree of divorce on the ground of mutual consent. The husband successfully challenged this decree in the high court. Against this judgment the wife had approached the Supreme Court, which remanded the matter back to the family court for a fresh hearing.

One can discern a cautious approach on the part of the judiciary. The court does not accept the withdrawal of consent at its face value in every case. The party wishing to withdraw consent has to file a declaration regarding the withdrawal in order to prevent the divorce.

WAIVER OF THE STATUTORY PERIOD

While the statutory period of six months waiting from the date of filing till the decree of divorce is pronounced is mandatory, in some instances, where it would cause extreme hardship to the parties, it has been waived by the trial court. This will be done only if the court is convinced that the

provisions of the said section have been complied with and that there is no force, undue influence, or coercion exercised by one spouse against the other. But the waiver is on a case to case basis. The courts waive the period of waiting if the parties have been separated for a long period and have been engaged in prolonged litigation. During the litigation, if the parties are able to resolve their differences and arrive at a settlement, the courts waive the period of separation and grant a decree of divorce by mutual consent. A joint affidavit needs to be produced before the court, withdrawing all the allegations made against the other and stating their consent for obtaining a divorce by mutual consent. This helps bring to an end long drawn litigation and saves the time of the court. This also saves the parties further hardship of facing contentious trial to prove their case.

Gracy v. Clectus[28] provides an example of how Christian women are able to use this provision after the amendment to Christian law. The wife filed a petition to declare her marriage null and void or alternatively for a decree of divorce on the grounds of cruelty, adultery, and fraud. After ascertaining that there was no possibility of reconciliation and that the parties have been residing separately for a period exceeding two years, the court granted a decree for divorce by mutual consent, waiving the statutory period of six months.

The Delhi High Court, in 2005, in *Abhay Chauhan v. Rachna Singh*[29], laid out the following guidelines for waiving the statutory period of six months:

- There was no possibility of reconciliation between the parties;
- The decision of the parties was not influenced by any external factors like coercion, intimidation, or undue influence by any person, including the parents;
- Both parities are educated and mature and fully comprehend the contemplated parting of ways;
- The parties are firm in their resolve to dissolve the marriage and their decision is not made in haste but is well considered.
- One concern of the courts has been that young people should not be made to suffer further for the mistake they might have made at an earlier point in life and they should be permitted to move on in life. For instance, in 2008, the Punjab and Haryana High Court, in *Vijay Kumar v. Surinder Kaur* @ Sunita, where the parties have been residing separately for six years, waived the statutory period of six months on the following reasoning

The parties are young. There is no chance of reconciliation, the marriage has broken down irretrievably. They are also involved in criminal litigation. Hence no purpose is likely to be served, if they are forced to retain the bond of marriage for another six months. Statutory period of six months is dispensed with.

But the views on this issue are not uniform and a great deal of confusion prevails. For instance, in a reference made by the family court at Nagpur, Swatantra Kumar CJ. and Kanade J. of the Bombay High Court expressed a contrary view. In *Principal Judge, family court, Civil Lines, Nagpur v. Nil*, it was held that the waiting period of six months is mandatory and cannot be waived, it is not merely directory as the statute does not even impliedly indicate such an intent of the legislature. The rule of plain interpretation is squarely attracted to provisions of Section 13B (2). The court further commented that just because the parties have to wait for a period of six months from the date of presentation of the petition, it cannot be termed as hardship, much less undue hardship, justifying the avoidance of the rule of plain interpretation. In *Anil Kumar Jam v. Maya Jain* held contrary to Anjana Kishore (discussed earlier) and ruled that only the Supreme Court has the power to waive the six months statutory period invoking its extraordinary powers under Article 142 of the Constitution. Such power cannot be exercised by the high courts or trial courts.! Subsequently, in *Manish Goel v. Rohini Goel*[30], the Apex Court ruled that even the Supreme Court cannot waive the six months of statutory period. The court opined that in exercise of its extraordinary power under Article 142 the

Supreme Court cannot ignore substantive provisions of a statue. In view of these conflicting rulings, the matter has been referred to a larger bench.

Finally, in February, 1995, in a landmark judgment, Ammini v. Union of India[31], the Full Bench of the Kerala High Court stuck down the offensive provisions as arbitrary and violative of Articles 14 and 21 of Constitution. The held:

Since it was a high court ruling, its effects were confined only to the State of Kerala. So, in 1995-96, three Christian women filed similar petitions in the Bombay High Court, which, in a combined judgment of the Full Bench delivered in April 1997, also struck down the discriminatory provisions. In subsequent years the Delhi and Karnataka High Courts also struck down the discriminatory provisions.[32]

THE PROCESS OF REFORMATIVE IDEAS

From 1950 onwards, Christian women began approaching the courts and the Law Commission, demanding changes into their divorce laws.

From 1983, there was a renewed campaign and negotiations by Christian women's organizations and several efforts were made to bring the church hierarchy of various Christian denominations on a common platform and draft a consensus bill. While support from the Protestant churches was forthcoming, the Roman Catholic Church raised several objections. After prolonged discussions, in 1994 a new bill was submitted to the government, which had the support of all Christian churches. Despite this, the government did not act and the struggle for reforms continued well into the new millennium. Meanwhile, the judiciary intervened and in 1995, the Kerala High Court and in 1997, the Bombay High Court, struck down the discriminatory provisions as arbitrary and violative of Articles 14 and 21 of Constitution.[33]

Another significant aspect of the amendment was to remove the ceiling set upon maintenance. The stipulation under the earlier statute was that the maintenance to the wife should not exceed one-fifth of the husband's income, while women from other communities could avail of maintenance to the extent of one- third of the husband's income.

Yet another dichotomy which affected Christian divorces in Mumbai was in the area of jurisdiction. The Bombay High Court had retained its original jurisdiction awarded to it by Letters Patent under Clause 35- ecclesiastical jurisdiction to adjudicate over Christian matrimonial matters despite the institution of family courts in 1989. Hence, Christian couples could not avail of the procedures stipulated under the family courts Act for dispute resolution, like counselling, informal atmosphere, simplified procedures, etc. Finally, in 2001, in *Romila Shroff v. Jaidev Shroff.*[34] the high court relieved itself of all original matrimonial jurisdictions awarded to it undo; Clause 12 (civil jurisdiction) and Clause 35 (ecclesiastical jurisdiction) of the Letters Patent. "But the high court retained the original jurisdiction awarded to it under the Parsi Marriage and Divorce Act of 1936.

A more recent concern in this discourse on the gender specificity of matrimonial relief is the incorporation of a newer remedy of 'irretrievable breakdown of marriage' through judge-made laws. Usually, when the grounds pleaded for cruelty are flimsy and frivolous and a husband is not able to prove legal cruelty, he invokes the 'breakdown' theory. Courts have been cautious while applying this principle, but there is a pressure to include this remedy within the realm of matrimonial laws. There have also been recommendations of the Law Commission of India to this effect.[35] But the gender-specific context of this remedy has not been sufficiently explored. Women's groups have opposed this move as it would cause untold misery to women and children. Our matrimonial law does not function on the premise of division of property upon divorce. The wife's right to reside in the matrimonial home after divorce has no statutory recognition. A routine use of this ground would seriously hamper the rights of women and children to shelter and economic security. At times courts have offered sums such as Rs. 2,00,000 as compensation or economic settlement to the woman for

her life time of service to the husbands. Whether such low amounts could indeed provide economic security to women is a question that both the judiciary and the parliamentarians must address, in this context it is interesting to note the recent Supreme Court ruling in *Vishnu Dutt Sharma v. Manju Sharma*, where it was held that the courts do not have the power to legislate and add new grounds for dissolution of marriage and that it is the duty of the legislature to do so. Hopefully, in the ensuing wider political debate around this issue, women's concerns will be the primary focus rather than judicial convenience.

DISSOLUTION OF MUSLIM MARRIAGES ACT, 1939

This statutory enactment, which bestows the right of judicial divorce upon Muslim woman, was enacted two decades before the Hindu woman acquired a similar right Two renowned Islamic jurists, Asif Ali Fyzee and Maulana Ashraf Ali Thanavi, had spearheaded the campaign to obtain for women governed by Hanafi law, the right bestowed upon women governed by Maliki law, through a state enactment The grounds available are : husband's polygamy, adultery, imprisonment, impotency, cruelty, and non-maintenance for two years.

The leading judgment on this issue was given by Krishna Iyer J. in *A. Yousuf Rawther v. Sowramma*, while he was presiding over the Kerala High Court in 1971. The renowned jurist held that if a wife is able to prove that her husband has failed to maintain her for a period of two years, irrespective of the circumstances under which she was living separately, she is entitled to a decree of divorce. Contextualizing the stipulation, Krishna Iyer J. had commented:

This judgment is an important legal milestone as it explains the position of a Muslim wife, under the act in the following words:

The Muslim marriage differs from the Hindu marriage in that it is not a sacrament A Muslim marriage is a covenant by which the parties enter the state of marriage The parties are permitted to stipulate the conditions upon which they will do so, provided the conditions are not illegal according to Muslim law. The subsistence of the marriage confers certain essential rights and imposes certain duties upon the parties. When a husband and a wife have been living apart, and the wife is not being maintained by the husband, a dissolution is not permitted as a punishment for the husband who had failed to fulfil one of the obligations of marriage, or allowed as a means of enforcing the wife's rights to maintenance. In the Muslim law of dissolution, the failure to maintain when it had continued for a prolonged period, is regarded as an instance where a cessation has occurred. It will be seen therefore that the wife's disobedience or refusal to live with her husband does not affect the principle on which the dissolution is allowed.

In *Abdurahiman v. Khairunnessa*[36], in an application filed by his wife on the ground of her husband's remarriage, rejecting the plea that he is treating both the wives equally, the Kerala High Court held that the mandate was not only 'equal treatment' but 'equitable' treatment. The court further clarified that equitable treatment should be 'in accordance with injunctions of Quran'. In a claim for divorce under Section 2(viii)(f) of the Act, it is the assertion of the woman that matters as she is the best judge to decide whether she has been treated equitably or not. The husband has a right to unilaterally walk out of marriage, even a monogamous marriage. Though polygamous marriage by itself is not recognized as a ground under Section 2(viii) (f) of DMMA for divorce, provision concedes to wife a right to walk out of marriage if she is satisfied that she has not been treated equitably in such marriage.

However, many Muslim wives and even community organizations and counselling centres providing support to Muslim women are unaware that the Muslim women have the same right to approach the Court for divorce on the grounds of cruelty, desertion (non-maintenance), or even

adultery as the Hindu women. There is a general belief that the only way a Muslim woman can dissolve her marriage is by approaching the qazi for a khula and further, if she obtains khula, she would be forced to relinquish her claim to her mehr.

TRIPLE TALAQ AND JUDICIAL TRENDS

The husbands power of divorce in a manner considered to be 'sinful' or 'unapproved' by Prophet himself, has become the most popular form of dissolution of marriage. The entire discourse on Muslim women's rights revolves around this issue. The wife's right of dissolving her marriage often gets subsumed under this overarching power of the husband to pronounce unilateral talaq in public imagination. Muslim wives live under the constant fear that their husbands may pronounce these dreaded words in a moment of anger or marital discord and once pronounced, it is irrevocable and the wives would lose all their rights arising from the contract of marriage. The media projections have only served to strengthen these misconceptions and have caused severe harm to Muslim women's rights. Hence the issue of validity of triple talaq assumes great importance in a discussion on Muslim family law.

The first in this series was the judgment of Baharul Islam J. of the Gauhati High Court in 1981, in a case under Section 125 of the Cr.PC for maintenance by the wife in *Sri Jiauddin v. Anwara Begum*.[37] The husband pleaded that he had pronounced talaq and that Anwara Begum was no longer his wife. No evidence of the pronouncement of talaq was produced before the court. In appeal, the high court held that while the Muslim marriage is a civil contract, a high degree of sanctity is attached to it. The law recognized the necessity of dissolution of marriage but, only under exceptional circumstances and for a reasonable cause. An attempt at reconciliation by two relatives—one each of the parties, is an essential condition precedent to 'talaq'. This ruling was followed by the division bench of Baharul Islam CJ. and D. Pathak J.) of the Gauhati High Court in the same year, in the case of *Rukia Khatun v. Abdul Khalique Laskar*[38]. In 1993, in *Zeenat Fatema Rashid v. Mohd. Iqbal*[39], the Gauhati High Court reiterated this principle and held that Mohammedan husband cannot divorce his wife at his whim and caprice and arbitration prior to divorce is mandatory. The court commented that if talaq is pronounced arbitrarily, it must be treated as a special offence.

These rulings were soon followed by other high courts.

In 2000, in *Zulekha Begum v. Abdul Rehman*[40], the wife was constantly harassed and driven out of the house in her fifth month pregnancy, in 1986. Thereafter, the husband remarried. When the family court entertained the wife's petition for maintenance, the husband appealed on the ground that he had divorced the wife and hence was not liable to maintain her. The Karnataka High Court rejected the plea on the ground that the feet of divorce was not proved and emphasised on the mandatory provision of pre-divorce arbitration to settle the dispute and that a divorce without such attempts is not valid. The husband must also prove that there was a valid ground for divorcing the wife. The case was remitted back to the family court for ascertaining the amount of maintenance.

Since the Supreme Court ruling in Shamim Ara (discussed above), several high courts have ruled on this issue and have held that triple talaq is not valid. A sampling of these rulings are listed below :

In 2004 in *Najmunbee v. Sk Sikander Sk Rehman*,[41] the Bombay High Court, in 2005, in *Mustari Begum v. Mirza Mustaque Baig*, the Orissa High Court, in 2006 in *Shahzad v. Aitisa Dee* and *Farida Bano v. Kamruddin*, the Madhya Pradesh High Court, In *Gama Nisha v. Chottu Mian*, the Jharkhand High Court have followed the Shamim Ara ruling and have held that a Muslim husband cannot repudiate the marriage at will. They emphasised the requirement of

pre-divorce arbitration and further that the divorce must be pronounced and a mere plea of divorce taken in a written statement cannot in itself be treated as effecting talaq on the date of delivery of the copy of the written statement. A written statement cannot be treated as a talaq. Further, in oral divorce, the word talaq must be articulated and there should be a reasonable cause for pronouncing the divorce. A fatwa of talaq is also a question of fact which is required to be proved with evidence.

The *Dilshad Begaum*[42] case elaborates further the requirements for proving divorce. In this case, the Sessions Judge had accepted the contention of the husband that he had pronounced talaq on his wife in the presence of witnesses in a masjid. This was duly proven by his subsequent actions. Hence, the order of maintenance of Rs. 400 awarded to the wife by the trial court was quashed. In an appeal, the Bombay High Court held that though the husband had proven that he had pronounced talaq on his wife, it was not a valid and legal talaq as the additional requirements had not been satisfied. A compromise was arranged through a written document in which the husband had agreed to transfer one third of his land to his wife if he failed to cohabit with her or failed to maintain her as his wife. The court held that this document was not acted upon by the husband. Since the husband had not complied with the conditions, the high court set aside the judgment of the Sessions Court on the ground that the talaq pronounced by the husband was not valid and legal.

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सम्पादक

डॉ0 सुभाष चन्द्रा

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सर्वखाप पंचायत की न्याय प्रणाली

–डॉ0 एम0एस0 गुँसाई* एवं संजय गिरि**

सर्वखाप पंचायतों के कारण भारत में राष्ट्रीय एकता की भावना बढ़ी है। इन पंचायतों ने समाज में दोषों, दुर्गुणों कमजोरियों और कुरीतियों को ढूंढा और उन्हें दूर करने के प्रयास समय–समय पर किए है। इन पंचायतों के कारण भारत में अपने ढ़ग से समाज के अग्रणी महापुरूषों द्वारा व्यापक आन्दोलन चलाए गये ताकि देश के प्रत्येक पहलू में सुधार लाया जा सके। इन आन्दोलन ने व्यक्तिगत स्वतंत्रता, सामाजिक समानता, न्याय, प्रजातन्त्र, धार्मिक परिस्कार तथा राजनैतिक आदर्शों पर जोर दिया है। सर्वखाप पंचायत ने राष्ट्रीय एकता में बाधा उत्पन्न करने वाले तत्वों के विरूद्ध घोर संघर्ष किया है। अगर हम सर्वखाप पंचायत की बात करें तो आज हम लोकतंत्र के एक परिमार्जित स्वरूप में रह रहे है। यहां एक सुदृढ़ न्याय प्रणाली है। ऐसे में न्याय का काम पुरानी पंचायत व्यवस्था से हटकर न्यायपालिका पर आ गया है। विकास के लिए ग्राम पंचायत से लेकर क्षेत्र पंचायत और जिला पंचायत तक एक पूरी व्यवस्था काम कर रही है। इसका अर्थ यह नहीं है कि जातीय और सर्वखाप पंचायतों की आवश्यकता खत्म हो गयी हैं।

किसी भी समाज के पास सबसे मूल्यवान धरोहर उसका इतिहा होता है। और यदि उसको उसकी संस्कृति तथा इतिहास से विमुख या दूर किया जाये तो उसकी शक्ति स्वतः ही समाप्त हो जाती है। सर्वखाप एक सामाजिक प्रशासन की पद्धति है। जो भारत के उत्तर पश्चिमी प्रदेशों यथा राजस्थान, हरियाणा, पंजाब एवं उत्तर–प्रदेश में अति प्राचीनकाल से प्रचलित है। इसके अनुरूप अन्य प्रचलित संस्थाएं है। जैसे– पाल, गण, गणसंघ, सभा, समिति जनपद अथवा गणतन्त्र। समाज में सामाजिक व्यवस्थाओं को बनाये रखने के लिए मनमर्जी से काम करने वालों अथवा असमाजिक कार्य करने वालों को नियन्त्रित किये जाने की आवश्यकता होती है। यदि ऐसा न किया जाये तो स्थापित मान्यतायें विश्वास परम्पराएं और मर्यादाएं खत्म हो जायेगी और जंगलराज स्थापित हो जायेगा। मनु ने समाज पर नियन्त्रण रखने के लिए एक व्यवस्था दी थी। कि परिवार के मुखिया को सर्वोच्च न्यायधीश के रूप में स्वीकार किया गया है। जिसकी सहायता से प्रबुद्ध व्यक्तियों की एक पंचायत बनी। जाट समाज में यह व्यवस्था आज भी प्रचलन में है। इसी आधार पर बाद में ग्राम पंचायत का जन्म हुआ। जब कोई समस्या जन्म लेती है। तो सर्वप्रथम सम्बन्धित परिवार ही उस समस्या को सुलझाने का प्रयास करता है। यदि परिवार के मुखिया का फैसला नहीं माना जाता है तो इस समस्या को समुदाय और ग्राम समाज की पंचायत में लाया जाता है। दोषी व्यक्ति द्वारा पंचायत का फैसला नहीं मानने पर ग्राम पंचायत उसका हुक्का–पानी बंद करने, गांव समाज से निकालना, लेन–देन पर रोक लगाने आदि का हुक्म

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A study of concept of limited liability partnership in India

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Abstract
LLP is an alternative business vehicle to carry out business which combines the Characteristics of a private company and a conventional partnership. LLP provides limited Liability status to its partners and offers the flexibility of internal arrangement through an agreement between the partners. This combination n will give entrepreneurs and businessmen a more structured business vehicle compared to a sole proprietorship or a conventional partnership. It provides the flexibility of controlling the business operation in accordance with the partnership agreement whilst enjoying the limited liability status compared to a company which is subject to strict compliance requirements under the Companies Act 1965 in most of its affairs. LLP is a business vehicle which would offer simple and flexible procedures in terms of its formation, maintenance and termination while simultaneously has the necessary dynamics and appeal to be able to compete domestically and internationally. The LLP was also introduced in countries such as the United States of America, United Kingdom, Singapore, India and Japan as a form of alternative business vehicle.

Keywords: LLP, concept, legislative history, jurisdiction, JJ. Irani committee

1. Introduction

1.1 LLP Structure in foreign jurisdictions

The formation of companies with limited liability led to introduction of "limited liability" concept in partnership law. A limited partnership (LP) consists of one or more general partners liable for all the debts and obligations of the firm and who alone are entitled to manage the firm's affairs, and one of more limited partners whose liability for the debts and obligations of the firm is limited in amount but who are excluded from all management functions

In contrast, an LLP combines multiple features of a company with a partnership and enables partners who are actively involved in the business of their partnership to limit their liability for the partnership's debts and obligations. A limited partnership is still a partnership with a slight modification and the concept is not very new.

As early as 1837 a commission headed by Bellenden Kerr had considered whether elements of limited liability might be introduced into partnership law and in 1851 a select committee of the House of Commons also considered whether limited liability should be introduced but on neither occasion was there a clear conclusion. In parallel with increasing concerns on the part of professional advisers as to the potential financial risks involved in continuing to act within the confines of a partnership structure, was the trend towards "partnerships" which were much larger than hitherto.

In such organizations, where one partner might not even have met many of the other partners in the firm, the concept of legally binding relations based upon the principles of mutual trust, agency and good faith became less easy to justify. Increasingly, the larger partnerships within the accountancy profession in the United Kingdom began to question the ongoing utility of the 1890 partnership model as a vehicle for modern professional practices and thus urged for introduction of limited liability concept within partnership law. The limited liability partnership concept finally originated in Texas in 1991, inspired by government litigation against law and accounting firms that had done work for failed savings and loan associations.

The claims were against all partners including many who had nothing to do with the failed associations, highlighting the joint and several liability of partners for each other's conduct

The LLP was thus developed as a mechanism and as a device to limit the vicarious liability of partners as the prospect that all the members in a partnership of attorneys or accountants may be exposed to hundreds of millions of dollars in liability was too risky and dreary.

1.2 US

The idea for the LLP has been credited to "a twenty odd person law firm from Lubbock," Texas [1]. The LLP was a direct outgrowth of the collapse of real estate and energy prices in the late 1980s, and the concomitant disaster that befell Texas's banks and savings and loan associations [2]. As a result, the first law on LLP came into existence in Texas, through the enactment of Texas House Bill 278 on August 26, 1991. With the promulgation of the Revised Uniform Partners Partnership Act ('RUPA') in the US in 1994, a number of states permitted the formation of LLPs, which was followed by the incorporation of comprehensive provisions dealing with LLPs in the RUPA in 1997 [3].

After Texas passed its LLP legislation, most other states quickly followed and today all 51 states have passed laws that permit the formation of an LLP [4]. Further, the National Conference of Commissioners on Uniform State Laws adopted the Uniform Limited Liability Company Act in 1996

and revised it in 2006 [5].
In the U.S., an LLP is considered as a special type of partnership that requires a special filing with the State where the partners operate. This partnership form offers all partners the right to participate in the management and the operation of a partnership without subjecting themselves to unlimited personal liability as is the case in general partnerships [6].

2. UK

In early 1997 the UK Department of Trade and Industry ("DTI") circulated consultation paper and their investigation focused particularly, but not exclusively, on the joint and several liability of professional defendants, seeking to ascertain whether there was an arguable case for replacing joint and several liability by, for example, a system whereby each defendant might be liable for on-only a proportionate share of the loss. Although the remit did not extend tothe question of joint and several liabilities within partnerships, the DTI took the opportunity to consult on the distinct but related question whether to amend the law in Great Britain to allow limited liability partnerships. This question was asked in the knowledge that the concept of LLPs was well known in some overseas jurisdictions, particularly the USA [7].
The UK Limited Liability Partnerships Act 2000 came into force on 6 April 2001. The legislation provides an LLP the organizational flexibility and taxation status of a partnership along with limited liability for its partners. The main distinction between the US Delaware LLP model [8] and the UK LLP model is that while the former regards the LLP as essentially a partnership, the latter primarily treats it as a company [9]. The existence of an LLP in the UK as a separate legal entity means that it has its own rights and liabilities, distinct from those of its members [10]. In the UK, an LLP differs from a company to the extent that the former has greater organizational flexibility and is taxed as a partnership.
In the UK, LLPs are accorded 'entity' treatment whilst partnerships governed by the provisions of the UK Partnership Act are generally treated as aggregates of individuals [11].

2.1 Legislative history of India's LLP act

Over the past two decades, the Indian government has convened a number of committees, largely made up of leading industrialists and government officials, to consider amendment and modernization of Indian business law. In the realm of corporate governance, for example, since the late 1990s, the Securities and Exchange Board of India (SEBI), the primary regulatory authority for India's capital markets, has convened a number of committees to help formulate corporate governance standards for publicly listed Indian companies. Many of these standards were inspired by corporate governance reforms around the world, and in particular by the corporate governance transformations that took place in the United States and the United Kingdom. Similarly, beginning in 2002, the MCA worked through a multi-committee process in order to amend the Companies Act, 1956 [12] After years of debate and several failed starts, in 2013 India enacted the new Companies Act, 2013 overhauling the entire company law regime in the country. The process for enacting India's LLP Act took a similar route. The first discussion of an LLP law took place in the late 1990s. In 1997, the Expert Committee on Development of Small Sector Enterprises headed by Dr. Abid Hussain, a noted Indian civil servant and diplomat, recommended new legislation to allow for the creation of LLPs. The Abid Hussain committee's recommendations lingered without much action until a comprehensive report issued by the Naresh Chandra Committee in 2003. Discussion of the LLP form was again raised in 2005 in a report by the J.J. Irani Committee. Similar to the Chandra Committee, the Irani Committee recommended the adoption of the LLP structure as a new form of business association. These recommendations were followed by the MCA which in late 2005 issued a Concept Paper supporting adoption of an LLP law On December 7, 2006, the Cabinet approved the LLP Bill. However, a final bill was not approved until 2008. The sections below delve into this process in more detail, examining the reasons articulated by various government committees for recommending adoption of the LLP form, as well as the models used for the Indian LLP structure.

The Chandra committee pushes for enactment of an LLP law

The development the LLP as a new business association form was first raised by theAbid Hussain committee in 1997. Nevertheless, there was little follow up by the Indian government. A more full scale discussion of legislation regarding an LLP form was revived several years later whenthe MCA formed the Naresh Chandra Committee II on Regulation of Private Companies and Partnership in 2003. Chaired by Shri Naresh Chandra, a former Cabinet secretary, the committee was charged with undertaking a wide ranging examination of the legal regime then-applicable to private companies and partnerships, with a particular focus on how to streamline legal risks and regulatory compliance costs for certain partnerships and small private companies regulatory compliance costs for certain partnerships and small private companies. The Committee also included Mr. Shardul Shroff, Managing Partner of Amarchand & Mangaldas & Suresh A Shroff & Co, India's largest law firm, who appears to have presented draft legislation on LLPs to the government following discussion by the Chandra Committee. The Naresh Chandra Committee Report on Regulation of Private Companies and Partnership (2003) recommended comprehensive LLP legislation to be introduced in Indian law. The Chandra Report discussed the genesis of the LLP form in the United Kingdom and the United States, and the advantages that the LLP structure could provide for Indian businesses.

The Chandra committee focused on two rationales to advocate for the LLP form

- The risks tied to unlimited liability, a central feature of the traditional partnership form; and
- Limitations on partnerships' growth under the Indian Partnership Act, 1932.

According to the committee, an increasingly competitive and litigious business environment made unlimited liability risky, especially given that since economic liberalization Indian professionals had begun to regularly transact with and represent multinational clients. The committee noted that "in order to encourage Indian professionals to participate in the

international business community without apprehension of being subject to excessive liability, the need for having a legal structure like the LLP is self-evident [13]." certainly be the case, there was little evidence offered by the committee to back up these assertions. The committee raised cautionary tales from the United States experience to address the dangers of liability in the partnership form, but similar tales from the Indian experience were missing. This may be due to the fact that actual finding of liability can take years under the Indian judicial system, which is often characterized by staggering delays in adjudication.

The Chandra Committee noted that aside from daunting liability, Indian partnership law impeded the ability of Indian professionals to meet the challenges posed by international competition. As the committee explained, the Indian Partnership Act, 1932 impedes the growth of professional firms because it limits general partnerships to 20 partners. According to the Chandra Committee, this restriction on size would "prevent the growth of professional firms to the large entities operating on an international scale" so that "Indian professionals may well get excluded from taking their rightful place in the international community, that their skills otherwise entitle them to [14]." The committee further supported its recommendation for an LLP Act by referencing the need to meet competitive pressures arising from the development of the LLP structure in the United Stat in the United States and the United Kingdom, stating: "Since LLPs are now accepted non-corporate entities in developed countries like the USA and UK, it is appropriate to enhance the global competitiveness of our professional firms by ensuring that India's company law is flexible enough to provide mechanisms and instruments which foster growth of large professional firms [15]."

The Committee argued that it was essential for Indian law to recognize a new form – a hybrid between a company and partnership.

The Committee argued that LLPs would provide flexibility (i.e. freedom for owners to adopt their preferred internal organization) while limiting liability to encourage professionals to enter the international business community. Limited liability companies (i.e. corporations) were recognized by law under the Companies Act, and according to the Committee, there was no reason that professional partnerships (e.g., lawyers, accountants, doctors, company secretaries, engineers, etc.) should not be afforded a similar choice when choosing a legal entity The Chandra Committee drew from experiences outside of India to bolster its recommendations. In arguing for a limited liability structure, the Chandra Committee recounted the United Kingdom and the United States experiences in developing the LLP structure. The committee recounted as one of the pitfalls of general partnership law the struggles of US law firms which became insolvent in the 1990s due to malpractice suits connected to the Savings and Loan crisis. As the committee noted, not only did the firms become insolvent, but given the basic principles of partnership law, the firms' partners were personally liable for the liable for the partnership's obligations. The committee then described the initial development of the LLP structure in Texas

Texas and it-s rapid adoption in other US states [16]. The committee also recounted the UK experience in adopting an LLP law in the early 2000s due to concerns expressed by partners in major accounting firms who lobbied for the ability to limit individual partners' liability.The Report also included recommendations for the Act's applicability. The Committee argued that in the first instance, the LLP law should only cover firms providing professional services rather than trade or manufacturing firms for two reasons. First, professional firms were precluded from practicing under any other legal entity because of the specific regulatory requirements of each industry (e.g., law, medicine, accounting, engineering). Trading and manufacturing firms, however, were not so limited and could incorporate as private limited or public companies under the Companies Act. Second, the Chandra Committee reasoned that limiting coverage to professional partnerships minimized the inherent risk in testing new waters, provided a platform to evaluate the advantages and disadvantages of the act, and provided a basis to consider expanding the act to small scale trade or manufacturing firms in the future.

2.2 JJ Irani committee report on company law (May 2005)

In December 2004, the MCA convened the J.J. Irani Expert Committee on Company Law to help evaluate the Companies Act, 1956 in the face of India's growing economy. The committee was led by J.J. Irani, a director of Tata Sons,Ltd., the primary shareholder in the large business conglomerate, the Tata Group. The Irani Committee viewed its task as recommending changes to Indian business law with the aim of "making India globally competitive in attracting investments from abroad [17]."

Like the Chandra Committee Report, the 2005 J.J. Irani Committee Report on Company Law recommended the adoption of a separate LLP law. Citing the potential growth of the Indian service sector, the Irani Committee emphasized that laws governing professional partnerships should be flexible. Unlike the Chandra Committee, however, the Irani Committee also recommended that the LLP form should be considered for small enterprises not seeking access to capital markets through listing on the stock exchange. The Irani Committee recommendations appeared to at least contemplate foreign direct investment (FDI) in entrepreneurial projects carried out through the LLP model, encouraging entrepreneurs to explore business ventures with foreign investment and collaboration. The Irani Committee reasoned that extending the LLP to small enterprises would enable these businesses to enter into joint ventures and agreements that would maximize access to technology, harness business synergies, and better enable businesses to compete globally. Finally, the Irani Committee recommended that the LLP concept be addressed separately from the Companies Act.

2.3 MCA concept paper on LLP (November 2005)

In response to the recommendations of the Chandra and Irani Committees, in November 2005, the MCA released a concept paper on LLP. The MCA concept paper was widely disseminated for public comment and provided the basis for the LLP bill which would later be introduced into Parliament. The MCA noted that recommendations of the Chandra and Irani Committees provided the impetus for the concept paper

and potential LLP bill. According to the concept paper, introduction of the LLP structure into Indian law would fill a gap between business firms such as sole proprietorships /partnerships, which are generally unregulated, and limited liability companies governed by the Companies Act, 1956. Like the Chandra and Irani Committees, the MCA paper argued that the LLP structure

"Would foster the growth of the services sector" and "provide a platform for small and medium enterprises, and professional firms to conduct their business/profession efficiently which would in turn increase their global competitiveness [18]."

The MCA asserted that unlimited liability for partners in general partnerships had become a significant concern in light of increasing litigation for professional negligence, the size of claims, and risk to partners' personal assets. The concept paper stated that partners' unlimited liability was the "chief reason" why Indian professional partnership firms had not grown to successfully compete internationally. The MCA reasoned that LLPs would be an alternative corporate business vehicle that could address some of these concerns – allowing an unlimited number of partners the flexibility to adopt whatever form of internal organization to which the partners agreed, while limiting liability to partners' capital contributions. The concept paper was comprised of sixteen chapters and five schedules. Notably, Chapters II and III. (Applicability and Incorporation) did not reflect the Chandra Committee's recommendation to limit the LLP structure to professional partnerships. Instead, with little explanation, the concept paper recommended that to form an LLP, there must be at least two people who are associated "for carrying on a lawful business with a view to profit."

2.4 MCA's draft bill

On December 15, 2006, the then-Minister of Company Affairs, Shri Prem Chand Guptam, introduced the Limited Liability Partnership (LLP) Bill, 2006, in the Rajya Sabha (the Upper House of the Parliament of India). The MCA described the LLP structure as "an agreement based business structure, which combines the flexibility of partnership in internal management with [the] limited liability advantage of a company [19]." Similar to the impetus for the LLP bill which was expressed by the various MCA committees, the government described the motivations behind the introduction of the bill as follows. "With the increasing role of [the] services sector in the national economy growing diversity in the range of services being offered, a need is increasingly being being felt for a new corporate form that would enable professional expertise and entrepreneurial initiative to combine, organize and operate in an innovative and efficient manner. This need has also been recognised for businesses which may require a framework that provides flexibility suited to requirements of service, knowledge and technology based enterprises, without imposing on them detailed legal and procedural requirements intended for large widely held companies. Internationally, the LLP structure has emerged as a form of business organisation that is common to but not limited to entities offering professional services [20]."

The bill was thereafter referred to the Lok Sabha Parliamentary Standing Committee on Finance for its examination. The committee's review process included gathering input from various industry and professional bodies that had long been involved in the amendment of Indian business law, including the Institute of Chartered Accountants of India (ICAI), the Institute of Company Secretaries of India (ICSI), the Federation of Indian Chambers of Commerce and Industries (FICCI), the Confederation of Indian Industries (CII), and Associated Chambers of Commerce and Industries (ASSOCHAM). According to the standing committee all of these various chambers of commerce and industry supported the introduction of the LLP Act. The Standing Committee on Finance, chaired by Ananth Kumar, a veteran member of the Indian Parliament, released a detailed report on the LLP Bill (2006) in November 2007. The Standing Committee's report covered the general development of the bill and the role of various government committees, including the Chandra and Irani Committees, in advocating for the LLP structure. It also clearly referenced LLP legislation from other countries, including the United States, the United Kingdom and Singapore, stating that in such countries the development of LLP law has "proved to be of immense use to professionals and small enterprises [21]."

The committee described the LLP as a hybrid form of business structure whereby partners would be shielded from unlimited personal liability while enjoying the flexibility of contractual freedom in organizing their internal governance. Accordingly, the Standing Committee report listed the perceived advantages of the LLP, as follows:

1. organizational flexibility vis-à-vis the LLP agreement;
2. granting LLP partners the advantage of combining into a body corporate form that is a separate legal entity with perpetual succession, leading to growth of professional expertise and entrepreneurial initiative in a flexible, innovative, and efficient manner;
3. partners will not rely on the LLP statute to determine the internal working arrangements of an LLP;
4. easy modification of the LLP agreement to suit each LLP's business model, risk, and rewards profile;
5. LLP's suitability to various service enterprises given that services and enterprises change and evolve over time (i.e., service sectors expected to grow to grow over time include: hospitality, tourism, IT, human resource development, creative and decorative art, etc.);
6. Venture capital and technology-based enterprises would find LLP structure particularly useful;

Allowing two enterprises to combine to enhance synergies

And Small enterprises would find flexibility and ease of compliance in the LLP structure. The Committee made numerous recommendations for amending the 2006 LLP bill. For example, the committee recommended that the Act include a provision for vesting property on conversion of an entity (e.g., a private company converting to a LLP) to enable stakeholders to avoid stamp duty, i.e. a tax collected by the Indian government upon the sale and purchase of certain types of property. This recommendation had arisen due to input from industry advocates who argued for easy conversion of existing business associations into the LLP structure, similar to the regime provided for in the United Kingdom.

The Committee's report also addressed the interplay of other regulatory regimes in India with the LLP legislation and the

need to harmonize the LLP bill with other economic legislation, such as the Foreign Direct Investment (FDI) Guidelines. The committee correctly noted that in order to realize the goals of the LLP bill "statutory notice in other enactments need[s] to be taken of entities availing the LLP form. This would require consequential amendments in statutes regulating any specific profession, trade or activity such as Advocates Act and in other enactments such as the Income Tax Act for taxation purposes [22]." The committee's report focused on limitations imposed on the legal profession by the Advocates Act, advocating for changes to provide flexibility for law firms to convert to an LLP form.

The committee similarly advocated for flexibility in the taxation of LLPs, arguing that industry advocates had somewhat conflicting views on the tax treatment of LLCs. The committee, in line with the recommendations of the MCA, urged that entrepreneurs should have flexibility in choosing a tax structure that is efficient for their business and that "it should be ensured that the taxation regime is such that Indian LLPs do not suffer any discrimination or disadvantage in competition with foreign LLPs [23]."

2.5 Passage of the final bill

In response to the Standing Committee's report, the MCA reintroduced a revised LLP bill in 2008. The revised bill accepted the vast bulk of the Standing Committee's recommended changes. At least one factor behind the bill's proposal and passage was the government's desire for the LLP format "to help to help the domestic industry compete with international firms [once] the legal professions are opened up eventually [24]." As discussed above, the MCA strongly supported the bill, making statements such as, "LLP, as proposed in the Bill, is a new corporate form that enables professional expertise and entrepreneurial initiative to combine, organize and operate in an innovative and efficient manner [25] " The bill was also welcomed by Indian industry leaders who hoped that the passage of the LLP bill would allow domestic Indian service providers, like accounting firms, to compete with large global operations which provide a variety of services to clients. "LLP will encourage experts specializing in different fields— for instance, company law, accounting, capital markets, marketing, and so on—to come together and provide solutions to customers in a risk-free environment," said Preeti Malhotra, former president Institute of Company Secretaries of India [26].

Speaking on specific advantages of the Act (e.g., partnerships may have only 20 partners, whereas the LLP Act imposes no limit on number of partners), Lalit Bhasin, a law firm partner, stated: "This will allow law firms to expand as we will be able to have more than 20 partners and, at the same time, not be bound by the complications of the Companies Act [27]."

On December 12, 2008, Parliament passed the LLP Bill (2008), and the President approved the Act on January 7, 2009.The Act was published in the official Gazette of India on January 9, 2009, with effect from March 31, 2009. The official title of the legislation is the Limited Liability Partnership Act, 2008. After passage of the LLP bill, it appeared that the LLP structure would quickly take hold. The LLP Act became effective on March 31, 2009, and the first LLP was established a few days later on April 2, 2009. In a little over a year, almost 2,500 LLPs were registered in India. And in January of 2014 alone, 800 new LLPs were registered in India. Nevertheless, as described in Section 4 below, the LLP structure has fallen short of its goal of fostering flexibility and innovation that could help Indian professionals and entrepreneurs bolster India's economic growth

2.6 FICCI reaction to the bill and suggestions

Federation of Indian Chambers of Commerce and Industry (FICCI) has supported the bill and has recommended certain changes in the bill so as to make the proposed enactment as comprehensive as possible and to remove the ambiguity prevailing in the Bill. FICCI has suggested 13 changes in the bill, which are as follows:

1. To protect the interest of persons who might have claims against an LLP, UK Laws have provision for compulsory insurance policy for satisfaction of judgment and decrees against the LLP to a reasonable extent. Provisions on compulsory insurance may be incorporated in the LLP legislation in India as well;
2. It would be necessary to align LLP legislation in tune with other economic legislation by making appropriate amendment/clarifications to Foreign Exchange Management Act, 1999 (FEMA)/Foreign Direct Investment (FDI) guidelines;
3. The Bill provides that the Central Government direct that any provisions of the Companies Act, 1956, will apply to any LLP with such exception, modification and adaptation, as the government may notify. This would lead to an LLP being governed by the Companies Act, 1956, just like a private company. It is suggested that making suitable provisions in the LLP Act itself in this regard will reduce unguided discretion of the government;
4. In UK, an LLP must be established and then the business and the assets of the existing partnership or company transferred. There is stamp duty relief on any property transferred within the first year of conversion. A stamp duty relaxation be made available on conversion of existing partnerships/private and unlisted public companies to LLP in India.
5. The taxation aspects may be dealt with separately by making suitable amendments to the Income-tax Act, 1961 rather than in the LLP enactment. Does the Ministry of Company Affairs have authority to bring out legislation dealing with taxation? FICCI is of the view that Ministry of Company Affairs and Ministry of Finance have to work in tandem with respect to taxation issues while bringing LLP legislation;
6. The taxation described in the Bill seems to be in conflict with the provisions in the Income-tax Act. The Bill regards an LLP to be a body corporate. Therefore, under the Act, the LLP would be regarded as a company and accordingly would be taxed as a company (that is at an entity level) and would also be subject to dividend distribution tax (DDT) in case of dividend distribution. Therefore, if it is desirable to have a pass through treatment for an LLP, suitable amendment would be required in the Income-tax Act, 1961. A separate scheme of taxation for LLPs would be required in the Income-tax Act, 1961;

7. With regard to conversions to LLP, the Income Tax Act, 1961 would need to be amended to provide specific exemptions from capital gains tax for gains arising on conversion - exemptions provided for in s. 47 would need to be extended to cover such conversions as well;
8. From an exchange control/FDI perspective it needs to be clarified that LLPs would be eligible entities for receiving foreign investment under the automatic route;
9. Permission all the partners is required before a new partner is inducted. This unanimity may be impossible and difficult to secure, especially if the LLP is very large. The norm would be rule by democracy with the exception being unanimity for venturing into new business. Once again, it is possible that an LLP may be stopped in its tracks by an intransigent minority of one or two. Three-fourth majority for major decisions, including venturing into new businesses, may, therefore, be the norm;
10. Though there may be a statutory and compulsory requirement to have at least one manager or general partner with unlimited liability, the liability of the LLP in no case may be extended to all partners. Further, it may be ensured that a LLP does not have a dummy for a manager. Hence, proper qualifications in terms of being a partner having sound financial and accounting knowledge might be specified in the enactment especially since he is responsible for ensuring compliance with the significant provisions of the enactment;
11. The Bill requires an LLP to maintain proper books of account but does not explain what constitute 'proper books of account'. In the absence of any clarification, it would be very difficult to evaluate compliance with the provision. In this context, it may also be clarified whether electronic records would be considered as proper books of account;
12. LLPs having characteristics similar to private companies do not need to have free transferability of partners share It may be left to the partnership agreement amongst the partners. The provisions of the Bill in this regard may be made subject to the agreement among the partners; and
13. There is a need to incorporate relevant provisions relating to foreign LLP and amalgamation, Merger, de-merger of limited liability partnerships in the enactment itself. The provisions may not be onerous (like those in the Companies Act, 1956) and provide for a simple way of amalgamations, de-merger and even dissolution.

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Limited liability partnership in India

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Abstract
The legal quandary articulated above also applies to the virgin concept of Limited Liability Partnerships. The new corporate vehicle of Limited Liability Partnership is promulgated to address the existing vacuum between the partnership law and the company law. The Limited Liability Partnership law is basically a nuptial knot between the philosophical ideology of company law and partnership law in order to address the deficiency in the domain of small scale business sector, professional sector & venture capital sector and to accelerate the speed of India's economic growth by developing entrepreneurial skills for the promotion of micro, small & medium enterprise besides professional and venture capital sector etc.

Keywords: limited liability partnership, concept, advantage, structure, India

1. Introduction

"Sometimes the difference between the clear, standard case or paradigm for the use of an expression and the questionable case is only a matter of degree. A man with a shining smooth pate is clearly bald; another with a luxuriant mop clearly is not; but the question whether a third man, with a fringe of hair here and there, is bald might be indefinitely disputed, it if were thought worthwhile or any practical issue turned on it... Sometimes the deviation from the standard case is not a mere matter of degree but arise when the standard case is in fact a complex of normally concomitant but distinct elements, some or one of which may be lacking in the cases open to challenge. Is the flying boat a 'vessel'? Is it still 'chess' if the game is played without a queen? Such questions may be instructive as they force us to reflect on, and make explicit, our conception of the composition of the standard case..."

– Professor H.L.A. HART [1]

The legal quandary articulated above also applies to the virgin concept of Limited Liability Partnerships. The new corporate vehicle of Limited Liability Partnership is promulgated to address the existing vacuum between the partnership law and the company law.

1 H.L.A. Hart, The Concept of Law, 4 (2005). Herbert Lionel Adolphus Hart (July 18, 1907 to December 19, 1992) was an influential legal philosopher of the 20th century. He was Professor of Jurisprudence at Oxford University and the Principal of Brasenose College, Oxford. His most famous work is 'The Concept of Law'.

The Limited Liability Partnership law is basically a nuptial knot between the philosophical ideology of company law and partnership law in order to address the deficiency in the domain of small scale business sector, professional sector & venture capital sector [2] and to accelerate the speed of India's economic growth by developing entrepreneurial skills for the promotion of micro, small & medium enterprise [3] besides professional and venture capital sector etc.

1.1 Concept of LLP

Limited Liability Partnership entities, the world wide recognized form of business organization has been introduced in India by way of Limited Liability Partnership Act, 2008. A hybrid model of business that embraces to cover the flexibility of partnership along with the advantages of the limited liability of a company at a low compliance cost. Such Limited Liability Partnerships are intended to be created for the purpose of supporting the small scale industries and service sector enterprises.

The concept of Limited Liability Partnerships in India along with the need of setting up the Limited Liability Partnerships in place of partnerships and limited companies. Here we will see the various taxation aspects in view of Limited Liability Partnerships that covers Income Tax, Wealth Tax, Service Tax and

- 'Venture Capital' is an important source of finance for those small and medium-sized firms, which have very few avenues for raising funds. Although such a business firm may possess a huge potential for earning large profits in the future and establish itself into a larger enterprise. But the common investors are generally unwilling to invest their funds in them due to risk involved in these types of investments. In order to provide financial support to such entrepreneurial talent and business skills, the concept of venture capital emerged
- The President of India under notification dated May 9, 2007 has amended the Government of India (Allocation of Business) Rules, 1961. Pursuant to this amendment, the Ministry of Agro and Rural Industries (Krishi Evam Gramin Udyog Mantralaya) and the Ministry of Small Scale Industries (Laghu Udyog Mantralaya) were merged into a single Ministry, namely, "Ministry of Micro, Small and Medium Enterprises" (Sukshma Laghu Aur Madhyam Udyam Mantralaya). And Sales Tax/Value Added Tax.

Here we will discuss the issues pertaining to them that need to be addressed in order to effectively implement the Limited Liability Partnerships in India. Then it will be concluded that in near future, more Limited Liability Partnerships will come into existence given its advantages over the partnership and company form of organization in India.

1.2 Defination of LLP

A Limited Liability Partnership is a hybrid between a company and a partnership that, as the name suggests, provides the benefits of limited liability and allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement [4].

Section 2(n) of Limited Liability Partnership Act 2008 Define as "Limited Liability of Partnership formed and registered under this act."

Section 2(m) of Limited Liability Partnership Act 2008 Define as the "Foreign Limited Liability of Partnership means Limited Liability of Partnership formed, incorporated or registered outside India which establishes a place of business with in India."

1.3 Meaning of limited liability partnership

"A Corporate business vehicle that enables professional expertise and entrepreneurial initiative to combine and operate in flexible, innovative and efficient manner, providing benefits of limited liability while allowing its member the flexibility for organizing their internal structure as a partnership" [5].

1.4 Nature and structure of LLP

LLP is an alternative corporate business form that gives the benefit of limited liability of a company and the flexibility of a partnership. The LLP is a separate legal entity, is liable to the full extent of its assets but liability of the partners is limited to their agreed contribution in the LLP. It has perpetual succession and acommon seal and can sue and be sued in its own name [6]. It can continue in exis existence, irrespective of the changes in the constitution of partners. It is capable of entering into contracts and holding property in its own name [7]. Further, no partner is liable on account of the independent or unauthorized actions of other partners, thus individual partners are shielded from joint liability created by another partner's wrongful business decisions or misconduct It is organized and operates on the basis of an agreement, without imposing detailed legal and procedural requirement of a joint stock company. The mutual rights and duties of the partners within a LLP are governed by this agreement. Thus, since LLP contains elements of both 'a corporate structure' as well as 'a partnership firm structure' LLP is called a hybrid between a company and a partnership [8].

1.5 Advantages of LLP form

LLP form is a form of business model which:

- is organized and operates on the basis of an agreement.
- provides flexibility without imposing detailed legal and procedural requirements

Enables professional/technical expertise and initiative to combine with financial risk taking capacity in an innovative and efficient manner LLP & Other Worlds The LLP structure is available in countries like United Kingdom, United States of America, various Gulf countries, Australia and Singapore. On the advice of experts who have studied LLP legislations in various countries, the LLP Act is broadly based on UK LLP Act 2000 and Singapore LLP Act 2005. Both these Acts allow creation of LLPs in a body corporate form i.e. as a separate legal entity, separate from its partners/members.

Qualifications for becoming a partner [10]

Any individual or body corporate may be a partner in a LLP. However an individual shall not be capable of becoming a partner of a LLP, if-

(a) He has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;

- He is an undischarged insolvent; or
- He has applied to be adjudicated as an insolvent and his application is pending

Requirements in respect of "Designated Partners" Appointment of at least two

"Designated Partners" shall be mandatory for all LLPs. "Designated Partners" shall also beaccountable for regulatory and legal compliances, besides their liability as 'partners, per-se".

A "Designated Partner" [11]

Every LLP shall be required to have atleast two Designated Partners who shall be individuals and at least one of the Designated Partner shall be a resident of India. In case of a LLP in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners. LLPs, particularly those as may be engaged in the services or technology-based sectors, may provide services globally. This may require any number of its partners to locate them abroad. In view of liability structure of partners, designated partners and LLP, clearly provided for in the Act, there does not appear to be any necessity and justification for restriction relating to designated partners to out-number partners located abroad. In fact it may pose unnecessary restriction. Requirement of 'Identification number' of Designated Partner Every Designated Partner would be required to obtain a "Designated Partner's Identification Number" (DPIN) on the lines similar to "Director's Identification Number" (DIN) required in case of directors of companies. Enabling provisions have been made to prescribe under rules conditions, which would have to be fulfilled by an individual who is eligible to be appointed as a 'Designated-Partner'.

LLP AGREEMENT [12]

The mutual rights and duties of partners inter se and those of the LLP and its partners shall be governed by the agreement between partners or between the LLP and the partners. This Agreement would be known as "LLP Agreement". As per provisions of the LLP Act, in the absence of agreement as to any matter, the mutual rights and liabilities shall be as provided for under Schedule I to the Therefore, in case any

LLP proposes to exclude provisions/requirements of Schedule I to the Act, it would have to enter into an LLP Agreement, specifically excluding applicability of any or all paragraphs of Schedule.

2. Salient feactures of the LLP Act OF 2008 [13]

The salient features of the LLP Act of 2008 are as follows:-

1. The LLP will be an alternative corporate business vehicle that would give the benefits of limited liability but would allow its members the flexibility of organizing their internal structure as a partnership based on an agreement
2. The proposed Bill does not restrict the benefit of LLP structure to certain classes of professionals only and would be available for use by any enterprise which fulfills the requirement of the Act.
3. While the LLP will be a separate legal entity, liable to the full extent of its assets, the liability of the partners would be limited to their agreed contribution in the LLP. Further, no partner would be liable on account of the independent or un-authorized actions of other partners, thus allowing individual partners to be shielded from joint liability created by another partner's wrongful business decisions or misconduct.
4. LLP shall be a body corporate and a legal entity separate from its partners. It will have perpetual succession. Indian Partnership Act, 1932 shall not be Applicable to LLPs and there shall not be any upper limit on number of partners in an LLP unlike an ordinary partnership firm where the maximum number of partners cannot exceed.
5. An LLP shall be under obligation to maintain annual accounts reflecting true and fair view of its state of affairs. Since tax matters of all entities in India are addressed in the Income Tax Act, 1961, the taxation of LLPs shall be addressed in that Act.
6. Provisions have been made in the Bill for corporate actions like mergers, Amalgamations etc.
7. While enabling provisions in respect of winding up and dissolutions of LLPs have been made in the Bill, detailed provisions in this regard would be provided by way of rules under the Act.

3. Understanding limited liability partnership in brief

- Limited Liability Partnership was introduced by way of Limited Liability Partnership Act 2008 (LLP Act 2008) notified on 1st April 2009.
- LLP Act 2008 contains 14 Chapters, 81 Sections , 4 Schedules and 31 Forms
- LLP is a Body Corporate
- It is a Legal entity separate from its partners
- It has Perpetual succession
- Can own assets in its name, sue and be sued.
- Name to contain 'Limited Liability Partnership' or 'LLP' as suffix.
- Unlike corporate shareholders, the partners have the right to manage the business

83. Government order No.11/3/2003-CL.V passed by the Government of India dated 10th January 2003. directly

- One partner is not responsible or liable for another partner's misconduct or negligence.
- Liability of the partners is limited to their agreed contribution in the LLP
- Unlimited Liability in case of Fraud
- The Business of LLP should be _for profit' business only
- Contributions by Partners may be tangible, intangible, movable or immovable.
- Partner may lend money to and transact other business with LLP.
- Any individual or body corporate can be a partner
- Minimum of 2 partners and no maximum limit
- Minimum 2 individuals as Designated Partners, of whom at least one shall be resident in India.
- Every Designated Partners must obtain Designated Partner Identification Number (DPIN) from the Central Government. In case you already have a DIN (Director Identification Number), the same can be used as a DPIN.
- The mutual rights and duties of the partners of LLP and the mutual rights and duties of LLP and its partners shall be governed by LLP agreement between the partners or between LLP and its partners.
- In the absence of such agreement relationship of Partners and LLP would be governed as per Schedule 1 of LLP Act, 2008.
- LLP shall maintain books of accounts.
- A Statement of Accounts and Solvency (SAS) to be prepared within 6 months from each Financial Year
- Annual Return of LLP must be filed with Registrar of LLP
- Audit of the accounts is required only if the contribution exceeds Rs. 25 lakhs or annual turnover exceeds Rs 40 lakhs.
- Tax issues of LLP addressed under the Income Tax Act 1961 separately
- Income-tax - 30% of total income with education cess of 3%. Effective tax rate is 30.90%. No Surcharge would be levied on LLPs taxable amount.
- Multi Disciplinary Professional LLP can be formed
- Indian Partnership Act, 1932 shall not apply to LLP.
- Applicability of Companies Act, 1956 will be directed by Central Government by notification in Official Gazette.
- Concept of Whistle Blower has been introduced
- The Cabinet Committee of Economic Affairs (CCEA) approved Foreign Direct Investment (FDI) in LLP on 11th May, 2011
- Foreign Investment is allowed in LLP only with Foreign Investment Promotion Board (FIPB) Approval. Under FDI Policy, Foreign Investment in Limited Liability Partnership is allowed with specific approval of the Government. However, FDI in LLPs is allowed only under those sectors where 100% FDI is otherwise allowed under automatic route and subject to other specified conditions.

4. The followings are some conditions with respect to FDI in LLP's-

- LLPs with FDI will not be eligible to make any downstream investments.
- Foreign Capital participation in LLPs will be allowed only by way of cash consideration.
- Investment in LLPs by Foreign Institutional Investors (FIIs) and Foreign Venture Capital Investors (FVCIs) will not be permitted.

- LLP's are not allowed to raise foreign currency loans

5. Need for Enactment of Limited Liability Partnership Act

"With the growth of the Indian economy, the role played by its entrepreneurs as well as its technical and professional manpower has been acknowledged internationally. It is felt opportune that entrepreneurship, knowledge and risk capital combine to provide a further impetus to India's economic growth. In this background, the need has been felt for a new corporate form that would provide an alternative to the traditional partnership, with unlimited personal liability on one hand, and statute based governance structure of the limited liability company on the other, in order to enable professional expertise and entrepreneurial initiative to combine, organize and operate in flexible, innovative and efficient manner [14]." The existence of Limited Liability Partnership (LLP) which has its genesis in general partnership is now a reality in India with the enactment of the, the Minister of Company Affairs, explains the object of this new device of organization. Limited Liability Partnership Act, 2008, (LLP Act) from March 31, 2009 [15]. It was felt that the Companies Act, 1956 (Companies Act) is not suited to the liability and governance structure intended for LLPs. The overall intent of the legislation to regulate widely held companies is different. Therefore, in accordance with the recommendations of the Irani Committee, it was felt appropriate to bring a new legislation for LLPs. According to the concept paper on Limited Liability partnership prepared by the Government of India in 2005, in view of the increasing role of service sector in Indian economy, a need was recognized for introduction of a new corporate entity Limited Liability Partnership that would combine the characteristics of corporate and non corporate entities. The administration and enforcement of partnership firms under the Indian Partnership Act, 1932 (Partnership Act) is at the State level. Besides, a partnership firm involves full joint and several liabilities of the partners [16]. Because of this, many enterprises engaged in biotech, information technology, etc. find traditional partnerships unsuitable. Also, the traditional partnership firms are very unsuitable for multidisciplinary combinations like the combination of lawyers and accountants, which is the hot combination today. Thus, the LLP Act is intended to remove the gulf which exists between a company governed by the Companies Act and a general partnership firm governed by the Partnership Act [17].

- Sanjiv Agarwal, Genesis and concept of Limited Liability Partnership, Consolidated Commercial Digest, Vol. 23 Part 3, p. 178
- Pollock & Mulla, The Indian Partnership Act, p. 439
- Kartikey Mahajan, Limited Liability Partnership Act: a long way forward, International Company and Commercial Law Review, Issue 6, 2009, p. 20

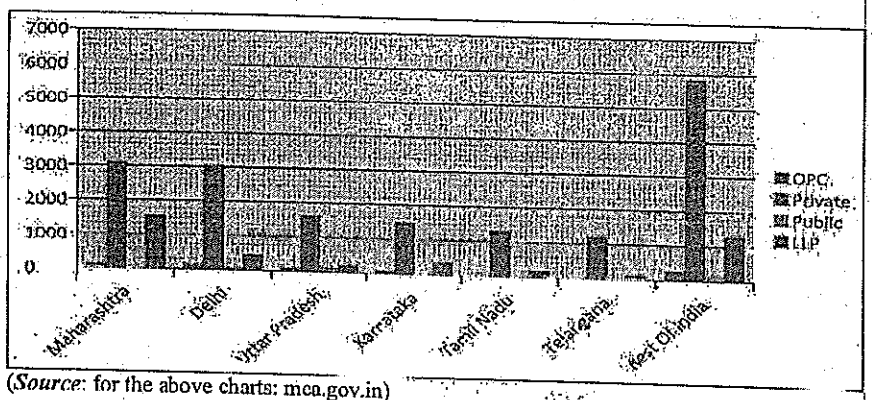
The limited liability partnership is viewed as an alternative corporate business vehicle that provides the benefits of limited liability but allows its member the flexibility of organizing their internal structure as partnership based on a mutually arrived agreement.

The LLP form would enable entrepreneur, professional, and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements. Owing to flexibility in its structure and operation, the LLP would also be a suitable vehicle for small enterprises for and for investment by venture capital. The two primary reasons for introducing LLP were the Risk Factor and the enhanced global competitive advantage to the Indian professionals.

Regulatory framework as prevailing today

- Due to restrictions (supra) under Companies Act, 2013, LLP emerges as better option Businesses can survive, only if funds are freely available,
- Character of Limited liability and perpetual succession continues under LLP;
- No Stringent penalty provisions in LLP Act unlike Companies Act;
- Like Companies, Foreign Direct Investment (FDI) in LLP is permitted.
- Loan to a partner or to the concerns in which a LLP partner holds beneficial interest is not subjected to any violation, as well, it is out of ambit of 'deemed dividend implications' under Income Tax Act, which is scary provision applicable to closely held companies;
- No Dividend Distribution Tax applicable to LLP;
- No monetary restriction on related party transactions except specific restrictions under Income Tax Act, which is common for all forms of entities.
- Perquisite rules not applicable in respect of transaction with partners;
- Stringent provisions of carry forward of loss in case of company are relaxed while dealing under LLP;
- Unlike company, LLP is not subject to Wealth Tax provisions, but partners are in their own respective manner;
- Mechanism of computation of Alternate Tax on profits is rationalized under LLP. Out of 10 startups, more than five do not have any knowledge about legal terms All they have is an idea, but are not sure how to and from where to start. In the last three months, we have seen that in the Incorporation of Legal Entities there has been an almost 26% rise in private limited company formation and also One Person Company (OPC) formation is also increasing. Every month more than 5,000 businesses are incorporated in India and, out of these legal entities, more than half are in three states only i.e. in Delhi, Maharashtra, Uttar Pradesh.

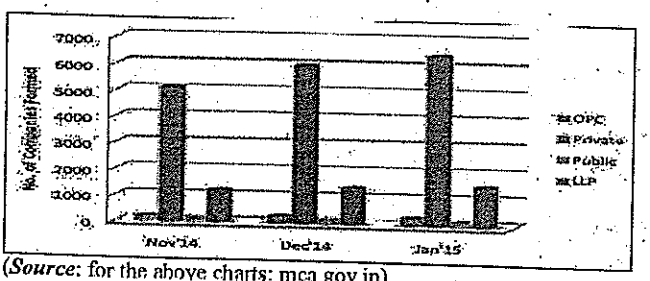
Let us look at the facts



(*Source*: for the above charts: mca.gov.in)

Fig 1

Also, please look after how much the growth of company formation in last three month is



(*Source*: for the above charts: mca.gov.in)

Fig 2

6. Application of the LLP regime [18]:

Law may be enacted to provide for establishing LLP. The LLP form might initially be made available only to those providing defined professional services like lawyers, company secretaries, accountants and the like.

- To be eligible for this form of partnership, the profession must be governed by a regulatory enactment that adequately controls and disciplines, errant professional conduct.
- The Department of Company Affairs may notify such professions from time to time. LLP may be extended, at a later stage, to other services and business activities once the experience gained with the LLP form of organization has been evaluated and tested.
- The Committee was of the view that the LLP in the first instance be made available to firms providing professional services, as opposed to trading firms and or manufacturing firms, for several reasons.
- Firstly, because Indian professional firms are precluded from practicing under any other legal form in view of the restrictions imposed by their respective regulatory laws; trading firms or manufacturing firms, however, have the option to carry on business as a private limited or public company under the Companies Act, 1956.
- Secondly, as the professionals are also governed and regulated by their respective professional, regulatory bodies, which also control and monitor professional conduct, extending the LLP structure only to professionals minimizes the risk inherent in testing new waters.
- Thirdly, there is no special advantage that small private companies or SSI units would derive from being an LLP, especially in light of the fact that this committee itself is simultaneously recommending a considerable easing of regulations on private companies, especially small private companies. It was felt that extending the LLP structure to professionals, in the first instance, would help evaluate its advantages and risks; and based on such evaluation and experience, the LLP form be considered for extension to small-scale manufacturing and/or trading firms as well in the future.

7. Comparison between traditional Partnership and LLP

Table 1

Traditional Partnership Distinctions	Limited Liability Partnership
Unlimited personal liability of each partner for dues of the partnership firm. Personal property of each partner also liable.	No personal liability of partner, except in case of fraud.
Written agreement not essential.	Incorporation document essential.
Partnership can be registered under Partnership Act. Registration is not mandatory.	LLP is incorporated under LLP Act. Incorporation is mandatory.
Not a legal entity separate from its Partners	It is a legal entity separate from its partners, having perpetual succession
Property cannot be held in name of partnership firm.	Property can be held in name of LLP.

Partnership deed/agreement is	Incorporation Document' is required
executed. Even verbal agreement is valid.	to be executed. In addition, LLP Agreement is required in almost all cases, though such LLP agreement is not mandatory.
Documents are required to be filed with Registrar of Firms (of respective State)	Registrar of Companies (ROC) is the administrating authority.
Death of partner dissolves a firm, in absence of agreement	Death of partner does not dissolve LLP.
Minimum two and maximum twenty Partners	Minimum two partners. No limit on maximum number of partners
Each partner can take part in business of firm.	Each partner can take part in business of firm, but LLP Agreement can provide to the contrary.
All partners are liable for statutory compliances under Partnership Act	Only designated partners are liable for statutory compliances as are required under LLP Act (not necessarily in respect of other Acts).
Partner cannot enter into business with firm, though he can give loan to firm.	Partner cannot enter into business with firm, though he can give loan to firm.
Every partner of firm is agent of firm and also of other partners. He can	Every partner of LLP is agent of LLP but not of other partners. Thus, he can
bind partnership firm as well as other partners by his acts	bind LLP by his acts but not other partners. However, LLP agreement can restrict powers of individual partner.
Filing of accounts, statement of solvency and annual return not required.	Filing of accounts, statement of solvency and annual return not required.
Partnership can be _at will' i.e. any partner can resign or dissolve firm	Individual partner can resign but cannot dissolve the LLP.
Death of partner dissolves partnership unless there is contract to contrary	Death of partner does not dissolve LLP
Public notice is required for retirement of a partner.	Filing of return of retirement of partner with ROC is required, but no provision for public notice of retirement of partner.
Partnership firm can be dissolved	LLP can be would up.
No specific provision to enter into compromise, arrangement, amalgamation, reconstruction etc. This can be done only under civil laws.	LLP can enter into compromise, arrangement, amalgamation, reconstruction etc.
Minor can be admitted to benefit of partnership.	There is no specific provision to admit minor to benefit of partnership. It is doubtful if this can be done.
Similarities	
Partner is not employee of firm	Partner is not employee of LLP.
Liability of a person for _holding out', i.e. representing himself as partner, though he is not	Liability of a person for _holding out' i.e. representing himself as partner, though he is not
Partner of firm entitled to remuneration only if partnership agreement so provides	Partner of LLP entitled to remuneration only if LLP agreement so provides
New partner can be introduced only with consent of all existing partners	New partner can be introduced only with consent of all existing partners, unless LLP Agreement provides otherwise.
Insolvent person cannot continue as partner of firm.	Insolvent person cannot continue as partner of LLP.
Rights of partnership can be assigned	Rights of partnership can be assigned
Partner liable to firm for any personal profits made by him by use of property, name or business connection of firm.	Partner liable to LLP for any personal profits made by him by use of property, name or business connection of LLP
Partner cannot undertake competing business without consent of other Partners	Partner cannot undertake competing business without consent of LLP. Otherwise, liable to account for and pay profits to LLP
Partner liable to firm if he commits fraud.	Partner liable to LLP if he commits fraud.

Table 2: Comparison between company and LLP

Company under Companies Act	Limited Liability Partnership
Distinctions	
Memorandum is to be filed with ROC	Incorporation Document is required to be filed
Memorandum should contain State in which incorporated.	Incorporation Document is not required to contain State in which incorporated. Thus, registered office can be changed to any place in India just by informing ROC subject to prescribed conditions.
Name to contain Limited' or Private Limited'	Name to contain Limited Liability Partnership' or _LLP'
Articles are to be filed at the time of incorporation. Private company must have Articles. In case of public company, provisions of Table A apply if there are no Articles.	LLP Agreement is required to be filed later. In absence of LLP Agreement, mutual rights and duties will be as specified in first schedule to LLP Act, 2008. Thus, practically, each LLP must have LLP Agreement, though not mandatory
Managing Director and Whole time Director to look after day to day administration.	Designated Partner to look after statutory compliances. Otherwise, all partners can look into affairs of the LLP. However, LLP can delegate powers to some partners who may be designated as _Managing Partner', or _Executive Partner' or any other name
Individual director or member does not have authority in conduct of business of company.	Every partner has authority to conduct business of LLP, unless the LLP Agreement provides to contrary

Restrictions on remuneration to director as per Companies Act	No restriction on remuneration to partner. Remuneration should be provided in LLP agreement
Notice of change of director is to be given by company.	A partner who has resigned from LLP can himself file notice of his resignation to ROC.
Share, share certificate, register of members, transfer and transmission of shares etc. required.	No requirement of share and share certificate. Hence, no question of its issue, allotment, transfer, rectification of register etc.
Board meetings, general meetings are required.	No provision for regular meeting of Board and members. Partners can decide when and how to meet, delegation of powers etc. Provision is made that LLP should maintain minute book
Charges are required to be registered	No provision for registration of charges.
Elaborate records and registers are required to be maintained	No records and registers have been Prescribed
Restrictions on Board regarding some specified contracts, contracts in which directors interested, investments, loans and guarantees to other Companies	Partners are free to enter into any contract.
Disclosures required of contracts where directors are interested	No requirement of disclosures required of contracts where partners are interested, unless specified in LLP Agreement.
Elaborate provision relating to redressal in case of oppression and Mismanagement	No provision relating to redressal in case of oppression and Mismanagement
Specific provisions relating to nidhis, NBFC	No specific provisions relating to nidhis, NBFC
Similarities	
Limited liability and perpetual Succession	Limited liability and perpetual Succession
Must have common seal	Common seal is optional
Provisions of approval of name, change of name are similar	Provisions of approval of name, change of name are similar.
ROC is the administrative authority	ROC is the administrative authority
Provisions of name, its approval and change are similar.	Provisions of name, its approval and change are similar.
No personal liability of individual director or member [except of director of private company in some cases like income tax and sales tax dues].	No personal liability of partner, except in case of fraud
Complicated procedure for change of registered office, particularly when change is to other State	Simple procedure to change registered office of LLP anywhere in India just by informing ROC and following prescribed conditions
Registrar of Companies (ROC) is the administrating authority	Registrar of Companies (ROC) is the administrating authority
Memorandum and Articles, details of directors, accounts, annual return, special resolutions etc. filed by LLP with ROC will be available for public	Incorporation document, details of partners, accounts, statement of solvency and annual return filed by LLP with ROC will be available for
Inspection	public inspection
Powers to Central Government to inspect records of company and to order investigation	Powers to Central Government to inspect records of company and to order investigation
Provisions of compromise, arrangement or reconstruction of companies are similar	Provisions of compromise, arrangement or reconstruction of LLP
Company can be would up voluntarily or by order of Court ROC can strike off name of defunct company.	LLP can be would up voluntarily or by order of Court ROC can strike off name of defunct LLP.

9. Corporate Governance in LLP structure[17]

Corporate Governance

In the LLP form of business structure is ensured by mandatory provisions, for example: firstly, two individuals must be designated partners; the responsibility for accounts and compliance with the LLP law rests with them. Penalty for default in compliance is imposed on them in their individual capacity. Secondly, the relevant partner has to face individual liability for any wrongful act, or omission, or for any act with fraudulent intent. Thirdly, the LLP Agreement must have provisions in critical specified areas; otherwise the provisions of First Schedule to the LLP Act 2008 will mandatorily apply.

10. Business Activities of LLP

Section 11(1) of the LLP Act 2008 states that two or more persons associated for carrying on a lawful business with a view to profit can incorporate a LLP. Therefore, a LLP cannot be created for non-profit making activities and existence of business is a pre-requisite for the legal existence of LLP. There is no exact universal definition of business, however generally in its most broadest meaning it includes all activity by the community of suppliers of goods and services. The expression 'business' is defined in the Income Tax Act, 1961, as any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce or manufacture. Section 2(1) (e) of the LLP Act 2008 has defined the term Business' to include every trade, profession, service and occupation'. However, the Act does not define the terms trade, profession, service and occupation.

11. Multidisciplinary Partnerships

At the outset it is clarified that the LLP framework is not restricted to professional services alone as was earlier recommended by Naresh Chandra Committee. The LLP law has been touted as ushering in an era of organisations offering multi-disciplinary services. The World Trade Organisation

(WTO) is mounting pressure on India for opening up of the multi-disciplinary professional services as a single window operation for the various multiplying foreign investors in India. LLP will give the professions the much needed impetus of global presence and level playing field against their foreign counterparts. Currently, firms of the above professionals have partners from their own discipline. For instance, a CA partnership can have only CAs as its partners. But under the LLP model, CAs and CSs or even advocates can set up multi-disciplinary firms, which would act as a "one-stop" shop for people to avail various professional services.

Duration of LLP

The duration of an LLP may be

- Perpetual
- For Particular Event
- For Specific Job

12. Micro, Small and Medium Enterprises (MSME)

LLP has an Immense role to play in the Manufacturing Sector. Around 95% of Industrial units in the country are SMEs (Small and Medium Enterprises) and the manufacturing sector is dominated by these SMEs. LLP has an immense role to play in the Manufacturing Sector. Over 90% of these SMEs are registered as proprietorships, about 2%to 3% as partnerships and less than 2% as companies as per a survey conducted by the ministry of small-scale industries. The reason of absence of Corporate Form in the manufacturing Sector is high compliance cost. Vice - Versa the presence of Proprietorship is due to complete flexibility and less compliance cost. But for this gain the sector is losing the credit facility from the bankers. Now the Limited Liability Partnership form has opened the door for MSME Sector to enjoy the dual advantage of less compliance with higher access to credits in the market. Another advantage for SMEs that in the new LLP form, only the Limited Liability Partnership having turnover/contribution of more than Rs 40/25 Lacs have to get their accounts audited as per the requirement of law providing a step ahead in the flexibility. The LLP form of business would also promote entrepreneurship, particularly in relation to the knowledge-based industries such as the information technology and biotechnology sectors.

1. H.L.A. Hart, The Concept of Law, 4 (2005). Herbert Lionel Adolphus Hart (July 18, 1907 to December 19, 1992) was an influential legal philosopher of the 20th century. He was Professor of Jurisprudence at Oxford University and the Principal of Brasenose College, Oxford. His most famous work is 'The Concept of Law
2. 'Venture Capital' is an important source of finance for those small and medium-sized firms, which have very few avenues for raising funds. Although such a business firm may possess a huge potential for earning large profits in the future and establish itself into a larger enterprise. But the common investors are generally unwilling to invest their funds in them due to risk involved in these types of Investments. In order to provide financial support to such entrepreneurial talent and business skills, the concept of venture capital emerged.
3. The President of India under notification dated May 9, 2007 has amended the Government of India (Allocation of Business) Rules, 1961. Pursuant to this amendment, the Ministry of Agro and Rural Industries (Krishi Evam Gramin Udyog Mantralaya) and the Ministry of Small Scale Industries (Laghu Udyog Mantralaya) were merged into a single Ministry, namely, "Ministry of Micro, Small and Medium Enterprises" (Sukshma Laghu Aur Madhyam Udyam Mantralaya).

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A Study of Consumer Protection LAWS in Present Indian Judicial System: Some Reflections

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***Abstract** – Indian market today is commanded by the consumerism, especially following 10 years from economic reforms process. It is step by step being changed from a dominatingly venders market to a purchasers market where practiced decision by the consumers relies upon their awareness level. Consumer rights could be protected in an aggressive economy just when right guidelines for goods and services for which one makes installment are guaranteed by developing a network of institutions and legal protection framework. Guaranteeing consumer welfare is the obligation of the government as each subject of the country is a consumer in one way or the other. The present paper endeavors an expository, basic and engineered examination of "consumer protection in India".*

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INTRODUCTION

By the nineteenth century consumer came to be utilized as a contrast to the term maker. The nineteenth century perspective of the consumer has made due in most entrepreneur vote based systems. In fact, consumers have an 'optional relationship' with goods and services, since they are compelled to live with and through services and goods that they themselves did not make. In this manner, the consumer still stays as a 'marginal group' in the present prevailing market economy of the world. India is quick being perceived as a noteworthy center point for all consumer and businesses goods. The nearness and impact of the market has therefore developed significantly in consumer life. Gandhi ji trusted "consumer is best" is the ruler of market. In perspective of this, numerous businesses including the late J.R.D. Goodbye and the late Jamnalal Bajaj helped build up a moral code for business practice, to assemble connects amongst consumers and business.

In any case, the inalienable benefit rationale in large scale manufacturing and sales additionally offers the chance to numerous manufacturers and merchants to abuse consumers. Every day, corrupt market practices are finding their way into consumer homes, violating consumer rights and endangering their safety. The requirement for empowerment of consumers as a class can't be overemphasized and is as of now all around perceived everywhere throughout the world. The level of awareness of the consumer can be taken as a pointer of the advance of a country. Be it drugs, electronic goods, Fast Moving Consumer Goods or even services rendered – every one of these request that consumers end up mindful of their rights. Keeping in mind the end goal to defend consumer intrigue, six consumer rights were at first imagined by consumer rights activists of the West, in particular: Right to Safety, Right to information, Right to Choice, Right to Heard, Right to Redress and Right to Consumer Education. In time, two more critical rights were added viz.: Right to Basic Needs and the Right to a Healthy and Sustained environment. These two rights are firmly connected with the substances of developing nations were environment assumes an exceptionally vital role as an asset and support – structure for the people. India has a tremendous greatness of white collar class populace in the world and is the second quickest developing economy after China with a 8% or more normal GDP development rate throughout the previous couple of years. To tap this enormous market expansive number of national and international marketing organizations are working in the financial, protection and banking, consumer and durables goods and services identified with information and communication sectors. The majority of these organizations are highly effective regarding benefit, sales income line and even market offer and development rates. A portion of the pertinent issues concerning the consumers are: High Prices, High Cost of Distribution, Shoddy or risky Products, Product Safety, Harmful and Low advantage Products, Planned Obsolescence, Poor service to the Disadvantaged (Thomas, 1978).

In this way, require was felt to shield consumers from over the top consumerism legally so they can be protected. Tolerating consumer welfare as the

obligation of the government, Consumer Protection Act, 1986, was acquainted with shield consumers legally from fraud and misleading amid the process of consumerism. A different Department of Consumer Affairs was additionally made in the Central and State Governments to only spotlight on guaranteeing the rights of consumers as cherished in the Consumer Protection Act, 1986.

The consumer is the person who pays to expend the goods and services delivered. Accordingly, consumers assume a vital role in the economic arrangement of a country. Without their compelling interest, the makers would do not have a key inspiration to create, which is to pitch to consumers. Economic activity prospers when consumers can put stock in makers, yet the consumer must have sensible reason for trust. Consumers will then value, quality and safety, as well as the assurance of quality and safety. In this manner trust relies upon assurance. Makers generally pick up by giving assurance, so they try to fabricate, grow and venture a decent notoriety. Makers exhibit quality and safety and make the substance of guarantees clear and publicly comprehended by methods for advertisements, displays, sales assistance, labeling and packaging and so forth. Be that as it may, when some type of harm or undue danger emerges, at that point the trust of the consumer goes off. Generally consumer protection comes as government regulations Consumer protection is a group of laws and organizations designed to guarantee the rights of consumers and additionally reasonable trade, rivalry and exact information in the marketplace. The laws are designed to avoid businesses that participate in fraud or determined out of line practices from picking up leverage over contenders. They may likewise give extra protection to those most powerless in the public eye.

A consumer is characterized as somebody who gets goods or services for coordinate utilize or ownership as opposed to for resale or use in production and manufacturing. A consumer is one who chooses whether or not to purchase a thing at the store, or somebody who is impacted by commercial and marketing. Each time somebody goes to a shop and purchases a thing, they settle on a choice as a consumer. In the fields of economics, marketing and advertising, a consumer is generally characterized as the person who pays to devour the goods and services created by a dealer (i.e., company, organization). A consumer can be a man (or group of people), generally ordered as an end client or target statistic for a product, decent, or service (Saraf, 1990).

Advancement of consumer welfare is the shared objective of consumer protection and rivalry policy. At the foundation of both consumer protection and rivalry policy is the acknowledgment of an unequal connection amongst consumers and makers. Protection of consumers is proficient by setting least quality particulars and safety measures for the two goods and services and building up systems to redress their grievances. The goal of rivalry is met by guaranteeing that there are adequate quantities of makers with the goal that no maker can achieve a place of predominance. In the event that the idea of the industry is to such an extent that strength regarding market share can't be maintained a strategic distance from, it tries to guarantee that there is no mishandle by virtue of this predominance. Rivalry policy additionally tries to prevent different types of market disappointment, for example, development of cartels, prompting conniving evaluating, division of markets and joint choices to lessen supply. Mergers and acquisitions likewise should be managed as they lessen rivalry.

CONSUMER PROTECTION LAWS IN INDIA

The idea of consumerism was active even in the old time frame. According to the Arthshastra of Kautilya, it was the duty of Superintendents to put the Government product in the market under ideal conditions and to manage their sales at sensibly rates. Businessmen who tricked or meddled generally with the ordinary working of the market prices were available to substantial punishment. Correspondingly, Narada and Brahaspati have additionally set out various laws and regulations to defend the enthusiasm of purchasers and vendors. Also, Mahatma Gandhi connected extraordinary significance to what he portrayed as —Poor Consumerl who as indicated by him, ought to be the main recipient of the consumer development. Accordingly, the consumer protection jurisprudence of India as comprehended and created in current circumstances owes its beginning to the antiquated period and the idea of giving protection to consumers through laws relates back to the time immemorial.

At the point when India achieved autonomy, it embraced the Anglo-Saxon arrangement of organization of equity and the vast majority of the legislative enactments managing the protection of consumer kept on working. In any case, another measurement was given by the reception of Constitution in the year 1950, to the legislation making, identifying with Citizens in general and consumer specifically. The Constitution itself contained different certifications to the natives of India and furthermore gave rules as —Directive Principles of State Policyll to be followed and supported by the state in its future legislative activities and the post-autonomous period has seen an expansive number of enactments implied for the advantage of consumers. Article. 14 of the constitution ensures equality under the steady gaze of law and equivalent protection of laws. Along these lines, manufacturers, makers, traders, venders and consumers appreciate approach treatment under the watchful eye of law either to receive reward or punishment. Under Article 21

which ensures right to life and individual freedom, dissent of a fundamental service by the state may add up to violation of this right. Further, the consumer is qualified for sacred Protection under Art. 38, which peruses as —The state should endeavor to advance the welfare of the people by securing and ensuring, as successfully as it might, a social request in which equity, social, economic, and political, should advise all the institution of the national life. Under provision (b) and (c) of Article 39, the state is will undoubtedly coordinate its policy towards securing the circulation of the ownership and control of the material assets of the group in such away as —to serve the regular goodll Article 43 guides that state might try to manufacture an economic organization or to make appropriate legislation to guarantee a conventional standard of life to every one of the specialists who constitute the greater part of the consumers. Article 46 of the Constitution of India orders that state shorild advance with unique care the educational and economic enthusiasm of the weaker segments of the people and might shield them from social foul play and all types of misuse. The articulation —Protection from all type of exploitationll w ould when connected with regards to consumers implies that the consumers ought to be spared from a wide range of badgering and fraud at the market put. To change the established orders into reallty and satisty the yearnings of the people of India, a few legislations have been enacted amid the post autonomous time managing and ensuring the rights of consumers and other between related people. (Borrie, 1984).

The ceaseless lack of specific necessities of life and their non-accessibility at sensible rates to everybody, the growing inclination in the direct of corrupt traders and merchants to store fundamental wares with a view to profiteering, the ignorance, obliviousness and the poor obtaining limit of most by far of populace especially provincial people, the nonappearance of focused market and numerous different factors alike, required to engage the Government to control production, value, supply and appropriation of basic wares. The requirement for enactment of an appropriate legislation had been felt, even before the parcel of the country, to control certain unfortunate propensities of deceitful components in the trade and commerce. The Essential Commodities Act was first enacted in 1946. In 1955, based on the constitution received by the country the fundamental items Act, 1955 was enacted. The goal of the legislation was, and ceaseless to be, to manage the production, supply and conveyance of those wares which are fundamental for the people and to guarantee that the deceitful components of the trade don't corner the stocks or unduly blow up the prices which would handicap the ordinary citizens from obtaining them. The Monopolistic Restrictive and Unfair Trade Practices Act, 1969 (MRTP Act) was the main legislative gadget implied for giving alleviation in regard of monopolistic and prohibitive trade practices prejudicial to public intrigue or prejudicial to consumers. The MRTP Act at first needed in containing compelling arrangements identifying with Protection of Consumers and in this way the Sachar Committee in the year 1978 needed to prescribe for its entire upgrading, the advisory group gave different proposals as to protection of interests of consumers. However the proposals made by the panel did not discover put in the statute book for around 5 years and finally in the year 1984, noteworthy amendments were made in the —Monopolistic Restrictive and Unfair Trade Practices Act, 1969ll, after two year by another amendment —a consumerll and a registered consumer associationll were likewise given Locus Standi to make a grievance. The Amendment of 1986 added a critical and significant right in the ordnance of consumers. The year 1986 might be said to be the brilliant year for consumers as not just the consumer protection act, 1986 was enacted in that year, another legislation to be specific The Bureau of Indian Standards Act, 1986 was additionally enacted which revoked the before act made regarding the matter. The Consumer Protection Act, 1986 gives a to a great degree great chance to the consumers for the snappy redressal of their grievances and it is rightly thought to be a breakthrough ever economic legislation in India. For this reason a three level semi judicial hardware was set up at the National, State and District level to manage the consumer debate in the fields of imperfect goods, lacking services, unreasonable trade practices, prohibitive trade practices, over changing and risky goods, and so forth.

In spite of the fact that in the year 1986, the —Consumer Protection Act, 1986ll was enacted with a view to give better protection to consumers. The Consumer Protection Act, 1986 arrangements just with the problems of an individual consumer. It doesn't manage the issue and problems identified with —maintaining or expanding supplies of any basic ware or for securing their evenhanded appropriation, and accessibility at reasonable prices or managing people enjoying accumulating and dark marketing of, and profiteering in, basic products and with the shrewdness of horrendous inflationary pricesll for which the Essential Commodities (Special Provisions) Act 1981, and —Prevention of Black-Marketing and Maintenance of Supply of Essential Commodities Act, 1980ll were enacted are still in task (Consumer Unity Trust Society (2001).

CONSUMER PROTECTION LEGISLATIONS IN INDIA

Consumer protection laws or Consumer Laws are designed to guarantee reasonable rivalry and the free flow of honest information in the marketplace. Consumer Protection laws are a type of government

regulation which expect to secure the interests of consumers. The Consumer development in India is a financial development which tries to secure the rights of the consumers in connection to the goods acquired and services profited (Consumer Protection (2000).

The Consumer Protection Act, 1986 is the fundamental legislation relating to Consumer protection Different Legislations overseeing Consumer Protection include:

- Agricultural Products (Grading and Marketing) Act, 1937
- Industries (Development and Regulation) Act, 1951
- The Essential Commodities Act, 1955
- Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980
- The Consumer Protection Rules, 1987
- Bureau of Indian Standards (Recognition of Consumers' Associations) Rules, 1991
- Consumer Welfare Fund Rules, 1992
- Competition Act, 2002
- The Consumer Protection Regulations, 2005
- Right to Information Act, 2005
- The Legal Metrology Act, 2009
- Consumer Protection (Amendment) Bill, 2011
- The Consumer Protection Bill, 2015

CONSUMER RIGHTS UNDER THE ACT

The Act enshrines the following rights:

- The right to be protected against the marketing of goods which are hazardous to life and property;
- The right to be informed about the quality, quantity, potency, purity, standard and price of goods so as to protect the consumer against unfair trade practices;
- The right to be assured, wherever possible access to variety of goods at competitive prices;
- The right to be heard;
- The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumer; and
- The right to consumer education.

The Act accommodates the foundation of the Consumer Protection Councils at the National, State and District levels. The goals of these boards are to help the separate governments in embracing and exploring arrangements for advancing and ensuring the rights of the consumers. The synthesis of these consumer gatherings are expansive based. The nationals and organizations speaking to various intrigue groups having suggestions for consumor's rights protection are individuals from these chambers. One may jump at the chance to include, that the Consumer Councils are required to be constituted on public private association reason for better input and along those lines survey of the policy in the territory of consumer's rights protection. The primary goal of these committees is to advance and secure rights and interests of consumers in the general public.

It additionally accommodates Consumer Disputes Redressal Adjudicatory bodies built up at three levels i.e. Area, State and National. They are known as District Forums, State Commissions and National Commission. Locale Forum is made out of President and two individuals (one part is lady). Each individual from the District Forum might hold office for a term of five years or upto the age of 65 years, whichever is prior and should be qualified for reappointment.

Presently graduation is the base educational capability for a part. The State Commission is directed by Retired High Court Judge. The National Commission is managed by the resigned Supreme Court Judge. The District Forum can arbitrate on the issue upto Rs. 20 lakhs, State Commission upto one crore and National Commission above Rs. one crore. The procedures previously these adjudicatory bodies are managed as per the principles of regular equity. At display 571 District Fora and 35 State Commissions are working everywhere throughout the country other than the National Commission. Presently State Commissions and National Commission have begun sitting in Circuit Benches. It might be that as it may, be highlighted that there are 253 Vacancies of the Presidents and Members of the Forums in the whole Country. It might likewise be specified that at introduce there are 73 District Forums, which are non-utilitarian. Presently protestations recorded are required to be went with such measure of expense and payable in such way as might be endorsed. Expense structure for the cases documented in the District Forums has been endorsed by the Ministry of Consumer Affairs, Food and Public Distribution by Rule 9A of the Consumer

Protection (Amendment) Rules, 2004 (Dep't of Consumer & Ministry Affairs, 2008).

CONSUMER ENTITLEMENT AND EMPOWERMENT

Weight and Measures: This piece of the office has seen the most honed increment in the level of activity. From a negligible Rs. 7.7 crores in the X Plan the cost has been increase to Rs 187 crores in the XI Plan. In the main year of the XI Plan alone a use of Rs. 10.26 crores has been brought about and a further Rs. 23.4crores will be spent in 2008 09. The central purpose in this circle is to modernize the departmental the middle and the states. Relating investments will likewise be made in expertise up degree of the work force. This additionally proposed to be supplemented by an update in the legal system and another Bill-the Legal Metrology Bill, 2008 was presented in the Rajay Sabha on October 24th, 2008.

Principles and testing: The BIS is being fortified by a plan for enhancing the arrangement of National Institutionalization, monitoring international developments in the fields of norms, better preparing offices and so forth. The aggregate XI design expense is Rs. 120 crores as against the X Plan cost of Rs. 5.75 crores. Changes are likewise examined in the BIS Act, 1986 which has not been revised since initiation. These progressions are excepted to acquire more prominent adaptability in adjusting to the quickly changing International environment.

The office likewise has a testing office called the National Test House (NTH) which has its central station at Kolkata and labs in various parts of the country. These labs are being modernized at an aggregate cost of Rs.75 crores in the XI Plan – against the expense of Rs.25 crores in the X Plan (Singh, 2008, Vajpeyi, 2009).

CONSUMER AWARENESS AND GRIEVANCE REDRESSAL

Publicity: A noteworthy push is being given to advise consumers about their rights, the best approach to get their grievances redressed. Going past the activities of this division the XI Plan program will likewise cover publicity about different offices like lodging telecom, education, vitality and so on. "Jago Grahak Jago" which has now turned out to be broadly famous. The aggregate expense for this activity is Rs. 409 crores as against the X design cost of Rs. 148 crores.

Consumer Protection: Under this part the different consumer for an eventual fortified by giving structures, computerization, preparing. Also help lines would be set up in the States to control consumers (there is at display just a single National Helpline working at Delhi). The aggregate cost for these activities is Rs.185 crores against the X Plan expense of Rs 90 crores. The Plan activities are additionally proposed to be supplemented by changing the Consumer Protection Act. Non Plan activities: These arrangement activities would be supplemented by non-design activities (Eigen, 2009, Misra, 2009).

The real part on this side would be the utilization of the Consumer Welfare Fund to help intentional consumer organizations in activated like similar testing, awareness age research and consumer assistance.

CONCLUSION

The productive and powerful program of Consumer Protection is of exceptional importance to every one of us since we as a whole are consumers. Indeed, even a manufacturer or supplier of a service is a consumer of some different goods or services. In the event that both the makers/suppliers and consumers understand the requirement for concurrence, defiled products, deceptive goods and different lacks in services would turn into a relic of times gone by. The active association and support from all quarters i.e. the focal and state governments, the educational Institutions, the NGO's, the print and electronic media and the appropriation and recognition of an intentional implicit rules by the trade and industry and the subject's sanction by the service suppliers is important to see that the consumers get their due. The need of great importance is for add up to sense of duty regarding the consumer cause and social responsiveness to consumer needs. This should, in any case, continue in an amicable way with the goal that our general public improves as a place for every one of us to live in

It might be reasoned that even than a few laws intended to ensure consumers against such unreasonable trade practices, false and deluding advertisements proceed with abuse the consumers. On the off chance that the hour is better laws with regards to the circumstances, better enforcement, restorative advertisements better self-regulations by industry free controller to manage wellbeing and kids - related advertisements. Obsolete laws, poor enforcement of them are a portion of the lacunas so as to control advertising.

Today, the common equity framework is corrupted with insufficiencies that debilitate the consumer from looking for legal response. Be that as it may, the Consumer Protection Act of 1986, which gives simple access to equity, has conveyed a legal upheaval to India because of its cost-viable instruments and well known help. In the meantime, these instruments represent an awesome legal test to the customary courts which lead suit in standard ways. In this time of consumers, the administration of

Indian consumer law will without a doubt control Indian markets and offer another stage on the current Indian legal structure with its solid antiquated legal establishments.

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A Critical Study Of Child Abuse In India

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What is Child Abuse –

Child Abuse is harm to, or a neglect of child by another person, whether adult or child. Child abuse happens in all culture, ethnic and groups. Child Abuse can be physical, emotional-verbal, sexual or through neglect. Abuse may cause serious injury to the child and may even result in death [1].

Any global approach to Child Abuse must take into account the differing standards and expectations for parenting behaviour in the context of cultures around the world. Culture is a society's common stock of beliefs and customs, and its concepts of how people should conduct themselves. Included in these [illegible] decides about what acts of omission or commission might constitute abuse and neglect. In other words, culture help define and [illegible]

[illegible] has for a long time been [illegible] in [illegible] and science in many [illegible] the world. Reports of infanticide [illegible] abandoned, killed [illegible] children were [illegible] The historical records also [illegible] [illegible] and [illegible]

children cast out by families to fend for themselves and of children who have been sexually abused. For long time also there have existed charitable groups and officials concerned with children's well-being who have advocated the protection of children. Nevertheless, the issue did not receive widespread attention by the medical profession or the general public until 1962, with the publication of a seminal work titled International Point of View.

The UNO convention on the right of the child 1989 is the most widely accepted child rights instrument worldwide, which defines children as all persons up to the age of 18 years. Defining violence and children protection rights the convention declares State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse.

The world health organization has defined child abuse as the commission of basic human rights of a child. Constituting all forms of physical, emotional ill-treatment, commercial or other exploitation, resulting in actual harm

explicit contact or ... of such content for the purpose of ... visual depiction of such conduct or the rape.

Emotional and Psychological Abuse-

Child Emotional/Psychological Abuse described as non-accidental verbal or symbolic acts by a child parent or caregiver that result in, or have reasonable potential to result in, significant psychological harm to the child. Child Psychological Abuse also defined as, spurning, terrorizing, isolating, exploiting, corrupting denying emotional responsiveness, or neglect or a repeated pattern of care giver behaviour or extreme incident that convery to children that they are worthless, flowed unloved, unwanted, endangered or only of value of meeting another's needs.

Children Emotional and Psychological Abuse is as harmful as sexual & physical abuse. Emotional and Psychological Abuse and the severity of harm to young victims, it should be ... the fore front of mental health and social service training.

Neglect-

Neglect occurs where a child suffers significant harm by being deprived of such things as food, cloths, hygiene, medical care, intellectual stimulation and supervision. The neglect generally become apparent in different ways over time rather than at a specific point. Significant harm occurs where the child need ... are neglected to such an extent that his/her ... and/or development are severely ...

Child neglect is the failure of a parent ... other person with responsibility for the child ... to provide needed food, clothing, shelter, medical care or supervision to the degree that the child ... health, safety and well-being are threatened with ... harm. Neglect is also a lack of attention from ... people surrounding a child and the non- ... and adequate ... which could ... and nature ... which in a ... child is frequently ... absent from school; lack of adequate ... medical and dental care ... inadequate or inappropriate clothing ... for the weather.

Besides these types of child abuse, we can find many more type of child abuse in our society like, emotional abuse, substance abuse etc sometimes children can be victim many types of child abuse in their life. It is the worst thing of our society, these our children are also not safe while they are innocent. Sometimes child abuse happened inside the home, family member do the abuses. In school or other place where child goes out there is also the possibility of child abuse.

Position of Child Abuse-

Throughout the 20th century, until the 1970s, in some Western countries children from ethnic minority groups were forcefully removed from their families and communities by state and Church authorities and forced to assimilate. The study of child abuse and neglect emerged as an academic in the early 1970s in the United States. Ellis Heth, Young-Breuhl maintains that despite the protecting children which took place, the grouping of children into "the abused" and the "non-abused" created an artificial distinction that narrowed the concept of children's rights to simply protection from maltreatment and proceed investigation of the ways in which children are also mistreated against in society generally.

A child marriage is also just like a child abuse for a child who get married in their minority. A child marriage is a marriage between minors or between one adult and one minor ... involving ... the marriage has reached puberty ... often before the marriage.

implementation of the Act (4)

National Programme

The Government of India is implementing several programmes on social mobilization, women, children, child rights and protection. The approach to these programmes include integrated child development services, [illegible] additional facilities for working children, programme for juvenile [illegible]

Laws and Child Work

Conclusion

Child abuse is a serious global health problem. Although most studies on the topic are conducted in developed countries, there is information from around the world. Although child abuse is a pervasive and complex problem with many causes, we should not take a defeatist attitude towards its prevention. Despite the absence of strong evidence to guide preventive efforts, we can do many things to try to prevent abuse or, at very least, showing increasing promise to enhance their skills as parents or caregivers may help save our most vulnerable citizens from the nightmare of abuse and neglect. Much more can and should be done about this problem. In many countries, there is a lack of recognition of child abuse among the public and health professionals. Recognition and awareness are only part of the solution. Effective policies must directly address the needs of parents and their children, their caregivers and the environments in which they live. Although the incidence of child abuse and neglect in some countries has declined in recent years, in many countries, child abuse has taken place. The concerted and collaborative efforts of a wide range of persons and public health organizations can play a key role by leading to a decrease in the problem.

In short, child abuse and sexual abuse of children is not a large problem without solutions. Through the issue pertains

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INITIATIVES TOWARDS POLICE REFORMS IN INDIA: AN ANALYSIS

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ABSTRACT

Police is the protector and executor of law and order in the society but in this present commercialized world, capitalistic theory is much popularized in which the main motto is to gain and gain only by hook and crook. Everyone is deviated from the path of dharma, whether a legislator, executor, judicator, journalist or a police personal because they all are human being and a human is an error by birth. There is ample evidence of increasing police deviance in India. Every time we found involvement of police personal in committing crime. In theory, police station is a place where a person can approach easily, without any fear against the crime and criminal but in practical public has fear to approach the police. The public distrust the police and feel that the department is incapable of conducting inquiries in to public complaints in a fair and effective manner .Our police system is working according to the Indian Police Act 1861which is enacted by the Britisher's to rule India. That is why there are number of initiatives taken by the government and even by the judiciary, but all in vain because there are number of hurdles in making police reforms successful even the various guidelines given by the judiciary time to time

KEYWORDS:

Police reforms, Policing, public order, National Police Commission (NPC), Criminal Justice system, law and order.

Conflict of Interest: None

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A Burning Threat to Human's Health from Quackery: A Review Study

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ABSTRACT

Health as a matter of right is recognized throughout the world for its intrinsic value. Quackery is defined as the promotion of unsubstantiated methods that lack a scientifically plausible rationale. They have neither a recognized degree nor a license to practice medicine and yet a number of quacks are running their "dispensaries" with impunity in every part of the country. They include those who have not received formally recognized training . These fake and untrained doctors pose a serious risk to life for poor patients and they are living in villages or interior areas of the cities They are not registered with any government regulatory body and operate outside of the purview of regulation. A testimony to their legitimacy, they manage certificates from unauthorized and unrecognized institutions.

Keywords: Public Health, Quacks, Parallel Health Care, Legislation

INTRODUCTION

Medical Profession being a learned profession warrants acquisition of theoretical knowledge and practical training as reflected in the attainment of educational qualification prescribed by law. India has two kinds of health services which incorporates the Public Health Service and the Private Health Service. Public Health Services are offered by qualified government doctors and health workers at different levels primary, secondary and tertiary. On the other hand private health care is delivered by private qualified medical practitioners, private clinics, private nursing homes and private unqualified medical practitioners or quacks.

But the quacks do not follow any rule relating to medical ethics and indulge in improper practices. Many of them do not even possess the minimum educational qualification but practices without resistance. They have neither any medical degree nor a license to practice medicine and yet a number of quacks are running their dispensaries. [1] They are not registered with any government regulatory body and operate outside of the purview of regulation. [2] But quacks work on the basis of experience and have no medical degree or professional qualification to do so. The Supreme Court defines quack as a person who does not have knowledge of a particular system of medicine but practices in that system. [3]

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Definition of Quackery and Quacks

The word quackery derives from the word quacksalver. [4] Accordingly, the term quackery refers to unproven or fraudulent medical practices, often through the sale or application of "quack medicines". By definition, a quack is one who practices a form of medicinal system without qualification, training and registration from the appropriate council or authority. [5]

Quacks can be divided amongst three basic categories as under :

1. Quacks with no qualification whatsoever.

2. Practitioners of Indian Medicine Ayurvedic, Sidha, Tibb, Unani), Homeopathy, Naturopathy (Ayush), who are not qualified to practice Modern Medicine (Allopathy) but are practicing Modern Medicine.

Modern Medicine. Alternative System of Medicine is not recognized by law. Practitioners of so called integrated Medicine, Alternative System of Medicine, Electro-homeopathy, indo-allopathy etc. terms which do not exist in any Act.

The Causes of Quackery in India

World Health Organization's recommendation of one doctor per 1,000 people, India has 0.7 doctors for every 1,000 people. So, India doesn't have adequate doctors or nurses to care for its millions. Many Indian doctors and nurses migrating to the West after their education. Government health centres are inadequate and lack necessary facilities, manpower and drugs. Private qualified doctors are neither always available neither affordable for poor.

Therefore quacks are the exclusive choice of the ruralites. Numbers of quacks are increasing in India, both in urban and rural areas. It is estimated that about 10 lakh quacks are practicing allopathic medicine, out of which 4 lakh belong to practitioners of Indian Medicine such as Ayurvedic, Sidha, Tibb and Unani. [6] Quacks are the lifeline of health services in India. In some districts of Uttar Pradesh the number of the quacks ran into thousands, while in others it was in double figures. [7].

The possible reasons for the patients visiting quacks could be the attractive publicity gimmick claiming faster, cheaper and sure cure. Secondly, quacks are popular with the public and local political leaders, especially in rural areas. It is a bizarre that despite the fact that these people lack the necessary educational background, expertise, proficiency required for practicing medical science, exhibit fake certificates, cultivate commercial relationship with the qualified doctors and medical representatives, follow faulty treatment protocols, impair the sanctity of the profession, they are resolutely functioning as medical practitioners in different villages and acts as the friend philosopher and guide of the deplorable section i.e the rural poor. Quacks in this field are often more popular than the regular practitioners. Despite so many allegations a profuse number of self-acclaimed practitioners are functioning unconcealed in every nook and corner of the villages. One can find their advertisements, and offices in every township. They display their signboards outside their chambers. Medicines including antibiotics, stethoscope apparatus to measure blood pressure are found in their chambers. Most of them have one room chambers. A very imprudent act is the use of name boards of qualified practitioners to flourish their business. [8].

They even put up signboards in front of their dispensaries, claiming to be specialized doctors and even handout prescriptions on their letterheads. These quacks use the abbreviation RMP as qualification. The letters stand for Rural Medical Practitioner, a camouflaged version of the official title Registered Medical Practitioner. There are also cases in which fraudulent medical practices are passed on from father to son, the father's MBBS degree being used as an heirloom.

A large number of patients from all walks of life and different cross sections of society, visit these quacks for their ailments. It is unfortunate that people approach quacks for their low charges. Some of them are happy, too, for visiting them and declaring that their ailments were cured. The Quacks are reported that the people have unfathomable faith on them as they are incessantly serving the people at times of need. But many of them have to repent for life, mainly because their original problem gets complicated and have to pay a heavy cost for getting out of such complications. The innocent patient is easily taken for ride due to an easy access to such quacks and the promise of early relief. The few effective remedies sold by quacks included emetics, laxatives and diuretics. Quacks are practicing in every field of medicine, field of surgery being no exemption. However, knowledge of appropriate uses and dosages is limited.

In many cases the Ayurvedic and Homoeopathic practitioners too act as surgeons and treat every kind of diseases. They brazenly display billboards near big hospitals. These quacks claim to practice some traditional herbal medicinal therapy. But in actual, they treat the patients using various toxic chemicals and acids and then try to correct the resultant infection by strong antibiotics and analgesics. They learn application of medicine or use of drugs and techniques of measuring blood pressure and injecting saline and injections. Diseases these quacks have been healing included fever, diarrhoea, cough, cold, accidental cases, joint pains, minor surgeries, seasonal diseases, asthma, arthritis, chronic obstructive pulmonary disease, vomiting, headache, swelling of glands. They were found to administer antibiotics. But these antibiotics are not given in doses and duration according to standard treatment

protocols. Steroids are also prescribed which they did not want to unfold. However they never indulge in doing any abortion case but definitely suggest tablets when such cases come to them in the initial stage.

The Quacks are said to provide treatment at a cheaper price. But it may not be so always because they charge fees per visit which embodies injection, tablets and consultation fees. Usually their fee ranges between Rs. 10 to 50/- depending upon the capacity of the patient. Some write prescriptions in white paper while some use padded prescriptions just like a qualified doctor. Even they dare to write Dr.' before their names.

Nonetheless, the quacks hardly have any guilt about their medical practice. In fact, they tout it as one of the way of social service [9].

Lot of educated and effluent class patients visits quacks for hemorrhoids, fistula, and anal fissure, anal canal ailment in the hope of low cost or they are too shy to discuss the ailment with their family physician. Most of them face incomplete, irrational treatment and suffer from prolonged morbidity. They are shy to come forward to tell about these complications and to consult appropriate experts until when they are in miserable situation. [10].

Most of the providers are in the field for more than ten years. Unemployment, money, social prestige and social security are the trio factors which invigorated them to pursue this profession

Medicines are usually purchased from wholesalers at 10% to 15%, discount. Physician sample medicines are also supplied by medical representatives from different pharmaceutical companies who like to patronize quacks to facilitate marketing of their products. They are capable enough to handle complicated cases yet they keep their treatment restricted to minor ailments and do not handle complicated cases.

Quacks maintain close ties with government doctors as well as private qualified practitioners. The quacks know the alarming signs and can refer patients to proper places. [11] The complicated cases are send to qualified medical practitioners They reported that when surgical cases are referred a cut of money is given to them as commission.

They have certificates from institutions offering different paramedical courses. Some of them displayed certificates they obtained from various institutions. On the certificates it was written that the institution named Indian council of Alternative Medicine, was affiliated to the open International University and registered by the state Government. Some showed their RMP certificates which mentioned that the person concerned is registered under the Bye-Laws of Indian Council of Alternative Medicines as a Registered Medical Practitioner in Indo-Allopathy System of Medicine. Some showed certificates in Community Medical Service.

An article written by Dr. Lawrence Kindo "Quacks in India Claim Majority" suggested that there is a close nexus between the quacks and the private qualified practitioners. Both are benefited by each other's companionship. With private doctors they maintain referral arrangements. Quacks try to study prescriptions of qualified doctors to learn treatment protocols and diagnosis. An another article written by K. V. Narayana told that the author refers to a dichotomy that exists in the relation between qualified doctors and the quacks. While the Indian Medical Association reprehends quackery and fights to mitigate quackery, on the other hand these people are utilized by the doctors for channelizing people, for surgeries and visiting diagnostic centres on the basis of commission. Most of the doctors have active referral arrangements based on commissions and consider the RMPs the pillars of private sector providing first aid in medical emergencies, referral and escort services and supervising the follow up treatment.

The qualified doctors cannot spend much time in the village because they have so many chambers to visit. Therefore, they need some middle-men who would enable them to continue their practice. Quacks act as these middle-men who send patients to these doctors and in return gets a commission. A Medical officers in Srlnagar told that Quacks are dangerous because they do not know the subject. They are becoming important because doctors are not staying for 24 hours due to lack of various facilities. [12].

One qualified doctor maintains more than one or two quacks. There is an arrangement among RMPs, doctors, diagnostic centers in case of payment of commission. RMPs sometimes do negative campaigns against qualified doctors. It is alleged that RMPs refuse to treat the villagers in emergency if they go to qualified doctors, who have no referral arrangements with them. The nexus has adverse impact on the quality of private

and treatments. [13]

Other activities of quacks

The quacks actively organize various seminars, free health camps for the villagers. Quacks are utilized in various health related programmes of the government and in awareness building of mother for care and institutional delivery They are engaged in RNTCP, family planning and Immunization. Quacks also help in Blindness control Programme by identifying people in the families who need cataract operation. Quacks play a vital role in Pulse Polio programme. Quacks can detect the areas which are disease prone and thus help the government doctors in taking appropriate steps in combating them. Quacks act as primary guard and first line of defence. Quacks reported that Public officials engage them in public health campaigns and family welfare programmes. They cultivate relationship with political parties, the police and government doctors, establishing referral arrangements with qualified doctors and settlement of various treatment related problems. These programmes are being glorified and illuminated by the presence of eminent doctors who give their valuable time here.

Legal Issues related quackery

Mr. G S Grewal, president of the Punjab Medical Council, attributes the high incidence of hepatitis C infections in Punjab to the unhygienic overuse of syringes by quacks. Mr P. V. Rao, the district medical and health officer of Hyderabad, Telangana, said the poor state of Indian public hospitals and the high cost of private hospitals forced poor patients to see quacks. As a result, he said, his office rarely received any complaints against unqualified practitioners. Dr. S. Bandhapadhyay (Directorate of Medical Education) said that it is a matter of police and law and order. It is not a matter of health department. We are not responsible for what fake medical institutes are secretly doing. We cannot monitor. We have over own regulations. When complains are launched we can deal.[14] The Maharashtra government had a couple of years back announced that it would conduct bridge course for homeopaths who want to prescribe allopathic medicines. There is a need to take action against such quacks. Anti Quackery Bill to stop them tabled in the State Assembly in 1997 could not be implemented. [15]

Law against Quackery: Need of Hour

Although punishment for quackery can be up to seven years in prison, officials from state medical councils say state governments and police aren't taking action to reign in the problem. The legal control of quackery can be broadly discussed under criminal and civil liability and statutory control The Medical Associations and law enforcing agencies are required to deal with these pretentious charlatans, offering quack remedies with iron hands.[16] The quackery is illegal in view of the following legislation or judgments:

Indian Panel code, 1860: The word quack or quackery do not find any place under the Indian Penal Code. Thus there is no crime like quackery as per the IPC, but there are some provisions which deal with this type of problem-

Cheating (Section 420) - Any person who fraudulently cheats any person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Causing grievous hurt by act endangering life or personal safety of others (Section 338)- Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Using Fake documents (Section 471) - Whoever fraudulently or dishonestly uses fake documents as genuine which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.[17]

CONCLUSIONS

Lack of awareness among the public, and apathy on the part of enforcement agencies, has brought about a situation where quacks are thriving in the country. The main reasons are poor functioning and consequent unreliability of the public health system & high cost of treatment at the private clinics. A good public education and better health facilities is necessary to create awareness about quacks.

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भारत में मुस्लिम समुदाय: सच्चर समिति की रिपोर्ट

—डॉ0 सुधीर कुमार*

देश में मुस्लिमों की सामाजिक, आर्थिक एवं शैक्षणिक स्थिति की समीक्षा के लिये दिल्ली उच्च न्यायालय के पूर्व मुख्य न्यायाधीश न्यायमूर्ति सच्चर की अध्यक्षता में प्रधानमंत्री डॉ0 मनमोहन सिंह द्वारा मार्च 2005 में गठित सात सदस्यीय समिति ने अपनी रिपोर्ट प्रधानमंत्री को 17 नवम्बर 2006 को प्रस्तुत की। रिपोर्ट में समिति ने कहा है कि विकास मानकों की दृष्टि से देश में मुस्लिम समुदाय अन्य धार्मि समुदायों की तुलना में पिछड़ हुआ है। मुस्लिमों व आरक्षण उपलब्ध कराने के लिये समिति ने अप इस रिपोर्ट में यद्यपि कुछ नहीं कहा है तथापि इन शैक्षणिक एवं आर्थिक पिछड़ेपन को दूर करने लिये समुचित कार्यक्रमों के निर्धारण की अपेक्षा समि ने स्वयमेव से की है।

तालिका–1: सरकारी नौकरियों में मुस्लिम

राज्य	जनसंख्या (प्रतिशत)	सरकारी नौकरियों में प्रतिशत
प0 बंगाल	25.00	04.20
असम	40.00	1.20
केरल	20.00	10.40
कर्नाटक	12.20	08.50
गुजरात	09.10	03.20

अपनी रिपोर्ट में समिति ने स्वीकार किया है कि मुस्लिम समुदाय में निर्धनता एवं निरक्षरता अपेक्षाकृत अधिक है तथा शिक्षा के लिये इसकी पहुँच अपेक्षाकृत कम है। समिति के अनुसार सार्वजनिक एवं निजी क्षेत्र की नौकरियों में इस समुदाय का प्रतिनिधित्व तथा स्वरोजगार के लिये बैंक ऋण की उपलब्धि भी अन्य समुदायों की तुलना में कम है विभिन्न राज्यों एवं क्षेत्रों में मुस्लिमों की स्थिति में काफी भिन्नता रिपोर्ट में स्वीकार की गई है, रिपोर्ट के अनुसार 15.4 प्रतिशत जनसंख्या वाले राज्यों में केवल 5.7 प्रतिशत मुस्लिम ही उच्च पदों पर हैं, जबकि 12 घनी आबादी वाले राज्यों में न्यायपालिका में इनकी संख्या 7.8 प्रतिशत है। आन्ध्र प्रदेश में जहां मुस्लिम जनसंख्या 12.4 प्रतिशत है वहां न्यायपालिका में मुस्लिम प्रतिशत क्रमशः 5 व 9.4 प्रतिशत बताया गया है। महारा व गुजरात सहित कुछ राज्यों में जेलों में मुस्लिमों संख्या उनकी कुल जनसंख्या के अनुपात में का अधिक रिपोर्ट में बताया गया है, शिक्षा के साथ–स जमीनें पर मालिकाना हक में भी मुस्लिमों को हिन्दु के अन्य पिछड़ वर्गों से भी पीछे बताया गया शहरी क्षेत्रों में जहां 26 प्रतिशत जनसंख्या निर्धन रेखा से नीचे हैं, मुस्लिमों में यह अनुपात 40 प्रति रिपोर्ट में बताया गया है।

सच्चर समिति की रिपोर्ट पर तीखी प्रतिक्रि व्यक्त करते हुए विश्व हिन्दु परिषद् ने कहा है इस रिपोर्ट के बहाने यदि मुस्लिमों को आरक्षण दि गया तो हिन्दुओं के धर्मान्तरण को बढ़ावा मिल और देश की एकता–अखण्डता को खतरा पैदा हो

* पोस्ट डॉक्टोरेल फैलोशिप (यू0सी0एस0ई0सी0आर0) नई दिल्ली।

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MUNICIPAL LAWS AND CHOICE OF LAW CLAUSE IN INTERNATIONAL CONTRACTS

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ABSTRACT

"No written contract is ever complete ;even the most carefully drafted document rests on volumes of assumptions that cannot be explicitly expressed"

International contracts refers to a legally binding agreement between parties ,based in different countries ,in which they are obliged to do or not do certain things .International contracts may be written in a formal way .Most businesses were create contracts in writing to make the terms of agreement clear . A transaction will qualify to be international if elements of more than one country are involved in it and *international contract* law concerns the legal rules relating to cross border agreements.

In the era of globalization where a contract contains one or more foreign elements ,the difficult and complicated question in proceeding that arises is that arises is that of ascertaining its applicable law.Such difficulty stems from the multiplicity and diversity of connecting factors and each of them may arise in different jurisdiction for instance the place where the contract was made ;the place of performance ,the place of business of the parties ;the place of payments; the currency of payment; domicile or nationality of the parties and so on .So to avoid this situation parties are granted with the freedom to select the law to govern their contract under the

provisions of Rome Convention .The inclusion of a choice of law clause is such an everyday matter in international contracts that its absence would be to ignore commercial realities .This shows that there is no requirement that the chosen law has a connection with the transaction .The choice to parties must be express or demonstrated with reasonable certainty by the terms of the contract or the circumstances of the case .

"No written contract is ever complete ;even the most carefully drafted document rests on volumes of assumptions that cannot be explicitly expressed "[1]

INTERNATIONAL CONTRACTS

International contracts refers to a legally binding agreement between parties ,based in different countries ,in which they are obliged to do or not do certain things .International contracts may be written in a formal way .Most businesses were create contracts in writing to make the terms of agreement clear ,often clear ,often seeking legal counsel when drawing important contracts . A transaction will qualify to be international if elements of more than one country are involved in it and international contract law concerns the legal rules relating to cross border agreements.

INTERNATIONAL AGREEMENT

Accord, annex, charter, compromise, convention, memorandum of understanding, protocol, treaty, etc., which (as defined by the Vienna Convention On The Law Of Treaties) is an "agreement concluded between states in written form and governed by international laws, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation." The title of the agreement is not a determining factor in making distinctions among different arrangements. Although considered binding, international agreements may lapse on expiration, through war or denunciation, or when a fundamental change in circumstances occur? Multilateral agreements are usually open to all nations, plurilateral agreements involve a restricted number of nations, and bilateral agreements are usually private arrangements between two nations.[2]

[1] Arthur Rosett, " critical reflections on the CISG; ohio state law journal " 45(1984) :265,287.
[2] http://www businessdictionary.com/definition/international-agreement.html

UNIDROIT

The institute for the unification of private law is an international governmental organization head quartered in Rome whose tasks are to study needs and method for modernizing ,harmonizing and coordinating private and in particular commercial law as between states and groups of states and to formulate uniform law instruments ,principles and rules to achieve those objectives membership of UNDROIT statute. UNDROIT's 63 member states are drawn from the five continents and represent a variety of different legal ,economic and political systems as well as different cultural back grounds[5].

HISTORICAL FOUNDATIONS AND ORIGINS PRIOR TO MODERNISM

Employing the historical approach to international commercial contracts promptly reveals the fact that long before the rise of national state and legal positivism with respect to the sources of law ,there were rules and institutions which basically did not emanence from a sovereign and these rules governed commercial inter courses more or less until the national codifications.

Those non –national rules governing commercial activities can be traced back to the fourth century B.C.. When the Greeks came to rely upon a transcendental law designed to deal with the "international" transactions. Greeks substantial law approach to economic relations between merchants from different and politically independent city states was aimed to meet the needs of cross border trade of that time Thus the Greek law ,applicable to trading between city states was based upon commercial in antiquity.[6]

The Roman's followed the same way of solution with a search for better equipped set of rules and institutions to provide the appropriate environment for trade to thrive given Rome's location at the centre of global trading system of that time .Romans also developed a separate tribunal ,named *Praetor peregrines*, to adjudicate the legal relationship with and between Non –Romans by applying a law of universal scope which was called "IUS GENTIUM." [7]The *ius gentium*, emanating from the legal creativity *of Praetor*, Greek legal

[5] www.globalnegotiator.com/international-trade/dictionary/international-contracts/-visited at 10:06pm on 24/03/17

[6] Borchers,J.B, The Internationalization of contractual conflicts law ,Vanderbilt journal of transnational law, vol.28(1995) at 424

[7] Juenger, F.K.,American conflicts scholarship and the new law merchant, Vanderbilt journal of transnational law vol ,28(1995) at 490

jurisdiction and on urban law. Multilateral approach was the widespread one with regard to the competent court which the guiding principle was *forum contractus* . the place of where a contract is concluded considered as the place of jurisdiction .However ,there were difficulties in the determination of substantive law that would govern the legal relationships since urban laws proved to be inadequate to rule the complicated affairs of cross-border merchandise. In order to provide equitable solutions, these commercial affairs were needed to be regulated by a law of their own, called the law merchant or *lex mercatoria,*" an acknowledged commercial law that was composed of customary law, customs and trade usages .Hence, even though merchants of this period had a variety of means available for settlement of disputes arising from their commercial activities. namely royal courts. ecclesiastical courts and common law courts. the most utilized mechanism was the merchant court where merchants themselves sat as juries and applied *lex mercatorio* thereby provides speed informality, efficiency and justice for settling of disputes .The medieval law merchant managed to form a substantive legal order that was composed of trading practices of merchants and the dictates of equity , and coexisted successfully with other forms of political and legal regulation in such a context where, " the local political authorities shared authority with other political and religious authorities in a system mediated by customary laws and historic entitlements.[8]"

The latter half of twentieth century has seen a broad expansion in international trade business .This expansion has resulted in a transformation of international business law The reality of trade liberalization and the rapid expansion of exporting in services and licensing have resulted in the adoption of numerous and relatively recent international connections and supranational responses to reduce barriers to trade.[9]

IMPORTANCE OF CONTRACTS IN INTERNATIONAL TRANSACTIONS

The absence of a contract continues to be a regrettably common state of affaires. Companies, believing them to be protected by a long term commercial relationship based on mutual trust, make no provision for a written statement of each party's obligations.

[8] Culler .A.C. Globalization the rule of law and the modern law merchant :medieval or late capitalist associations ? constellations 8(4)(2001)

[9] Law of international contracting by – Larry A. Dimatto IInd edition 2009 published by Kluber law international . www.kluwerlaw.com

Parties of an international commercial contract can in principle freely choose the governing law including the choice of law that is not linked the contract .[10]

INTERNATIONAL LAW &CONTRACTS

THE LEGAL DIMENSION OF INTERNATIONAL TRADE

Laws covering trade between businesses in different countries have existed since the law merchant was born in the medieval period. As business has grown across national borders and business relations have deepened, the legal dimension of business has had to follow suit .All commercial transactions across borders exist within the frame work of national legal system.

Law expands into almost all aspects of business and can constrain business activities but also enable them and acts to protect workers rights ,consumer protection and more recently ,data protection.

Law can be classified into two categories:

- Public law ,concerning relations between citizens and state
- Civil law, concerning relations between individuals or companies

Governments have slowly realized their limitations for regulating international transactions, notably in the case of e-commerce which has for outpaced the development of law needed to cover it .Globalization has led to working of the all powerful state as well as introduction of a new body of international law[11].

RECOGNISED PRINCIPLES OF INTERNATIONAL COMMERCIAL LAW

Sources of international commercial law –

- ✓ Customary International business law, International chamber of commerce uniform customs and practices for documentary credits addressing letters of credit.
- ✓ International Commercial Arbitration decisions ,arbitration decisions are based on the application of international commercial law
- ✓ Conventions and treaties , United Nations Convention on the International sales of goods which has been incorporated into the national law of many nations .

LAW OF JURISDICTION

In a typical legal dispute arising from an international trade ,it is foreseeable than an issue in the realm of private international law might arise .the main question are:

[10] www.google.com date of visit 12/04/17 at 8:40 pm
[11] www.internationaltrade.co.uk./articlesprint.php?CID=&SCID=&AID=30date of visit 24/03/17 at 11:12pm

promiser and the promisee may decide to honor their agreement for other reasons. Nevertheless, the rules of contract law are often followed in business agreements to avoid potential problems[12].

THE HISTORY OF THE CONCEPT OF AUTONOMY IN CONTRACT

THE ANTECEDENTS OF AUTONOMY

Any discussion of the history of choice of law in contract must start at the beginnings of private international law in the middle ages. The first attempt to delimit the ambit of conflicting statutes amongst the city states and small principalities of that era was made in northern Italy in the 13&14th centuries . The question was who had authority over whom and what .Two principles of allegiance competed with each other :the principle of other personal allegiance of the early middle ages and the principle of territoriality more fitting to the control of the feudal lord over property with in his domain .

The statues of whom Bartolus (1314-1347) was the most prominent , defined the ambit of a local law by analysis of the nature of the law concerned .Following the traditional division of Roman law , a distinction was drawn between those laws which concerned things ,and those ,which were of a mixed character concerning both persons and things ,including acts such as the making of a contract. The ambit of a statute depended upon the category into which it fell .If it was personal ,the law bound all those who were citizens of the enacting state where ever they might be.If the statute concerned things ,its scope was limited to things situated with in the territory of the legislating state .If it concerned acts ,the statute extended to those who performed those acts within the territory of enacting sate .Hence the first rule applicable to choice of law in contract was *locus right actum* .

The principle was simple to apply if the formation and performance of the contract took place in the same state .But what if those place differed ?which should prevail :the place of contracting or the place of performance? Bartolus split the applicable law between them :any injury arising out of the contract directly was to be governed by the law of the place of contracting ;any injury arising out of its mal or non –performance was to be determined by the law of the place where the contract was performed .At this stage there was no concern with the subjective intention of the parties since the focus was on the authority of the local ruler .But foreigners who traded in a particular city presented as problem in the structure devised : they

[12] Cengage advantage books:fundamentals of business law.excerpted cases:- roger le roy miller ,Gaylord.a.jentz-16 jan 2009.at google books visited at 10:51 pm on 01/02/17

Article 3 of Rome convention.

Freedom of choice

1. A contract shall be governed by the law chosen by the parties .The choice must be expressed or demonstrated with reasonable certainty by the terms of the contract or the circumstances of the case .By their choice the parties can select the law applicable to the whole or apart only of the contracts
2. The parties may at any time agree to subject the contract to other than that which previously government it ,whether as a result of an earlier choice under this article or of other provisions of this convention. Any variation by the parties of the law to be applied made after the conclusion of the contract shall not prejudice its formal validity under article 9 or adversely affect the rights of third parties.
3. The fact that the parties have chosen a foreign law ,whether or not accompanied by the choice of foreign tribunal ,shall not ,where all the other elements relevant to the situation at the time of the choice are connected with one country only ,prejudice the application of the rules of the law at the country which can not be derogated from by contract, hereinafter called "mandatory rules" .
4. The existence and validity of the consent of the parties as to the choice of the applicable law shall be determined in accordance with the provisions of article`s 8,9 and 11.

Article 3 embodies the principles of the "party autonomy", giving the parties freedom to select the law ,which is govern the contract .Although very frequently the chosen law has some connection with the transaction ,it often happens that commercial contracts contain a choice of law, which has no connection ,or no apparent connection ,with the transaction[14]. The Rome Convention allows the choice of law, which has no connection, with the contract. By Article 1(1) of the convention, its rules apply to contractual obligations "In any situation involving a choice between the laws of the countries". And Article3 (1) states that the law chosen by the parties governs a contract. The combined effect of these articles is, however, that parties who are in one country ,and whose transactions is connected only with that country, may choose the law of another country and the courts of contracting state must ,subject to mandatory rules, give effect to that choice .It is apparent from the

[14] Shamil bank of bharain EC v.beximoco pharmaceutical ltd[2004]1WLR1784

agreement was English law. The agreement also provided that all disputes between the parties on the interpretation or performance of the agreement would be settled by English courts.

Thereafter , certain disputes arose with respect to the distribution arrangement and Indian company filed suit in an Indian trial court seeking various reliefs against the English company. The English company field a reply to the Indian company's interim application inter alia stating that the trial court had no territorial jurisdiction to entertain the suit for the reason that the parties to the agreement had agreed by choice to be governed by English law and had submitted themselves to the jurisdiction of English courts alone . The trial court held that as the Indian company's plant was situated within its jurisdiction ,under section 20(c) of the CPC,1908,the suit could be filed in that court.

On appeal, the Bombay HC addressed the following main issues:-

i. Whether contracts with a foreign choice of law clause are valid under Indian law, and whether foreign law can rely upon to assess whether an Indian court has jurisdiction in the matter?

ii Whether an Indian court has jurisdiction to entertain a suit arising out of an agreement specifying a foreign court as having exclusive jurisdiction ,if the cause of action has arisen in India?

While addressing the foregoing issues ,the court referred to the Indian supreme court's judgement in which it has been held that the expressed intention of the parties is generally decisive in deterring the "proper law of the contract." The only limitation of this rule is that the intention of the parties must be expressed bonafide and should not be opposed to public policy. Proper law is ,thus the law which the parties expressly or impliedly choose or which is imputed to them by reason of its closest and most intimate connection with the contract [18].

In this regard ,the Indian Evidence Act ,1872 provides that if a court does not take judicial notice of a fact ,such fact should be proved[19] as an Indian court will take judicial notice only of laws in force in India ,foreign law must be proved like any fact.[20] Therefore ,if a party wants to rely on foreign law ,it should be pleaded like any other fact and be proved by evidence of experts in that law . The requirement to prove foreign law under rules of evidence has been

[18] National Thermal power Corporation V.Singer company,AIR1993sc998
[19] section 56 of the Indian Evidence Act
[20] section 57 of the Indian Evidence Act.

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An study of E-commerce and its legal frame work: With special reference to India

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Abstract

In the digital world of 21st century, computer, internet and Communication Technologies have changed the life style. Today we have new terminologies like cyber world, e-commerce, and etc. apart from positive side of e-revolution. Further, in 1990s Business people were aware of increasing use of ICTs as it was easier, faster and cheaper to store, transact and communicate electronic information but were reluctant to interact electronically because there was no legal protection under existing laws. Accordingly, a new Branch of jurisprudence known as Cyber Law or Cyber Space Law or Information Technology Law or Internet Law, emerged to create order in cyber space. For the first time, a Model Law on E-commerce was adopted in 1996 by United Nations Commission on International Trade and Law (UNCITRAL) which was subsequently adopted by General Assembly of United Nations. Significantly, main objective of law was to have uniformity at international level regarding law relating to e-commerce and to provide equal treatment to paper-based and electronic information. India was a signatory to this Model law and hence, enacted the Information Technology Act, 2000. To keep pace with technology, the Model law on E-Signature (MLES), 2001 was adopted by United Nations Commission on International Trade and Law (UNCITRAL). Accordingly India enacted the Information Technology (Amendment) Act, 2008. This paper is an attempt to make indepth study of e-commerce and its legal framework national vis –a-vis international.

Keywords: e-commerce, unictral, it act, digital signature, e –sgnature

1. Introduction

The term 'electronic commerce' or 'e-commerce' simply refers to business transacted by electronic means which includes business to business and business to consumer transactions. The term is a broad concept that encompasses agreements concluded electronically through the exchange of e mail over websites and the transfer of money by electronic means. It also refers to many other forms of transacting, such as the use of automated teller machines (ATMS) and the submitting of various types of documents to government entities.

E-commerce is built fundamentally on the use of electronic communications systems, mainly the internet, which have challenged our laws and do not recognize either geographic or jurisdictional boundaries. This has been proved to be an important advantage for participating in worldwide business. Also electronic business has other advantages over paper based commerce, including increasing speed while reducing paper work and the cost of document business.

These advantages increasingly have encouraged business to transact electronically. This development is supported by advancements in global communication technologies, particularly the Internet, which have had a profound impact not only on commercial activities, but also on many aspects of our lives.

Despite the fact that companies have exchanged business data for many years by using different- communication networks, the emergence of e-commerce has changed the method and nature of that exchange. As mentioned, e-commerce is most frequently associated with the use of the internet, which allows one to advertise goods and services make purchases and arrange sales and payment. During its rapid growth the internet has made e-commerce open to every person and every company around the world. It provides business with the ability to reach customers without the need to have a Physical existence. (i.e. shop) in different jurisdictions [1].

Electronic commerce consists of the buying and selling of products and services via the Internet. It included business to business, Business to consumer and consumer to consumer transactions. These transactions can include online retail sales, supplier purchases, online bill payment and web-based auctions. Electronic commerce utilizes a variety of technologies including electronic data inter change, electronic fund transfer, credit cards and e-mail.

The term E-commerce is often used inter changeably with e-business The common element is the effecting implementation of business activities a using Internet technology. However E-Business is the broader, more encompassing strategy and related activities. In addition to retail sales it includes vendor-partner communication, electronic procurement, customer relationship management, data mining and numerous other business functions.

1.1 Methodology

It is theoretical study based on books, journals (International-National), other International and National instruments, reports, articles and internet.

2. Historical development of e-commerce

The development of the World Wide Web during the early 1990's dramatically changed the use of internet. The expansion of the web, and along with it the web browser opened the internet to anyone with basic computer experience and an online connection. As online activity increased, companies quickly saw the internet's marketing potential. Subsequently, there was a rush to take products and services into this expanding electronic realm and to redefine business itself [2]. E-

commerce, in full electronic commerce, maintaining relationships and conducting a business transaction that induces selling information, services, and goods by means of computer telecommunications networks.

Although in the vernacular e-commerce usually refers only to the trading of goods and services over the internet, broader economic activity included. E-commerce consists of business to consumer and business to business commerce as well as internal organizational transactions that support those activities.

E-commerce originated in a standard for the exchange of business documents, such as orders or invoices, between suppliers and their business customers. Those origins date to the 1948-49, Berlin blockade and airlift with a system of ordering goods primarily via telex. Various industries elaborated upon that system in the ensuing decades before the first general standard was published in 1975 The resulting computer to computers electronic data interchange (EDI) standard is flexible enough to handle most simple electronic business Transactions with the wide adoption of the internet and the introduction of the world wide web in 1991 and of the first browser for accessing it in 1993, most E- commerce sifted to the Internet. More recently, with the global spread of smart phone and the accessibility of fast broadband connections to the Internet, much E- commerce moved to mobile devices, which also included tablets, Laptops, and wearable products such as watches. Today the number of internet users in the world is close to 3 Billion Out of this India have a total of 259.14 Million Internet and broadband subscribers. This penetration of Internet coupled with the increasing confidence of the internet coupled with the increasing confidence of the internet user to purchase online, has led to an enormous growth in the E- commerce space, with an increasing number of customers registering on E commerce web sites and purchasing products through the use of mobile phones. It is not surprising therefore that India in a prime position for the growth and development of the E- commerce sector. In particular, E- commerce present one of greatest opportunities in the retail sector since it provides a dramatic change from Brick and mortar establishment to virtual shops which could operate for a fraction of the cost

E-commerce has deeply affected everyday life and how business and governments operate. Commerce is conducted in electronic market places and in the supply chains working on the internet web. Consumer oriented market places Include large E-malls (such as Amazon) consumer to consumer auction platforms (eBay, for examples) multi-channel retailers (Such as LL.Bean) and many millions of E-retailers. Massive business to business market places have been created by Alibaba and other companies.

Social networks sites, such as Facebook undergird a great verity of individual relationships and are the sites of so called social commerce, driven by the opinions and reviews shared by the participants as the electronic word of mouth.

The web is also an interactive medium of human communication that supplements and often replaces traditional media. The hyper media nature of the web with the interlinking of multimedia content available on globally distributed sites, enables creation of new types of media products, Often offered free of charge. Those new media include Blogs, video aggregators (Such as YouTube), Social media and customized electronic newspapers. As with all media, this aspect of the web leads to its use in marketing. Web advertising ranges from the display ads on web sites to Keyword ads shown to information seekers using search engines, such as Google

3. Technically secure system

Security is a central concern in E- commerce it includes authentication of the pasties, authorization to access the given resources, confidentiality of the communication; and the assurance of message integrity. Many of those goods are accomplished with public Key infrastructure, system of specialized organizations and computerized means for providing electronic certificates that authenticate firms and if desired individuals, provide the encryption and decryption Key for communications; and furnish the protocols for secure communications [3].

4. Importance of e-commerce

The subject of e –commerce is undoubtedly one of the most fascinating and topical subjects of legal research in today's world. We are in the age of knowledge management and instant communication and consequently in the midst of an electronic revolution, the impact of which on the economy is much more profound than that caused by the industrial revolution. This modern day revolution, at the global level, has manifested itself in the form of many innovations and break trough's and giant leaps in internet working technology with these new opportunities, people can now transcend the barriers of time and distance with the internet's speed.

Legal issues play an important role in determining the growth and advancement of the ICT infrastructure and its relative impact on the entire E-Governance system. Legal issues forms a base for governance infrastructure as they are the inherent management and control tools for the E.G. initiative

There are rapid advancements happening in the field of technology, which are aimed at providing a seamless and a transparent infrastructure to the citizens. Legal issues unlike the technical and social issues had to take into consideration the fact that the system provides a transparency the entire initiative yet does not provide for the vulnerability associated with the open channels of communication.

Government being the prime custodians of the sensitive information, and being the largest business entity of any nation may suffer from unwanted perforation due to E- government.

There we will view three national namely U.S. which has a pretty stable and an extremely good infrastructure for E-governance in places, South Africa (which I would place in the moderate category) and India (which is in initial stages of implementing the E- government) me find the cyber laws.

According to a report provided by Forrester Research, social networks play an important role in driving consumer online and getting them to engage with brands. This would gain specific significance in light of facts such as India being ranked as Facebooks second largest audience after the U.S. However it should be kept in mind that there still exists a form of "digital divide" in India where the benefits of internet have not fully percolated to non-urban areas. In this scenario mobile connections would play a very important role. India has close to 914.92 million wireless subscribers. Mobile phones have been and will be a key tool in helping users connects in a market where overall internet penetration may low.

The Indian Government has a approved projects for providing broadband connectivity to the local and village level

the law of succession, as well as certain financial transactions, negotiable instruments, and documents of title, are excluded from the Convention's scope of application. Further, the Convention establishes the general principle that communications are not to be denied legal validity solely on the grounds that they were made in electronic form. It is important to note that like MLEC and MLES it mentions criteria for establishing the functional equivalence between electronic communications and paper documents, as well as between electronic authentication methods and handwritten signatures. Similarly, the Convention defines the time and place of dispatch and receipt of electronic communications, tailoring the traditional rules for these legal concepts to suit the electronic context and innovating with respect to the provisions of the Model Law on Electronic Commerce. Specifically, given the proliferation of automated message systems, the Convention allows for the enforceability of contracts entered into by such systems, including when no natural person reviewed the individual actions carried out by them. The Convention further clarifies that a proposal to conclude a contract made through electronic means and not addressed to specific parties amounts to an invitation to deal, rather than an offer whose acceptance binds the offering party. Moreover, the Convention establishes remedies in case of input errors by natural persons entering information into automated message systems. Finally, the Convention permits contractual parties to exclude its application or vary its terms within the limits allowed by entering into contrary agreements which is otherwise permitted under legislative provisions [6].

5.5 India

- In India E- commerce falls within purview of the Information technology Act, 2000. it legally recognizes all correspondence by electronic mail, information in an electronic form with electronic signature. The electronic are certified by the controller. It also recognizes application and approval done in electronic format for niceness, permits and at her documents pertaining to Government department. In addition, it also makes hacking download, copy, extract, damage of electronic files data liable for punishment.
- E- commerce stores are form of an on line form of shops thus regulated under the shops and establishments Act, 1953 (coach Indian state) has separate Act,
- Labor issues falls within the purview of the Industrial Disputes Act, 1947 as "Industry" term in this Act also censer E commerce websites.
- The two tax registrations necessary for sale of goods and services on E- commerce websites are central sales tax (CST) and value added tax (VAT)
- A valid contract- whenever you enter any website you are bound by its terms of use called end user license agreement. This is a consumer's agreement with the website. The term is a consumer's agreement with the website. The terms of use shall satisfy the conditions and essentials of Contract Act, 1872
- Privacy as per section 72 A of information technology Act Amendment 2008, if an E- commerce website discloses personal information to another entity without consent of member it has committed an offence. It should take necessary steps and keep integrity of personal information.

5.5.1 Information Technology Act

The Information Technology Act was enacted in 2000. The ITA's purpose are to: (1) recognize the legal validity of electronic transactions that are used in e-commerce;(2) promote the growth of e-government; and accordingly, (3) to amend the criminal law, evidence law and banking law insofar as they are affected by the legal recognition of electronic transactions. Ostensibly, deference was shown by the drafters of the ITA to the United Nations model law on electronic commerce. The ITA contains six exclusions, a weakness the ITA is further hamstrung by its first generation e-signature provisions.

5.5.1.1 Satisfaction of Statutory Requirement

An electronic record may be used to satisfy a statutory requirement for; a writing [7]; a filing with a government department, if the department in question permits it [8], retention [9], or publication [10]. An electronic record signed with a digital signature may be used to satisfy a statutory requirement for authentication; or signing [11].

5.5.1.2 Certification Authorities

The ITA distinguishes 'secure' e-records and digital signatures from insecure ones: to be considered a 'secure' electronic records, a security procedure must have been applied to it. To be considered a 'secure' digital signature, a security procedure accepted by all the parties must confirm that at the time of attachment, the digital signature was (I) unique to the subscriber; (ii) identified the subscriber; and (iii) was under the sole control of the subscriber and was connected to the electronic record so that if any changes were made to the electronic record, the digital signature would automatically be invalidated [12].

The controller of certification authorities is responsible for regulation of certification authorities [13] and for investigation [14] of any alleged violations of the ITA [15]. No person or entity may act as certification authorities unless it holds a license issued by the controller [16]. An applicant for certification authorities license must be able to show, possesses the requisite: (i) knowledge, abilities and skills; (ii) number of personnel, (iii) capitalization; and (4) physical assets, including computer equipment and suitable worksite [17]. For good cause shown, the controller is authorized to suspend or revoke a certification authority's license [18].

5.5.1.3 Adjudication of Violations of the ITA

The controller appoints adjudicating officers to hear and resolve alleged violations of the aforementioned rules and determines the geographical locations where each may exercise jurisdiction. After giving all parties an opportunity to present their cases at a hearing, the officer will render a decision in the matter [19]. The officer will take into account: the wrongdoer's "gain of unfair advantage," the amount of loss caused by the wrongful acts; and the number of times the wrongdoer committed the acts [20]. Penalties will be imposed or awards will be made on a case by case basis. The qualification for adjudicatory officers will be stated by the government and will include both information technology experience and legal /judicial experience. The officer's authority will be both civil & criminal in nature [21]. The government of India is authorized to

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11. ITA, section 3
12. ITA, Section 14
13. ITA, section 15
14. ITA, section 18
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16. ITA, section 28(1)
17. ITA, section 21
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An study of refugee's in India. The legal perspective

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Abstract
India has had an age old tradition of according humanitarian protection to refugees and asylum seekers. It has followed a very liberal refugee policy. However, the absence of a refugee specific legislation can be attributed to India's volatile situation in South Asian politics and the threat of terrorism faced by it. Even in such absence of a specific law, India has addressed the needs of refugees who have fled from their home country into its territory. It can be easily seen from that India notwithstanding its own legal concerns, particularly in the last couple of decades, and pressure of population and the attendant economic factors, continues to take a humanitarian view of the problem of refugees. Even though the country has not enacted a special law to govern 'refugees', it has not proved to be a serious handicap in coping satisfactorily with the enormous refugee problems besetting the country. The spirit and contents of the UN and International Conventions on the subject have been, by and large, honored through executive as well as judicial intervention. By this means, the country has evolved a practical balance between human and humanitarian obligations on the one hand and security and national interest on the other.

Keywords: refugee, non-refoulement, international convention on status of refugees, displacement, national treatment

1. Introduction
India has had an age old tradition of according humanitarian protection to refugees and asylum seekers. It has followed a very liberal refugee policy. However, the absence of a refugee specific legislation can be attributed to India's volatile situation in South Asian politics and the threat of terrorism faced by it. Even in such absence of a specific law, India has addressed the needs of refugees who have fled from their home country into its territory. India hosted around 420,400 refugees, including some 110,000 from Tibet who fled since China's 1951 annexation. Another 102,300, mostly Tamil Sri Lankans, escaped fighting between the Liberation Tigers of Tamil Eelam and the Sri Lankan armed forces. There were about 36,000 Buddhist ethnic Chakmas and Hajongs from present-day Bangladesh who fled to Arunachal Pradesh after Muslim annexation of their land in 1964. India has accorded differential treatment to refugees belonging to different countries.. There were two major refugee flows from Bangladesh. The Chakmas were provided with inadequate facilities as confirmed by National Human Rights Commission (NHRC) and repatriated in 1988. Tibetan refugees received far better treatment in comparison to other refugee groups. With regard to Sri Lankan Tamil refugees, an official refugee determination process has been practiced and the principle of non-refoulement has been complied with. The International convention dealing with the issue of refugees is the 1951 Convention on Status of Refugees and the 1967 Protocol attached to it. The term 'refugee' is defined as –

"...a person owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of that protection of that country; or who, not having a nationality and being outside a country of his former habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it."

India is not a party to the 1951 Convention or the 1967 Protocol. An individual refugee is protected essentially under the Constitution of India since there has been no domestic legislation passed on the subject of refugees. But the provisions of these international treaties have now acquired the status of customary international law and maybe regarded as incorporated into the domestic law to the extent of their consistency with the existing municipal laws and also when there is a void in the municipal laws Also, Article 51(c) of the Constitution of India advocates fostering respect for international law [1]. The 1951 convention relating to the status of refugees and the 1967 Protocol to the convention are the modern legal embodiment of the ancient and universal tradition of providing sanctuary to those at risk and in danger. Both instruments reflect a fundamental human value on which global consensus exists and are the first and only instruments at global level which specially regulate the treatment of those who are compelled to leave their homes because of a rupture with their country of origin. For half of century, they have demonstrated. Their adaptability to changing factual circumstances beginning with the European refugees from the second world war, the convention has successfully afforded the framework for the protection of refugees from persecution whether from repressive regimes. The upheaval caused by wars of independence or the many ethnic conflicts of post cold war era [2].

International refugee's protection is as necessary today as it was when the 1951 convention was adopted over fifty years ago. Since the end of the cold war, simmering tensions of an interethnic nature often exploited by populist politicians have

engendering conflict and strife. Communities which lived together for generations have been separated and millions of the people displaced whether in the former Yugoslavia, the great lakes, the Caucasus, or Afghanistan. The deliberate targeting of civilians and their enforced flight have not only represented method of warfare but have become the very objectives of the conflicts. Clearly, this forced displacement is for reasons which fall squarely within the convention refugee definition. Yet states in some regions have often been relevant to acknowledge this at the outset of the crisis and have developed ad hoc discretionaly responses instead.

The displacement resulting from such situations can pose particular problems to host states, especially if they provide asylum to large refugee communities, sometimes for decades. There is thus a real challenge as to how best to share responsibilities so as to ease the burden on any one state unable to shoulder it entirely. There is also a need to put in place burden sharing not burden shifting mechanisms, which can trigger timely responsibility sharing in any given situations.

Xenophobia and intolerance towards foreigners and in particular towards refugees and asylum seekers have also increased in recent years and present a major problem. Certain media and politicians appear increasingly ready to exploit the situation for their own ends. In addition, security concerns since the attacks in the United States on 11 September 2001 dominate the debate, including in the migration areas, and have at times over shadowed the legitimate protection interests of individuals. A number of countries have, for instance, revisited their asylum system from a security angle and have in the process tightened procedures and introduced substantial modifications, for example by broadening grounded for detention or reviewing claims for the purpose of detecting potential security risks. In some situations, it has been noticeable that the past September 11 context has been used to broaden the scope of provisions of the 1951 convention allowing refugees to be excluded from refugees status and /or to be expelled. The degree of collaboration between immigration and asylum authorities and the branches has also been stepped up.

The growth of irregular migration, including the smuggling and trafficking of people, presents a further challenge. These developments are in part a consequence of globalization, which has facilitated [3].

2. Methodology

It is theoretical study based on books, journals (International National), other International and National instruments, reports, articles and internet.

3. Protection granted to the Asylum in India

Treatment given to the asylum is divided into three categories-

3.1 National Treatment

The treatment to the asylum people is same as the citizens of India. There are certain Articles in the constitution of India, which takes care of the fundamental rights of all people in India. The rights such as equal protection of law [4], religious freedom [5], the right to life and personal liberty [6], right to social security and educational rights are guaranteed in part III of the Indian Constitution.

3.2 Treatment that is accorded to Foreigners

There are rights which are related to the housing problems, movements etc. the rights which are provided under this treatment are; right to employment or profession under article 17 of Indian constitution, freedom of residence and movement under article 26 of Indian Constitution, right to housing under article 21, right to form association and the right to property under article 13 of the Refugee Convention.

3.3 Special Treatment

This treatment includes the identity and travel document under article 28, exemption from penalties under article 3(1) of the 1951 Refugee Convention.

4. Legal Framework in India

Law for Refugee 's and displaced people

India has been the home for several refugees. For these refugees, numerous legislative measures were passed and issued under seventh schedule of the Indian constitution. But some of the measures have lost their importance in the current context. "There were certain legislation" that was enacted following the partition of India and before the Indian Constitution came into effect which are given below [7].

- East Punjab Evacuees(administration of property)Act, 1947
- U.P. Land Acquisition (rehabilitation of refugees) Act, 1948
- East Punjab Refugees(registration of land claims)Act, 1948
- Mysore Administration of Evacuee Property (Emergency) Act, 1949
- Mysore Administration of Evacuee Property (second emergency) Act, 1949.

Once the Constitution of India came into operation, the following acts passed relating to refugees, evacuees and displaced persons

- Immigrants (expulsion from Assam) Act, 1950
- Administration of Evacuee Property Act,1950
- Evacuee Interest (separation)Act,1951
- Displaced Persons (debts adjustment)Act,1951
- Influx from Pakistan (control)Repelling Act,1952
- Displaced Persons(claims) Supplementary Act, 1954
- Displaced Persons (compensation & rehabilitation) Act,1954
- Transfer of Evacuee Deposits Act,1954
- Foreigners Law (application & amendment) Act,1962
- Goa, Daman & Diu Administration of Evacuee Property Act,1969
- Refugee Relief Taxes (abolition)Act,1973 [8]

India has a federal set up and is described as a Union of States. This union is considered as a State in international law. The Union legislature, i.e., the Parliament alone is given the right to deal with the subject of citizenship, naturalization and aliens. India has not passed a refugee specific legislation which regulates the entry and status of refugees. It has handled the refugees under political and administrative levels. The result is that refugees are treated under the law applicable to aliens in India, unless a special provision is made as in the

case of Ugandan refugees (of Indian origin) when it passed the 'Foreigners from Uganda Order 1972'. In India refugees are considered under the ambit of the term 'alien'. The word alien appears in the Constitution of India (Article 22, Para 3 and Entry 17, List I, Schedule 7), in Section 83 of the Indian Civil Procedure Code, and in Section 3(2)(b) of the Indian Citizenship Act, 1955, as well as some other statutes. Enactments governing aliens in India are the Foreigners Act, 1946 under which the Central Government is empowered to regulate the entry of aliens into India, their presence and departure there from; it defines a 'foreigner' to mean 'a person who is not a citizen of India' The Registration Act, 1939 deals with the registration of foreigners entering, being present in, and departing from India. Also, the Passport Act, 1920 and the Passport Act, 1967 deals with the powers of the government to impose conditions of passport for entry into India and to issue passport and travel documents to regulate departure from India of citizens of India

Since these enactments do not make any distinction between genuine refugees and other categories of aliens, refugees run a risk of arrest by the immigration authorities and of their prosecution if they enter India without a valid passport/travel documents. When a refugee is detained by customs, immigration or police authorities for commission of any of the offences under the earlier mentioned enactments, he is generally handed over to the police and a First Information Report is lodged against him. According to the provisions of these statutes the refugee may face forced deportation at the established sea ports, airports or the entry points at the international border, if he is detected without valid travel documents. He may also be detained and interrogated pending decision by the administrative authorities regarding his plea for refugee/asylum. A refugee also faces the prospects of prosecution for violation of the Registration of Foreigners Act, 1939and Rules made there under and if he is found guilty of any offence under this Act he may be punished with imprisonment which may extend to one year or with a fine up to one thousand rupees or with both.

However, in many cases the courts have taken a lenient view in the matter of punishment for their illegal entry or illegal activities in India and also, by releasing detainees pending determination of refugee status, staying deportation and giving them an opportunity to approach the United Nations High Commissioner of Refugees (hereinafter referred to as UNHCR), refugees continue to run the risk of apprehension, detention and prosecution for the violation of the Foreigner's Act, 1946 and the Foreigners Order,1948. The Indian Supreme Court has also held that the government's right to deport is absolute:

'... the power of the Government in India to expel foreigners is absolute and unlimited and there is no provision in the Constitution fettering this discretion... the executive Government has unrestricted right to expel a foreigner.'

5. Constitutional Framework for Protection of Refugees

The Constitution of India guarantees certain Fundamental Rights to refugees. Namely, right to equality (Article 14), right to life and personal liberty (Article 21), right to protection under arbitrary arrest (Article 22), right to protect in respect of conviction of offences (Article 20), freedom of religion (Article 25), right to approach Supreme Court for enforcement of Fundamental Rights (Article 32), are as much available to non-citizens, including refugees, as they are to citizens. The constitutional rights protect the human rights of the refugee to live with dignity. The liberal interpretation that Article 21 has received now includes right against solitary confinement right against custodial violence, right to medical assistance and shelter. The Supreme Court has taken recourse to Article 21 of the Constitution in the absence of legislation to regulate and justify the stay of refugees in India. In NHRC v. State of Arunachal Pradesh [9], the Government of Arunachal Pradesh was asked to perform the duty of safeguarding the life, health and well-being of Chakmas residing in the State and that their application for citizenship should be forwarded to the authorities concerned and not withheld. In various other cases [16] it was held that refugees should not be subjected to detention or deportation and that they are entitled to approach the U.N High Commissioner for grant of refugee status. In P. Nedumaran v. Union of India [10] the need for voluntary nature of repatriation was emphasized upon and the Court held that the UNHCR, being a world agency, was to ascertain the voluntariness of the refugees and, hence, it was not upon the Court to consider whether consent was voluntary. Similarly, according to B. S. Chimni, the Supreme Court has erred in concluding in Louis de Raedt v Union of India that there is no provision in the Constitution fettering the absolute and unlimited power of the government to expel foreigners under the Foreigners Act of 1946. In actuality Article 21 of the Indian Constitution does impose certain constraints: any action of the State which deprives an alien of his or her life and personal liberty without a procedure established by law would fall foul of it, and such action would certainly include the refoulement of refugees. Therefore, the author opined that the Court should have proceeded to test the validity of Foreigners Act as against Article 21.

6. Incorporating international law in domestic law

International law has accepted and defined refugees as a special class of aliens. Does this acceptance by International law import any legal consequence on the Indian Government in the absence of any legislation on the subject? It is true that India has not ratified the 1951 Convention and the 1967 Protocol to it, however, it acceded to various Human Rights treaties and conventions that contain provisions relating to protection of refugees. As a party to these treaties India is under a legal obligation to protect the human rights of refugees by taking appropriate legislative and administrative measures under Article 51 states that the state shall endeavor to foster respect for International law and Treaty obligations in the dealings of organized people with one another. Article 51 of the constitution is the Directive Principles of State policy demonstrating the spirit in which India approaches her International relations and obligations. Article 253 of the Indian Constitution states that "parliament has the power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement, or, convention with any country or countries or any decision made at any International conference, association or other body" and also under the same laws it is under the obligation to uphold the principle of non-refoulement. Further entry 14 of the union list

of seventh schedule states that "entering into treaties and agreements with foreign countries and implementing of treaties and agreements and conventions with foreign countries". Article 253 read with entry 14 makes it clear that the power conferred by parliament to enter into treaties carries the right to encroach on the state list to enable the union to implement a treaty with it. Therefore, any law made in accordance with this article that gives effect to an international convention shall not be invalidated on the ground that it contains provisions relating to state subjects [11]. India is a member of the Executive Committee of the office of United Nations High Commissioner for Refugees which puts a moral, if not legal obligation, on it to build a constructive partnership with UNHCR by following the provisions of the 1951 Refugee Convention.

India's status as a preferred refugee haven is confirmed by the steady flow of refugees from many of its sub continental neighbors as also from elsewhere. India continues to receive them despite its own over-a-billion population with at least six hundred million living in poverty with limited access to basic amenities. However, the Indian legal framework has no uniform law to deal with its huge refugee population, and has not made any progress towards evolving one either; until then, it chooses to treat incoming refugees based on their national origin and political considerations, questioning the uniformity of rights and privileges granted to refugee communities. Indeed, the National Human Rights Commission (NHRC) has submitted numerous reports [12] urging the promulgation of a national law, or at least, making changes or amendments to the outdated Foreigners Act (1946), which is the current law consulted by authorities with regard to refugees and asylum seekers. The primary and most significant lacuna in this law is that it does not contain the term 'refugee'; consequently under Indian Law, the term 'foreigner' is used to cover aliens temporarily or permanently residing in the country. This places refugees, along with immigrants, and tourists in this broad category [13], depriving them of privileges available under the Geneva Convention [14]. Despite these factors, the current number of refugees and asylum seekers in India stands at approximately 435,900 according to the World Refugee Survey 2007 conducted by the United States Committee for Refugees and Immigrants (USCRI) [15], and supported by the latest figures from the United Nations High Commissioner of Refugees (UNHCR). According to these sources, new asylum seekers for 2007 numbered about 17,900, in contrast to the mere 600 recorded departures from the country. India mostly plays host to refugees from its neighboring countries who are either forced to leave their countries of origin due to internal or external conflict, political persecution or human rights infringements. India has offered refugee status to asylum seekers from countries like: a. China: Refugees and asylum seekers from Tibet number around 110,000. b. Nepal: Excluding migrant workers, the population stands at 100,000 refugees. However this number is not usually considered because of the Indo-Nepal Friendship Treaty [16] c. Sri Lanka: Total strength of conflict induced refugees of Tamil origin stands at 99,600.d. Myanmar: Currently 50,000 refugees and asylum seekers. e. Bangladesh: The mass exodus following the 1971 war has come down to 35,000, following repatriation of refugees. f. Afghanistan: 30,400 refugees and asylum seekers comprised mainly of Hindus and Sikhs.

g. Bhutan: The ethnic Nepalese population settled in India amounts to 10,000 refugees and asylum seekers [17].

The circumstances underlying the exodus of refugees from their countries of origin vary from political persecution in the case of the Chin refugees of Myanmar to civil war with the community of Sri Lankan Tamils caught between the Tamil nationalists and the Sinhalese government. However it is clear that all these refugee populations deserve their basic human rights and the assistance that can be afforded by the Government of India. To define the word 'refugee' in Indian legal terms is theoretically not possible since neither the Foreigner's Act (1946) nor its amendments or additions, contains or defines the term. However, this study shall consider the definition propounded by a commission chaired by Justice P N Bhagwati in 1997, whose task was to construct a uniform national law on refugees. Although the bill was never tabled in Parliament, the term 'refugee' was adequately defined in the 'Model Law' as either Any person who is outside his/her Country of Origin and is unable or unwilling to return to, and is unable or unwilling to avail himself /herself of the protection of that country, because of a well founded fear of persecution on account of race, religion, sex, ethnic identity, membership of a particular social group or political opinion Drafted under the auspices of the Regional Consultations on Refugees and Migratory Movements in South Asia initiative in 1995, with Justice P N Bhagwati as the Chairperson of the Drafting Committee of the India-specific version of the national law on refugee protection. or ... owing to external aggression, occupation, foreign domination, serious violation of human rights or events seriously disrupting public order in either part or whole of his/her Country.8 It is important to note that India is not a signatory to the 1951 Convention relating to the status of refugees or the 1967 Protocol. This makes India's international position in terms of treatment of refugees, disputable. However, it is equally important to note that India is a signatory to various other international and regional treaties and conventions relating to universal human rights and refugees such as the UN Declaration on Territorial Asylum (1967), the Universal Declaration of Human Rights, and the International Convention on Civil and Political Rights [18]. India is also a member of Executive Committee (ExCom) of the UNHCR which approves and supervises the material assistance programmes of the UNHCR; all this without actually supporting or acknowledging the role of the UNHCR on its own territory. Taking this into account, it is clear that India respects international treaties on the treatment of people residing within its territory; but, it chooses to maintain its own administrative arrangements for dealing with temporarily or permanently settled refugee communities, while providing the UNHCR little room to assist except in emergency situations like the displacement of Chakma tribals from Bangladesh or reliabilitation of refugees from Afghanistan or the Autonomous Region of Tibet.

7. Role of Indian judiciary for the protection of Refugee

When any of the Refugees are detained or arrested by the Indian authorities, there would always be a danger of refoulment, repatriate or deportation. Those refugees who are

arrested for the illegal stay can be detained illegally under administrative order without charges [19]. With regard to adopting international conventions in domestic laws, in Vishaka v. State of Rajasthan, the Court observed that reliance can be placed in international laws. Therefore, the question that arises is whether India can refer to the 1951 Convention in interpreting the domestic legislation and whether it is really necessary to ratify these conventions. It is to be noted that merely ratifying the 1951 Convention does not ensure that the asylum seekers will not be kept out and also Article 42 of the same Convention permits reservations with respect to the rights of refugees which will defeat the purpose of ratifying the Convention. The solution to treat refugees with dignity in India is to either ratify the 1951 Convention and incorporate it into domestic law or enact a uniform legislation specifically for refugees so that it is not left to the discretion of the executive and the judiciary to decide their fate. The Foreigners Act vests an absolute and unfettered discretion in the central government to expel foreigners from India. The Supreme Court of India in "Hans Muller of Nurenburg V Superintend, presidency [20]" gave "absolute and unfettered" power to the government to throw out foreigners: The said judgement was again upheld by the Supreme court in Mr. Louis De Raedt & ors V. Union Of India [21] in the same judgement, Supreme Court also held that foreigners have the right to be heard. In the judgement of " Ktaer Abbas Habib Al Qutaifi V. Union of India [22], the HC of Gujrat held that the principle of non – refoulment avoids ejection of a displaced person where his life or freedom would be under mined by virtue of his race, religion, nationality, enrolment of a specific social gathering or political conclusion. Its application ensures life and freedom of a person irrespectively of his nationality [23]. *Gurinder Singh and Karamjit Singh* [24], two Afghan Sikhs of Indian origin, who had fled persecution from Afghanistan were registered as refugees with UNHCR in New Delhi. They were issued Leave India Notices by the FRRO to leave India within 7 days of receipt of the notice. The only remedy under such circumstances is through legal action in the appropriate court. In this instance, a criminal writ petition was filed in the Punjab & Haryana High Court at Chandigarh and interim stay of the Leave India Notice was obtained. In the matter of *Gurunathan and others vs. Government of India* [25] and others and in the matter of *A.C. Mohd. Siddique vs. Government of India and others* [26], the High Court of Madras expressed its unwillingness to let any Sri Lankan refugees to be forced to return to Sri Lanka against their will. In the case of *P Nedumaran vs. Union Of India*, before the Madras High Court, Sri Lankan refugees had prayed for a writ of mandamus directing the Union of India and the State of Tamil Nadu to permit UNHCR officials to check the voluntariness of the refugees in going back to Sri Lanka, and to permit those refugees who did not want to return to continue to stay in the camps in India. The Hon'ble Court was pleased to hold that "since the UNHCR was involved in ascertaining the voluntariness of the refugees' return to Sri Lanka, hence being a World Agency, it is not for the Court to consider whether the consent is voluntary or not." Further, the Court acknowledged the competence and impartiality of the representatives of UNHCR. The Bombay High Court in the matter of *Syed Ata Mohammadi vs. Union of India* [27], was pleased to direct that "there is no question of deporting the Iranian refugee to Iran, since he has been recognised as a refugee by the UNHCR." The Hon'ble Court further permitted the refugee to travel to whichever country he desired. Such an order is in line with the internationally accepted principles of *'non-refoulement'* of refugees to their country of origin. The Supreme Court of India has in a number of cases stayed deportation of refugees such as *Malwand s Trust of Afghan Human Freedom vs. State of Punjab* [28]; and, *N.D.Pancholi vs. State of Punjab & Others* In the matter of *Malavika Karlekar vs Union of India* the Supreme Court directed stay of deportation of the Andaman Island Burmese refugees, since "their claim for refugee status was pending determination and a *prima facie* case is made out for grant of refugee status." The Supreme Court judgement in the Chakma refugee case clearly declared that no one shall be deprived of his or her life or liberty without the due process of law. Earlier judgements of the Supreme Court in *Luis De Raedt vs. Union of India* [29] and also *State of Arunachal Pradesh vs. Khudiram Chakma* [30], had also stressed the same point.

8. Conclusion

It can be easily seen from the foregoing paragraphs that India notwithstanding its own security concerns, particularly in the last couple of decades, and pressure of population and the attendant economic factors, continues to take a humanitarian view of the problem of refugees. Even though the country has not enacted a special law to govern 'refugees', it has not proved to be a serious handicap in coping satisfactorily with the enormous refugee problems besetting the country. The spirit and contents of the UN and International Conventions on the subject have been, by and large, honored through executive as well as judicial intervention. By this means, the country has evolved a practical balance between human and humanitarian obligations on the one hand and security and national interest on the other. It is in balancing these interests, which may sometimes appear to be competing with each other, that the security and law enforcement agencies face day to day challenges. If and when a separate 'Refugee Law' for the country is enacted, it is important that this aspect is given due consideration.

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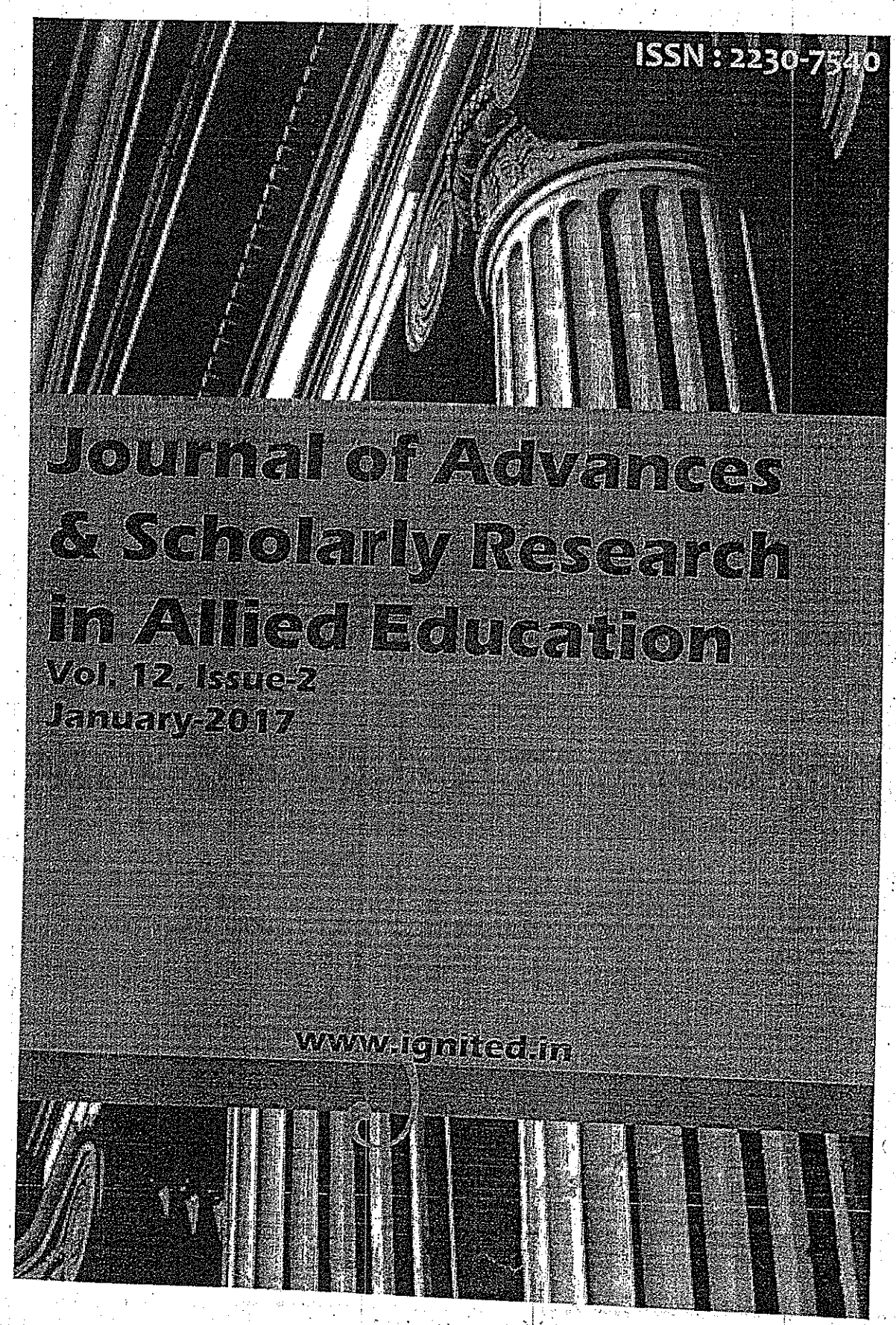
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An Analysis upon Present Trends and Practices of Intellectual Property Rights in India

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Abstract – Global aggressiveness has re-imagined business procedures worldwide and the concentration has absolutely moved to looking at how our knowledge assets can reposition our remain in the world market. It implies that procedure of riches creation is changing from asset based to knowledge based i.e. it now relies upon Intellectual prowess and our capacity to make, to offer, to disclose and to take care of issues. Subsequently, in future the riches would increasingly leave our brains and less and less will it leave the ground. What's more, the products and ventures being made by our intellectual prowess would be marketed in the global village. Presently a fundamental issue to be tended to is that in what manner would this be able to property of knowledge be protected? What's more, before this we have to believe that how the knowledge can be changed over into property? Since knowledge is conceptual and isn't care for an auto or a house which can be bolted and secured against burglary. On the off chance that anybody picks up knowledge it doesn't diminish that accessible to others. There are two methods for transforming knowledge into property. One way is mystery, which is utilized to secure three sorts of data, to be specific trade secrets, know – how and customs. Another way is Intellectual Property Laws, including Copyright, Patent, Registered Industrial Design and Trademark, legislation and traditions.

INTRODUCTION

Intellectual property is the way to India's extending knowledge economy. Having developed by a wide margin, the Indian IP industry is quick achieving new statures. With the appearance of the new knowledge economy, the old and a portion of the current management builds and methodologies would need to change. From striking a harmony between IP rights security and open policy to advancing IP rights training, Alfred Marshall trusted that with headways in technology, wares alone would never again be the essential factor in deciding the genuine estimation of cash: "Yet in the event that creations have expanded labor over nature in particular, at that point the genuine estimation of cash is better estimated for a few purposes in labor than in wares" (Ankit Prakash, 2011). Today, the inborn work esteem exists as knowledge. The knowledge economy puts a tag of earnestness on comprehension and managing knowledge based resources, for example, advancements and know-how. Intellectual property rights have turned out to be imperative even with changing trade condition which is described by the accompanying highlights in particular global rivalry, high advancement dangers, short item cycle, requirement for fast changes in technology, high investments in innovative work, generation and marketing and requirement for profoundly gifted HR. India is an individual from the World Trade Organisation's and a signatory to the Trade Related Aspects of Intellectual Property Rights Agreement. Over the most recent couple of years India has been changing its Intellectual Property laws to guarantee satisfactory insurance to Intellectual Property proprietors. Indian governing body has endeavored endeavors to actualize better IP rights authorization and insurance. Then again, the legal has not been a long ways behind in adding to the development of IP rights. Case in regards to trademarks, copyrights and patents has set new points of reference, with the Indian courts receiving international principles and decisions to secure IP rights so as to hinder infringers. By and large, the advance throughout the most recent year has set new points of reference in IP rights for the testing times ahead.

As of late the Indian economy has opened up and developed drastically. Thus, India's noticeable quality in the global economy has expanded essentially, starting colossal enthusiasm from remote investors (Rouse, 2011). In all industry areas, multinational organizations are currently working together in India. Thus, India's intellectual property laws and authorization administration are being conveyed into the spotlight and subjected to investigation for their ampleness and consistence with set up global gauges.

The development of intellectual property in India has dependably been the warmed verbal confrontation and distinct fascination around the globe. As of late

India has gained incredible ground not just in executing its commitments under the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights, yet in addition in building up its own IP administration and to adjust the trade-off between syndication rights and free access to knowledge.

With the coming of the new knowledge economy, the old and a portion of the current management develop and methodologies would need to change. The knowledge economy puts a tag of desperation on comprehension and managing knowledge based resources, for example, developments and know-how. The ideal opportunity for getting a handle on knowledge has turned into an imperative parameter for deciding the accomplishment of a foundation, venture, government and industry; the shorter the time better are the odds of achievement. Intellectual property rights (IPR) have turned out to be critical notwithstanding changing trade condition which is portrayed by the accompanying highlights specifically global rivalry, high advancement dangers, short item cycle, requirement for quick changes in technology, high investments in innovative work (R&D), generation and marketing and requirement for exceptionally gifted HR (The Patents Act, 1970, 2005). Land boundaries to trade among countries are falling because of globalization, an arrangement of multilateral trade and another rising monetary request. It is along these lines very evident that the complexities of global trade would be on the expansion as an ever increasing number of factors are acquainted driving with vulnerabilities. Numerous items and innovations are at the same time marketed and used in numerous nations. With the opening up of trade in merchandise and enterprises. intellectual property rights (IPR) have turned out to be more helpless to encroachment prompting lacking come back to the makers of knowledge. Engineers of such items and innovations might want to guarantee R&D costs and different expenses related with presentation of new items in the market are recuperated and enough benefits are produced for putting resources into R&D to keep up the R&D endeavors. One expects that countless rights would be produced and protected everywhere throughout the world including India in every aspect of science and technology, programming and business strategies (The Protection of Plant, 2003).

More than some other innovative territory, medications and pharmaceuticals coordinate the above portrayal generally nearly. Knowing that the cost of bringing another medication into the market may cost an organization anyplace between $ 300 million to $600 million alongside all the related dangers at the developmental stage, no organization will get a kick out of the chance to chance its intellectual property turning into an open property without sufficient returns. Making, acquiring, ensuring and managing intellectual property must turn into a corporate movement in an indistinguishable way from the raising of assets and assets. The knowledge insurgency will request an exceptional platform for intellectual property and treatment in the general basic leadership process. It is likewise vital to understand that every item is amalgamation of a wide range of territories of science and advancements. Despite the opposition being experienced by the global group, numerous ventures are holding hands for sharing their mastery to react to market requests rapidly and keeping the costs focused. To keep up a consistent stream of new thoughts and experimentations, open private association in R&D would should be sustained to touch base at a win-win circumstance. Accordingly all freely supported organizations and offices should deal with the new ground substances and find a way to coordinate research reasonably to produce more intellectual property rights, ensure and oversee them effectively (The Design Act-2000, 2004).

Intellectual property (IP) alludes to the manifestations of the human personality like developments, scholarly and imaginative works, and images, names, pictures and designs utilized as a part of business. Intellectual property is partitioned into two classes: Industrial property, which incorporates creations (patents), trademarks, industrial designs, and geographic signs of source; and Copyright, which incorporates scholarly and masterful works, for example, books, ballads and plays, films, melodic works, aesthetic works, for example, illustrations, artistic creations, photos and figures, and structural designs. Rights identified with copyright incorporate those of performing specialists in their exhibitions, makers of phonograms in their accounts, and those of telecasters in their radio and TV programs. Intellectual property rights secure the interests of makers by giving them property rights over their manifestations.

The most discernible contrast between intellectual property and different types of property, in any case, is that intellectual property is impalpable, that is, it can't be characterized or distinguished by its own physical parameters. It must be communicated in some recognizable method to be protectable. Generally, it incorporates four isolated and unmistakable sorts of elusive property to be specific — patents, trademarks, copyrights, and trade secrets, which all things considered are alluded to as "intellectual property." However, the extension and meaning of intellectual property is always developing with the consideration of fresher structures under the gambit of intellectual property. As of late, geological signs, insurance of plant assortments, security for semi-conductors and incorporated circuits, and undisclosed data have been brought under the umbrella of intellectual property (Aashit, 2000).

The Trade Related parts of Intellectual Property Rights (TRIPS) Agreement under the World Trade Organization (WTO) became effective in 1995 ordering all the creating part nations to get TRIPS-

consistent national laws inside ten years i.e. 2005. With patents including as one of the key issues, TRIPS required the part countries to accommodate patent insurance, without separation, for any development (items or procedures) in different fields of technology, if they breeze through the trial of curiosity, imagination and industrial relevance. In the meantime it required that security rights be accessible and agreeable, without segregation with regards to tho place of development and whether items were transported in or privately delivered. The TRIPS Agreement, among different issues, indicates enforceability and question determination techniques (Kadri & Saykhodkar, 2011).

The Agreement calls for securing and enforcing IPR, in a way that advances mechanical development, exchange and scattering to the common favorable position of makers and clients.

In order to address the concerns of developing countries of possible misuse and prevent IPR holders from charging exorbitant and commercially unviable prices for transfer or dissemination of technologies, TRIPS Agreement incorporated particularly Articles 7 and 8.

Article 7 distinguishes that there is requirement for '..... ..exchange and dispersal of technology, to the shared favorable position of makers and clients of innovative knowledge ... helpful for social and financial welfare, and ... adjust of rights and commitments' while Article 8 recognizes that reception of '... measures important to secure general wellbeing and sustenance, and to advance people in general enthusiasm for divisions of essential significance... ,.', and 'keep the mishandle of intellectual property rights by right holders ... '. In addition, The TRIPS Agreement left certain space for the part countries to alter national legislations to their specific needs and policy destinations but then extensively fit in with the global TRIPS system.

IPR-related issues in India like patents, trademarks, copyrights, designs and land signs are administered by the Patents Act 1970 and Patent Rules 2003, Trademarks Act 1999 and the Trademarks Rules 2002, Indian Copyrights Act, 1957, Design Act 2000 and Rules 2001, and The Geographical Indications of Goods (Registration and Protection) Act, 1999 and The Geographical Indications of Goods (Registration and Protection) Rules 2002, individually.

IPR assumes a key part in relatively every division and has turned into an essential factor for investment choices by numerous organizations. All the above Acts and directions are at standard with international measures. India is presently TRIPS-agreeable. This is an international agreement directed by the World Trade Organization (WTO), which sets down least benchmarks for some types of intellectual property (IP) controls as connected to the nationals of other WTO Members. The extremely all around adjusted IPR administration in India goes about as a motivating force for remote players to secure their Intellectual Property in India. This can be built up by the very truth that around 80% of patent filings in India are from the MNCs.

While the IPR administration in India comprises of vigorous IP laws, it needs powerful implementation, for which "slightest need given to settling of IP matters" is frequently cited as a reason. The key test is to sharpen the implementation authorities and the Judiciary to take up IP matters, at standard with other monetary offenses, by bringing them under their policy radar. Further, it is basic that there be built up a 'Research organization' or a gathering, which can expedite the shifted sets of partners to a typical stage, prompting broad/thorough and a comprehensive open deliberation/exchange, encouraging all around educated policy choices as per India's financial political needs. The difficulties likewise lie in having an IP support, which can be used for additionally building up the IP culture in the nation. There is likewise the need a National IP Policy for India, which will help in working towards understanding the vision of India in the domain of IP. This will encourage the production of a solid financial establishment and profound International trust (Chaturvedi, 2009).

FICCIs endeavors underline the upgrading of the working of the Indian Patent Office, along these lines, getting more noteworthy straightforwardness its working, and encouraging the Government in building up a policy for India.

The IPR division tries to give proactive business arrangements through research, cooperation's at the most astounding political level while encouraging global systems administration. Further, since the IPR gives restrictive rights over resources, it is a noteworthy test for the nation to adjust the interests of the trailblazers and the interests of the general public on the loose.

In the present exceedingly aggressive global economy, IPRs are giving organizations the bleeding edge and expanding their intensity. With late changes in IP laws, different IP related issues have jumped up, which are profoundly mind boggling in nature. FICCI imagines itself as the 'thought' pioneer in the field of IPR. FICCI likewise sees itself as being sufficiently competent to help the administration and the industry chiefs in all IP related issues.

Exhibiting its unparalleled capacities in this circle, FICCI's IPR division arranges the World IP Day on April 26th consistently. Actually, on World IP Day 2010, FICCI arranged and presented a talk paper on the National IP Policy to the Government of India. In 2011 too, FICCI presented a short answer to the

(iii) Geographical indications including appellations of origin;

(IV) Industrial designs;

(v) Patents including protection of new varieties of plants;

(vi) The lay-out designs (topographies) of integrated circuits;

(vii) The undisclosed information including trade secrets and test data.

INTELLECTUAL PROPERTY SYSTEM IN INDIA

As talked about above, verifiably the main arrangement of insurance of intellectual property came as (Venetian Ordinance) in 1485. This was trailed by Statute of Monopolies in England in 1623, which expanded patent rights for Technology Inventions. In the United States, patent laws were presented in 1760. Most European nations built up their Patent Laws between 1880 to 1889. In India Patent Act was presented in the year 1856 which stayed in compel for more than 50 years, which was thusly altered and revised and was called "The Indian Patents and Designs Act, 1911". After Independence an exhaustive bill on patent rights was established in the year 1970 and was called "The Patents Act, 1970"

Particular statutes protected just certain kind of Intellectual yield; till as of late just four structures were protected. The assurance was as allow of copyrights, patents, designs and trademarks. In India, copyrights were directed under the Copyright Act, 1957, patents under Patents Act, 1970, trade stamps under Trade and Merchandise Marks Act 1958; and designs under Designs Act, 1911.

With the foundation of WTO and India being signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), a few new legislations were passed for the insurance of intellectual property rights to meet the international commitments. These included: Trade Marks, called the Trade Mark Act, 1999; Designs Act, 1911 was supplanted by the Designs Act, 2000; the Copyright Act, 1957 changed various circumstances, the most recent is called Copyright (Amendment) Act, 2012; and the most recent revisions made to the Patents Act, 1970 out of 2005. In addition, new legislations on geological signs and plant assortments were additionally authorized. These are called Geographical Indications of Goods (Registration and Protection) Act, 1999, and Protection of Plant Varieties and Farmers' Rights Act, 2001 individually.

In the course of recent years, intellectual property rights have developed to a stature from where it assumes a noteworthy part in the development of global economy. In 1990s, numerous nations singularly fortified their laws and directions around there, and numerous others were ready to do moreover. At the multilateral level, the fruitful finish of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the World Trade Organization raises the assurance and implementation of IPRs to the level of grave international duty. It is emphatically felt that under the global aggressive condition, more grounded IPR assurance expands motivating forces for development and raises comes back to international technology exchange (Dr. Sharma, 2000).

NATURE OF INTELLECTUAL PROPERTY RIGHTS

IPR are to a great extent regional rights with the exception of copyright, which is global in nature as in it is quickly accessible in every one of the individuals from the Berne Convention. These rights are granted by the State and are imposing business model rights suggesting that nobody can utilize these rights without the assent of the right holder. Know that these rights must be recharged every once in a while for keeping them in compel aside from if there should be an occurrence of copyright and trade secrets. IPR have settled term aside from trademark and geological signs, which can have uncertain life gave these, are restored after a stipulated time determined in the law by paying authority charges.

Trade secrets additionally have a limitless life yet they don't need to be reestablished. IPR can be allocated, skilled, sold and authorized like some other property. Not at all like other moveable and immoveable properties, can these rights be at the same time held in numerous nations in the meantime. IPR can be held just by lawful elements i.e., who have the right to offer and buy property. As it were an organization, which isn't self-ruling may not in a situation to possess an intellectual property. These rights particularly, patents, copyrights, industrial designs, IC format design and trade secrets are related with something new or unique and along these lines, what is known openly space can't be protected through the rights specified previously. Changes and alterations made over known things can be protected. It would nonetheless, be conceivable to use topographical signs for ensuring some horticulture and conventional items (IPR Bulletin, 2003).

REGISTERING AND ENFORCING INTELLECTUAL PROPERTY RIGHTS IN INDIA

To appreciate most kinds of intellectual property (IP) rights in India, you should enroll them. For patents, singular enlistments must be made in India, however for rights other than Industrial designs you can apply under the terms of the Patent Cooperation Treaty, which is generally simpler and speedier (Nanda & Srivastava, 2009).

For trademarks, you should enlist them inside India, either through the local trade check framework or under the Madrid framework. For copyright, no enrollment is required yet registering copyrights with the copyright specialists is fitting. 'Need rights' under the Paris Convention can help in the neighborhood enrollment of trade stamps, designs and patents by permitting rights beforehand registered somewhere else to end up viable in India, if recorded inside a period confine.

Enforcing IP rights in India-

IP rights can be upheld by conveying activities to the common courts or through criminal arraignment. India's IP laws set out methodology for both common and criminal procedures, as does the Competition Act. Criminal procedures don't have any significant bearing to patent and design encroachments.

A disservice of common case is that you are probably not going to recuperate extensive harms, and correctional harms against an infringer are uncommon. Notwithstanding, on the off chance that you have a recognized infringer, it might be fitting to dispatch common prosecution, on the grounds that if a between time order is conceded the encroachment can be stopped pending the result of the case. Harms are routinely granted in instances of copyright robbery and trade stamp encroachment (which go under criminal suit); less so in patent cases. Throughout the years, be that as it may, rulings for outside organizations against neighborhood infringers have shown the legal's fair approach.

As in different nations, the Indian Government acquires activities criminal cases, in spite of the fact that as a rule activities take after grievances to officers or police experts by rights proprietors. Criminal procedures against infringers convey the possibility of substantially harsher cures, including fines and detainment (Prasad, et. al., 2012).

Intercession or transaction with an infringer can likewise be successful as an elective type of question determination. The Civil Procedure Code accommodates a formal intercession process.

Self-help considerations-

There are various things you can do to make it harder in general for infringers to copy your product. For example, you could:

1. Think about the design of your product, and how easy it would be for somebody to reproduce it without seeing your original designs;
2. When you hire staff, have effective IP-related clauses in employment contracts. Also make sure you educate your employees on IP rights and protection;
3. Have sound physical protection and destruction methods for documents, drawings, tooling, samples, machinery etc.;
4. Make sure there are no 'leakages' of packaging that might be used by counterfeiters to pass off fake product;
5. Check production over-runs to make sure that genuine product is not being sold under a different name.

AMENDMENTS / INTRODUCTION OF NEW LEGISLATION

1. Copyrights. India's Copyrights Act, 1957 as corrected by Copyright (Amendment) Act, 1999, completely thinks about Berne Convention copyrights. Furthermore, India is gathering to the Geneva Convention for the insurance of rights and methodology of Phonograms and to the Universal Copyright Convention. India is likewise a dynamic individual from World Intellectual Property Organization (WIPO) and UNESCO. The copyright demonstration has been altered occasionally to keep pace with evolving prerequisites. The current alteration has aligned the copyrights law with development in Satellite telecom, Computer programming and Digital technology. The changed law has made arrangements out of the blue to secure entertainer's rights as conceived in the Rome Convention. Then again, on the usage front, a few measures have been received to reinforce and streamline the authorization of copyrights. These measures include setting up of a Copyrights Enforcement Advisory Council, preparing programs for authorization officers and setting up exceptional policy cells to manage cases identifying with encroachment of copyrights (Vaidya, 2012).
2. Trademarks. With respect to Trademarks, the TRIPS agreement gives that the underlying enlistment of trademarks, and every

restoration of enrollment might be for a term of at the very least 7 years.. The enlistment should be sustainable ,for an inconclusive period. Necessary authorizing of trademarks isn't allowed. Keeping in see the prerequisite of TRIPS agreement, changes in trade and business hones, globalization of trade, requirement for rearrangements and harmonization of trademarks enrollment frameworks, a thorough audit of the Trade and Merchandise Marks Act, 1958 was made and a Bill to annul and supplant the demonstration has since been passed by the parliament and advised in the journal on 30-12-99. This correction not just makes the Trademarks law perfect to the TRIPS agreement, yet in addition orchestrates it with International frameworks and practices.

3. Geographical Indications. The TRIPS agreement contains a general commitment that gatherings (nations) might give the legitimate intends to invested individuals (nations), to keep the utilization of any methods in the designation or introduction of good that shows or proposes, that the positive qualities being referred to begins in a geographical zone, other than the genuine place of source, in a way which misdirects people in general, with regards to the geographical birthplace of the great. There is no commitment under the agreement to ensure geographical signs which are not protected in their nation of root or which have fallen into neglect in that nation. Another law for the security of geographical signs, viz The Geographical Indications of Goods (Registration and Protection) Act 1999 has likewise been passed by the parliament and told on 30-12-99.

4. Industrial Designs. Commitments imagines, in the TRIPS agreement, in regard of industrial designs are that autonomously made designs that are new or unique should be protected. Singular governments have been given the choice to bar from security, designs managed by specialized or utilitarian contemplations, as against stylish thought, which constitutes the scope of industrial designs. The right gathering to the right holder is the right to anticipate outsiders not having his assent from making, offering or bringing in articles or exemplifying a design, which is a duplicate or significantly a duplicate of the protected design, when such acts are attempted for business purposes. The span of assurance is to be at the very least 10 years. Another law canceling supplanting The Designs Act, 1911 has been passed by parliament in the spending session, 2000. This demonstration has been brought into drive from 11-05-01

5. Patents. The essential commitment in the territory of patents is that, development in all branches of technology whether items or procedures should be patent capable on the off chance that they meet the three trial of being new, including an innovative advance and being fit for industrial application. Notwithstanding the general security exception which connected to the whole TRIPS agreement, particular rejections are reasonable from the extent of patent capacity of creations, the aversion of whose business abuse is important to ensure open request or profound quality, human, creature, vegetation or wellbeing or to stay away from genuine blas to the earth. Further, individuals may likewise avoid from patent capacity of indicative, remedial and surgical strategies for the treatment of human, creatures and plants, other than microorganisms and basically organic procedures for the generation of plant and creatures. The TRIPS agreement accommodates a base term of insurance of 29 years checked from the date of recording. India has effectively actualized its commitments under Articles 70.8 and 70 9 of TRIPS agreement. A far reaching survey of the Patents Act, 1970 was additionally made and a bill to change the same was presented in parliament on twentieth December, 1999 and informed on 25-06-02 to make the patent law TRIPS good (Dr Mashelkar, 2001)

CONCLUSION

Today ownership of land, work and capital are sufficiently not for a nation to succeed. Imagination and advancement are the new drivers of the world economy. The strategies embraced by a nation should decide the countries prosperity. Development of a nation's Intellectual Capital is the most imperative undertaking in such matters. A powerful intellectual property rights framework lies at the center of the nations development methodologies. Inside knowledge based, advancement driven economies, the intellectual property framework is a dynamic device for riches creation, giving an impetus to undertakings and people to make and enhance a fruitful setting for the development of , and trade in, intellectual resources, and a steady domain for residential and outside investments. Despite the fact that India has arranged with the commitments of TRIPS by altering the IP laws, certain issues are as yet should have been dealt with. What's more, there is a requirement for a steady reasoning over the center

issue of IP security, with a specific end goal to react to circumstances emerging out of global rivalry.

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The Process and Expansion of Corporate and Commercial Law: A Review

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***Abstract** – Current Indian corporate law not just speaks to a critical takeoff from its pilgrim causes, however the difference between Indian law and English law as they have created since freedom has been expanding. While the Indian lawmaking process enjoyed close cross-referencing of English legal arrangements amid the provincial time frame and quickly from that point, the more contemporary legislative reforms pay inadequate respect to corporate law in the starting point country that at first molded Indian corporate law. This paper offers an examination of the framework utilizing a corporate law and governance system, and finds the presence of a few institutional, economic, political and social factors that prompted its rise and vanishing.*

INTRODUCTION

Ordinary scholarship in corporate law attributes the starting points of governance level headed discussions to the original work of Berle and Means (1932). Through an investigation of US corporations amid the period in the vicinity of 1880 and 1930, they inferred that there is a "partition of ownership and control" in which the individual enthusiasm of shareholders is made subservient to that of managers who are in control of an organization. Because of the dissemination in shareholding, the shareholders can't screen the managers, as generally scattered shareholders need adequate financial incentives to intercede straightforwardly in the undertakings of the organization. Left unchecked, the managers may manhandle their situation by acting to their greatest advantage as opposed to the interests of the shareholders, which they have a duty to advance. A significant part of the exertion in corporate law throughout the years has been to address the office problem1 amongst managers and shareholders as distinguished by Berle and Means, in any event in nations where diffused shareholding is the standard. While the field of corporate governance has seen generous advance, there is much to advance.

And no more essential level a corporate governance issue emerges at whatever point an outside financial specialist wishes to practice control uniquely in contrast to the administrator accountable for the firm. Scattered ownership amplifies the issue by offering ascend to irreconcilable circumstances between the different corporate claimholders and by making an aggregate action issue among investors (Armour and Whincop, 2007).

Most research on corporate governance has been worried about the determination of this aggregate action issue. Five elective components may relieve it: (I) halfway grouping of ownership and control in the hands of one or a couple of substantial investors, (ii) threatening takeovers and intermediary voting challenges, which focus ownership as well as voting power briefly when required, (iii) designation and convergence of control in the board of chiefs, (iv) arrangement of administrative premiums with investors through official pay contracts, and (v) unmistakably characterized guardian obligations for CEOs together with class-action suits that either piece corporate choices that conflict with investors' interests, or look for remuneration for past actions that have hurt their interests.

In this overview we survey the hypothetical and experimental research on these five primary systems and examine the fundamental legal and regulatory institutions of corporate governance in various nations. We examine how extraordinary classes of investors and different electorates can or should take part in corporate governance. We additionally audit the near corporate governance writing.

The commercial sector of a developing country is dynamic in nature and advances much of the time. Indeed, even the smallest change in government strategies triggers a dimensional move in the commercial business sector. The sector requires an adjustment of the activities and endeavors of different groups of people associated with that territory, i.e., a straightforward commercial policy change may require experts, for example, bankers, lawyers, investors, and so on to change their practices and adjust to the new standards of the market. This may additionally require new

contestants (specific people) in the commercial sector as the sector develops exponentially and broadens similarly well (Carney, 2008).

As it occurs in all social orders, officially settled and working regions of laws tend to assume a lower priority upon the development of more current territories of laws which law tends to center around all the more; contemplating, characterizing and immersing the subject inside its ambit The primal contrast between effectively settled laws and the up and coming territories is that the officially settled and all around settled zones of law simply require minor upkeep as there exists a stone strong establishment which just should be adjusted now and again. While, in the more up to date regions, active statute is important to build up the subject ground up.

The NDA government carried with it a progression of policy changes, particularly in the financial and commercial sector like loose FDI standards, significant tax upgrade (both; immediate and aberrant), bankruptcy laws, demonetization of High Denomination Notes, amendments in bilateral investment treaties and so on which directly affected the commercial sector. For commercial lawyers, this gives a plenty of chances to investigate and extend their practices in the commercial sector. The course reading case in property and service matters offers approach to practice in rising and more specialized fields, for example, insolvency practitioners, taxation, investment, online business and commercial intervention

Insolvency Practitioners-According to the World Bank reports, it goes up against a normal, 4.3 years (in 2016) for an insolvency process to finish in India. The insolvency process is around two times the world normal of 2.55 years (In 2016). There are right now numerous statutes that arrangement with Insolvency and bankruptcy laws which prompt pointless postponement and complexities. Along these lines, to encourage this process of insolvency and to unite all laws under one code, a standout amongst the most vital legislations of 2016, particularly for the commercial field, the Insolvency and Bankruptcy Code, was informed on 28th May 2016. This code is gone for the insolvency of corporate substances like organizations, association firms, and so on in a speedy way. It was especially gotten keeping mind the 'simplicity of working together's positioning in India (which is at present, 130 out of 189 nations) with a plan to build up the bankruptcy foundation in India, resolve bankruptcies in a period bound way and along these lines, enhancing the rankings. Besides, it will help take care of the issue of Non-Performing Assets (NPAs) that frequent general society banking sector. Institutionally, the code prompts the arrangement of the Insolvency and Bankruptcy Board of India (IBBI), Insolvency Professional Agencies, Information Utilities, and so on. The process of insolvency and liquidation would require Insolvency Practitioners, and this road turns out to be presumably the most engaging rising region for commercial lawyers. According to the last regulations of the administration, experts like organization secretaries, contracted bookkeepers, lawyers, and so on practising for ten years can apply for getting to be Insolvency Practitioners by clearing a 'restricted insolvency examination'. Concerning experts with less than ten years of experience, a 'national Insolvency examination' would be led and the qualified people would be named as Insolvency Practitioners. Note that the IBBI is required to be practical from first December 2016 and subsequently, this road isn't just engaging yet in addition practically around the bend (Avilov, et. al., 1999).

Taxation Lawyer-Taxes influence every single individual somehow or the other. Taxes are essentially isolated into two kinds: coordinate taxes and roundabout taxes Coordinate taxes will be taxes that are straightforwardly paid to the administration. These Incorporate taxes, for example, Income tax, Corporation tax, and so forth. Circuitous taxes are collected on the manufacture or offer of merchandise and ventures. These are at first paid to the legislature by a middle person, who at that point passes on to the purchaser. In this way, the buyer in a roundabout way pays these taxes. These incorporate taxes, for example, Service tax, Value Added Tax, Excise duty, and so forth. The taxation policy of India is experiencing a noteworthy upgrade, and hence, this field of commercial law gives another chance to the lawyers to investigate. The roundabout tax administration, as well as even the immediate tax administration is required to change totally in the circumstances to come. The hailed Goods and Services Tax is most likely the greatest accomplishment of this administration since accepting force in 2014. The Goods and Services Tax is relied upon to be exacted beginning first April one year from now. This tax would be a thorough roundabout tax exacted on the manufacture, deal and buy of products and ventures and will subsume all aberrant taxes and along these lines, would prompt a change in perspective in backhanded taxation. Further, the proposed Direct Tax Code, if tabled in and acknowledged by the Parliament, will reform the immediate tax administration in the country which is as of now administered by the Income Tax Act, 1961. This is another purpose behind investigating the taxation field. Combined with these two tax reforms, is 'the surgical strike on dark cash' – Demonetization of high category notes which will undoubtedly prompt umpteen clashes in regards to the burden of taxes and punishments on saved cash. Moreover, the legislature is excited about investigating and altering India's tax treaties with different nations to fill the lacunae. The administration has officially revised treaties with Mauritius, South Korea and Cyprus and plans to do

as such with different nations also. Accordingly, every one of these approaches (and significantly more to come) will affect taxation, either specifically or by implication and In this manner, would open huge open doors for the current taxation lawyers or new participants to extend their customer base and business

Investment Lawyer-The Department of Industrial Policy and Promotion (DIPP), on seventh July 2016, discharged another Consolidated Foreign Direct Investment (FDI) policy. The policy goes for making India more financial specialist cordial. This policy, bury alia, permitted up to 100 for each penny FDI (under government endorsement course) to trade, through web based business, in regard of nourishment items and manufactured or delivered in India,. up to 74 for each penny FDI (under programmed course) and up to 100 percent FDI (under government endorsement course) in Brown Field pharmaceutical endeavors, up to 100 for each penny FDI in India-based aircrafts and existing airplane terminal activities, up to 100 for each penny FDI (under government endorsement course) in resistance, up to 100 for every penny FDI (under programmed course) in communicating carriage services and so forth. All these FDI changes and different relaxations specified under the Consolidated FDI policy go for making India an attractive FDI goal. This likewise gives an open door for lawyers to investigate the region of remote investment. Besides, the administration is excited about looking into Bilateral Investment Treaties (BITs) with nations. Its BIT with the Netherlands is to lapse this month while; the BITs with other EU individuals are to terminate inside two years. All things considered, these measures will guarantee a plenty of roads for an Investment lawyer (Bartlett, 1994).

Internet business India is as of now experiencing computerization, with nearly everything being digitalized. Right from the development and extension of Knowledge Industries, Information Technology, and so forth to economic rebuilding, everything prompts a similar conclusion, i e , Internet Is what's to come. The NDA government is enthused about modernizing the country with better and far reaching web availability, investment in data technology with projects, for example, Startup India, Digital India, and so forth., reforming the Indian economy in accordance with internationalization with projects, for example, Jan Dhan Yojana and with strategies, for example, demonetization so as an endeavor to change the economy to a cashless economy. Since everything is being exchanged to the online world; it is likely the greatest road for the commercial lawyers. Moreover, the zone of E-contracts is regularly developing, with a large portion of the physical stores going on the web and in addition customers liking to transact on the web. A joint report by ASSOCHAM and Grant Thornton recommends that the online customers will increment from 20 million (in 2013) to 40 million (in 2016). It additionally predicts a compound yearly development rate (CAGR) of 63 percent to reach $8.5 billion of the E-commerce market In India (in 2016). What these measurements recommend, is that there is a positive pattern (and degree) with respect to the F-commerce market In India and resultantly, countless open doors for commercial lawyers.

Commercial Arbitration-This other debate determination (ADR) instrument is presumably the most utilized system in commercial question, be it household or international For quite a while, ADR was not given due noteworthiness in our country. To deliver commercial concerns and to urge people to decide on intervention, the Arbitration and Conciliation Act, 1996 was acquired. It went for fast and effective question determination, yet it didn't live up to its desires as remote investors and organizations dependably had their questions with respect to the Indian legal framework. Resultantly, the favored seat in an international question was dependably a debating point and typically wound up being a built up global intervention focus like England or Singapore. To add to this, delays and certain dubious choices by the Indian legal has coordinated eyes of the global commercial group on the development of assertion laws in India. Remembering the greater part of that, amendments were presented in the act and thus, the Arbitration and Conciliation Amendment Act, 2015 was brought into compel. The progressions s brought pointed further at speeding up the method and in addition guaranteeing the autonomy and fair-mindedness. All things considered, it is an endeavor further to convey the Indian intervention up to the sign of International gauges Besides, the Government of India is focused on making India a global mediation center. For this, NITI Aayog additionally composed a program called 'National Initiative on Strengthening Arbitration and Enforcement in India' from October 21 to October 23, 2016. Subsequently, International commercial discretion is a promising territory for the commercial lawyers to investigate.

The commercial sector gives the most extensive scope of chances to the lawyers, likely more than some other field of law. It requires a high level of specialization and along these lines, the decision with respect to the specific territory of commercial law is vital. Nonetheless, it is likewise a standout amongst the most unique fields and in this manner, gives new and up and coming territories to investigate on numerous occasions (Birla, 2009).

CORPORATE LAW FOLLOWING INDIA'S ECONOMIC LIBERALIZATION

In 1991, the Government presented a string of policy measures to address the predominant economic circumstance. By method for economic liberalization, they were proposed to support business activity and

outside investment in India. These measures incorporated the decrease of industrial authorizing just to a little scope of ventures, allowing organizations to uninhibitedly issue capital with no confinements, and continuously opening up different sectors for outside investment. This new economic viewpoint normally set off a huge number of changes to corporate law in India, which worked on various fronts, including (I) amendments to the Companies Act, 1956, (II) acquaintance of securities legislation with advance the stock exchanges, and (III) reception of particular measures to improve corporate governance. I analyze the impact of every one of these endeavors independently (Khanna, Tarun and Yishay Yafeh (2007).

1. Amendments to the Companies Act, 1956

Amid the liberalization time frame, the key changes were the adaptability acquainted with organizations to raise and in addition to rebuild capital. This was proposed to empower Indian organizations to attract investments, especially from remote investors. For instance, Indian organizations were permitted to issue imparts to differential rights as to profit and voting. Similarly, ideas, for example, worker investment opportunity and sweat value that were by then regular in the U.S. presently got statutory acknowledgment in India. A capital upkeep administration that had already been amazingly stringent was casual to allow organizations to purchase back their own securities. These measures had the impact of changing this territory of Indian corporate law more towards laws from different purviews (e.g. Delaware law), with less accentuation or cross-referencing to the English arrangements.

2. Reforms in Securities Regulation

Preceding 1992, India took after the merit-based regulation of securities offerings. Companies expecting to offer securities to people in general were required to get the endorsement of the Controller of Capital Issues, an administration body, which would particularly affirm every open offering and its terms, including the cost at which shares were to be offered. Due to the broad legislative oversight that escalated amid socialist period and the resultant unreasonable stringency in getting to the capital markets, open offering of offers by Indian organizations was not that common.

3. Corporate Governance Measures

In the 1990s, SEBI quickly started introducing corporate governance reforms and also a measure to attract remote investment. Inquisitively, the primary corporate governance activity was supported by Industry. In 1998, a National Task compel constituted by the Confederation of Indian Industry ("CII") prescribed a code for "Alluring Corporate Governance," which was intentionally embraced by a couple of companies. Here, we witness the re-emergence of the English developments as an impacting factor in light of the fact that the CII Code was to a great extent in view of the Cadbury Committee report issued in the U.K.

Amid the liberalization stage, impressive endeavors were likewise made to survey the arrangements of the Companies Act, 1956 given that it had experienced critical change throughout the years and had perhaps outlasted its pertinence and utility. There were requires another organizations' legislation. After almost too many years of open deliberation, the new Companies Act, 2013 was enacted that introduced an altogether new period in Indian corporate law (Petra Mahy, 2003).

CORPORATE FINANCE AND CAPITAL STRUCTURING

I start this sub-part by investigating the advancement of the law identifying with the value finance in India, and how that contrasts and the pioneer time and additionally resulting developments in England. Here, I find that India has made goliath walks in acquainting adaptability with organizations when contrasted with the frontier time frame, and has additionally generously kept with developments in England in this field (in spite of the fact that the law in India keeps on being to some degree more prohibitive than England). This mostly clarifies the dangerous development of India's value capital markets in the course of the most recent two decades since liberalization.

A mix of organization legislation and securities regulation built up a helpful system for securities offerings in the Indian markets, which allowed offerings of the sort perceived internationally. The acceptance of regulatory obligations by SEBI in 1992 brought about an entire move from fixed-price offerings to book-built offerings. Under this administration, organizations are allowed to welcome offers from investors inside certain characteristic points of confinement based on a draft plan that contains all the essential exposures. Estimating through regulatory mediation offered route to a market-based value revelation process. This empowered organizations since the mid-to-late 1990s to bring billions of dollars up in capital through open offering of offers and went with listings.196 These factors set off an emotional move in the Indian capital markets, especially on the primary-markets front.

SEBI's accentuation on disclosure-based regulation has seen a multiplication of revelation standards for different kinds of capital raising activities by Indian organizations. In the course of the most recent two decades, SEBI has slowly extended the exposure standards and plan prerequisites, coming full circle in the by and by material SEBI (Issue of Capital and

Disclosure Requirements) Regulations, 2009 (the "ICDR Regulations"). The ICDR Regulations contain point by point divulgence necessities to be followed by organizations undertaking different kinds of securities offerings. For open offerings, the ICDR Regulations are prescriptive and envelop divulgences relating to the business, dangers, legal issues, capital structure and even the controlling shareholders and different substances inside the gathering in which they hold shares. The necessities in the ICDR Regulations are onerous to the point that the exposures required to offer impact to an open offering in the Indian markets are equivalent (or potentially even far surpass) those required in most created markets. The direction took after by SEBI over the most recent two decades shows the significant idea of exposure as an apparatus for securities regulation in the essential markets (Katharina Pistor, et al., 2002).

Be that as it may, with regards to capital support, corporate law in India keeps on being genuinely prohibitive in nature. For example, organizations are as yet required to take after the idea of approved capital and standard value of offers. The ideas that were implanted into Indian corporate law amid the frontier time frame were expected to offer some type of creditor protection. Be that as it may, these have since outlasted their utility, as they had no relationship with the genuine value of the organization that was of more noteworthy worry to its lenders. A few Western locales have either not been following these necessities, or have been tailing them somewhat. Indeed, even a portion of the previous provinces of the British Empire have since moved far from these to some degree bygone prerequisites. Despite the fact that Britain and some of its states have relocated far from the ideas of approved capital and standard value of offers that were viewed as a type of creditor-protection in the provincial period, India has stayed married to this idea, wherein no reform was proposed notwithstanding amid the latest process of enacting the Companies Act, 2013.

SOURCES OF CORPORATE LAW

All jurisdictions with very much created market economies have a minimum one center statute that sets up a fundamental corporate shape with the five characteristics portrayed above, and that is designed especially to allow the development of open corporations—that is, corporations with uninhibitedly tradable offers. Nevertheless, corporate law as we comprehend it here generally expands well past the limits of this center statute (Rungta, Radhe Shyam, 2000).

1. Exceptional and halfway corporate structures

To start with, significant purviews normally have no less than one unmistakable statutory frame particular for the arrangement of shut corporations. These structures—the French SARL, the German GmbH, the Italian Srl, Japanese close corporation, the American close corporation and (later) restricted obligation organization, and the UK private company43—ordinarily show the greater part of the canonical highlights of the corporate frame. They contrast from open organizations mostly in light of the fact that their offers, however transferable at any rate on a basic level, are assumed—and now and again required—not to trade uninhibitedly in an open market. In some cases these structures additionally allow takeoff from one of our five center characteristics—assigned management—by allowing disposal of the board for coordinate management by shareholders. The statutes making these structures likewise ordinarily allow, and here and there encourage, unique allotments of control, profit rights, and rights to work among shareholders that go past those allowed in the center open corporation statute.

Second, a few purviews have, notwithstanding these uncommon shut corporation shapes, semi corporate statutory structures that can be utilized to frame business corporations with the majority of our five center characteristics, however some of these characteristics must be added by contract. One illustration is the constrained obligation organization, which has been accommodated as of late in the law of the U.S. furthermore, some European purviews. This frame essentially joins restricted obligation onto the customary general association. U.S. law now enables the organization to have something near solid shape substance protecting (by restricting the rights of accomplices or their leasers to constrain liquidation).45 Consequently, with fitting governance arrangements in the association agreement, it is successfully conceivable to make a shut corporation as a restricted risk organization.

2. Different bodies of law

There are bodies of law that, in any event in a few locales, are epitomized in statutes or decisional law that are separate from the center corporation statutes, and from the extraordinary and semi corporation statutes simply portrayed, yet that are nonetheless worried about specific center characteristics of the corporate frame as we characterize them here. Seeing that they are so concerned, we see them practically as a feature of corporate law.

To start, the German law of groups, or Konzernrecht, qualifies restricted obligation and limits the attentiveness of boards of executives in corporations that are firmly related through cross ownership, trying to secure the loan bosses and minority shareholders of corporations with controlling shareholders. In spite of the fact that the Konzernrecht depicted in more detail in Chapters 5 and 6—is epitomized in statutory and decisional law that is formally unmistakable from

the corporation statutes, it is plainly an essential piece of German corporate law. So also, the statutory decides in numerous locales that require worker portrayal on a corporation's board of executives, for example, prominently, the German law of codetermination—qualify as components of corporate law, despite the fact that they periodically start outside the chief corporate law statutes, since they force a point by point structure of representative cooperation on the boards of chiefs of huge corporations (Khanna, 1970)

COMPANY LAW AND APPELLATE TRIBUNALS

The Indian Ministry of Corporate Affairs has issued a notice for constituting the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT), viable 1 June 2016. The NCLT is a semi legal body that will mediate corporate law issues for organizations in India. Its choices can be spoke to the NCLAT.

The Companies (Second Amendment) Act 2002 as of now gave the legislative system to setting up the two institutions. Be that as it may, their foundation was deferred as a result of open deliberations and discourses about the protected legitimacy of the NCLT. These debates were settled by Madras Bar Association v. Association of India, in which the Supreme Court held that the NCLT was substantial. The court observed that arrangements on the capability of specialized individuals and the creation of the choice board of trustees for those individuals, as endorsed in the Companies Act 1956 and in the Companies Act 2013, were deficient. The Government has presented the Companies (Amendment) Bill 2016 to correct the issue The bill is pending before the parliamentary standing board.

Under a notice dated 1 June 2016, the Government likewise enacted a few arrangements of the Companies Act 2013 that arrangement with the NCLT's forces. The NCLT will assume control over every single pending case under the watchful eye of the Company Law Board and will discard them as per the arrangements of the Companies Act 2013. Be that as it may, no warning has been issued for arrangements on exchanging the energy of the high courts to the NCLT as for windingup and trade off or game plan. For the present, the ward for these arrangements stays with the high courts.

The NCLT has begun with 11 seats — two at New Delhi and one each at Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai (Tomlinson, 2013).

CORPORATE LAW ENFORCEMENT MACHINERY

Corporate law might be authorized either through the general population enforcement mechanical assembly or through private action. In broad daylight enforcement, the state (or a free regulatory body) starts procedures against asserted violators of corporate law with a view to forcing common or criminal punishments. Private enforcement comprises of legal action by the casualties of bad behavior (who are private gatherings) to recuperate harms or get order by method for a common suit. The "legal causes" strain of writing sets that in customary law nations the legal assumes an essential part in enforcing financial specialist rights, in this way upgrading the value of capital markets. Then again, polite law nations have a tendency to depend vigorously on administrative mediation in managing the capital markets.

In India, amid the pilgrim time frame, there was more prominent accentuation on private enforcement and almost no on open enforcement. This is predictable with the approach in England (which to a great extent keeps on dating) wherein private enforcement assumes a noteworthy part in enforcing corporate law. Nonetheless, starting the socialist stage in Indian corporate law history, the concentration moved rather altogether towards open enforcement whereby the administration acquired broad forces of examination and different types of enforcing corporate law. This approach was strengthened after SEBI's foundation when it acquired critical forces of enforcement (Cheffins, 2003).

It is basic at first become flushed to ascribe the development to India's legal framework through common risk and its enforcement through the legal This would be predictable with the "legal beginnings" idea of speculator assurance because of India's pioneer legal legacy.

India not just has an adequately hearty substantive law on financial specialist security, yet the free legal framework drawn from the customary law convention takes into account judges to shape the law to suit particular conditions and along these lines adjust to the dynamicity in the capital markets.

CONCLUSION

Indian corporate law started as a legal transplant from England, resulting amendments and reforms have moved it assist far from its source as they have been centered either around discovering answers for neighborhood issues or getting from different jurisdictions, for example, the U.S. To that degree, decolonization has had a critical impact of fundamentally modifying the course of Indian corporate law. In spite of the fact that the move was not clear In the period promptly following decolonization, it started to come to fruition about 10 years from there on. Current Indian corporate

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law not just speaks to a huge takeoff from its provincial inceptions, yet the uniqueness between Indian law and English law as they have created since autonomy has been expanding.

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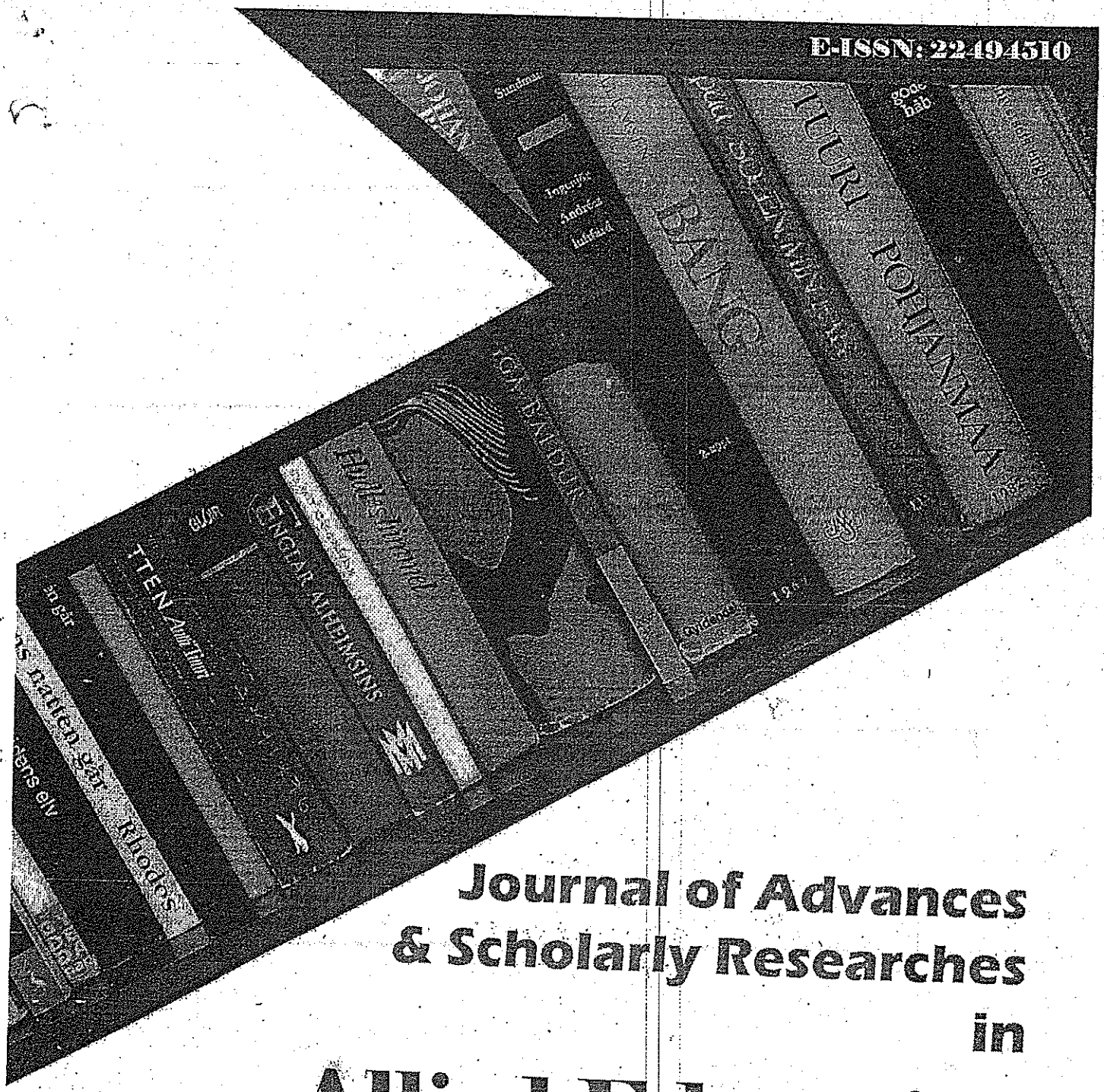

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A Research on Copyright Law and Digital Technologies: Emerging Trends and Challenges

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***Abstract** – The copyright law in verifiable records is known to be the legacy of technology. It has experienced methodical changes keeping in see the nature, degree and area of technology required to secure the public enthusiasm of innovativeness, development and inventiveness. Its primary purpose is to give satisfactory incentives to creators and makers of differing copyright works, from one viewpoint, and make such works available to the public then again. The copyright law needed to change itself between the need to grant the maker and the allure of making such works public. With the omnipresence of the Internet as a one of a kind and completely new medium of worldwide human communication everywhere throughout the world, contracted into a digital global village, the insurance of copyright works has turned into a genuine worry for lawyers, and additionally, alternate partners. The Internet together with P2P PC systems makes it workable for an inexorably bigger number of people to take an interest in shared information generation, in this manner enfeeble the endeavors to give incentives to unique makers of intellectual property. The Internet empowers the almost quick, unique quality reproduction of and extensive, helping speed scattering of copyrighted works.*

The copyright law has crossed a long voyage from the Guttenberg to Information age. A tremendous change could be found in the copyright since its initiation. The Statute of Anne was the principal law, which has set the parameters and rules for the publication and misuse of crafted by a creator for economic advantages. From that point forward, there was no thinking back. India was then a state of Britain and henceforth the law of UK was material here as well. The main Copyright Act of India was enacted in the year of 1957 and from that point forward it has been altered five times, to acquire it similarity with the progressions times and technology. The latest being in 2012, which was not exclusively to get the law congruity with the Information age yet too to affirm to the WIPO copyright Treaty(WCT) and WIPO Phonograms Treaty (WPPT).

INTRODUCTION

Law is a reaction to social difficulties. Law while reacting, answers such difficulties and in the process creates itself. Copyright is the finest illustration one achieves while diving upon the connection amongst law and technology. From one viewpoint technology was the begetter of copyright and copyright based industries; then again, every new technology has represented a potential risk to the copyright-based industries. The industry thus has put each new innovation further bolstering its good fortune as far as making more current types of misuse of craftsmanship, broadening markets and expanding benefits. Digital technology is the most recent one in the field at the international scale. The digital Age being the sign of the present thousand years is an observer to yet another age spread out by the Internet and this intersection is, from various perspectives, a vital turning point in the long and checkered history of copyright. The digital technology is an extraordinary impact on copyright works-its creation, dispersal, and insurance. Digitization has made it significantly less demanding to control, duplicate, and circulate protected works. Digital substance can be consolidated, modified, blended, and controlled effortlessly. By empowering the making of ideal duplicates of copyrighted works for little cost, digital technology debilitates to undermine the appropriation frameworks and increment unapproved utilization of copyright works. The Internet encounter shows that customary actors in the communications process (information maker, supplier, distributer, mediator client) go up against new parts in the digital-arranged environment. The Internet is organized as an 'open stage demonstrate' instead of the 'telecom display' of most existing media. On the Internet creators may unreservedly spread their works without the mediation of conventional distributors: writers are getting to be 'distributers'. Additionally, digital technology empowers clients to actively look and control information accessible on the system: clients are getting to be 'creators'. Besides, customary mediators, for example, college libraries, may go up

against new parts as information suppliers. go-betweens are getting to be distributers too. This joining of parts may in the end influence the current arrangement of rights designation in copyright and neighboring rights legislation. In this manner, in a way the Internet has mixed the perfectly organized, fanatically appropriately characterized and advocated picture of duplicate related and non-duplicate related rights under the Berne Convention Digital interactive transmissions deliver a specific half broad type of influencing accessible to a unidentified number of people and let them to devour the substance whenever as they want (Ficsor, 2002).

In the contemporary age, the general public has comprehended the value and need of the copyright law and on account of this each country, be it vast or little, created, or developing has encircled its own particular copyright law and are bit by bit correcting it to get it congruity with the changing needs of the general public. Because of the headway of technology, the spread of the innovative work has turned out to be boundless and thus the need to make law in congruity with the progressions. Accordingly, the countries are endeavoring hard to make such copyright laws, which can take into account these evolving needs. This paper is an endeavor to follow the root and development of the present Indian law. Copyright is a one of a kind and intriguing subject in itself. Like patents, copyright is likewise a sort of intellectual property right. It is a restrictive right of the craftsman, creator or maker and appears when the work is made. It is the select right to do or approve others to do certain acts in connection to sensational, melodic and masterful works, artistic works, cinematograph film, sound accounts, PC databases and so forth i.e. it is the right to duplicate or imitate the work in which copyright subsists.

"Copyright" is a term used to characterize the legal property right subsisting in different works which incorporates unique scholarly, sensational, melodic or imaginative works which result from the astuteness of the maker. The Copyright Act was acquainted with give legal assurance to the makers of such works so as to counteract misuse by others and to guarantee creators" moral rights. Copyright might be sold or given away by the writer (henceforth.the copyright proprietor of a book can frequently be the distributer).

Potential endeavors of people prompt intellectual results, which thus have extensive value in economy. Moral rights are separate from the rights administering economic misuse, however are similarly critical. These have a place with the maker of the work and give them the right to be distinguished all things considered and with the right of honesty (i.e. not to be distorted, for instance, through misquotation or adjustment) (Goldstein, 2001).

The Copyright Act 1957 is the most seasoned surviving intellectual property right legislation in India. The Act has been corrected five times, preceding 2012. once each in the years 1983 1984. 1992. 1994 and 1999 to meet with the national and international prerequisites

The Act was altered widely in 1994. wherein it tended to the difficulties postured by digitization of works and the Internet, albeit halfway. The Act required just minor changes to agree to the commitments under the Trade Related Aspects of Intellectual Property' Rights (TRIPS) through the amendment made in the year 1999. The amendments presented by the Copyright Amendment Act. 2012. Are noteworthy as far as range as they address the difficulties postured by the Internet and go past these difficulties in their degree.

The 1990s saw the digital upset clearing the world and the coming of Internet over the world wide web. The global group reacted to the difficulties postured to the copyright framework by the Internet through two treaties confined hello there 1996. called WTPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty' (WPPT) together known as the 'Internet treaties'. The treaties deliver the difficulties important to the dispersal of protected material over digital systems, for example, the Internet. The WCT manages the insurance for the creators of abstract and masterful works. The WPPT stretches out copyright like assurance to entertainers and makers of phonograms. Numerous arrangements in these treaties like right of communication to the public have been accessible in the Indian copyright law since the 1994 amendment (Gulia, 2007)

The Copyright (Amendment) Act. 2012 acquainted amendments with fit the Copyright Act. 1957 with WCT and WPPT. The Amendment Act goes much past the Internet treaties and has presented numerous adjustments in the Copyright Act. 1957. The amendments can be sorted into:

I. Amendments to rights in artistic works, cinematograph films and sound recordings.

II WCT and WPPT related amendments to rights.

III. Author friendly amendments on mode of assignment and licenses to streamline business practices.

IV. Amendments to facilitate access to works further sub-classified into:

(a). Grant of compulsory licenses

(b). Grant of statutory licenses

(c). Administration of copyright societies

(d). Access to copyrighted works by the disabled

(e) Relinquishment of copyright

V. Strengthening enforcement and protecting against Internet piracy including WCT and WPPT related provisions

VI. Reform of Copyright Board and other minor amendments

These changes made by the Copyright Amendment Act are discussed below in the above order. The purpose of this paper is to narrate the changes. Wherever possible a brief rationale for the amendment as culled out from the Notes 011 Clauses of the Copyright Amendment Bill' and from the Report of the Standing Committee of Parliament[4], is provided.

HISTORICAL BACKGROUND

Copyright insurance developed with the creation of printing, which made the scholarly attempts to be copied by mechanical process. Earlier, to that hand replicating was the sole mean of reproduction. After, the creation of Guttenberg's printing press in Germany in 1436, a need to secure the printers and book retailers was perceived and along these lines certain benefits to printers, distributers and furthermore writers were allowed The specialty of printing spread rapidly in Europe. After 1483, England developed as a noteworthy focus of printing trade in Europe. The spread of this technological advancement prompted formation of a class of go-betweens, who made beginning investment in drawing out the book, i.e., the printers, who served as book shops too. They were known as the "stationer's" in England2. In 1557, Queen Mary I, allowed the benefit of managing the book trade to the Stationer's company of London3. In 1662, the Licensing Act was passed in England, which denied the printing of any book which was not authorized and registered with the Stationers' Company4. This was the main clear law which was gone for securing artistic copyright and checking theft. The permit period was brief. It was just with the death of the Queen Anne's Statute of 1709, that, the rights of the creators over their work came to be legally perceived, and the idea of 'public area' was set up, however not explicitly.

Present day copyright law created in India bit by bit, in a traverse of 150 years14. The main brush of India with copyright law occurred in 1847 through an enactment amid the East India Company's administration. The Act go by Governor-General of India asserted the relevance of English copyright law to India.15 According to the 1847 enactment, the term of copyright was for the lifetime of the creator in addition to seven years after death and couldn't surpass forty two years all in all. In spite of the fact that the creator denied publication after his passing, the Government had the specialist to give permit for its publication. The act of encroachment was comprehensive of unapproved printing of a copyright work for "deal, contract or send out", or "for offering , distributing or presenting to deal or contract". The suit for encroachment under this act could be established in the "most elevated neighborhood court practicing unique common purview". The Act additionally particularly gave that under a contract of service copyright in "any reference book, survey, magazine, periodical work or work distributed in a progression of books or parts" might vest in the "proprietor, projector, distributer or conductor". It was considered that the duplicates of the encroached work were the property of the proprietor of the copyrighted work for all reasons. Above all, the copyright in a work was not programmed not at all like today Enrollment of the work with Home Office was obligatory for the security of rights under this enactment. In any case, the Act particularly held the subsistence of copyright in the creator, and his right to sue for its encroachment to the degree accessible in some other law with the exception of 1847 Act. At the season of its presentation in India, copyright law had just been in the developing stage in Britain for over a century and the arrangements of the 1847 enactment were reflected in the later enactments. The Copyright Act 1911, while canceling prior statues regarding the matter, was likewise made pertinent to all the British provinces, including India. In 1914, the Indian Copyright Act was enacted which changed a portion of the arrangements of Copyright Act 1911 and added some new arrangements to it to make it material in India. The Indian Copyright Act 1914 stayed relevant in India until the point when it was supplanted by the Copyright Act 1957

COPYRIGHT IN INDIA

The voyage of copyright In India might be followed back in the year 1847, when first copyright act was enacted. An adjusted rendition of the same was enacted in 1914. Various amendments to this act were influenced in 1983 to profit benefits emerging from the modification of Berne Convention and all inclusive Copyright tradition to which India is a supporter/follower. Amendments of 1992 broadened the term of Copyright assurance from the lifetime of the origin in addition to 50 years to the life time of the creation in addition to 60 years. Indian Copyright Act of 1957 supplanted the act of 1014. Act 1957 came into drive on 1958. The Copyright Act of 1957 further revised five times in the year 1983,1984,1992,1994 and 1999.With these amendments offense of encroachment of Copyright has been proclaimed as an economic offense. Presently the new Copyright charge 2010 go by the parliament on May2012 is known as Copyright (Amended) Act 2012.

The two Internet treaties were consulted in 1996 under the protection of the world Intellectual property organization (WIPO).These treaties are known as the WIPO Copyright treaty (WCT) and the WIPO performances and phonograms treaty (WPPT). These treaties were arranged basically to accommodate assurance of the rights of Copyright holders, entertainers and makers of phonograms in the Internet and digital time India isn't an individual from these treaties; amendments are being mooted to influence act in agreeable with the above treaties keeping in mind the end goal to give security to Copyright in Digital period. Despite the fact that India isn't an individual from the WCT and the WPPT, the Copyright act, 1957 is completely agreeable with the Rome tradition arrangements. The arrangements of the act is additionally in concordance with two other new WIPO treaties to be specific, the Beijing Audiovisual entertainers treaty,2012 and the Marrakesh treaty to encourage access for distributed works by outwardly debilitated or generally print handicapped persons, 2013 (Dmytrenko & Dempsey, 2004).

DIGITAL TECHNOLOGY AND COPYRIGHT ISSUES

The decentralized idea of Internet makes it feasible for any client to disperse a work endlessly in the internet through an end number of outlets, in this manner offering ascend to global theft. Appraisals of global misfortunes from pilfered books, music and diversion programming range into billions of dollars The Internet in a way shows a troublesome circumstance for copyright holders as the clients wind up mass disseminators of others copyright material and makes disequilibrium between the creators and clients. The coming of digital technology, thusly gives administrators a decision either extend or change existing 'old media thoughts' or reclassify the index of confined acts, considering the eccentricities of the new environment in different features talked about in this under (Thomas, 2003).

1. The Right of Reproduction

Since the selection of the Statute of Anne, the mother of current copyright law, the reproduction right has been at the core of copyright law for in excess of three hundred years. In spite of the fact that perceived as a fundamental right agreed to creators, the reproduction right in essence has not been unambiguously delimited by the international instruments for copyright assurance. Because of the absence of agreement on the right's extension and substance, the first content for the Berne Convention did exclude any arrangement that explicitly protected the reproduction right. Under Article 9(1) of the Berne Convention, copyright proprietors are conceded "the selective right of approving the reproduction of these works, in any way or frame". Be that as it may, the irresoluteness of Article 9(1) of the Berne Convention, especially the expression "in any way or shape", has brought about an international crack over the extent of the reproduction right. The appearance of the Internet makes the delimitation of the reproduction right more risky in the digital age. Given that any transmission of protected works over the Internet includes the reproductions fleetingly put away in the associated PCs' RAM, the subject of whether right proprietors ought to be allowed with the control over every single brief reproduction poses a potential threat in the midst of the dematerialized and decentralized nature of the Internet. By differentiate, the WIPO Performances and Phonograms Treaty, 1996 contains two (Articles 7 and 11) for the insurance of the reproduction right delighted in by Performers and Phonogram Producers individually. Under the WPPT Performers and Phonogram Producers are vested with "the elite right of approving the immediate or circuitous reproduction of their separate protected subjects in any way or frame" (Agreed Statement concerning Articles 7, 11 and 16 of the WPPT). The Agreed explanations connected to the WCT and WPPT make it clear that the Article 9 of the Berne tradition should apply mutatis mutandis to the security of the reproduction right in the digital environment. At first look, what is clear under these two concurred articulations is that changeless digital duplicates, for instance, duplicates put away in floppy circles or a PC's perused just memory (ROM), are protected by the WIPO Treaties 1996. In addition, individuals are allowed to acquaint new constraints or special cases with the re-delimited reproduction right, subject to the three-advance test. However the conventional significance of the second sentence of the concurred explanations, specifically the expression "stockpiling", still remains generally equivocal and darken. Does it cover the making of brief duplicates? One would reply in the negative that "in normal utilization, 'stockpiling' hints a considerably more elevated amount of activity than straightforward 'brief' direct". Unexpectedly, the counter contention may basically go that the briefly put away duplicate does in fact constitute a type of capacity of the work. Without the immediate reference to the expression "lasting or brief", the concurred proclamations, as opposed to satisfy the broadcasted aspiring undertaking to give the clearness, neglect to decide the degree to which the reproduction right ought to be connected in the digital environment. The uncertainty of the treaty dialect leaves the inquiry in the matter of whether the impermanent duplicates have been secured, possibly agitated.

2. The Right of Communication to the Public

Digital technology obscures the line between various classes of copyrightable works and the methods for communication to the public also. Then again, amidst quick development in digital technology, the PC systems, specifically the Internet, delivers a point-to-point method for transmitting takes a shot at an on-request and interactive premise. The interactivity and independence managed by this now technique for abusing works, makes it feasible for any individual

from the public to have the full prudence in deciding the place and the time one is expected to access and utilize works in digital frame. Against this scenery, another type of unitary, technology-unbiased right of communication to the public is proposed to be introduced to supplant the fragmentary, technology-particular insurance to this right.

Incomprehensibly, it appears that the Berne Convention has turned into an inadequate and obsolete international instrument for the security of the right of communication to the public, unfit to react to the difficulties postured by the move in the methods for abusing works. As a matter of first importance, the Berne Convention has lingered behind the pattern in the digital transformations of the telecommunications, media and information technology. The right of communication to the public is directed in a divided way by the Berne Convention as far as the methods for communication. Second, the extent of the right of communication to the public does not cover every one of the classes of copyrightable topic, including PC programs, photographic works, works of pictorial craftsmanship, realistic works. These works in any case, have been and are as a rule generally scattered over the Internet yet are defenseless against the unapproved access and utilize. Further, it stays questionable under Berne Convention regarding whether the customary right of communication to the public would manage interactive, on request transmission of works over the PC systems. Concern has been communicated that the Berne Convention may just have the capacity to soundly direct the point-to-multipoint communication of works, leaving right proprietors in the hazy area where they presumably don't have the right to avoid others from conveying their attempts to the public on a point to point premise with the Interactive, on-request nature. The apparent escape clauses or ambiguities inside the Berne Convention, in this manner, make it clear that important commitments should be illuminated by giving a unitary, technologically impartial right of communication to the public.

3. Legal Protection of Technological Measures

In light of the expanding simplicity of reproduction and spreading works over the internet, copyright proprietors and their technology have designed altogether novel and more compelling technological measures, to oblige physical access to and utilization of their copyrighted works. Ahead of schedule in 1991, the E.U. led the pack to give legal insurance against circumvention of technological measures connected to secure PC programs (Council Directive 91/205/EEC of 14 May 1991 on the Legal Protection of Computer Programs). In the wake of this order, the North America Free Trade Agreement, 1992 accommodates criminal and common cures against deciphering the scrambled program conveying satellite flags and related acts.

4. Legal Protection of Rights Management Information

It is essential that at whatever points a work or a question of related rights is asked for and transmitted over the system, the fact of the utilization is registered together with all the information important to guarantee that the concurred installment can be exchanged to the suitable right owner(s). Different technologies in this regard are accessible or being created which will empower the essential criticism to the right proprietors. Such information may likewise work in conjunction with technological measures, as where a watermark serves to recognize a work however may likewise be an imperative part to enable the approved utilization of a copyrighted work. It can likewise serve to encourage web based permitting. It is urgent, in any case, that such information isn't expelled or mutilated, in light of the fact that the compensation of the right proprietors would all things considered not be paid by any means, or it would be occupied. From a practical perspective, this would be as biased to the interests of the right proprietors as an outright encroachment of rights.

5. Confinements and Exceptions

From soonest times ever, it has been perceived that in specific cases constraints or exemptions ought to be set on the activity or extent of set up rights and might be named as "inner confinements", i.e. they are actual or potential limitations coming about because of the arrangements of the instrument itself. The reasons given for forcing such limitations might be founded on contemplations of public intrigue, aversion of imposing business model control, and so forth. The confinements on copyright are important to keep the harmony between two clashing public interests: the public enthusiasm for compensating makers and the public enthusiasm for the most extensive scattering of their works, which is likewise the enthusiasm of the clients of such works. The limitations may show up as mandatory or statutory licenses (regularly including procedural essentials, and installment of compensation to the right proprietor), or (all the more every now and again) allowed utilizes, not subject to formal methods or installment, but rather in regard of which conditions may apply (e.g. articulation of source). The constraints on the creator's select rights might be forced keeping in mind the end goal to encourage the work's commitment to intellectual and social improvement of the group. Be that as it may, the confinements must not be, for example, to hose the will to make and scatter new works.

6. Copyright Enforcement in Digital Environment

Global PC based communications cut crosswise over regional outskirts, making another domain of human activity and undermining the plausibility and authenticity of laws in view of geographical limits. Digital technology has made copyright enforcement hard to accomplish In the online environment, works, for example, recordings, accounts of melodic performances, and writings can be posted anyplace in the world, recovered from databases in outside nations, or made accessible by online service suppliers to supporters situated all through the globe. Our arrangement of international copyright assurance, be that as it may, verifiably has been founded on the utilization of national copyright laws with strict regional impacts and on the use of decision of-law guidelines to figure out which country's copyright laws would apply. Such a system of national codes may have done the trick in a period when the dissemination or execution of works happened inside effortlessly identifiable and discrete geographic limits. Be that as it may, "moment and synchronous worldwide access to copyrighted works over digital systems generally challenges regional ideas in copyright" and convolutes customary decision of-law convention since it is frequently hard to figure out where specific acts have happened keeping in mind the end goal to figure out which copyright law to apply. In this manner, as one observer has asked: "[i]f creators and their works are never again regionally fastened, can changes in the crucial legal originations of existing administrations for the assurance of creators be a long ways behind?" With such huge numbers of potential areas where unapproved utilization of the work might be volatile of proprietor's rights, whose law ought to decide if the transmission or reproduction of a protected work constitutes encroachment? The site where the work was transferred? The webpage where the work was downloaded? The creator's country of starting point? Every area has a suitable claim. Without fit benchmarks clashes will be hard battled and severely settled (Professional Book Publishers, 2013).

MANAGEMENT OF COPYRIGHT IN DIGITAL ENVIRONMENT

Another field where digital technologies have acquired progressive changes is that of management and organization of copyright. The new technologies have made the organization and assurance of copyright very troublesome. It has made e-production, circulation and communication of works less demanding and inside the fitness of common person. Presently duplicates can be made at an astonishing velocity with total loyalty to the first and transmitted over past separations and scattered to a huge number of people in almost no time or even seconds. This has opened up the conceivable outcomes of across the board unapproved replicating and appropriation of copyrighted works physically influencing the economic enthusiasm of the proprietors. At the point when such activities should be possible from the security and wellbeing of one's home, law turns into an inept, quiet witness. The issues made by technologies should be handled by technologies. As Charles Clark put it, "the response to the machine is the machine. Be that as it may, the arrangements contrived up by technologists should be protected by law as generally those arrangements would be adjusted by counter technologies, with exemption (Lugenholtz, 1996).

Technological arrangements were found for the issues postured by the new technologies through access control or duplicate control systems, for example, encryption technology or water stamping incorporated into works conveyed over digital systems with a view to securing them shape illegal abuses. Be that as it may, counter-technologies were produced to vanquish those insurance technologies.

Digital technologies should be utilized broadly for organization of copyright greetings the digital environment. Permitting and expense gathering may must be mechanized. Productive working of a mechanized framework assumes incite enrollment of any demand for or transmission of a work alongside all information fundamental for exchange of concurred installments to the suitable right proprietors. This will be conceivable just if certain information like information about rights ownership or permit terms, which are essential for authorizing and installment of permit charge. Are implanted in the work. This information is named "rights management information" in the WCT.

Any sort of the evacuation or adjustment of any of the above information and additionally dissemination or communication to the public of duplicates of work with such expulsions or modifications will make ruin with the rights management.

Segment 52A of the Copyright Act accommodates certain information to be shown on sound chronicle and cinematographic film. The information, while certainly part of rights management information, isn't satisfactory for the organization of the rights in the digital environment and further it is restricted to two classes of works as it were. Likewise for this situation, the onus is on the copyright proprietor. Arrangement should be made either hello there the Copyright Act or some other Act making it an offense to evacuate or modify any rights management information utilized as a part of a copyrighted work (Jacqueline, 1994), (Patterson, 2000).

CONCLUSION

The Copyright has navigated an awesome adventure since the coming of printing press and from the death of the principal statue i.e. statute of Anne till the Copyright Act, 1957. This long adventure has seen numerous developments, for example, the

progression of technology, which has facilitated the dispersal of the work as well as has made the sharing simple and without limits. The Indian Copyright Act has been corrected on numerous occasions to acquire it congruity with the evolving times, technology and the requirements of the general public. A couple of years back the knowledge about copyright was less yet with the adjustment in times the general public is getting to be mindful of the need of insurance of the innovative works in any frame, arrangement and media.

By and by with the enlistment of Copyright amendment Act, 2012 we have put a foot forward towards wellbeing of copyright work yet this isn't sufficient. We must be prepared with strict legal ramifications which terrified transgressors from debilitating the great work. Just arrangement and going of laws won't help at everything except its strict execution is must be required. We don't need to be hoodlums by any methods. We can change this circumstance and this should be possible by evolving yourself.

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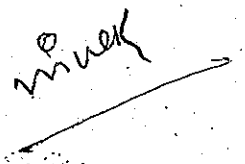

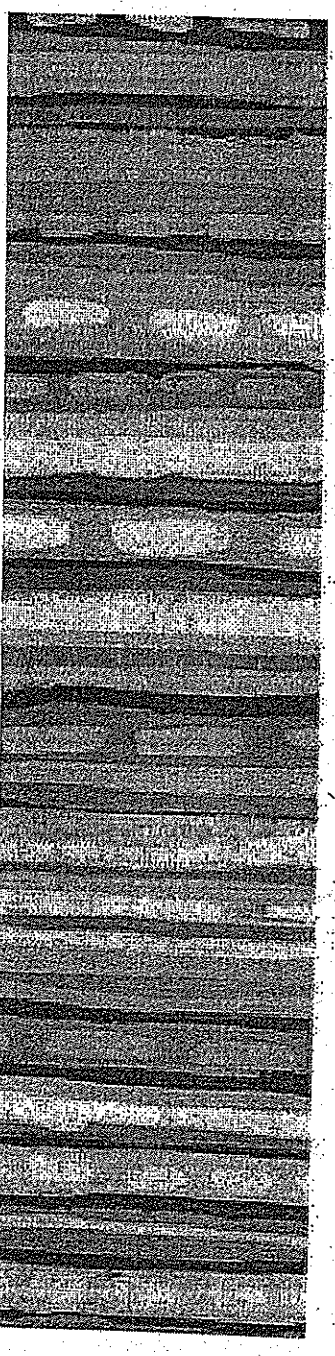

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Management of Existing Cyber Legal Problems: Prevention and Control

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***Abstract** -- The development in the field of Information and Communication Technology (ICT) shows the various patterns and difficulties in cyber law. Based on development of jurisprudence and rising patterns, it can be invoked that some expansive cyber law patterns are probably going to rise. Cyber world is both informational and interactive with heaps of self governance. As everything is accessible on internet which people improve the situation their own comfort including individual subtle elements, proficient points of interest, bank subtle elements, and even private keys of people. All these information can prompt a serious privacy risk Alongside that how much private information of an individual ought to be open to government. Likewise, Hate discourse on internet, or discourse designed to target, mistreat or instigate scorn or savagery against a man or gathering in view of cast, creed, race, religion, nationality, gender, sexual orientation, disability or other gathering characteristic, don't get affected by areas, time and limits. Because of the openly accessible internet services worldwide, occurrences of disrespect talk has turned out to be known all through the world inside seconds and can cause serious repercussion. India by and by does not have a particular legislation representing information assurance or privacy particularly in IT law. Be that as it may, according to Article-21 which offers right to privacy and Section-19A which manages opportunity of articulation under The Constitution of Indian yet at the same time there working isn't actively included when it goes under cybercrime. Despite the fact that India has thought of IT Act, 2000 and the resulting amendment to it in 2008 yet it can't cover the entire limits of cybercrimes, similar to an exceptionally essential issue of right to privacy. This exclusive demonstrates the irregularity between age old technique received in India and the progression which Indian culture has made. The session centers around the progression of cyber world with deference of privacy concerns and flexibility issues with extraordinary reference to cyber laws of nations like India, European Nations and United States of America. The issue of how to accommodate all the clashing cases emerging out of the issues of privacy with regards to Internet introduction and the right to the right to speak freely.*

INTRODUCTION

The joining of computer network and telecommunications encouraged by the digital technologies has brought forth a typical space called 'cyberspace'. This cyberspace has turned into a stage for a world of human activities which merge on the internet. The cyberspace has, in fact, turn into the most happening place today. Internet is progressively being utilized for communication, commerce, advertising, banking, education, research and entertainment. There is not really any human activity that isn't touched by the internet. In this way, Internet has a comment to everybody and in the process it just increments and never reduces. The 'cyber manthan' has presented numerous blessings to humankind yet they accompany sudden entanglements. It has turned into a place to do all kind of activities which are disallowed by law. It is progressively being utilized for explicit entertainment, betting, trafficking in human organs and disallowed drugs, hacking, encroaching copyright, fear based oppression, damaging individual privacy, tax evasion, fraud, software piracy and corporate reconnaissance, to give some examples.

Indeed, the new medium which has abruptly defied mankind does not recognize great and fiendishness, amongst national and international, amongst just and treacherous, however it just gives a stage to the activities which happen in human culture. Law as the controller of human conduct has made a passage into the cyberspace and is attempting to adapt to its complex difficulties. A legal system for the cyber world was imagined in India as E-Commerce Act, 1998. A while later, the essential law for the cyberspace transactions in India has developed as the Information Technology Act, 2000 which was revised in the year 2008. The IT Act changes a portion of the arrangements of our current laws i.e. the Indian Penal Code, 1860; the Indian Evidence Act, 1872; the Bankers Book Evidence Act, 1891 and the Reserve Bank of India Act, 1934 Despite the fact that since 2000 the IT Act is set up in India for checking cyber crimes, yet the issue is that still this statute is more on papers than on execution since

lawyers, cops, prosecutors and Judges feel crippled in understanding its profoundly specialized wording (Zekos, 2008).

Additionally cyber crime doesn't involve worry for India just yet it is a global issue and accordingly the world everywhere needs to approach to check this danger. Additionally muddling cyber crime enforcement is the region of legal locale. Like contamination control legislation, one country can't independent from anyone else adequately enact laws that extensively address the issue of Internet crimes without participation from different countries. While the significant international organizations, similar to the OECD and the G-8, are seriously examining agreeable plans, yet numerous nations don't share the criticalness to battle cyber crimes for some, reasons, including distinctive values concerning piracy or secret activities or the need to address all the more squeezing social problems. These nations, unintentionally or not, present the cyber criminal with a place of refuge to work. At no other time has it been so natural to perpetrate a crime in one ward while holing up behind the purview of another. In spite of the fact that the issue of purview in cyberspace can't be settled precipitously, yet at the same time a global exertion toward this path is the need of hour.

"Cyber" is a prefix used to depict a man, thing, or thought as a major aspect of the computer and information age. Taken from kybernetes, Greek word for "steersman" or "representative," it was first utilized as a part of cybernetics, a word authored by Norbert Wiener and his associates. The virtual world of internet is known as cyberspace and the laws representing this territory are known as Cyber laws and all the netizens of this space go under the ambit of these laws as it conveys a sort of all inclusive ward. Cyber law can likewise be portrayed as that branch of law that arrangements with legal issues identified with utilization of between networked information technologies. To put it plainly, cyber law is the law administering computers and the internet (Davis, 2000).

The development of Electronic Commerce has impelled the requirement for energetic and powerful regulatory components which would additionally reinforce the legal framework, so pivotal to the accomplishment of Electronic Commerce. All these regulatory components and legal frameworks come surprisingly close to Cyber law.

Cyber law is essential since it touches all parts of transactions and activities on and including the internet, World Wide Web and cyberspace. Each action and reaction in cyberspace has some legal and cybor legal points of view.

Cyber law encompasses laws relating to –

- Cybor crimes
- Electronic and digital signatures
- Intellectual property
- Data protection and privacy

The endless development of computer network and telecommunications encouraged by the digital technologies has brought forth a typical space called 'Cyberspace'. This cyberspace has turned into a stage for a system of human activities which join on the internet. In fact, it advances all kind of activities which are restricted by law. The Constitution of India does not patently allow the principal right to privacy. Nonetheless, a legal structure for the cyber world was embraced by India as E-Commerce Act, 1998. A short time later, the essential law for the cyberspace transactions in India has developed as the Information Technology Act, 2000 which was revised in the year 2008. The Information Technology Act, 2000 (otherwise called IT Act-2000) is an Act of the Indian Parliament (No 21 of 2000) advised on 17 October 2000. This law manages the cybercrime and electronic commerce. This Act manages numerous issues however when it comes particularly to Internet privacy and opportunity of articulation in cyberspace, the act needs some place on the grounds that in India this two issues comes straightforwardly under constitution of India under Article-21 (right to life and individual freedom) and Article 19A (the right to speak freely and articulation) separately. There have been numerous cases in which it is hard to separate between privacy under common law and internet privacy with infringement of flexibility of articulation. The opportunity has already come and gone to present these essential issues in IT Act, 2000. In spite of the fact that the government has commandod checks for observing and security of client privacy- - it is to a great extent truant. Basically, all Internet activity of any client is available to interference at the international door of the greater ISP from whom the littler ISPs purchase transmission capacity. Since cybercrime doesn't involve worry for India just yet it is a global concern and in this manner the world everywhere needs to approach to structure upon this peril. When we admire U.S. Government Cyber Crime laws and contrast it with the India's IT Act, we see a considerable measure of distinction when managing privacy and flexibility issues. Internet privacy ought to be a legal right to any individual or institution, if the privacy is abused by any mean then client has full right to look for legal actions against it as it is considered as the cybercrime. In any case, to manage this kind of internet crime, a law must be implemented uncommonly in IT Act 2000. There have been influenced numerous amendments in IT To act however nothing centers around internet privacy and flexibility of articulation. Internet privacy ought to incorporate the client's right to control the information, the client ought to have all the right to choose whether to enable others to gather, access

or utilize his information and the right to get to legal help which gives the client right to bring a common suit against any institution or individual occupied with encroachment on his privacy (Dr. Gupta & Agarwal (2010).

CYBER LAW IN INDIA

In India, cyber laws are contained in the Information Technology Act, 2000 ("IT Act") which came into compel on October 17, 2000. The principle reason for the Act is to give legal acknowledgment to electronic commerce and to encourage documenting of electronic records with the Government.

The cyber law is only worried about all activities, gadgets, and crimes related with computers and the internet. Otherwise called the internet law, the cyber law has turned out to be a standout amongst the most imperative and critical controls of the legal practice, attributable to regularly developing significance and utilization of the internet, and to consistently expanding greatness of criminal activities in the cyberspace. Consequently, to give all-round and exceptionally illuminating information to our guests and customers of every single economic sector, our own this article contains valuable depiction in regards to what is cyber law, together with cyber law definition, cyber law india, and our full-scope of services for settling a wide range of cyber crimes in India and different nations worldwide. The Cyber Law is the rich arrangement of some particular standards, regulations, guidelines and strategies, which can control and manage all activities over internet appropriately and superbly through keeping every single conceivable kind of cyber crimes, with a specific end goal to make the use of internet most helpful, secured, and ideally gainful to all clients. Information about different kinds of cyber crimes are given in the segment beneath independently in points of interest. Expeditious and advantageous availability and use of internet, jurisdictional constraints, privacy and security, flexibility of articulation, and so forth., are a portion of the inalienable and essential issues and issues took care of by this cyber law (Ahmad, 2011).

Due to regularly expanding utilization of internet and gadgets of present day information technology by people and substances in all sectors of economy, the extent of cyber crimes has now enlarged massively. The most nonexclusively conspicuous kinds of such cyber crimes are - infection or worm assaults, email seizing, hacking, DOS assault, web based banking frauds, EFT frauds, source code burglary, cyber undermine, online offer exchanging frauds, charge card frauds, obscenity, tax avoidance, IPR violations, cyber fear mongering, et cetera. Subsequently, the ambit of the cyber law is very broad, and spreads regions of a few different laws. Offering legal services to every single economic sector regarding all controls of the law in India and abroad, our globally rumored law firm likewise expands rich and capable legal services with respect to this cyber law. In India, arrangements for settling a large portion of the cyber crimes are contained in the Indian Penal Code, considering these as customary crimes. What's more, the Information Technology Act of 2000, gives extra direction to quick and ideal determination of various cyber crimes in the whole way across India (Gupta, 2013).

The information Technology Act is a result of the determination dated 30th January 1997 of the General Assembly of the United Nations, which embraced the Model Law on Electronic Commerce, received the Model Law on Electronic Commerce on International Trade Law. This determination prescribed, entomb alia, that all states give ideal thought to the said Model Law while changing enacting new law, with the goal that consistency might be seen in the laws, of the different cyber-countries, relevant to other options to papor based techniques for communication and capacity of information.

The Department of Electronics (DoE) in July 1998 drafted the bill. Be that as it may, it must be presented in the House on December 16, 1999 (after a hole of very nearly one and a half years) when the better and brighter IT Ministry was shaped. It experienced significant change, with the Commerce Ministry making proposals identified with internet business and matters relating to World Trade Organization (WTO) commitments. The Ministry of Law and Company Affairs at that point confirmed this joint draft (Chander (2012).

After its presentation in the House, the bill was eluded to the 42-part Parliamentary Standing Committee following requests from the Members. The Standing Committee made a few proposals to be incorporated into the bill. Be that as it may, just those proposals that were affirmed by the Ministry of Information Technology were incorporated. One of the proposals that was exceedingly bantered upon was that a cyber bistro proprietor must keep up an enroll to record the names and addresses surprisingly going by his bistro and furthermore a rundown of the sites that they surfed. This proposal was made as an endeavor to check cyber crime and to encourage rapid situating of a cyber criminal. Nonetheless, in the meantime it was disparaged, as it would attack upon a net surfer's privacy and would not be economically suitable. At last, this recommendation was dropped by the IT Ministry in its last draft.

The Union Cabinet endorsed the bill on May 13, 2000 and on May 17, 2000, both the places of the Indian Parliament passed the Information Technology Bill. The Bill got the consent of the President on ninth June 2000 and came to be known as the Information Technology Act, 2000. The Act came into drive on seventeenth October 2000.

With the progression of time, as technology grew further and new strategies for carrying out crime utilizing Internet and computers surfaced, the need was felt to alter the IT Act, 2000 to embed new sorts of cyber offenses and module different escape clauses that postured leaps in the powerful enforcement of the IT Act, 2000.

This prompted the entry of the Information Technology (Amendment) Act, 2008 which was made powerful from 27 October 2009. The IT (Amendment) Act, 2008 has gotten stamped changes the IT Act, 2000 on a few tallies.

CYBER CRIMES IN INDIA

Cybercrime is a quickly developing zone of crime. Numerous crooks utilize the quick, ongoing nature of computer to lead numerous criminal activities which could bring about serious damages and numerous hazardous results. New patterns of cybercrime advanced each time with the expansion of new technology. Along those lines, where these new technology is helping people to make life simple and proficient, it is additionally evident that these developing technology offering opportunity to offenders to lead activities which can hurt a man, organization, a group or even the entire country. According to the global economy crime review, there is net loss of thousands of dollar a country needs to hold up under every year. It is noticed that United States of America has reported greatest number of crimes among every one of the nations which is 23%, and when this is contrasted and India it is just 3%, at the same time, India is a developing country henceforth with developing technology and client mindfulness more crimes are occurring. After just some fraction of time, India likewise will have high level of cybercrime if no strict measures are executed on time. In a study18, India has discovered number of cases registered under IT Act are more than that of IPC. Along these lines, it is quite clear that with the development of technology, crime rate is likewise quickly expanding step by step. To control these cases, India needs to work upon more strict laws and regulations. A large portion of these cases have a place with privacy violation and flexibility of person. Government needs to make strict move to fake these crimes and need to work upon on characterizing an unmistakable meaning of privacy violation on the web and disconnected (Aggarwal, 2013).

Cybercrimes could be in any frame from client privacy violation to despise addresses or some other crimes in which a computer or electronic gadget and a network has been included. These crimes knows no limits, time and area. Indeed, even they can be led by anybody regardless of any gender or age gathering. These crimes impact a person as well as the entire group. Today, web journals, Twitter, Facebook, Instagram, people group sites and other online stages enable clients to contact a large number of people at the snap of a mouse. Generally hoodlums search for the region or network which is particularly prune to assault. Furthermore, after these discoveries, assailant make a system to assault in these zones. A portion of the crimes recorded above are portrayed beneath:

- Trademark Violation: It is the criminal activity in which a criminal utilize unapproved trademarks which appears to be comparative or indistinguishable to bona fide trademark with no licenece.to deal his unauthentic items. This offers perplexity to people about the item legitimacy. Trademark violation is a sort of —infringementll and the individual who plays out this is known as —infringerll. For instance, a fraud site can show a bona fide item on the web and when it gets conveyed to concerned purchaser it is generally turns out to be copy with a mark which looks especially like actual brand. In the United States, the Trademark Counterfeiting Act of 1984 criminalized the purposeful trade in fake merchandise and ventures.

- Religious Offense: Religious offense implies any action which insults religious conclusions and stirs serious pessimistic feelings in people with solid conviction and which is generally connected with a conventional reaction to, or redress of, wrongdoing. India is a differing country with numerous religion, and some religious groups endeavor to demonstrate their religion preeminent then others. These brings heaps of conflicts between different groups and could prompt hazardous results. This sort of crime is considered as abhor crime, and these prompts disconnected outcomes of online religious articulation. Serious sort of outcomes could happen like executing of Blogger or record holder and so forth.

- Violence: Violence is a term which is generally utilized disconnected as far as physical savagery, yet shouldn't something be said about mental viciousness which is an aftereffect of flexibility of articulation over net. For instance, stalking, it is an activity by the methods for computer gadget and network to bug an individual, a gathering or an organization. There could be any sort of stalking, stalking by more bizarre, Gender-based stalking, of close accomplices, of big names and public figures, corporate stalking.

- Nigerian tricks: This trick turned into a web sensation in the current history. This trick is essentially includes offering you huge entirety of cash on the condition you help

them to exchange it out of their country. Additionally, now and again, they need your contact subtle elements alongside your bank account points of interest with the goal that they can utilize this information in tax evasion. For instance, con artist will reveal to you a phony anecdote about how his vast measure of cash is stuck some place and he can't get to it, for this to happen he will look for your help. These tricks are ordinarily known as 'Nigerian 419' tricks in light of the fact that the primary rush of them originated from Nigeria. The '419' some portion of the name originates from the segment of Nigeria's Criminal Code which outlaws the practice. This sweep has turned out to be so basic these days that it can originate from anyplace in the world.

- Copyright encroachment: It is a crime in which a client takes up hang on your work without your incant or knowing. Generally proprietor does the patent of his work which shows nobody can utilize his work in future since every one of the rights are with the creator as it were. There is a copyright law in India which obviously ensure —intellectual propertyll rights of a person.

- Defamation: Internet is shoddy medium to spread talk around a person. Maligning is an act to hurt somebody's notions by composing or talking.

On the off chance that these words are composed by the methods for computer then it is thought to be cyber maligning crime. It could prompt common and in addition criminal procedures against the defamer. In like manner terms it is considered as cyber harassing, which is especially regular in youthful young people. This harassing not just hurt the conclusions of a man can likewise brake down the individual ethically and inwardly.

- Government feedback: India is a popularity based country in which all the political gatherings are chosen by its natives. Be that as it may, computer has turned into a center source in scrutinizing government. Feedback is great as India is a free country yet utilizing the energy of opportunity of articulation could prompt serious fear among people in which they are constrained to consider the government work, and in some cases these pundits are fake to the point, that people begin to think as though it is all valid. This picture is an aftereffect of predisposition state of mind of people who are associated with doing this.

- Hate discourse: Hate discourse, is the discourse that assaults a man or gathering based on traits, for example, gender, ethnic birthplace, religion, race, disability, social class, occupation, philosophy, appearance, mental capacity or sexual orientation. This despise discourse are directed as recordings and after that they are being transferred on internet and bunches of watcher watch them. Loathe discourse and flexibility of articulation need to make a harmony between social prosperity and individual freedom. Despise discourse has turned into a form these days to attract publicity.

- Impersonation: Impersonation is an act of putting on a show to be someone else by taking his personality with the end goal of fraud or entertainment. It is like the wholesale fraud. Data fraud regularly includes taking certain individual information, similar to a social security number or a charge card number. It regularly includes considerably more than utilizing the name or phone number of another which generally occurs in Impersonation. They are both serious ruler of crimes which can result to financial misfortune as well as mental misfortune or nobility misfortune.

- Seditious activity: activity of showing up dissatisfaction, protection, or defiance state of mind against the government in control. This can be directed by words or talks which can energize people to make strides against the government. These are the activities which are against national in nature. This is an intense crime and it is characterized by Section 124A of the Indian Penal code. These activities can transform up into extremely brutal as it can prompt serious question amongst public and government.

- Privacy and security: There are just about 21% of the crimes identified with privacy and security. In Indian law, privacy has no reasonable definition as online privacy and disconnected privacy statement. Every one of these crimes are dealt with under a similar umbrella. Touchy individual information when get spilled there is tremendous risk of security so privacy and security goes as an inseparable unit. These risks are diverse for various sectors. According to an overview 81% of respondent trusts that privacy is the greatest risk when discuss cybercrimes (Cheng, et. al., 2013, Chung & Paynter, 2002).

EMERGING TRENDS & CHALLENGES IN CYBER LAW

Cyber law is likely to experience various emerging trends with the increased usage of digital technology (Ahmad, 2003).

The various emerging trends include

A. CHALLENGES IN MOBILE LAWS

B. LEGAL ISSUES OF CYBER SECURITY

C. CLOUD COMPUTING & LAW

D. SOCIAL MEDIA & LEGAL PROBLEMS

E. SPAM LAWS

A. CHALLENGES IN MOBILE LAWS

Today, there are loads of activities in the mobile environment. The expanding rivalry has presented new models of mobile telephones, individual digital assistors (pda), tablets and other communication gadgets in the global market. The concentrated utilization of mobile gadgets has extended the mobile biological community and the substance produced is probably going to posture new difficulties for cyber legal jurisprudence over the world.

There are no committed laws managing the utilization of these new communication gadgets and mobile stages in various jurisdictions over the world as the use of mobile gadgets for info and yield activities is expanding step by step. With the expanding mobile crimes, there is an expanding need to address the legal difficulties developing with the utilization of mobile gadgets and guarantee mobile insurance and privacy.

B. LEGAL ISSUES OF CYBER SECURITY

The other developing cyber law drift is the requirement for enacting suitable legal structures for safeguarding, advancing and upgrading cyber-security. The cyber security occurrences and the assaults on networks are expanding wildly prompting breaks of cyber security which is probably going to have serious impact on the country.

Be that as it may, the test under the watchful eye of a lawmaker isn't just to create proper legal administrations empowering assurance and safeguarding of cyber security, yet in addition to ingrain a culture of cyber security among the net clients. The reestablished center and accentuation is to set forward successful obligatory arrangements which would help the insurance, safeguarding and advancement of cyber security being used of computers, associated assets and communication gadgets.

C. CLOUD COMPUTING AND LAW

With the development in internet technology, the word is moving towards cloud registering. The cloud registering conveys new difficulties to the law producers. The unmistakable difficulties may incorporate information security, information privacy, ward and other legal issues. Their weight on the cyber administrators and partners is give suitable legal structure that could profit the industry and empower powerful cures in case of cloud processing episodes.

D. SOCIAL MEDIA and LEGAL PROBLEMS

The social media is starting to have social and legal impact in the current circumstances raising noteworthy legal issues and difficulties. A most recent investigation demonstrates the social networking destinations in charge of different problems. Since the law enforcement organizations, insight offices focus on the social media destinations; they are the favored vault of all information. The wrong utilization of social media is offering ascend to crimes like cyber provocations, cyber stalking, data fraud and so on. The privacy in social media will be undermined, as it were, in spite of the endeavors by applicable partners.

The test to the cyber officials is successfully manage the abuse of social media and give solutions for the casualties of social media crimes. Social Media Litigations are additionally prone to increment concerning the affiliation or nexus with the yield of social media. The suits in regards to criticism, wedding actions are famously expanding and with the information, information occupant on social media networking there is a rising pattern of different cases in the coming years.

E. SPAM LAWS

There is extensive development of spam in messages and mobiles. Numerous nations have just turned out to be problem areas for creating spam. As the quantity of internet and mobile clients increment the spammers make utilization of creative strategies to focus on the digital clients. It is in this manner important to have compelling legislative arrangements to manage the hazard of spam.

REQUIREMENT FOR CYBER LAW

In the present techno-astute environment, the world is winding up increasingly digitally advanced as are the crimes. Internet was at first created as a research and information sharing instrument and was in an unregulated way. As the time go by it turned out to be more transactional with e-business, web based business, e-governance and e acquisition and so forth. Every single legal issue identified with internet crime are managed through

cyber laws. As the quantity of internet clients is on the ascent, the requirement for cyber laws and their application has likewise accumulated awesome energy (Trout, 2007).

In the present exceedingly digitalized world, nearly everybody is influenced by cyber law. For instance:

- Almost all transactions in shares are in demat form
- Almost all companies extensively depend upon their computer networks and keep their valuable data in electronic form.
- Government forms including income tax returns, company law forms etc. are now filled in electronic form.
- Consumers are increasingly using credit cards for shopping.
- Most people are using email, cell phones and SMS messages for communication.
- Even in "non-cyber-crime" cases, important evidence is found in computers/cell phones e.g. in cases of divorce, murder, kidnapping, tax evasion, organized crime, terrorist operations, counterfeit currency etc.
- Cyber-crime cases such as online banking frauds, online share trading fraud, source code theft, credit card fraud, tax evasion, virus attacks, cyber sabotage, phishing attacks, email hijacking, denial of service, hacking, pornography etc are becoming common.
- Digital signatures and e-contracts are fast replacing conventional methods of transacting business.

Technology in essence is never a debated issue yet for whom and at what cost has been the issue in the ambit of governance. The cyber upset holds the guarantee of rapidly achieving the majority instead of the prior technologies, which had a trickledown impact. Such a guarantee and potential must be acknowledged with a suitable legal administration in view of a given financial grid (Varma & Mittal, 2003).

LAWS RELATED TO PRIVACY AND FREEDOM OF EXPRESSION

India is the host and the greatest stage of Information outsourcing. It needs a successful and very much figured method for managing these crimes. Dissimilar to numerous different nations like EU, India does not have any different law which solely manages the information security. Be that as it may, the courts on numerous cases have deciphered "information assurance" inside the cutoff points of "Right to Privacy" as understood in Article 19 and 21 of the Constitution of India. Aside from this, the laws which are by and by managing the subject of information assurance are "The Indian Contracts Act" and "The Information Technology Act". A portion of the Indian laws are recorded beneath (Khan, 2013).

Article 19 of the Indian constitution states that: All citizens shall have the right -

1. to freedom of speech and expression;
2. to assemble peaceably and without arms;
3. to form associations or unions;
4. to move freely throughout the territory of India;
5. to reside and settle in any part of the territory of India; and
6. to practice any profession, or to carry on any occupation, trade or business

The right to speak freely is limited by the National Security Act of 1980 and before, by the Prevention of Terrorism Ordinance (POTO) of 2001, the Terrorist and Disruptive Activities (Prevention) Act (TADA) from 1985 to 1995, and comparable measures. The right to speak freely is likewise limited by Section 124A of the Indian Penal Code, 1860 which manages subversion and makes any discourse or articulation which brings scorn towards government deserving of detainment stretching out from three years to life.

Area 43A-ITAA The IT (Amendment) Act, 2008 (ITAA 2008) expressly gives that "Where a body corporate, having, managing or taking care of any touchy individual information or information in a computer asset which it possesses, controls or works, is careless in executing and keeping up sensible security practices and systems and along these lines makes wrongful misfortune or wrongful increase any individual, such body corporate might be at risk to pay harms by method for remuneration to the individual so influenced".

Area 72A. Punishment for Disclosure of information in break of lawful contract that "Punishment for divulgence of information in rupture of lawful contract. - Save as generally gave in this Act or some other law until further notice in constrain, any individual including an intermediary who, while giving services under the terms of lawful contract, has secured access to any material containing individual information about someone else, with the purpose to cause or knowing that he is probably going to cause wrongful misfortune or wrongful pick up uncovers, without the assent of the individual concerned, or in

break of a lawful contract, such material to some other individual, might be rebuffed with detainment for a term which may stretch out to three years, or with fine which may reach out to five lakh rupees, or with both".

Both the above areas don't manage information privacy and security specifically. Before 2011, the circumstance of privacy laws was especially confounding, uncertain and dubious on the grounds that there was no law which could specifically manage this issue. Be that as it may, after 2011, when EU has applied extremely strict and stringent laws identified with information insurance, the Indian government likewise felt the need of rolling out specific improvements in our country.

Segment 69A can deny public access to any information through any gadget. By this lead, Government can meddle with the privacy of information in specific conditions to keep up the honesty of India, resistance of India, security of the State, neighborly relations with remote States or public request or for forestalling prompting to the commission of any cognizable offense identifying with above or for examination of any offense, it might by arrange, coordinate any organization of the proper Government to catch, screen or decode or cause to be caught or checked or unscrambled any information produced, transmitted, got or put away in any computer asset. This administer enables to Government to meddle, screen or unscramble any information including information that is close to home in nature of any computer gadget.

PREVENTIVE MEASURES FOR CYBER CRIMES

Anticipation is constantly superior to cure. A netizen should play it safe while working the internet and ought to take after certain preventive measures for cyber crimes which can be characterized as: (Kuusisto, Rauno, 2015).

- Identification of exposures through education will help dependable organizations and firms to address these difficulties.
- One ought to abstain from revealing any individual information to outsiders by means of email or while visiting.
- One must abstain from sending any photo to outsiders by online as abusing of photo occurrences expanding step by step.
- An refresh Anti-infection software to prepare for infection assaults ought to be utilized by all the netizens and ought to likewise keep go down volumes with the goal that one may not endure information misfortune if there should arise an occurrence of infection tainting.
- A individual ought to never send his charge card number to any site that isn't secured, to prepare for frauds.
- It is dependably the guardians who need to keep a watch on the locales that your youngsters are getting to, to keep any sort of provocation or depravation in kids.
- Web webpage proprietors should watch activity and check any inconsistency on the website. It is the obligation of the site proprietors to embrace some policy for counteracting cyber crimes as number of internet clients are developing step by step.
- Web servers running public destinations must be physically independently protected from inside corporate network.
- It is smarter to utilize a security programs by the body corporate to control information on locales.
- Strict statutory laws should be passed by the Legislatures remembering the enthusiasm of netizens.
- IT office should pass certain rules and warnings for the assurance of computer framework and ought to likewise carry out with some more strict laws to breakdown the criminal activities identifying with cyberspace.
- As Cyber Crime is the significant danger to every one of the nations worldwide, certain moves ought to be taken at the international level for keeping the cybercrime.
- A finish equity must be given to the casualties of cyber crimes by method for compensatory cure and guilty parties to be rebuffed with most astounding sort of punishment so it will suspect the lawbreakers of cyber crime.

CONCLUSION

In the event that you are designing computer software, you actually are designing the center part that would make a Cyber World itself and all parts of laws in Cyber World would be attracted to it. Subsequently, a Technologist chipping away at computers or associated gadgets or networks should be outfitted with the basics of the laws encompassing these gadgets or frameworks. Obliviousness of law is no reason according to law.

India need to work more to endure a powerful and solid legislation for information security. This new legislation should manage the assurance of

information and information show on the cyber world. Notwithstanding, while at the same time making the laws, the lawmaking body must be very much aware for keeping up a harmony between the interests of the average folks alongside agreeably taking care of the expanding rate of cybercrimes. For privacy intactness, legitimate preparing and mindfulness, observing and examining, and occurrence reaction is required Expression through discourse is one of the fundamental need gave by common society. Difference in the extent of flexibility of articulation, joined with more online communication, has delivered worries about control in cyberspace.

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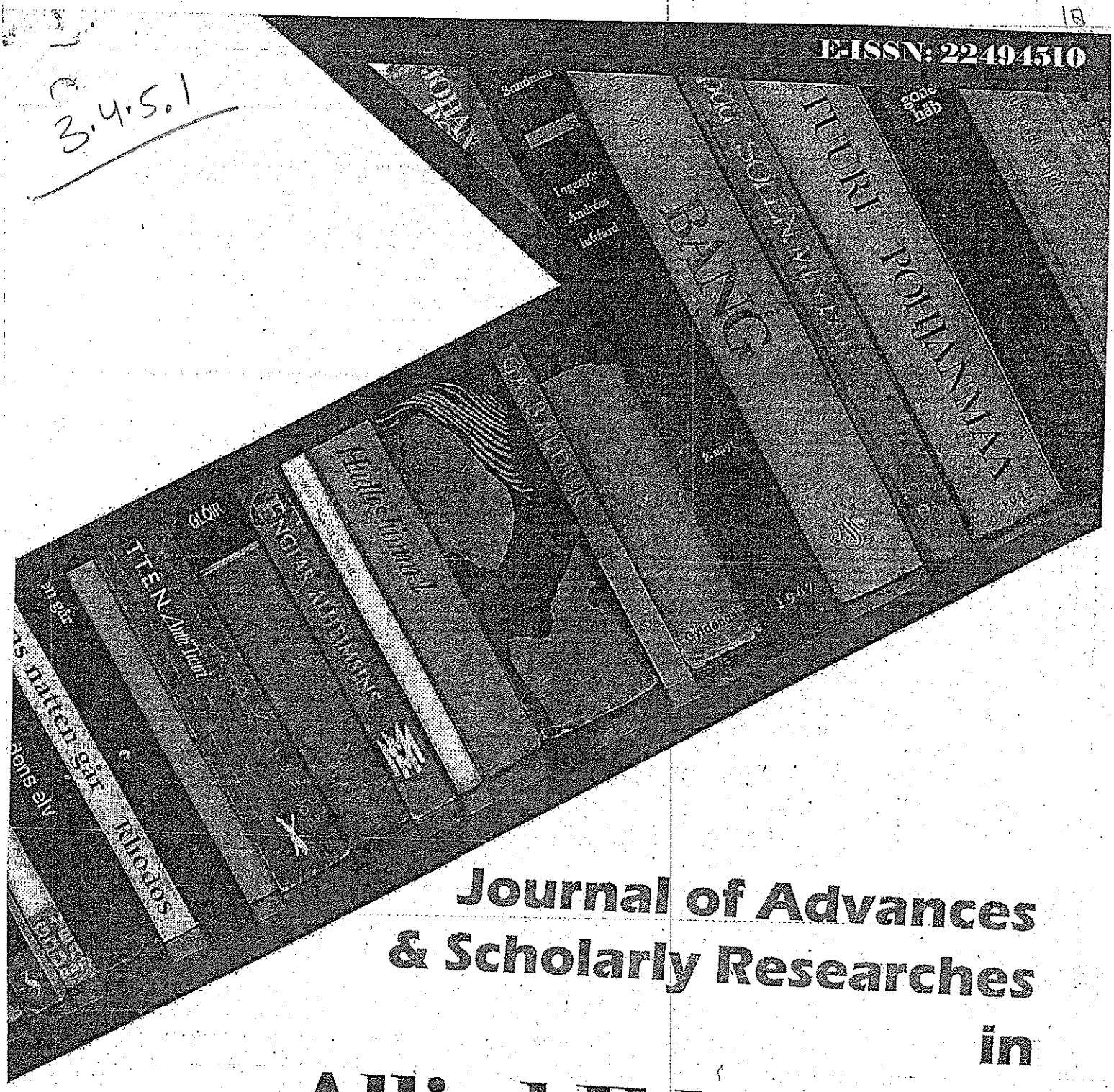

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An Analysis upon Protection and Prevention of Child Maltreatment/Neglect in India

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***Abstract** – In India, child rights, protection from abuse and exploitation (street children, child labour, trafficking etc.) are intimately linked to poor socioeconomic conditions in a large population base. Whose responsibility is it to ensure the safe, protective and caring environment that every child deserves? The UN CRC does not absolve either family or community or society at large. But it firmly puts the onus on the State.*

Child maltreatment is a global problem but is more difficult to assess and manage in developing countries such as India where one-fifth of the world's total child population resides. Certain forms of maltreatment such as feticide, infanticide, abandonment, child labour, street-begging, corporal punishment and battered babies are particularly prevalent in India. Most physicians still need to be sensitized in order to suspect child abuse on the basis of unexplained trauma, multiple fractures, parental conflict and other corroborative evidence.

A culture of non-violence towards children needs to be built into communities in order to provide an environment conducive to the overall development of the child. Rehabilitation of abused children and their families requires a multi-disciplinary service including pediatricians, child psychologists and social workers, and the training of police forces in how to tackle the problem.

INTRODUCTION

Every child has the right to health and a life free from violence. Each year, though, millions of children around the world are the victims and witnesses of physical, sexual and emotional violence. Child maltreatment is a huge global problem with a serious impact on the victims' physical and mental health, well-being and development throughout their lives – and, by extension, on society in general.

In India, the number of children needing care and protection is huge and increasing. Uncontrolled families, extreme poverty, illiteracy result in provision of very little care to the child during the early formative years. Even services that are freely available are poorly utilized. The urban underprivileged, migrating population (a very sizable number) and rural communities are particularly affected. In large cities, there are serious problems of street children (abandoned and often homeless) and child labourers, employed in menial work. Children in difficult circumstances such as children affected by disasters, those in conflict zones, refugees, HIV AIDS need appropriate care and rehabilitation. The term "protection" readily relates to protection from all forms of violence, abuse, and exploitation. However, from India's perspective, the Indian Child Abuse Neglect & Child Labour (ICANCL) group has strongly propagated the view that "protection" must also include protection from disease, poor nutrition, and illiteracy, in addition to abuse and exploitation. The 9th ISPCAN Asia Pacific Conference of Child Abuse & Neglect (APCCAN 2011) conference outcome document "Delhi declaration" ro confirmed & pledged a resolve to stand against the neglect and abuse of children and to strive for achievement of child rights and the building of a caring community for every child, free of violence and discrimination.

It urged and asserted the urgent need to integrate principles, standards and measures in national planning process to prevent and respond to violence against children.

Child maltreatment is a global problem which occurs in a variety of forms and settings, and in some countries it is rooted in social, economic and cultural practices. The problem is multi-faceted in some developing countries such as India in which there is little information about the magnitude, trends and socio-economic correlates of child maltreatment. The

growing complexities of life and socio-economic transition increase the vulnerability of children.

Certain forms of child abuse are particularly prevalent in India and recognition of child rights as primary and inviolable is still deficient. Compared with affluent countries, the prioritization of problems in a low income country such as India is different because malnutrition, infectious diseases, chronic disabilities, poverty, housing and shelter, population explosion and illiteracy abound. Understandably, a large proportion of the country's resources are directed towards these more immediate problems.

In developed countries, where other causes of childhood morbidity and mortality are relatively rare, child maltreatment ranks high in importance among services for children. Although India's National Policy for Children 1974 declared children to be a "supreme national asset", the total budget allocated to Indian children for health, education, development and protection together amounted to a mere 3.8% in 2005–2006, rising to 4.9% in 2006–2007, with an abysmally low allocation to child protection at 0.034%.3 With recent reports of increasing crimes including rape of females, especially minor (underage) girls, the problem of child maltreatment seems all the more ovident. This paper summarizes the various aspects of this enormous problem in resource-poor settings with the hope that it will be helpful in planning child protection services in India and other developing countries.

The World Health Organization (WHO) defines child maltreatment as "All forms of physical and/or emotional ill-treatment, sexual-abuse, neglect or negligent treatment or exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power." There are four types of child maltreatment: physical, sexual, emotional and psychological abuse and neglect. Very often, they occur in different combinations. A universal definition of child abuse in the Indian context is not yet available. In 2007, a working definition was proposed by the Ministry of Women and Child Development (MWCD), Government of India as "intended, unintended and perceived maltreatment of the child, whether habitual or not" and including psychological and physical abuse, sexual and emotional maltreatment; any act which debases the intrinsic worth and dignity of a child as a human being; unreasonable deprivation of his/her basic needs for survival; and physical, educational, emotional or psychological neglect.

Child maltreatment refers to the physical and emotional mistreatment, sexual abuse, neglect and negligent treatment of children, as well as to their commercial or other exploitation. It occurs in many different settings. The perpetrators of child maltreatment may be:

- parents and other family mombers,
- caregivers;
- friends;
- acquaintances;
- strangers;
- others in authority – such as teachers, soldiers, police officers and clergy,
- employers;
- health care workers;
- other children.

Child maltreatment is a complex issue. Its dynamics and the factors that drive it, as well as effective prevention strategies, all differ markedly according to the victim's age, the setting in which the maltreatment occurs, and the relationship between victim and perpetrator.

Violence against children by adults within the family is one of the least visible forms of child maltreatment, as much of it takes place in the privacy of domestic life, but it is nonetheless widely prevalent in all societies. Child maltreatment by parents and caregivers gives rise to particular difficulties when designing strategies for prevention and victim services, since the perpetrators of the maltreatment are at the same time the source of nurture for the child.

While it is not possible to make any absolute statement about the numbers of children harmed by parents and other family members, child maltreatment is recognized internationally as a serious public health, human rights, legal and social issue.

The nature and the severity of both the violence itself and its consequences can vary extremely widely. In extreme cases, child maltreatment can lead to death. In the majority of situations involving maltreatment, however, the physical injury itself has a less severe effect in terms of damage to the child's well-being than the acute psychological and psychiatric consequences, and the long-term impact on the child's neurological, cognitive and emotional development and overall health.

Child maltreatment is linked to other forms of violence – including intimate partner violence, community violence involving young people, and suicide – both causally and through shared underlying risk factors. It is therefore useful to view child maltreatment within a wider categorization of violence. Following the typology presented in the World report on violence

and health, violence can be divided into three broad categories, according to the context in which it is committed.

- **Self-directed violence** refers to violence where the perpetrator and the victim are the same person. It is subdivided into self abuse and suicide.

- **Interpersonal violence** refers to violence between individuals. The category is subdivided into family and intimate partner violence, and community violence.

The former includes child maltreatment, intimate partner violence and elder abuse. Community violence is broken down into violence by acquaintances and violence by strangers. It covers youth violence, assault by strangers, violence related to property crimes, and violence in workplaces and other institutions.

- **Collective violence** refers to violence committed by larger groups of people and can be subdivided into social, political and economic violence. Child maltreatment often occurs alongside other types of violence. For instance, child maltreatment by adults within the family is frequently found in the same settings as intimate partner violence. Maltreated children are themselves at increased risk in later life of either perpetrating or becoming the victims of multiple types of violence – including suicide, sexual violence, youth violence, intimate partner violence and child maltreatment. The same set of factors – such as harmful levels of alcohol use, family isolation and social exclusion, high unemployment, and economic inequalities – have been shown to underlie different types of violence. Strategies that prevent one type of violence and that address shared underlying factors therefore have the potential to prevent a number of different types of violence.

Child abuse has for a long time been recorded in literature, art and science in many parts of the world. Reports of infanticide, mutilation, abandonment and other forms of violence against children date back to ancient civilizations. The historical record is also filled with reports of unkempt, weak and malnourished children cast out by families to fend for themselves and of children who have been sexually abused.

For a long time also there have existed charitable groups and others concerned with children's wellbeing who have advocated the protection of children. Nevertheless, the issue did not receive widespread attention by the medical profession or the general public until 1962, with the publication of a seminal work.

The term "battered child syndrome" was coined to characterize the clinical manifestations of serious physical abuse in young children. Now, four decades later, there is clear evidence that child abuse is a global problem. It occurs in a variety of forms and is deeply rooted in cultural, economic and social practices. Solving this global problem, however, requires a much better understanding of its occurrence in a range of settings, as well as of its causes and consequences in these settings.

REVIEW OF LITERATURE

The review indicates that past maltreatment is present in the life histories of a greater proportion of children in custody than in the general population. While it does not establish any causal link between past maltreatment and offending behaviour, its configuration with other risk facts is of clear and great significance. The existence of past maltreatment in a child's life does not have absolute predictive value in terms of the individual entering custody. However, this review suggests that the indications are that it is a factor in a greater proportion of those in custody than in the youth justice system or wider society, and should be regarded as a critical and primary pre-disposing risk factor in relation to offending behaviour.

Child abuse is a complex term that defies a precise, timeless definition. What one generation may regard as acceptable, even desirable child discipline may be regarded by another as unacceptable and abuse". Not until the Western society became industrialized in the nineteenth century and the growth of large cities did people begin looking at and evaluating the treatment of children. So many times when I am sitting in a meeting with a parent/guardian I hear the statement made by the parent that they were treated the same way by their parents that they are treating their own children and they tell me that nobody cared or thought two thoughts about it when they were kids. These parents don't understand that standards have changed, times have changed and it is not okay to use excessive force or abuse on their children for punishment or any other reason.

Child abuse is known as any avoidable and non-accidental act that causes physical injury to a child and is inflicted by someone who is responsible for that child's welfare. Child maltreatment is a blanket term used to describe all child abuse and neglect which includes physical, emotional and sexual abuse as well as neglect and exploitation..

According to Prince and Howard (2002), there are numerous factors—including abuse and neglect—that are associated with a child's care, well-being, and academic achievement.

Harper, Harper, and Stills (2003) explained that counselors, teachers, and other school personnel should be able recognize if a child has any unmet needs and how those unmet needs can manifest through problems, behaviors, or visible conditions. Depending on the child or situation, unmet needs would present differently with each child. For example, a child may state that he or she is hungry or that his or her family is not able to eat meals regularly. A teacher may notice that a child is lacking proper hygiene practices or does not wear clothes that are clean or fit properly. A student may also share that their parents are gone, leaving her home alone, refusing to help them with her homework, or are saying unkind things to her. Sudden or dramatic behavioral changes would be a warning sign of possible maltreatment, whether it be abuse or neglect, for teachers to be aware of and note.

Grasso et al. (2009) pointed out the importance of educators having knowledge of a child's complete trauma history. In cases of a known history of abuse or neglect, educational personnel can contact current or past members of the child's team, access the student's confidential file, or communicate with other adults—after obtaining permission—that know the child, such as a caseworker, therapist, school social worker, or any other adult with knowledge of the child. If any member of the educational staff had concerns about academic or behavioral performance, they may contact other adults to communicate, collaborate, and problem solve. Collaborative meetings can be a successful way to share information, as well as brainstorming ways to support the child.

Frederick and Goddard (2010) discussed the importance of school personnel having an understanding how trauma, as a result of maltreatment, impacts the passage through Maslow's hierarchy and how it can negatively affect a child at school.

Smith Slep, Heyman, and Snarr (2011) outlined the difficulty in defining emotional abuse, and also took into consideration cultural factors. Internationally, verbal punishment is used 70-85% of the time (e.g. yelling). The question is then asked, is this emotional abuse or is it part of a family or group culture? After examining research and other definitions of emotional abuse, their findings and definition support Sneddon's (2003) definition of emotional abuse, outlining parental behaviors such as, humiliating, degrading, berating, threatening, abandoning, or coercing the child, and using excessive discipline. Although there are multiple opinions and definitions surrounding emotional abuse, there is consensus on the devastating effects caused by these behaviors towards children.

Turner et al. (2012) added that emotional maltreatment may include hostile parenting, such as inconsistency, poor stability, low nurturing, coercion, negative interactions, and rejection of the child.

EFFECTIVE CHILD PROTECTION SYSTEMS

Whose responsibility is it to ensure the safe, protective and caring environment that every child deserves? The UN CRC does not absolve either family or community or society at large. But it firmly puts the onus on the State. Governments are the ultimate duty bearer. In India, the State should ensure that all vulnerable children have access to school, basic health care, nutrition, besides social welfare and juvenile justice systems. These child protection systems can contribute to break down cycle of inter-generational poverty & exploitation.

Experiment models of Child Abuse & Neglect –

(a) Child protection for urban poor

In India, rapid urbanization is a challenging problem. The present urban population of India is close to 285 million. Preventive social services are abysmal, with high prevalence of abuse & neglect. It is estimated that every year about 2 million children are born amongst urban poor, all needing care and protection. The ICANCL group members volunteer their services for health care & rehabilitation to these vulnerable children at drop in centers (DIC) managed by PCI, a NGO in various slums of the New Delhi.

The group also looks after health of street children at one short stay home (Shelter home) in outskirts of the city. The group has served more than 14,000 street children since year 2000. A shelter home was started in year 2005, where 347 children have been rehabilitated; provided with formal education, vocational skills & job placement. Home repatriation has been achieved in 350 children.10 The group assists in the following community services to protection of these vulnerable children:

(1) Street & Working Children In Urban metropolitan cities, street children are migrants from underserved states and have no formal education or job skills. They are subject all forms of abuse, including substance abuse & exploited as child labourers.10 The DIC provide non-formal education, free medical care, vaccinations, counseling against substance abuse/HIV/AIDS etc., mid day meals and vocational courses. Moreover, crèche and day care services are provided to these orphan and vulnerable children.

(2) Education & Health Services for Urban Poor The group runs an ongoing campaign to put "Every Child in School," to promote child protection and optimum development. Advocacy efforts made to retain children in school within the framework of Government programs, such as sarva shiksha abhiyan & Right to Education (RTE) Act (2009). Health

services were provided at DIC, as loss of daily wages & lack of transport prevents them to go to avail facilities at government hospitals. Health education and monitoring, nutritional screening, vaccinations, basic sanitation, hygiene & counseling services were provided

(b) Protection of children in underserved rural village

The ICANCI Group has developed a model for protection of children in an underserved village Bhango, district Nuh-Mewat, Haryana, which is primarily focused on provision of primary education and basic health care. Village Bhango is situated about 70 km from New Delhi, has a Population 1,300. [Adults: 592 (M 311 & F 281) and Children: 708]. Before the group started work, the only Government Primary School had low enrollment rate, high school drop outs, poor infrastructure, no toilets, teachor absenteeism and irregular administration of mid day meals.

THE PROBLEM OF CHILD MALTREATMENT

Child maltreatment is a considerable social and public health problem in the United States. In 2004, data collected from Child Protective Services (CPS) determined approximately 900,000 children in the United States were victims of child maltreatment and about 1,500 children died because of abuse or neglect. Unfortunately, these numbers likely underestimate the number of children affected by maltreatment due to underreporting and focus on a single data source. Research into the consequences of child maltreatment has identified various acute and severe negative outcomes such as death, injury, and traumatic brain injury. Research has also uncovered many deleterious long-term developmental outcomes: academic problems, anxiety, conduct disorder, childhood aggression, delinquency, depression, increased risk for suicide, high-risk sexual behavior, interpersonal problems, poor physical health, posttraumatic stress disorder, risky health behaviors, substance abuse, and youth violence. Along with the legal and medical consequences, these substantial short- and long-term sequelae make prevention, early identification, and intervention a necessity.

THE PUBLIC HEALTH APPROACH TO CHILD MALTREATMENT

The mission of the Centers for Disease Control and Prevention (CDC) is to promote health and quality of life by preventing and controlling disease, injury, and disability. Child maltreatment can result in direct physical, behavioral, social, and emotional harm and disability and is a risk factor for a range of other health risk factors that contribute to acute and chronic health problems. For example, research has shown that individuals who experienced multiple forms of child maltreatment early in life are more likely to engage in health risk behaviors such as smoking and heavy alcohol use. These health risk behaviors have been linked to poor health outcomes such as respiratory illness, liver damage, and cancer later in life (Edwards 2004). The ultimate goal of CDC's child maltreatment prevention activities is to prevent child maltreatment before it occurs. To do this, CDC uses the public health model in which surveillance is the first step. Surveillance is defined as the ongoing, systematic collection, analysis, and interpretation of outcome-specific data for use in the planning, implementation, and evaluation of public health practice (Thacker and Berkelman 1988). Public health based child maltreatment surveillance systems rely on a variety of unique data sources, for example, hospital in patient records, emergency department records, police and homicide reports, child death review findings, and medical examiner and coroner reports. These surveillance systems also use traditional CPS data that have been used by databases such as NCANDS and the Adoption and Foster Care Analysis Reporting System (AFCARS).Although the research and legal communities have attempted to develop consistent and uniform definitions of child abuse and neglect, none of these definitions is adequate for use in public health surveillance. Research definitions such as the Maltreatment Coding Scheme for Abuse Allegations (MCS) (Barnett, Manly, and Cicchetti 1991, 1993) and the "harm" and "endangerment" standards from the National Incidence Study (NIS) rely on interview data from a variety of sources that are not available to state and local health departments Also, legal definitions vary from state to state, making comparisons across states and the collection of national data difficult. Users of this document are strongly encouraged to familiarize themselves with the child abuse and neglect laws in their state when designing surveillance systems because the differences may affect the language used to find cases and interpret data. Because no public health based definitions for child maltreatment exist, public health officials continue to use terms related to child maltreatment in different ways and use different terms to describe the same acts. Not surprising, these inconsistencies have contributed to varied conclusions about the incidence and prevalence of child abuse and neglect.

METHODOLOGY

The purpose of this paper is to conduct a critical and descriptive review of the research, based on treatment studies, specifically related to children who have experienced trauma due to maltreatment—whether because of physical, sexual, emotional, or psychological abuse and neglect, their effects on children, and the potential impact in school and how educational personnel can support the needs of these

students. From this descriptive review, existing appropriate and applicable strategies will be modified and organized for educational personnel to use in a variety of school settings.

The ultimate goal is to implement strategies, with students who have a known history of maltreatment, to increase their social, behavioral, and academic functioning. There are four research questions this paper is designed to answer: (1) Is there sufficient data examining treatments related to child maltreatment? (2) What areas of child maltreatment have studies addressed? (3) What areas of child maltreatment require additional research? (4) Does the research on child maltreatment provide guidance on implementing strategies in schools that may provide positive outcomes for child maltreatment victims?

This paper presents the methods used to obtain articles for this research study. First, an explanation is provided of how studies were identified and selected for inclusion in this study, including eligibility criteria, sources of information, search terms, and study selection. Second, an explanation of the coding procedures used to organize specific elements of each study is described. These coding categories included the type of maltreatment, participant characteristics, the research setting, the study design, treatment approaches and length, outcome measures, and whether the intervention has been used, and implemented.

Sampling Method -

It appears that child maltreatment prevalence rates and the extent to which child mistreatment correlates with health status are affected by variation in research samples (Goldman & Padayachi. 2000). Studies in this field often select convenience samples from clinics or hospital patients, or from the criminal justice system, shelters, and special intervention services. These sources of research population often include more severe abuse cases.

Data Collection -

A systematic search was performed to collect data based research studies related to child maltreatment and the treatments aimed to mediate the effects of this maltreatment. These treatment based studies were organized for further analysis. In this paper, eligibility criteria, information sources, and search terms are described.

The questionnaires were self-administered in school classrooms in single sessions during regular school hours in the pilot study and the main survey. At the time of the survey, the study purposes were explained to students. They were told that participation was voluntary, their responses would be anonymous, there were no right or wrong answers, and they could stop or withdraw from participation at any time. To protect confidentiality and to ensure standard administration procedures, anonymous questionnaires were administered by trained researchers without the presence of class teachers. Students were asked to focus on their own responses without any discussion. Study participants put completed questionnaires in sealed envelopes. The field manual for collecting data was developed to provide practical information necessary to ensure that standard methods were used to collect data in all participating sites.

Coding Procedures -

All of the articles obtained from the search were coded using seven categories: (a) type of maltreatment, (b) participant characteristics, (c) settings, (d) study design, (e) treatment approaches, (f) treatment length, (g) type of outcome measures used, and (h) relevance for educators.

Study Selection -

Research studies may publish multiple articles on the same data or different aspects of the research. Where multiple articles or reports use the same data only the most recent is included in this review. However, when multiple articles from the same dataset/research study explored and presented on different aspects of child maltreatment, those articles were combined into one data extraction and one quality assessment form. Wherever this was done, all the publications were referenced on the data abstraction form.

CONCLUSION

Child maltreatment is not a simple problem with easy solutions. Significant improvements in prevention, child protection and treatment, though, are not beyond reach. There is enough knowledge and experience on the subject for any country to begin addressing the problem. One of the greatest obstacles to effectively responding to child maltreatment has been the lack of information.

Child abuse is a serious global health problem. Although most studies on it have been conducted in developed countries, there is compelling evidence that the phenomenon is common throughout the world.

In conclusion, child maltreatment is a serious and complex problem in India with deep-rooted cultural and psycho social causes. Management is multimodal and aims to identify and understand the causes, empower children to come forward with their concerns and counsel parents and care-takers in alternative methods of disciplining the children. A change in social attitude and development of a culture of non-violence towards children needs to be fostered to provide a safe environment conducive to the overall development of the child. Although the

government is making efforts to tackle the problem, increased public awareness of the rights of the child and strict enforcement of the laws are crucial.

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Heredity

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Reverse genetic approaches for breeding nutrient-rich and climate-resilient cereal and food legume crops

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Heredity (2022)

Abstract

In the last decade, advancements in genomics tools and techniques have led to the discovery of many genes. Most of these genes still need to be characterized for their associated function and therefore, such genes remain underutilized for breeding the next generation of improved crop varieties. The recent developments in different reverse genetic approaches have made it possible to identify the function of genes controlling nutritional, biochemical, and metabolic traits imparting drought, heat, cold, salinity tolerance as well as diseases and insect-pests. This article focuses on reviewing the current status and prospects of using reverse genetic approaches to breed nutrient-rich and climate resilient cereal and food legume crops.

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Pyramiding of genes for grain protein content, grain quality, and rust resistance in eleven Indian bread wheat cultivars: a multi-institutional effort

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Abstract Improvement of grain protein content (GPC), loaf volume, and resistance to rusts was achieved in 11 Indian wheat cultivars that are widely grown in four different agro-climatic zones of India. This involved use of marker-assisted backcross breeding (MABB) for introgression and pyramiding of the following genes: (i) the high GPC gene *Gpc-B1*; (ii) HMW glutenin subunits 5+10 at *Glu-D1* loci, and (iii) rust resistance genes, *Yr36*, *Yr15*, *Lr24*, and *Sr24*. GPC increased by 0.8 to 3.3%, although high GPC was generally associated with yield penalty. Further selection among high GPC lines allowed identification of progenies with higher GPC associated with improvement in 1000-grain weight and grain yield in the backgrounds of the following four cultivars: NI5439, UP2338, UP2382, and HUW468. The high GPC progenies (derived from NI5439) were also improved for grain quality using HMW glutenin subunits 5+10 at *Glu-D1* loci. Similarly, progenies combining high GPC and rust resistance were obtained in the backgrounds of following five cultivars: Lok1,

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Identification and characterization of 20S proteasome genes and their relevance to heat/drought tolerance in bread wheat

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ABSTRACT

The genes encoding α- and β-type subunits of 20S proteasome core protease are integral components of 26S proteasome complex in the ubiquitin-proteasome system (UPS). The 20S proteasome represents a catalytic particle that cleaves cytotoxic, denatured, damaged and unwanted proteins in an ATP/ubiquitin-dependent non-lysosomal pathway and is known to impart thermotolerance in model plants. In the present study, we identified 67 genes (including 34 TaPA + 33 TaPB genes) encoding α- and β-subunits of 20S proteasome in bread wheat (*Triticum aestivum* L.). These genes were distributed on all the 21 wheat chromosomes, majority of them being in triplicate homoeologues. These wheat genes were orthologous to corresponding rice and Arabidopsis genes. Phylogenetic analysis placed these genes in seven clusters, each with one of the seven α (α1-7) and one of the seven β (β1-7) subunits. Expression analysis suggested that 10 of the 67 genes were involved in heat stress response, whereas four genes were involved in drought tolerance at the seedling stage. Nine (9) genes were expressed under both heat and drought suggesting their involvement in response to multiple abiotic stresses. Hopefully, future research on TaPA/TaPB genes, will help in the development of climate resilient wheat cultivars.

1. Introduction

Development of crop cultivars, which can withstand biotic and abiotic stresses has been an active area of research for several decades (Dhankher and Foyer, 2018; Kumar et al., 2019). Biotic stresses mainly include a number of fungal, bacterial and viral diseases, whereas abiotic stresses include drought, heat, freezing, salinity, etc. Increased temperature and drought are the two most important abiotic stresses causing major yield losses (Hatfield and Prueger, 2015; Sun et al., 2019). According to NASA's Goddard Institute and NOAA Global Climate Report 2020 (https://www.ncdc.noaa.gov/sotc/global/202010), the average temperature on earth has already risen by 0.8 °C since 1880 (Easterling and Wehner, 2009); this temperature rise increased at an average rate of 0.07 °C (0.13 °F) per decade during 1880–1980, which doubled to 0.18 °C (0.32 °F) during the recent decades (1980 to 2020). This increase in temperature is mainly due to anthropogenic activities and is a matter of concern globally (Lindsey and Dahlman, 2020). Therefore, the development of climate resilient crops is a priority research area (Fahad et al., 2017).

One of the physiological and molecular processes that is adversely affected by the abiotic stresses is the selective degradation of intracellular proteins. This degradation is mainly carried out by ubiquitin-proteasome system (UPS) (sometimes also called prosome) in addition to other mechanisms (Kurepa et al., 2009). This ubiquitin-mediated proteolysis through UPS was first discovered during 1980s and was also the subject of Nobel Prize in Chemistry for the year 2004. The UPS is known to degrade 80–90% of toxic cellular proteins (Hershko and Ciechanover, 1998; Tsakiri and Trougakos, 2015; Voges et al., 1999; Smalle et al., 2003; Smalle and Vierstra, 2004; Vierstra, 2009, 2012; Kurepa et al., 2008; Stone, 2019).

The UPS itself includes the following components: (i) the ubiquitin (Ub), (ii) ubiquitin-activating enzyme (E1), (iii) ubiquitin-conjugating

Abbreviations: UPS, ubiquitin-proteasome system; CP, core particle/core protease; TaPA, *Triticum aestivum* proteasome alpha(α); TaPB, *Triticum aestivum* proteasome beta(β); CDS, coding DNA sequence; CDD, conserved domain database; SNP, single nucleotide polymorphism; GRAVY, grand average of hydropathy; RMSD, root mean square deviation; MSA, multiple sequence alignment; SSR, simple sequence repeats; FPKM, fragments per kilobase of transcript per million mapped reads; MEME, multiple expectation maximization for motif elicitation; SAVES, structure validation server; SOPMA, self-optimized prediction method with alignment.

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Single-trait, multi-locus and multi-trait GWAS using four different models for yield traits in bread wheat

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Abstract A genome-wide association study (GWAS) for 10 yield and yield component traits was conducted using an association panel comprising 225 diverse spring wheat genotypes. The panel was genotyped using 10,904 SNPs and evaluated for three years (2016–2019), which constituted three environments (E1, E2 and E3). Heritability for different traits ranged from 29.21 to 97.69%. Marker-trait associations (MTAs) were identified for each trait using data from each environment separately and also using BLUP values. Four different models were used, which included three single trait models (CMLM, FarmCPU, SUPER) and one multi-trait model (mvLMM). Hundreds of MTAs were obtained using each model, but after Bonferroni correction, only 6 MTAs for 3 traits were available using CMLM, and 21 MTAs for 4 traits were available using FarmCPU; none of the 525 MTAs obtained using SUPER could qualify after Bonferroni correction. Using BLUP, 20 MTAs were available, five of which also figured among MTAs identified for individual environments. Using mvLMM model, after Bonferroni correction, 38 multi-trait MTAs, for 15 different trait combinations were available. Epistatic interactions involving 28 pairs of MTAs were also available for seven of the 10 traits; no epistatic interactions were available for GNPS, PH, and BYPP. As many as 164 putative candidate genes (CGs) were identified using all the 50 MTAs (CMLM, 3; FarmCPU, 9; mvLMM, 6, epistasis, 21 and BLUP, 11 MTAs), which ranged from 20 (CMLM) to 66 (epistasis) CGs. In-silico expression analysis of CGs was also conducted in different tissues at different developmental stages. The information generated through the present study proved useful for developing a better understanding of the genetics of each of the 10 traits; the study also provided novel markers for marker assisted selection (MAS) to be utilized for the development of wheat cultivars with improved agronomic traits.

Parveen Malik and Jitendra Kumar equal contribution

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energy, accelerated H^+ ion was used for mutation breeding in wheat. Initially, seed geometry and the spread of the ion beam for irradiation was optimized. Subsequently, radio-sensitivity studies were carried out in important wheat cultivars (HI-1563, DBW-173, and NIAW 1994). Proton beams as mutagens showed 50% lethality (LD50) at ~175 Gy compared to 350 Gy for gamma rays, showing an RBE of 1.5–2.0. Mutagenic populations for HI-1563 and DBW-173 were created (2019–20) by irradiating at 150 Gy, and the M1 raised at BARC, Mumbai, and IIWBR, Karnal, respectively. These populations will be screened for desired traits in the coming year. Proton beam irradiation holds the promise to develop novel mutants that could hold solutions to current and future challenges in agriculture.

Optimization of thermal neutrons (n) as a mutagen for induced mutation breeding in Indian wheat.

G. Vishwakarma, S.T. Kadam, T. Roy, M. Shukla, and B.K. Das, and Y.S. Kashyap (Technical Physics Division, Bhabha Atomic Research Centre, Mumbai, India).

In the history of mutation breeding over the years, many sources of physical mutagens have been used for mutagenizing explants. Noncharged particle radiation, i.e., neutrons, have been especially interesting due to their very high LET and, hence, potentially better mutagens compared to others. However, due to limited useful neutron sources and strict radio safety constraints, their widespread use has been very limited. At BARC Mumbai, neutron irradiation for mutation breeding in wheat was initiated using a thermal neutron (25 meV energy) source at the Dhruva research reactor. Seed preparation, geometry, and packaging was optimized. Further radio-sensitivity studies with two wheat were carried out with a neutron flux of ~10^7 neutron/cm/sec and passive thermo-luminescence dosimeter (TLD). Initial results indicated an LD50 value ~21 Gy, compared to 350 Gy for gamma, showing an RBE of 16–17. In the future, this irradiation procedure will be refined further for bulk irradiation, and large-scale seed irradiation will be carried out for the mutation breeding program. Neutron-based irradiation will further be explored to use fast neutrons as a mutagen. Overall the use of neutrons as a mutagen provides an exciting option for plant mutation breeders with potentially novel mutant traits to be obtained.

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http://molbiolabccsumrt.webs.com/founder.htm; http://ccsubiflaboratory-com.webs.com/

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Genetic, molecular breeding, and epigenetic studies for a variety of traits in wheat.

CCS University Meerut is located in the Northern Plain Zone of India. For more than five decades, a team of scientists at the Department of Genetics and Plant Breeding of this university has been engaged in studies involving cytogenetics and genetics of a variety of traits in wheat (mainly spring bread wheat). During the last 25 years, there has been a shift towards the use of molecular markers for genetic/cytogenetic studies (both QTL interval mapping and GWAS; development of genetic and physical maps) for a variety of traits related to abiotic and biotic stresses, grain yield and quality, biofortification, and N/K use efficiency. More recently, during the last 10 years, the group also has been utilizing bioinformatics for identifying and chracterizing a variety of useful genes, utilizing whole-genome sequences of wheat and a range of software/tools that have become available. A major emphasis, in recent years, was the study of epigenetic control of plant immunity (leaf rust resistance). All aspects of epigenetic control, including DNA methylation, histone modifications (both acetylation and methylation), and ncRNAs (both miRNAs and lncRNAs), have been utilized for the study of epigenetic regulation of (i) leaf rust resistance mediated by two different genes, the seedling resistance gene

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RESEARCH ARTICLE

Meta-QTLs, ortho-MetaQTLs and candidate genes for grain Fe and Zn contents in wheat (*Triticum aestivum* L.)

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Abstract Majority of cereals are deficient in essential micronutrients including grain Iron (GFe) and grain zinc (GZn), which are therefore the subject of research involving biofortification. In the present study, 11 meta QTLs (MQTLs) including nine novel MQTLs for GFe and GZn contents were identified in wheat. Eight of these 11 MQTLs controlled both GFe and GZn. The confidence intervals of the MQTLs were narrower (0.51–15.75 cM) relative to those of the corresponding QTLs (0.6 to 55.1 cM). Two ortho-MQTLs involving three cereals (wheat, rice and maize) were also identified. Results of MQTLs were also compared with the results of earlier genome wide association studies (GWAS). As many as 101 candidate genes (CGs) underlying MQTLs were also identified. Twelve of these CGs were prioritized; these CGs encoded proteins with important domains (zinc finger, RING/FYVE/PHD type, flavin adenine dinucleotide linked oxidase, etc.) that are involved in metal ion binding, heme binding, iron binding, etc. qRT-PCR analysis was conducted for four of these 12 prioritized CGs using genotypes which have differed for GFe and GZn. Significant differential expression in these genotypes was observed at 14 and 28 days after anthesis. The MQTLs/CGs identified in the present study may be utilized in marker-assisted selection (MAS) for improvement of GFe/GZn contents and also for understanding the molecular basis of GFe/GZn homeostasis in wheat.

Keywords Wheat · Grain iron (GFe) · Grain zinc (GZn) · meta-QTL · Candidate genes · Ortho-meta QTL · qRT-PCR

Introduction

Wheat is the major constituent of cereal-based diet, and is the third most important cereal after maize and rice. Wheat grain is a major staple food, and is an important source of calories for a major fraction of population in the developing world. However, majority of the modern wheat varieties are poor in essential nutrients including grain protein and micronutrients like grain iron (GFe) and grain zinc (GZn). For this reason alone, micronutrients and vitamins are sometimes also used in the form of dietary supplements, which are often out of reach for most people living in the developing world (Ward 2014; De valenca et al. 2017). Malnutrition due to deficiency for micronutrients has been particularly high among children which also cause > 45% of the deaths of children of < 5 years of age (WHO 2017). This phenomenon of malnutrition has also been described as 'hidden hunger' (Stein and Qaim 2007, Harding et al. 2018; Gödecke et al. 2018) reviewed by Gupta et al. (2021).

According to estimates by WHO (World Health Organization), globally > 2 billion people suffer with deficiency of Fe/Zn (Lyons et al. 2005; Alina et al. 2019). Of these two micronutrients, Fe is an essential component of haemoglobin and myoglobin and its deficiency cause severe health problems, including anemia, mental retardation, weak immune system and increased morbidity and mortality (Black 2003). The serious impact is particularly witnessed in women of reproductive age (especially pregnant women) and in children, < 5 years of age (Abbaspour et al. 2014; Roohani et al. 2013). Similarly, Zn plays a significant role in

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ARTICLES

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Structural, optical and antimicrobial properties of pure and Ag-doped ZnO nanostructures

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Abstract: In the present work, zinc oxide (ZnO) and silver (Ag) doped ZnO nanostructures are synthesized using a hydrothermal method. Structural quality of the products is attested using X-ray diffraction, which confirms the hexagonal wurtzite structure of pure ZnO and Ag-doped ZnO nanostructures. XRD further confirms the crystallite orientation along the c-axis, (101) plane. The field emission scanning electron microscope study reveals the change in shape of the synthesized ZnO particles from hexagonal nanoparticles to needle-shaped nanostructures for 3 wt% Ag-doped ZnO. The optical band gaps and lattice strain of nanostructures is increased significantly with the increase of doping concentration of Ag in ZnO nanostructure. The antimicrobial activity of synthesized nanostructures has been evaluated against the gram-positive human pathogenic bacteria, *Staphylococcus aureus* via an agarose gel diffusion test. The maximum value of zone of inhibition (22 mm) is achieved for 3 wt% Ag-doped ZnO nanostructure and it clearly demonstrates the remarkable antibacterial activity.

Key words: zinc oxide; silver; hydrothermal; FESEM; antimicrobial activity; *Staphylococcus*

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1. Introduction

Nanotechnology is one of the developing fields of research in smart material sciences. It involves efficient manipulation, fabrication and stabilization of matter at an atomic and molecular level that ranges between 1 to 100 nm[1, 2]. Large surface area-to-volume ratio with unique conformation and distribution of nanoparticles (NPs) are responsible for their enhanced physical and chemical properties. The nanomaterials are used for many applications such as catalysis, antimicrobial, agriculture, antioxidant, sensing devices and pharmaceuticals, etc.[3]. Various nanostructured metal- oxide–semiconductors (NMOS) such as zinc oxide (ZnO), copper oxide (CuO), silver oxide (Ag_2O), titanium dioxide (TiO_2), magnesium oxide (MgO) and calcium oxide (CaO) have been studied for their antimicrobial activity. In vitro studies, it has been shown that metal nanoparticles have the ability to prevent several microbial species[4]. In the context of bulk material, NMOS show remarkable antimicrobial properties[5]. Among various NMOS, ZnO is an important inorganic semiconducting material because of its high thermal stability, oxidation resistivity, photo-stability and high electron mobility[6]. ZnO are mostly nontoxic and used for various applications like, photodetectors, UV-LEDs, thin film transistor, solar cells[7] and drug delivery, etc.[8, 9].

ZnO NPs exhibit antibacterial activity against a variety of pathogenic bacteria. The activity includes various process such as the generation of reactive oxygen species (ROS), cell membrane integrity disruption, enzyme inhibition[10]. ZnO NPs also exhibit antibacterial effect by disrupting the integrity of the cell membrane by the loss of phospholipid bilayer integrity and leakage of intracellular components of the cell that leads to cell death[4, 11–15]. Doping is an effective method in order to improve physical and optical properties of ZnO[15].

Among various noble metals, Ag has great potential due to its unique properties such as good oxygen adsorption behavior, relatively non-toxic, cheaper, high thermal conductivity, high solubility, good electrical conductivity etc. Ag-decorated materials are used to treat infections caused by pathogens[16–23]. Ag-doped ZnO nanoparticles have been examined for various biomedical use such as wound and cancer treatment[24–29].

Recently, many researchers have been investigated microstructural effect (nanoparticles, micro/nanoflowers, hybrid nanostructures, hierarchically structures) of Ag-doped ZnO on their antimicrobial performance[30–37]. Bechambi *et al.* also investigated the antibacterial activities using ZnO modified catalysts with various silver contents which they synthesized using a hydrothermal method[38]. Darroudi *et al.* showed the 10 mm inhibition zone by a nickel oxide nanoparticle against the *S. aureus* bacterium prepared by the sol-gel method[39]. Pathak *et al.* observed a significant enhancement in antibacterial activity in prepared Ag-doped ZnO against *S. aureus*. Zone

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Review

Genomics Associated Interventions for Heat Stress Tolerance in Cool Season Adapted Grain Legumes

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Abstract: Cool season grain legumes occupy an important place among the agricultural crops and essentially provide multiple benefits including food supply, nutrition security, soil fertility improvement and revenue for farmers all over the world. However, owing to climate change, the average temperature is steadily rising, which negatively affects crop performance and limits their yield. Terminal heat stress that mainly occurred during grain development phases severely harms grain quality and weight in legumes adapted to the cool season, such as lentils, faba beans, chickpeas, field peas, etc. Although, traditional breeding approaches with advanced screening procedures have been employed to identify heat tolerant legume cultivars. Unfortunately, traditional breeding pipelines alone are no longer enough to meet global demands. Genomics-assisted interventions including new-generation sequencing technologies and genotyping platforms have facilitated the development of high-resolution molecular maps, QTL/gene discovery and marker assisted introgression, thereby improving the efficiency in legumes breeding to develop stress resilient varieties. Based on the current scenario, we attempted to review the intervention of genomics to decipher different components of tolerance to heat stress and future possibilities of using newly developed genomics-based interventions in cool season adapted grain legumes.

Keywords: climate change; high temperature, epigenetics, genome editing, nanoparticles, candidate genes; mRNA; signalling pathways

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1. Introduction

Cool season grain legumes are rich in proteins, vitamins, and minerals such as iron, zinc, and folate. Hence, their intake in daily diet provides solution of overcoming the problem of malnutrition and mineral deficiencies among the poor people of developing countries who cannot afford costly animal protein-based diets. Moreover, use of grain legumes provides a remedy for several chronic diseases like diabetes, obesity, and cardiovascular problems [1]. Therefore, health conscious people now prefer use of plant-based protein in their diets even in developing countries over animal-based proteins [2]. This is resulted in increasing the demand of grain legumes day by day. However, several biotic (i.e., wilt, rust, blight diseases) and abiotic (i.e., heat, drought, salinity, acidity and water logging) stresses significantly affect the yield potential of current cultivars of food legumes [2,3]. Among abiotic stresses, heat stress is increasingly becoming a serious problem for the production of cool season grain legumes due to climate changes [4]. Heat

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RESEARCH ARTICLE

GWAS for main effects and epistatic interactions for grain morphology traits in wheat

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Abstract In the present study in wheat, GWAS was conducted for identification of marker trait associations (MTAs) for the following six grain morphology traits: (1) grain cross-sectional area (GCSA), (2) grain perimeter (GP), (3) grain length (GL), (4) grain width (GWid), (5) grain length–width ratio (GLWR) and (6) grain form-density (GFD). The data were recorded on a subset of spring wheat reference set (SWRS) comprising 225 diverse genotypes, which were genotyped using 10,904 SNPs and phenotyped for two consecutive years (2017–2018, 2018–2019). GWAS was conducted using five different models including two single-locus models (CMLM, SUPER), one multi-locus model (FarmCPU), one multi-trait model (mvLMM) and a model for Q x Q epistatic interactions. False discovery rate (FDR) [P value - $\log10(p) \geq 5$] and Bonferroni correction [P value - $\log10(p) \geq 6$] (corrected p value < 0.05) were applied to eliminate false positives due to multiple testing. This exercise gave 88 main effect and 29 epistatic MTAs after FDR and 13 main effect and 6 epistatic MTAs after Bonferroni corrections. MTAs obtained after Bonferroni corrections were further utilized for identification of 55 candidate genes (CGs). In silico expression analysis of CGs in different tissues at different parts of the seed at different developmental stages was also carried out. MTAs and CGs identified during the present study are useful addition to available resources for MAS to supplement wheat breeding programmes after due validation and also for future strategic basic research.

Keywords *Triticum aestivum* L. · Grain morphology · GWAS · Epistasis interaction

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Introduction

Bread wheat (*Triticum aestivum* L.) is a major staple crop all over the world, which provides food for ~ 36% of the world's population involving ~ 20% calories in human diet (http://faostat.fao.org; Maulana et al. 2018). In this crop, as also in other cereals, the grain size is known to be associated with various characteristics of flour (e.g., hydrolytic enzymes activity), which in turn control baking quality and end-use suitability, the protein content and grain yield (Evers 2000; Breseghello and Sorrells 2007; Gegas et al. 2010). The larger grains also have a positive effect on seedling vigour, market preference, grain yield and flour yield characteristics (Chastain et al. 1995; Gan and Stobbe 1996). The grain size and shape (including length, width, perimeter of the grain, etc.) did not receive the desired attention for the improvement of yield in the current wheat breeding programmes (Kovach et al. 2007). However, significant phenotypic and genetic variation for grain size and grain weight does occur in different *Triticum* species and can be exploited for improvement of grain morphology, indirectly leading to an improvement in grain yield (Gegas et al. 2010; Jing et al. 2007; Rasheed et al. 2014). However, genetics of grain characteristics in wheat

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ORIGINAL ARTICLE

WheatQTLdb: a QTL database for wheat

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Abstract

During the last three decades, QTL analysis in wheat has been conducted for a variety of individual traits, so that thousands of QTL along with the linked markers, their genetic positions and contribution to phenotypic variation (PV) for concerned traits are now known. However, no exhaustive database for wheat QTL is currently available at a single platform. Therefore, the present database was prepared which is an exhaustive information resource for wheat QTL data from the published literature till May, 2020. QTL data from both interval mapping and genome-wide association studies (GWAS) have been included for the following classes of traits: (i) morphological traits, (ii) N and P use efficiency, (iii) traits for biofortification (Fe, K, Se, and Zn contents), (iv) tolerance to abiotic stresses including drought, water logging, heat stress, pre-harvest sprouting and salinity, (v) resistance to biotic stresses including those due to bacterial, fungal, nematode and insects, (vi) quality traits, and (vii) a variety of physiological traits, (viii) developmental traits, and (ix) yield and its related traits. For the preparation of the database, literature was searched for data on QTL/marker-trait associations (MTAs), curated and then assembled in the form of WheatQTLdb. The available information on metaQTL, epistatic QTL and candidate genes, wherever available, is also included in the database. Information on QTL in this WheatQTLdb includes QTL names, traits, associated markers, parental genotypes, crosses/mapping populations, association mapping panels and other useful information. To our knowledge, WheatQTLdb prepared by us is the largest collection of QTL (11,552), epistatic QTL (107) and metaQTL (330) data for hexaploid wheat to be used by geneticists and plant breeders for further studies involving fine mapping, cloning, and marker-assisted selection (MAS) during wheat breeding.

Keywords WheatQTLdb · QTL database · Epistatic QTL · GWAS · MTA · metaQTL

Introduction

Wheat is a cereal grain crop, which is a worldwide staple food (Mauseth 2014) and accounts for approximately 30% of global cereal consumption (FAO 2002). It is grown on more land area than any other food crop (220.4 million hectares) (FAOSTAT 2014). World trade in wheat is greater than all other crops taken together (FAO 2019). The global wheat production for the year 2019–2020 is estimated to be 765.41 million tons (https://www.statista.com/topics/1668/wheat/), which is next to only maize. It is also estimated that the wheat production should increase by 50–60% of the present level to meet the demand and consumption in 2050. The grain quality of wheat also needs to improve to meet the challenges of nutritional security. This would require major breeding efforts and the sound knowledge of known QTL (quantitative trait loci) and marker-trait associations (MTAs) for all kinds of different traits will be of great help in wheat improvement. During the last three decades, QTL analysis in wheat has been conducted for a variety of individual traits, so that

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Genome-wide association study in hexaploid wheat identifies novel genomic regions associated with resistance to root lesion nematode (*Pratylenchus thornei*)

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Root lesion nematode (RLN; *Pratylenchus thornei*) causes extensive yield losses in wheat worldwide and thus pose serious threat to global food security. Reliance on fumigants (such as methyl bromide) and nematicides for crop protection has been discouraged due to environmental concerns. Hence, alternative environment friendly control measures like finding and deployment of resistance genes against *Pratylenchus thornei* are of significant importance. In the present study, genome-wide association study (GWAS) was performed using single locus and multi locus methods. In total, 143 wheat genotypes collected from pan-Indian wheat cultivation states were used for nematode screening. Genotypic data consisted of > 7K SNPs with known genetic positions on the high-density consensus map was used for association analysis. Principal component analysis indicated the existence of sub-populations with no major structuring of populations due to the origin. Altogether, 25 significant marker trait associations were detected with −log10 (*p* value) > 4.0. Three large linkage disequilibrium blocks and the corresponding haplotypes were found to be associated with significant SNPs. In total, 37 candidate genes with nine genes having a putative role in disease resistance (I -box-like domain superfamily, Leucine-rich repeat, cysteine-containing subtype, Cytochrome P450 superfamily, Zinc finger C2H2-type, RING/FYVE/PHD-type, etc.) were identified. Genomic selection was conducted to investigate how well one could predict the phenotype of the nematode count without performing the screening experiments. Prediction value of r = 0.40 to 0.44 was observed when 56 to 70% of the population was used as a training set. This is the first report where GWAS has been conducted to find resistance against root lesion nematode (*P. thornei*) in Indian wheat germplasm.

Bread wheat (*Triticum aestivum* L.) is one of the most important cereal crops cultivated globally and is a major source of calories for the growing world population[1]. Green revolutions of the 1960s and 1980s led to the significant improvement in wheat production particularly in South-East Asia[1,2]. Record global wheat production of 761.5 million tons was achieved in 2019 which is expected to further increase by 2020[3]. However, the current trends in wheat production increase appear to be insufficient for feeding the population of nine billion people predicted for 2050[4]. To meet the growing human needs without increasing the area of cultivated land, which is simply not available, wheat grain production must increase. Although production is increasing, yields are still vulnerable to a variety of biotic and abiotic factors. Among biotic factors, plant-parasitic nematodes (PPNs) are one such limiting factor that cause losses of ~ 12.6% among different crop plants, representing an annual monetary loss of 216 billion US$[5]. The most common damaging PPNs are the root-knot nematodes (RKNs), cereal cyst nematodes (CCNs) and root lesion nematodes (RLNs). RLNs of genus *Pratylenchus* are obligatory

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Genetics and resistance/Génétique et résistance

Mapping of Ug99 stem rust resistance in Canadian durum wheat

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Abstract: Stem rust, caused by *Puccinia graminis* f. sp. *tritici* (*Pgt*), has potential to cause major yield losses in durum wheat. Development of durum cultivars with improved resistance to stem rust is a sustainable option for effective control of this disease. This study was conducted to identify genomic regions associated with resistance to Ug99-derived *Pgt* races using a doubled haploid (DH) mapping population produced from a cross between the resistant experimental line A9919-BY5C and the moderately susceptible cultivar 'Strongfield'. The parents and DH lines were phenotyped for adult plant disease severity and infection response at Njoro, Kenya, for four years, and for seedling reaction to race 11KSK in a containment facility near Morden, Canada. Composite interval mapping using 612 SNP and DArT markers indicated four significant QTL for resistance to stem rust on chromosomes 1B, 4A, 5B, and 6A. A major and stable QTL from A9919-BY5C was identified on the short arm of chromosome 6A (6AS), which accounted for 71% of variation explained for seedling resistance and up to 46% for field resistance. This QTL mapped near the *Sr8* locus and may be *Sr8155B1*, or a novel gene at the same location. Another QTL for adult plant resistance from A9919-BY5C was mapped on chromosome 1B that explained up to 14% of the phenotypic variation and likely is *Sr14*. Two minor QTL were identified in 'Strongfield' on chromosomes 4A and 5B that were inconsistent over years. Markers associated with the 6AS and 1B QTL can be used to proactively stack resistance to Ug99-derived races of *Pgt* into Canadian durum wheat.

Keywords: DArT, durum wheat, QTL mapping, SNP, stem rust, Ug99

Résumé: La rouille noire, causée par *Puccinia graminis* f. sp. *tritici* (*Pgt*), peut occasionner d'importantes pertes de rendement chez le blé dur. Le développement de cultivars de blé dur à la résistance accrue à la rouille noire est une option durable de lutte efficace contre cette maladie. L'étude actuelle a été menée afin de repérer les régions génomiques associées à la résistance aux races de *Pgt* dérivées d'Ug99 grâce à une population dihaploïde (DH) utilisée pour la cartographie, produite à partir d'un croisement entre la lignée expérimentale résistante A9919-BY5C et le cultivar modérément sensible 'Strongfield'. Pendant quatre ans, à Njoro au Kenya, les parents et les lignées dihaploïdes ont été phénotypés afin d'évaluer la réaction des plants adultes à la gravité de la maladie et à l'infection, ainsi que celle des semis à la race TTKSK dans une installation de confinement près de Morden, au Canada. La cartographie par intervalles composites utilisant 612 SNP et des marqueurs DArT a révélé la présence de quatre QTL importants pour la résistance à la rouille noire sur les chromosomes 1B, 4A, 5B et 6A. Un QTL majeur et stable issu d'A9919-BY5C a été identifié sur le bras court du chromosome 6A (6AS), ce qui représentait 71% de la variation expliquée pour la résistance des semis et jusqu'à 46% pour la résistance au champ. Ce QTL cartographié près du locus de *Sr8* peut correspondre à *Sr8155B1* ou à un nouveau gène situé au même endroit. Un autre QTL, issu d'A9919-BY5C et impliqué dans la résistance

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Single-trait, multi-locus and multi-trait GWAS using four different models for yield traits in bread wheat

Parveen Malik · Jitendra Kumar · Sahadev Singh · Shiveta Sharma · Prabina Kumar Meher · Mukesh Kumar Sharma · Joy Kumar Roy · Pradeep Kumar Sharma · Harindra Singh Balyan · Pushpendra Kumar Gupta · Shailendra Sharma

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Abstract A genome-wide association study (GWAS) for 10 yield and yield component traits was conducted using an association panel comprising 225 diverse spring wheat genotypes. The panel was genotyped using 10,904 SNPs and evaluated for three years (2016–2019), which constituted three environments (E1, E2 and E3). Heritability for different traits ranged from 29.21 to 97.69%. Marker-trait associations (MTAs) were identified for each trait using data from each environment separately and also using BLUP values. Four different models were used, which included three single trait models (CMLM, FarmCPU, SUPER) and one multi-trait model (mvLMM). Hundreds of MTAs were obtained using each model, but after Bonferroni correction, only 6 MTAs for 3 traits were available using CMLM, and 21 MTAs for 4 traits were available using FarmCPU; none of the 525 MTAs obtained using SUPER could qualify after Bonferroni correction. Using BLUP, 20 MTAs were available, five of which also figured among MTAs identified for individual environments. Using mvLMM model, after Bonferroni correction, 38 multi-trait MTAs, for 15 different trait combinations were available. Epistatic interactions involving 28 pairs of MTAs were also available for seven of the 10 traits; no epistatic interactions were available for GNPS, PH, and BYPP. As many as 164 putative candidate genes (CGs) were identified using all the 50 MTAs (CMLM, 3; FarmCPU, 9; mvLMM, 6, epistasis, 21 and BLUP, 11 MTAs), which ranged from 20 (CMLM) to 66 (epistasis) CGs. In-silico expression analysis of CGs was also conducted in different tissues at different developmental stages. The information generated through the present study proved useful for developing a better understanding of the genetics of each of the 10 traits; the study also provided novel markers for marker-assisted selection (MAS) to be utilized for the development of wheat cultivars with improved agronomic traits.

Parveen Malik and Jitendra Kumar equal contribution

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Multi-locus genome-wide association mapping for spike-related traits in bread wheat (*Triticum aestivum* L.)

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Abstract

Background: Bread wheat (*Triticum aestivum* L.) is one of the most important cereal food crops for the global population. Spike-layer uniformity (the consistency of the spike distribution in the vertical space)-related traits (SLURTs) are quantitative and have been shown to directly affect yield potential by modifying the plant architecture. Therefore, these parameters are important breeding targets for wheat improvement. The present study is the first genome-wide association study (GWAS) targeting SLURTs in wheat. In this study, a set of 225 diverse spring wheat accessions were used for multi-locus GWAS to evaluate SLURTs, including the number of spikes per plant (NSPP), spike length (SL), number of spikelets per spike (NSPS), grain weight per spike (GWPS), lowest tiller height (LTH), spike-layer thickness (SLT), spike-layer number (SLN) and spike-layer uniformity (SLU).

Results: In total, 136 significant marker trait associations (MTAs) were identified when the analysis was both performed individually and combined for two environments. Twenty-nine MTAs were detected in environment one, 48 MTAs were discovered in environment two and 59 MTAs were detected using combined data from the two environments. Altogether, 15 significant MTAs were found for five traits in one of the two environments, and four significant MTAs were detected for the two traits, LTH and SLU, in both environments i.e. E1, E2 and also in combined data from the two environments. In total, 279 candidate genes (CGs) were identified, including Chaperone DnaJ, ABC transporter-like, AP2/ERF, SWEET sugar transporter as well as genes that have previously been associated with wheat spike development, seed development and grain yield.

Conclusions: The MTAs detected through multi-locus GWAS will be useful for improving SLURTs and thus yield in wheat production through marker-assisted and genomic selection.

Keywords: *Triticum aestivum* L., Molecular marker, Spike-layer uniformity, Multi-locus GWAS, Candidate genes

Background

Bread wheat (*Triticum aestivum* L.) is one of the most widely grown cereal crops in the world and serves as the main energy source for approximately one-third of the global population [1–3]. Several grain yield parameters play important roles in improving wheat yield, including spike number per plant (SNPP), spike length (SL), grain weight per spike (GWPS), fertile spikelet number (FSN), spikelet number (SN), sterile spikelet number (SSN) and grain number per spike (GNPS). These parameters are important breeding targets for wheat yield improvements [4–8]. Understanding the physiological, genetic and developmental basis of spike morphology is significant not only for increasing spikelet number but also for exploiting the fruiting or grain setting productivity of spikelets [9]. Moreover, characteristics of the spike layer uniformity (SLU) are usually determined by the variation

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ORIGINAL ARTICLE

OPEN ACCESS

Assessment of Nanotoxicity of Silver Nanoparticles on Pea (*Pisum sativum*) grown under *ex situ* conditions

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There has been an expanding interest for eco friendly synthesis of silver nanoparticles that don't have so much toxic impacts on crops. Silver nanoparticles have a wide scope of utilizations, for example, catalysis, hardware, photonics, optoelectronics, detecting, agriculture and drugs. In this study, the biologically synthesized and characterization of silver nanoparticles have become the prime areas. Green synthesis of nanoparticles using plant extracts is being explored globally owing to the absence of disadvantages associated with conventional methods. This study reports the synthesis of silver nanoparticles using the extract of *Bambusa vulgaris* (Bamboo), *Azadirachta indica* (Neem) leaves, characterization of the synthesized by using techniques such as Ultraviolet-Visible (UV-Vis) spectroscopy confirmed the synthesis of nanoparticles, Fourier Transform Infrared Spectroscopy (FTIR),Scanning Electron Microscopy (SEM) and EDX studies revealed the characteristics of the nanoparticles synthesized. Also under this, we examined the effects of silver nanoparticles (AgNPs) on pea plants in the terms of silver accumulation, production of reactive oxygen species (ROS), Quantification of Cell Death under *ex situ* conditions.

Key words: silver nanoparticles, reactive oxygen species, Bambusa vulgaris, accumulation

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Green synthesis of silver nanoparticles by *Cassytha filiformis L.* extract and its characterization

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ABSTRACT

Nanotechnology is a new area of research with new possibilities in various fields. Nanotechnology is a having the potential to take forward the agriculture with new tools which promises to increase food production and also protect the agriculture crops from pests, diseases etc. The present study focuses on the green synthesis of silver nanoparticles using plant extracts of *Cassytha filiformis*. Aqueous silver ions when exposed to plant leaf extract were reduced and resulted in a color change to dark brown indicating the formation of silver nanoparticles by using UV–Vis Spectroscopy which showed peak at in range from 400 nm to 480 nm which are characteristic peaks of silver nanoparticles. Synthesized silver nanoparticles were also characterized by other techniques such as Field Emission Scanning Electron Microscopy (FESEM) showed even shaped spherical nanoparticles with particle size of 42 nm. Energy Dispersive X Ray (EDX) showed absorption peak approximately at 3 keV. Fourier Transform Infra Red (FTIR) showed chemical interactions of silver nanoparticles and Atomic force microscope (AFM) depicted the three dimensional structure of silver nanoparticle.

Selection and peer-review under responsibility of the scientific committee of the National Conference on Functional Materials: Emerging Technologies and Applications in Materials Science.

1. Introduction

Cassytha filiformis L. from the *Cassythaceae* family is a therapeutic plant which predominantly utilizes in customary medication for treatment of disease, On account of the nearness of its rich phytochemical content in present day clinical examination, *C. filiformis* has been examined to have various naturally dynamic synthetic mixes with the helpful potential in human wellbeing applications [9,32]. Some of the confined mixes of this plant are aporphine alkaloid, oxo-aporphine alkaloid, cassyformine, filiformine, cathaformine, lignan, actinodophine, and octenine. In the Previous studies, the plant extract strongly support the presence of bioactive phytochemicals such as alkaloids, phenolics, flavonoids, glycosides, resins, proteins, carbohydrates, saponines and tannins [6,26,34].

Silver nanoparticles can be synthesized using various methods including chemical, physical, and biological approaches. Chemicals used for nanoparticles synthesis and stabilization are toxic and lead to non-eco-friendly byproducts. Therefore, there is an expanding interest for "green nanotechnology." Many biological methodologies for both extracellular and intracellular nanoparticles combination have been accounted for till date utilizing microorganisms including microbes [27], growths [11,25] and plants [7,14,38].

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In this research the aqueous extract of the *Cassytha filiformis L.* was used for the green synthesis of stable silver nanoparticles

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Synthesis of mycogenic silver nanoparticles by *Fusarium pallidoroseum* and evaluation of its larvicidal effect against white grubs (*Holotrichia sp.*)

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ABSTRACT

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The severe damage is caused because of grubs. The grubs feed on roots which ultimately affect the development of plants. The affected plants show variable rate of wilting and ultimately die. The dead plants can be pulled out easily. Major crops of India that are affected by white grub infections are listed in Table 1.

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Nanotechnology is a new area of research with ocean of new possibilities. The area of nanotechnology based research is however relatively recent and needs further evaluation for its applica-

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1. Introduction

Potato (*Solanum tuberosum* L.) is one of the most important and edible vegetable crops in the world. In India, 80% of the potato crops are grown in the plains and 20% are grown in hill region and the country holds third position in worldwide potato cultivation area and second position in total potato production i.e. contributes 12.32% of total potato production in world [1]. Nearly 45% of global potato production occurs in three largest potato producing countries that are China, India and Russia [2]. In India, potato is majorly cultivated in planes and the three largest potato producing states are Uttar Pradesh, West Bengal and Bihar (contribute 32.38%, 26.94% and 14.56% of total production respectively), collectively contribute about 75% of the national production [3]. Potatoes are exposed to various diseases caused by plant pathogens that present in soil and airborne which are causing significant yield loss worldwide. Potato is attacked by number of diseases like Early Blight, Late blight, Potato Leaf roll virus, Black leg, Scab, Black scurf, and Wilt, etc. Among these diseases, early blight is the most important one affecting potatoes [4]. Early blight has been the most serious threat to world's potato and has the tendency to destroy the crop completely, resulting in 5 to 70% yield loss [5]. The causal agent of early blight is a fungus, *Alternaria solani* which belongs to Division 'Ascomycota and Order 'Pleosporales' [6]. Another crop which is widely known to be infected with early blight is tomato [7–10]. *A. solani* produces various factors including molecules coded by avirulence genes that allow rapid infection and host tissue colonization [11]. Blight disease has been a problem since 150 years, and many approaches have been undertaken to control it. In order to prevent and protect the crop plants diseases against pathogens, different strategy has

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EVALUATION OF MYCOSILVER NANOFUNGICIDES AS POTENTIAL CONTROL AGENT AGAINST *Phytophthora infestans*

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Original Research Article

ABSTRACT

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Green synthesis of silver nanoparticles by Cassytha filiformis L. extract and its characterization

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ABSTRACT

Nanotechnology is a new area of research with new possibilities in various fields. Nanotechnology is a having the potential to take forward the agriculture with new tools which promises to increase food production and also protect the agriculture crops from pests, diseases etc. The present study focuses on the green synthesis of silver nanoparticles using plant extracts of *Cassytha filiformis*. Aqueous silver ions when exposed to plant leaf extract were reduced and resulted in a color change to dark brown indicating the formation of silver nanoparticles by using UV–Vis Spectroscopy which showed peak at in range from 400 nm to 480 nm which are characteristic peaks of silver nanoparticles. Synthesized silver nanoparticles were also characterized by other techniques such as Field Emission Scanning Electron Microscopy (FESEM) showed even shaped spherical nanoparticles with particle size of 42 nm. Energy Dispersive X-Ray (EDX) showed absorption peak approximately at 3 keV. Fourier Transform Infra Red (FTIR) showed chemical interactions of silver nanoparticles and Atomic force microscope (AFM) depicted the three dimensional structure of silver nanoparticle

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When we focus on India, we find a grave situation of the pending status of cases in Indian courts. The largest democracy has, not surprisingly, a dismal record in speedy delivery of justice. The causes of this are deep-rooted and vague. Though there have been many measures undertaken, little success has been met considering the sheer volume of pending cases. This mission of providing speedier justice will not be complete until the last person gets justice on time.

For most seekers of justice, approaching court is a process of pain and anguish in their hearts. They suffer physically, psychologically, and monetarily. These are not the people who will take the law in their hands. They seek justice with both hands unarmed, tired of the process; their eyes wrinkled from regular visits to the court, but still filled with hope and belief. It is this belief that makes an obligation for the courts to deliver quick and inexpensive justice to these people. However, quick justice should not affect the quality of justice. Justice should be timely, but never without quality.

When we say Quality of Justice, we mean Equality. Equality is the chief attribute of Justice. Justice without equality is no justice. It is equality in delivering justice which makes justice worth seeking. Therefore, this element can never be compromised.

The causes which hinder speedy delivering of justice in India, as mentioned before, are complex and deep-rooted. Sometimes, these reasons are more personal and particular than general. The delaying tactics of the advocates, the fault of the parties, and the provision of unlimited appeals are all responsible for it. The limitations of the measures taken to correct the system are also responsible. Many times, the executive ineffectiveness is at fault, other times the force of popular politics. There are faults within the judiciary, especially at the lower level. These causes are several and deep-rooted, and require courage of self-criticism and resolve to identify them and eradicate them. This needs to be done by everyone, the bench, the bar, the government, the lawmakers, the people, and the society as a whole.

LEGAL ASPECTS OF E- WASTE MANAGEMENT IN INDIA: A STUDY

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ABSTRACT

Electronic waste (E- waste) is the most rising production industry in Bharat and worldwide as well. The E-waste i.e. to lead, mercury, cadmium, metal and range of other substance are the dangerous for the health of human beings and environment. In this era of the technology advancement, we cannot imagine our life without the mobile phones, refrigerator, computers, laptops, mixer, washing machine, oven etc. without analyzing the ill effects of all these products on the human life. Problem of E-waste management is facing by the developing nations continuously, it's a self created problem and some time imported from the developed nations. Lack of awareness among the Indian public about the ill effects of e-waste on environment and human health is also a reason of e- waste problem in India. Maximum e-waste handling is done by the informal sector. Moreover, other reason for this problem is that improper implementation of the e- waste management rules in India.

Therefore, this is the high alarming time that Government has taken some stringent steps for the proper management of the e- waste. This is also the responsibility of the society to stop the India to becoming a dustbin for E waste, which disturb the human life of the individuals. Through our collective efforts we have to sustain the environment for our upcoming generations.

Key words: E- waste, E- waste management, environment, health, human rights.

INTRODUCTION

Technology advancement become a boon for the society, however same time this advancement also become a threat for the society. Faster devolution and later up-gradation of electrical and electronic products, are forcing consumers to discard old products, which in turn accumulate huge e-waste to the solid waste stream. Thousands of old computers, phones, TV sets and radios are become useless every year, most of which either end up in landfills or send to the unauthorized scrap dealers.Electronic waste, a new form of pollution which causes serious danger to the atmosphere and human life too. As we are on the path of development

and electronics become the essential part of our day to day life survival. Here the attention is required for the proper dispose of the electronic items after the end of their useful life.

E-WASTE:

Simply E-waste means the old, broken and obsolete electronic items and material. E- waste also refer the electronic products which become unwanted or non- working and reach to their end of useful life. Technology advancement is so fast that many electronics become scrap after the few years of use. E- waste can be generated from anything such as computers, laptops , TV, washing machines, mixers, CD players, mobile phones, printers, monitors, VCRs etc. Used electronics which are destined for reuse, resale, salvage, recycling or disposal are also considered e-waste. Some definitions of E-waste is as follows:

According to Schedule of **The Hazardous Wastes (Management and Handling) Rules, 2003** as "Waste Electrical and Electronic Equipment including all components, sub assemblies and their fractions except batteries falling under these rules."

E- Wastes (Management and Handling) Rules, 2016- "E-waste means electrical and electronic equipment (EEE), whole or in part discarded as waste by the consumer or bulk consumer as well as rejects from manufacturing, refurbishment and repair processes".

To provide a foundation to support the definition of e-waste, it is necessary to understand the meaning of the word electrical and electronic equipment (EEE) that is "any household or business item with circuitry or electrical components with power or battery supply E-waste consists of all waste from electronic and electrical appliances which have reached their end- of- life period or are no longer fit for their original intended use and are destined for recovery, recycling or disposal.

SOURCES OF E- WASTE:

1. Information and communications technology
2. Electronics used in Offices.
3. Large Household Appliances
4. Small Household Appliances.
5. Toys, leisure and sports equipment etc
6. Medical equipment.
7. Automatic dispensers. Monitoring and control instruments

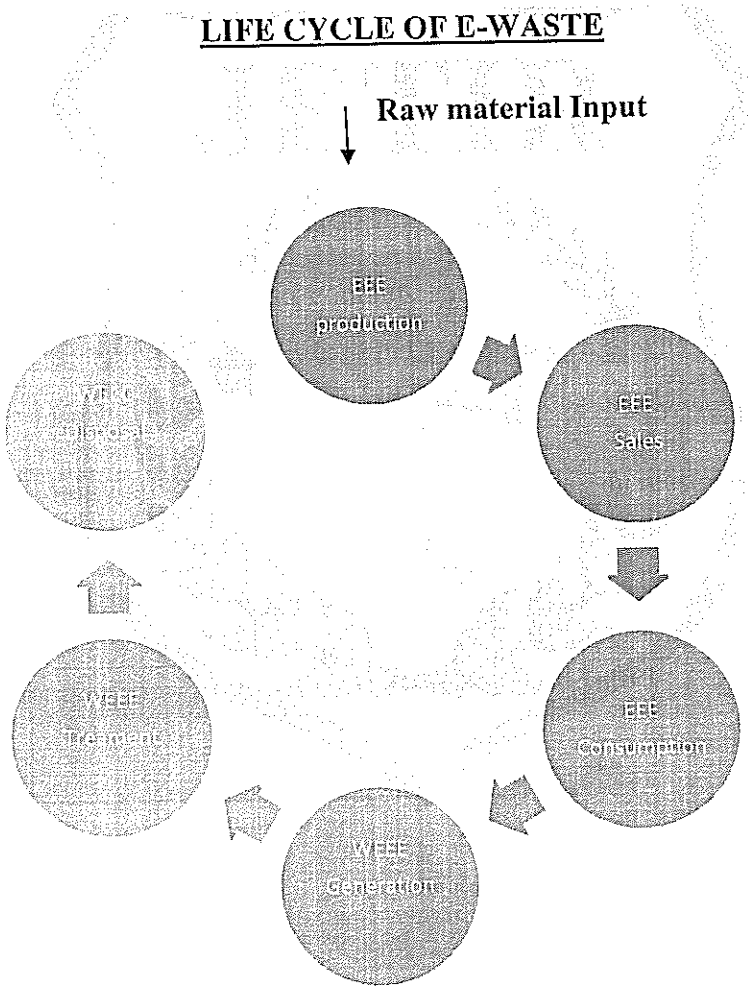
8. Batteries

PROPERTIES OF E-WASTE

E-waste is partially dangerous: E-waste consist different substances, few substance are toxic in nature and can create serious health risks and pose severe pollution the environment due to the improper handling and disposal.

E-waste is partially precious: E-waste also contains some valuable substance, for example end of life motherboards may be sold for more than 1000US$ per ton to recyclers who recover metals[1]. This is the one of the reason because of it preciousness no one is ready to easily dispose of it.

Due to evolution of technology advancements volume of e-waste is increasing daily and causes damages to environment and causes damages to fundamental rights.



Thus, after the complete process raw material convert into the WEEE and goes to landfills.[2]

[1] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3908467/ Access on 11/2/2020, Day – Tuesday, Time- 2:00 pm
[2] https://www.sciencedirect.com/science/article/pii/S0956053X15000033 access on 10/2/2020, day Monday, time 11:00 am

EFFECTS OF E- WASTE:

E-waste, due to its toxic nature has a poor effect on the atmosphere and human rights of the individuals. E-waste in itself consists of a large variety of materials, some of which contain a range of toxic substances that can spoil the atmosphere and become threat to human health if not properly managed such as: Lead and cadmium causes damages to central and peripheral nervous systems, blood systems and kidney damage and also affects brain development of children, and Berillium causes to lung cancers etc.

E-waste collection, transportation, processing, and recycling are subjugated by the informal sector, informal sector is unregulated in India. Often, all the materials and value that could be potentially recovered is not recovered due to the lack of knowledge. Due to leakage of toxins, everyday thousands of workers involve in e- waste management work face the occupational disease, safety issues, health complications.

Seelampur in Delhi, largest e- waste dismantling centre is the biggest example of e-waste dismantling process, where so many adults and children engaged in extracting reusable components and precious metals like cooper, gold, aluminum and various functional parts from the devices.

LEGAL ASPECTS OF E-WASTE MANGMENT IN INDIA

There are certain laws in India which deal with the e-waste directly and indirectly. Which is as follows-

1. **Indian Penal Code, 1860:** IPC impose the criminal liability of those persons who make hazardous to the health and life under the various provisions. Such as negligent[3] and malignant[4] act likely to spread infection of disease dangerous to life. Under Section 278[5]make provision for the making atmosphere noxious to health, which one of the fundamental right under Article 21[6] of the Indian Constitution.

2. **Constitution of India:** Fundamental rights (Part III), Directive principle of state policy (Part IV), Fundamental duties (Part IV- A) of the Constitution of India talks about the ecological protection.

Fundamental Rights: Part III is the back bone of Indian Constitution. It guarantees fundamental rights to the Indian citizens, so that they can live their life peacefully. Clean environment is very necessary for the right to life, without the pollution free environment we cannot lead a healthy life. This rights is already

[3] Section 269 Indian Penal Code,1860

[4] Section 270,Indian Penal Code,1860

[5] Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

[6] No person shall be deprived of his life or personal liberty except according to procedure established by law.

decided by apex court of India in the case of Shanti Star Builders v. Narayan Totame[7], Subhash Kumar v. State. of Bihar[8], Noise Pollution v.In Re[9] etc.

"No person shall be deprived of his life or personal liberty except according to procedure established by law[10]".

Directive principle of state policy: DPSP are the guiding principles for the Union and state government to be kept in mind while framing the legislation and any policy. Although these principles are not enforceable by the court of law in India, but these principles are the very fundamental in the governance of the Government Relevant provision under the DPSP are as follows:

Article 47

"The State shall regard the raising of the level of nutrition and standard of living of its people and improvement of public health as among its primary duties". Article 47 simply says that primary duty of the state is improvement of public health.

The Supreme Court, in *Paschim Banga Khet mazdoor Samity & othrs v.State of West Bengal & others*[11], while widening the scope of art 21 and the government's responsibility to provide medical aid to every person in the country, held that in a welfare state, the primary duty of the government is to secure the welfare of the people.

Article 48

The State shall endeavor to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle

Article 48-A

The State shall endeavor to protect and improve the environment and to safeguard the forest and wildlife of the country"[12].

Fundamental Duties

Article 51A (g)

It shall be the duty of every citizen of India to protect and improve the natural environment including forest ,lakes, rivers and wildlife and have compassion for living creatures.

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[7] 1990(1) SCC 520
[8] (1991) 1 SCC 598
[9] (2005) 5 SCC 733
[10] Article 21, Constitution of India,1950.
[11] AIR 1996 SC 2426
[12] Inserted By the Constitution (42nd Amendment) Act, 1976, sec. 10 (w.e.f. 3-1-1977)

3. Criminal Procedure Code, 1973: Cr.PC provides for a rough and ready procedure to be used in urgent cases for removal of public nuisances. Environment gets protection under the Cr. P. C. through section 133.

4. Environment Protection Act, 1986: EP Act is umbrella legislation. It was constituted on 19 Nov, 1986, to provide for the protection and improvement of environment and for matters connected with environment. It specifically provides for the creation of Pollution Control Boards to exercise powers and perform functions relevant to the regulation of environmental pollution. In *Vellore Citizen's welfare forum v. Union of India*[13] the apex court described the importance of the Environment Protection Act, 1986 and said that the main purpose of the Act is to establish the authorities with adequate powers to control and protect the environment.

5.The Hazardous Waste (management and handling) Rules, 2003: This rule categorized e-waste or its constituents under "hazardous" and "non hazardous" waste. As per the rules, "hazardous waste" is defined as any waste which by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or environment.

6.The Hazardous waste (Management. Handling and Transboundary Movement) Rules, 2008: These rules provide the registration process of hazardous waste recycler. According to these rules, every person desirous of recycling or reprocessing hazardous waste including electronic and electrical waste is required to register with the central pollution control board (CPCB). The e-waste handler is required to register with the CPCB The authorized recycler or re-processer or re-user should have environmentally sound facilities for recovery of metal and plastic and the waste should be sent to them. Under these rule the ministry of environment and forest is the nodal ministry to deal with the transboundary movement of the hazardous wastes and to grant permission for transit of the hazardous wastes through any part of India.

7. Guidelines for Environmentally sound management of E-waste, 2008: The objective of these guidelines is to provide guidance for identification of various sources of e-waste and the approach and methodology for handling and disposal of e-waste in an environment friendly manner. These Guidelines shall apply to all those who handle e-waste which includes the generators, collectors, transporters, dismantlers, recyclers and stakeholders of e-wastes irrespective of their scale of operation. The guideline also covers the concept of Extended Producer Responsibility

9. **E-waste (Management) Rules, 2016**

Under the direction of E-waste (Management & Handling) Rules, 2011, the ministry of environment ,forest and climate change has notified the E- waste (Management) Rules, 2016.Some of the Key features of the rules are as under:

[13] (1966) 5 SCC 670

CFL and other mercury containing lamp come under the purview of rules.

Collection mechanism based approach has been adopted to include collection centre, collection point, take back system etc for collection of e-waste by Producers under Extended Producer Responsibility (EPR).

3. Option has been given for setting up of PRO, e-waste exchange, e- retailer, Deposit Refund Scheme as additional channel for implementation of EPR by Producers to ensure efficient channelization of e waste
4. Authorization shall be in line with the targets prescribed in Schedule III of the Rules. The phase wise collection target for e-waste, which can be either in number or Weight shall be 30% of the quantity of waste generation as indicated in EPR Plan during first two year of implementation of rules followed by 40% during third and fourth years, 50% during fifth and sixth years and 70% during seventh year onwards.
5. Deposit Refund Scheme is also introduced
6. The manufacturer is also now responsible to collect e-waste generated during the manufacture of any electrical and electronic equipment and channelise it for recycling or disposal and seek authorization from SPCB.
7. Dealer or retailer or e-retailer shall refund the amount as per take back system or Deposit Refund Scheme of the producer to the depositor of e-waste.
8. State government is also responsible for the safety, health of the workers involving in the dismantling and recycling operation.
9. It is duty of State Government to implement these rules and submit a report to the Ministry of Environment, Forest and climate change.
10. The transportation of e-waste shall be carried out as per the manifest system whereby the transporter shall be required to carry a document (three copies) prepared by the sender, giving the details.
11. Financial liability also imposed for the violation of the provisions of e-waste rules.
12. Urban Local Bodies (Municipal Committee/Council/Corporation) has been assign the duty to collect and channelized the orphan products to authorized dismantler or recycler

NEED FOR THE PROPER DISPOSE OF E-WASTE:

1. India is moving towards digital age, the rising electronic waste management is necessary for ensuring sustainable growth.

2. "Digital India" campaign for digital connectivity involves handling a lot of electronics for transmission and dissemination of information Thus India must focus on this waste because conventional waste management was belated and improper. India must not delay on this e-waste management.

as almost 2.4% of global e-waste almost more than its contribution to global GDP. The rise in upto 1.7 million tonnes is testimony of the fact that this waste was improperly managed. Moreover, rding to a study 70% of the landfills are composed of e-waste. This is concern because e-waste like ercury in CFL can leach and create land pollution, skin diseases, cancer, etc.

4. The laborers who work on disposed electronic waste like circuit boards resort to corrosion with acids, burning, manual pricking for extracting metals like Copper, tungsten, etc. They are vulnerable to diseases. Often the disposed waste is thrown in canals and water bodies leading to water pollution and skin diseases. Other thing is that India prohibit child labour but in dismantling of e waste children are also engaged which is hazardous for their health and life too.

5. Through the Swachh Bharat Mission or Clean India movement, Govt. aware the public about the waste such as "Geela Kachra, Suka Kachra, Bio- medical waste". But e- waste is not the part of this Mission which is dangers for the human life.

Nokia, mobile phone company is one of the very few companies that seem to have made serious effort in this direction since 2008 towards the safe disposal of electronic items. So, it makes mandatory for all the companies to create channels for the proper collection and disposal of e-waste in India as per the direction of Central Pollution Control.

CONCLUSION: Most of the developing countries, like India faces a problem of continuous growth of e waste because of life style changing which now more depends on EE equipments in which continuous improvement has been made and the products are becoming obsolete speedily especially in case of computer and mobile phones, laptops etc. So this becomes a big challenge for India to control the E waste.

Other point is that the maximum e- waste is control through the informal sector which have a very bad impact on atmosphere and human health. It should be done through the environment friendly manner. Unfortunately there is no large scale organised sector to do the recycling work and it is performed only by unorganised sector.

Because of it the risk of damage to human health and natural environment increases as no precaution is taken while performing the recycling work and also the involvement of women and children has worsen the condition. The import of e-waste from other countries has ill-effect on environment. Lack of awareness among the society regarding e-waste, the measures like ERP and Take back policy is very difficult. The legislation work regarding e-waste had been done lately in time and it is not performing well.

For controlling this serious problem government must provide some benefits, which could be in form of concessions in form of tax to the electronic industries. Moreover, the e-waste collection targets need to be regularly reviewed and renewed to ensure compliance across India on collection of e-waste.

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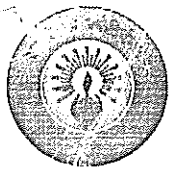

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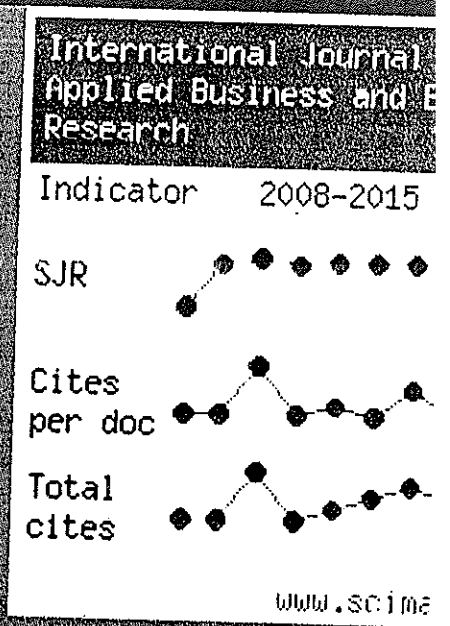

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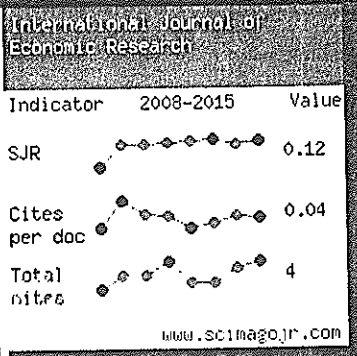

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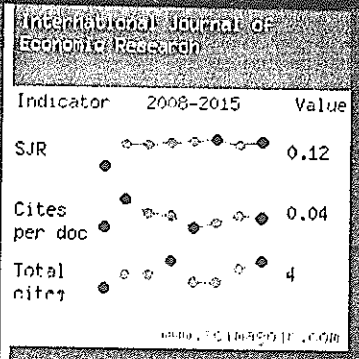

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3.4.5

A study of the effect of gender and yoga on psychological wellbeing of middle age adults

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Online published on 24 April, 2018.

Abstract

This present research paper is an attempt to find out the effect of gender and yoga on psychological well-being of middle age adults. For this purpose, the sample was consisted of 150 male and female subjects of age range 30–40 years, who were randomly selected from yoga centers, walking parks and offices. These subjects were further consisted of three groups of yoga practitioner (yoga practitioner, 50Ss; morning walkers, 50Ss and late wakers, 50Ss). Each group of yoga practitioners was further consisted of two gender groups; they were Male 25Ss and females, 25Ss. In this way a 3x2 factorial design was employed with 25Ss in each cell. The psychological well-being of subjects was measured by PGI General Well-being scale constructed by Dr. Santosh K. Verma and Amita Verma. Obtained data were analyzed by mean, SD and ANOVA. The results indicate that yoga was found to be significantly influencing psychological well being of adult subjects and gender was not found to be effective on psychological well being of adult subjects significantly.

Top

Keywords

Psychological well-being, Gender and Yoga.

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Meaningful experiments by design

R Barker Bausell. *The design and conduct of meaningful experiments involving human participants: 25 scientific principles.* New York, NY: Oxford University Press, 2015. ISBN 9780199385232; xiv + 331 pp. (pbk)

Reviewed by: Snehlata Jaswal, *Thapar University, India*

Experimentation is a rather difficult research method to adopt. Even more difficult is studying human participants. Furthermore, only a handful of research programmes can fulfil the criterion of being meaningful. With its focus on "meaningful experiments involving human participants," this book is a welcome source of knowledge and insight regarding the experimental method. It is useful for beginners as well as experts. Beginners would find the concepts and techniques of experimental design easy to follow without any requirement of extensive knowledge of mathematics or statistics. Experts will be happy to revisit many sections to have a clear grasp of concepts, clarifying doubts, and understanding debates.

The author speaks to audiences in a wide variety of scientific disciplines which use the experimental method but are not rigorous enough because they deal with human participants. The book reveals an appreciation of the problems that are concomitant with research on human beings and primarily teaches us techniques to solve these problems through the principles and strategies it enunciates.

Part I is an introduction to the scientific process of experimentation and focuses on how experiments allow causal inferences. Not only does this section describe why we should choose experimentation rather than any other method of scientific research, it also clearly delineates the limitations of experiments and elucidates important principles of design which lead to correct interpretations as against the common pitfalls which lead to erroneous or incomplete conclusions. Thus, this section gives the reader the rationale for choosing experimentation over other methods and *inter alia* introduces the basic principles of good experimental design.

Part II delineates and describes the various research designs—ranging from those with a single independent variable to complex longitudinal designs. The introductory chapter of this section links to the previous chapter and section as it reiterates the importance of the control group. It further discusses issues in the selection of an adequate and relevant control group, the experimental strategy of random assignment of participants to groups, and problems associated with attrition of participants. Subsequent chapters in this section focus on the between-subjects single-factor design, factorial designs, and repeated measures (within-subjects) designs. The last chapter also introduces the experimental strategies of counterbalancing and blocking. Thus, this section gives the reader all the information needed to select the experimental design and strategies appropriate to his or her purpose.

Part III gives the information requisite for "good" experiments. One chapter describes the strategies to be used to maximise the power of experiments. It discusses issues such as sample size, significance levels, and their relation with maximising statistical power. The solutions offered are all considerations important at the design stage of experiments. Thereafter, the second chapter in this section describes issues in the conduct of experiments. It exhorts us to construct a manual of operating procedures so that all concerned people conduct the experiments in a uniform and standard way. The chapter begins with what "not" to share with experimental staff and then describes all aspects which must go into the manual, namely, recruitment, implementation of experimental conditions, data collection, training of research staff, pilot study, and documentation. It gives useful guidelines for the conduct of experiments to mitigate the anticipated problems and ends with a discussion of data handling issues such as data entry, protection, and analysis. Although there is no detailed discussion of analytic procedures, the author does exhort the readers to develop sufficient statistical expertise to analyse data themselves or at least understand and evaluate what has been analysed by others.

Part IV is seemingly a motley collection of issues. Nevertheless, this section is crucial because it enables the reader to think beyond the basics and grapple with issues in applied research, which are all the more complex in the context of human research.

The section begins with a chapter on external validity (generalisability) of experiments, clarifying the concept of external validity, discussing the questions that must be answered to ensure generalisability (as per Green & Glasgow, 2006). The author further suggests pragmatic trials, meta-analysis, multi-centre experiments, and replication experiments as four strategies to enhance generalizability. The next chapter discusses the use of experimental designs in single-case experiments,

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Indian Management Studies Journal

Comparing the Locus of Control of Male and Female Employees in Public and Private Sector Banks in India

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Abstract

This research proposed to study gender-differences in locus of control (LOC) among public and private sector bank employees. LOC is a construct that examines people's beliefs regarding the extent to which they perceive they are in control/ not in control of what happens to them. Individuals vary in their belief regarding what controls the events of their lives – self, others, or chance. 400 public and private sector bank employees were chosen from selected banks in the tricity (Chandigarh, Panchkula, and Mohali). Levenson's IPC scales (1973) were administered to determine their locus of control. Results showed that public sector employees scored higher than private sector employees in 'Internality', attributing control to themselves, whereas private sector employees were higher than public sector employees in 'Powerful Others', implying that they felt their life outcomes were controlled by other powerful people around them. There were no differences in 'Chance' locus of control. A significant interaction of sector and gender was found influencing the internality dimension as male employees in the public sector were more internal than female employees, but in the private sector, female employees were more internal than their male counterparts. In fact, the male employees of private sector banks were significantly lower than all the other three groups in Internality. Results are discussed in terms of the interplay between personal and socio-cultural factors in locus of control operating in the Indian scenario.

Key Words

Locus of Control, Internality, Powerful Others, Chance, Bank Employees

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Effect of Pubertal Maturation on Self-Esteem of Adolescents

Alpna Agarwal* and Neha Kapoor**

The purpose of this study was to find out the effect of pubertal maturation on self-esteem of adolescents. The sample comprised of total 180 adolescents (V to IX class). There were three groups indicating three phases of pubertal maturation i.e. early, mid and late. In each group there were 60 subjects.Further in each group there were 30 male and 30 female. The self-administered rating scale for pubertal development adapted from an instrument described in Peterson et al. (1988) was used for assessment of pubertal development. Indian adaptation of Battle's Self Esteem Inventory for Children by Kumar (1977) was used for the assessment of self-esteem. The data were analyzed through mean, ANOVA and Newman Keul's multiple comparison test. The results indicate that pubertal maturation and gender both have significant effect on self-esteem.

[**Keywords :** Pubertal maturation, Self-esteem and Gender]

1. Introduction

In all aspects of individual development there is change over the adolescent decade, largely in a positive direction. Puberty is the period in children's lives when they experience physical changes by which their bodies eventually become adult bodies that are capable of reproducing. Puberty is a sequence of events by which a child becomes young adult. Growth is fast in the first half of puberty and stops when puberty is completed. Before puberty boys and girls are only different in having genitalia (sex organs). During puberty several other differences between

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Role of yogic exercises in stress of hostelers

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The purpose of the present investigation was to study the effect of yogic exercises on stress of hostlers. For this purpose stress was measured with the help of student stress scale constructed by Bhatia and Pathak. The sample consisted of 30 girls (18-25 years age) The girls were selected from Rani Laxmi Bai Girls Hostel, Chaudhary Charan Singh University, Meerut. Yogic exercises were used as independent variable. Training of asana and pranayama was given them for 30 days (regularly in the morning). For analyzing the data mean, SD and t-value were calculated. T value is found significant at .01 level. On the basis of obtained results it can be said that yogic exercises reduce the level of stress.

Keywords: yogic exercises, stress, asana and pranayama

Stress is a fact of everyday life. When people reach out for help, they are often dealing with circumstances, situations and stressors in their lives that leave them feeling emotionally and physically overwhelmed. Many people consider stress to be something that happens to them, an event such as an injury or jobs loss. Others think that stress is what happens to our body, mind and behavior in response to an event (e.g., heart pounding, anxiety, or nail biting). Stress can be a result of positive and negative experience, and it is necessary for survival (i.e., imagine hunting large prey on which one's entire tribe is dependent & some hunting large prey on which one's entire tribe is dependent) and some stress continues to be a helpful part of our modern lives since it motivates us to accomplish tasks or make needed changes.

According to Selye (1956), stress is the psychological response of the body to physical and psychological demands. Others have conceptualized it as the condition that results when person environment transaction lead the individual to perceive a discrepancy between the demands of a situation and resources of person biological, psychological or social system It is important to know how to respond to stress. Then we will know when it is affecting us from there we will be able to do something about.

Stress can be defined as a demand placed on our psychological and physical functioning that threatens an individual's adaptation to a given situation. The term stress is generally used in two senses: (1). It is used to refer to the negative feeling and emotions that are generated in us. (2) The term is also used to refer to presence of various stressors that is various situations that give rise to stress People feel a sense of loss of control of the events in their lives. They feel helpless to change what is going on There is an anticipation or occurrence of physical and psychological pain. For example, the individual fears being injured or killed or threatened with a loss of self-esteem. There is a loss of social or emotional support. In other words stress an emotionally disruptive or upsetting condition occurring in response to adverse external influences and capable of affecting physical health which can be characterized by increased heart rate, a rise in blood pressure, muscular tension, irritability and depression. A systematic analysis of various definitions of stress reveals that the term has been used in different ways: as a stimulus, as a response, as an interviewing variable or as an interaction between person and environment.

In the short term, a stressful work environment can contribute to problems such as headache, stomachache, sleep disturbances, short temper and difficulty concentrating. Chronic stress can result in anxiety, insomnia, high blood pressure and a weakened immune system. It can also contribute to health conditions such as depression, obesity and heart disease. Compounding the problem, people who experience excessive stress often deal with it in unhealthy ways such as overeating, eating unhealthy foods, smoking cigarettes or abusing drugs and alcohol. We are continually sizing up situations that confront us in life. We assess each situation, deciding whether something is a threat, how we can deal with it and what resources we can use

If we conclude that the required resources needed to deal effectively with a situation are beyond what we have available, we say that situation is stressful - and we react with a classical stress response. On the other hand, if we decide our available resources and skills are more than enough to deal with a situation, it is not seen as stressful to us. Most of us have varying interpretations of what stress is about and what matters Some of us focus on what happens to us, such as breaking a bone or getting a promotion, while others think more about the event itself. What really matters are our thoughts about the situations in which we find ourselves.

Many different things can cause stress from physical to emotional. Identifying what may be causing is often the first step in learning how to better deal with stress. Perceived threat will lead a person to feel stress. This can include physical threat, social threat, financial threat, and so on. It will be worse when the person feels he can reduce threat, as this affects the need for sense of control Threat can lead fear, which again leads to stress. Fear lead to imagined outcomes, which are real source of stress When one is not certain, and unable to predict, and hence not in control, and hence may feel fear threatened by that which is causing uncertainty When there is a gap between what we think, then we experience cognitive dissonance, due to which we feel stress Dissonance also occurs when we can't meet circumstances There may be many other causes

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Feature Binding of Sequentially Presented Stimuli in Visual Working Memory

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Feature binding is a process that creates an integrated representation of an object. A change detection task with four stimuli is used to study color-shape binding of sequentially presented stimuli. Given the immense importance of locations in feature binding, and noting the confound of location information with simultaneous presentation, we compared simultaneous and sequential presentations when locations remained the same from study to test and when they changed randomly. In Experiment 1, sequential presentation implied showing the stimuli one by one to gradually build up the study display. There were no differences between the two modes of presentation in this experiment, although performance was better with unchanged locations than random locations. Experiment 2 used a sequential presentation when one stimulus vanished as the next was presented. An interaction effect showed that performance was much better with unchanged locations than random locations with simultaneous presentation, whereas locations had no effect in the sequential presentation condition. Three subsequent experiments, with drastically reduced presentation time for the display in the simultaneous presentation condition (Experiment 3), with blank intervals inserted after every stimulus in the sequential presentation condition (Experiment 4), and with a mask given immediately after the study-display presentation (Experiment 5), showed results similar to Experiment 2. Thus, we surmise that locations are a factor only in simultaneous presentation, and not in sequential presentation, and the difference between the two conditions can be attributed to post-perceptual factors within visual working memory.

Keywords: feature binding, simultaneous presentation, sequential presentation, locations, visual working memory

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Feature binding is the process by which different characteristics, such as, orientation, size, shape, color, and location, are integrated to create an object. Binding is a necessary process for accurate perception of the world. Not only does it allow the separation of figure and ground, but also the differentiation of one object from another. Objects in the real world differ in space as well as time. Presumably, feature binding helps us differentiate objects not only when they are present together at the same time in our experience, but also when they are experienced at different times, say in a sequence. Our aim in this research is to explore the factors – whether distinct or the same – which operate in the binding of simultaneously and sequentially presented stimuli.

For testing binding in laboratory environments, a change detection task is often used. A change detection task presents a study display and a test display. Participants need to detect

Stressors and Coping Mechanisms among Teachers of Special Schools

3.4.5

Chaudhary, R. , Kumar. S.

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Abstract

Matrix The paper aims to find out the coping mechanisms used by teachers against the challenging environment of special schools. The subjects for the study consisted of 20 school teachers related to special schools taken from special schools of Meerut and Moradabad city. The selected teachers were in the age group 30±5 years and were having teaching experience of not less than two years in special schools These subjects were belonging to similar educational status, that was graduation with experience in special education or they were having the required qualification for special education schools in India. The data was collected individually through comprehensive interviews of teachers of special schools after developing healthy rapport with them. The stressors related to mentally disabled children, parental expectations and support from colleagues, social response, and school environment were discussed. About this, the consequent use of coping mechanisms was also discussed. Obtained data were analyzed by two experts using content analysis and the contents in the common consensus of both experts were analyzed and discussed. The obtained results indicated that the teachers of special schools experience neglect and rejection from society, failure of efforts, negative response from parents and sometimes feeling of worthlessness Further, it was also obtained that the teachers use emotional coping mechanisms most often to deal with the stressors of the school environment.

Keywords

Stressors Coping Mechanism Intellectual Disability Special School Teachers

3.4-5

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Deep learning helps EEG signals predict different stages of visual processing in the human brain

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ABSTRACT

Analysis of electroencephalogram (EEG) signals to determine the nature of visual stimuli being experienced by a person is an active area of research. It is key to understand the link between human brain and behavior, especially for brain computer interface (BCI) applications and rehabilitation of patients suffering with neurological disorders. In this research, we conducted an experiment comparing two stages of visual processing, determined distinct EEG signals associated with them, and subsequently used a classifier to distinguish the two stages. EEG data was collected using a feature-binding experiment that required subjects to detect changes in color and shape binding after 100 ms and after 1500 ms. The two stages denoted by these study-test intervals were determined using features extracted from both time and frequency domains. These were used to separately train various machine learning classifiers. The time-frequency domain representation of the signal was used to train a convolutional neural network (CNN). Promising results were obtained. Thus, the contribution of the paper is two-fold. Firstly, we carry out EEG data analysis using deep learning to classify whether the EEG trial belongs to 100 ms class or 1500 ms class. Secondly, we connect these results to predict different stages of visual processing in human brain and visual feature binding. Thus, deep learning can help us predict the stages of visual processing and, hence, unlock important insights regarding the temporal dynamics of brain functioning. This can help in building relevant tools for BCI applications such as neuro-rehabilitation of subjects suffering impairments in visual feature binding.

1. Introduction

Visual feature binding is the brain process that integrates various features such as color, shape, location, size, orientation, etc. to form a coherent object [1–4]. Brain analyzes the incoming sensations and codes information about an object in different brain areas. Discrimination of individual features and subsequent integration of separate features into a unified representation of the object is basic to higher order information processing. Whether binding is automatic and instantaneous, or is a resource demanding process that takes place over a period of time, is still not a settled question. Inter alia, this question asks whether all features are bound together in the incipient stages of visual processing and then the object is maintained only in the visual working memory (VWM), or whether the binding process continues such that the representation of the object is steadily and gradually refined (and strengthened) in VWM. The answer to this question is practically important because patients with brain damage due to head injuries, stroke, etc often show alterations in feature binding. Deficits in feature binding are also presumed to be an early cognitive marker of chronic disorders such as Alzheimer and Schizophrenia [5–8]. Designing rehabilitation tools and programs for such patients using brain computer interface (BCI) requires a precise delineation of the characteristics of different stages of feature binding. High temporal resolution of electroencephalography (EEG) signals makes them particularly useful in the study of information processing in human brain. Thus, it was of interest to study the electrophysiological correlates of binding at two distinct stages of visual processing in order to ascertain whether we can use this information to train a machine learning classifier.

Most studies of feature binding use a change detection task at the molar level of cognitive behavior. The task presents two visual displays to the participant who has to decide whether there is a change in the two displays. The first is the study display, which the participants have to memorize. In the intervening period, either a masking or blank display of varying study test intervals is presented. Then, the

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Problem Focused Coping of Old Age Home Residents as Compared to Domestic Home Residents

3.4 5

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ABSTRACT

The present study aims to investigate the problem-focused coping of old age home residents and own home residents of different ages and gender. The study was conducted on 120 old age male and female subjects of age range 70 + 10 years. These subjects were taken from senior citizens staying in old age homes (60SS) and in the homes of/with their blood-related son (60SS). Each group of senior citizens further consisted of two groups of age, i.e., 60-67 years (30SS) and 73-80 years (30SS). Each group of age again consisted of two groups of gender, they were male and female with 15SS in each cell. In this way, a 2x2x2 factorial experimental design was employed in the research. A standardized test, i.e., Coping Strategies Scale developed by Shrivastava (2001) was used for measurement of variables under study. Data were collected individually from each subject after taking their consent. Obtained data were statistically analyzed by Mean, SD, and ANOVA. The results indicated that old age home residents, male subjects, and late age elderly people were found to be showing significantly higher scores on problem focused coping as compared to their counterparts.

Keywords

Problem Focused Coping, Old Age Home, Age, Gender

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RELATIONSHIP BETWEEN DISPOSITIONAL MINDFULNESS AND PSYCHOLOGICAL WELL-BEING AMONG ADULTS

Annu Tyagi*
Alpna Agarwal**

ABSTRACT

Mindfulness refers to the process of paying a specific level of attention to moment-to-moment experience (Kabat-Zinn, 1990). Few have disposition to Mindfulness. The aim of the present study was to find out the relationship between dispositional mindfulness and psychological Well-Being among early adults in Hindi speaking states of India between the ages of 18-25 years. A total of 500 adults were included in the study who filled questionnaire online. Our findings indicate that dispositional mindfulness is positively associated with psychological well being, and its different dimensions given by Carol Ryff

Keywords : Dispositional Mindfulness, Psychological Well-Being, Adults

For the maintenance and promotion of well-being, many, psychological, philosophical & spiritual traditions highlight the relevance of awareness quality (Wilber, 2000). Still the concept of being mindful or benefits of staying focus in present is less explored. Mindfulness is the ability of an individual to remain focused in present situation without judging or weighing it as wrong or right.

Glomb, Duffy, Bono, and Yang (2011) defined mindfulness as "a state of consciousness characterized by receptive attention to and awareness of present events and experiences, without evaluation, judgment, and cognitive filters" (p. 119).

Mindfulness is age old technique in Buddhism which has immense importance in present day life. Practicing mindfulness is not related to Buddhism, but it focus on peaceful and harmonious relation with oneself and with everything in the world, It emphasise on exploring who we are, questioning our perspective of the outside world and our relation with place in it, and creating a sense of gratitude for each and every moment we are living (Kabat-Zinn, J. (1994). On the other hand mindlessness is absence of awareness, such as when anybody refuses to recognize or focus to a thought, feeling, purpose, emotion or on an object (Brown & Ryan, 2003).

Several studies have supported that being mindful leads to better mental functioning and enhance psychological wellbeing. Depression, anxiety, and psychological wellbeing were all highly linked to mindfulness and certain of its aspects (Brown & Ryan, 2003).

A lot of clinical psychology studies used mindfulness to investigate a variety of psychological problems. Research on Mindfulness, has been shown to be linked with enhanced self-esteem, successful self-regulation, emotional stability, including decreased reaction to emotional stimuli (Brown & Ryan, 2003; Giluk, 2009; Masicampo & Baumeister, 2007; Rasmussen & Pidgeon, 2011).

Psychological well-being (PWB) can be defined as "a generalised feeling of happiness" (Schmutte and Ryff, 1997, p. 551). Ryff (1997) has defined it as "progressions of continued growth across the life course" (p 99) He gave a six factor model of PWB which are

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Research Article

Validation of the Factor Structure of Acceptance and Action Questionnaire II (AAQ II) in the Indian Context

Annu Tyagi[1] and Alpna Agarwal[2]

Abstract

Psychological inflexibility, is the rigid dominance of psychological reactions over chosen values, in guiding action It as a faulty self-regulation process linked to poor mindfulness, avoidance of certain inner experiences, and a lack of clarity and commitment to personal ideals which results in mental health issues. The Acceptance and Action Questionnaire-II (AAQ-II) is a broadly used measure of psychological inflexibility. The present study aims to validate AAQ-II in Indian context and then evaluate its psychometric properties and factor structure. In this study, 7 items of the AAQ-II, developed by Bond et al. (2011), were translated in the Hindi language and adopted in the Indian context A total of 1000 Hindi speaking adults (18 above) from different Hindi speaking states were included in the study. An Exploratory Factor Analysis and a Confirmatory Factor Analysis were performed to test the factorial structure of the AAQ-II, and the internal consistency of the scale was studied. The result supported the scale's unidimensionality. The obtained Cronbach's alpha revealed satisfactory internal consistency with a value of 0.84. Based on the psychometric properties obtained, it is concluded that AAQ-II is a reliable measure to assess psychological inflexibility among adults in India.

Keywords: Acceptance and Action Questionnaire-II (AAQ-II), Indian Adaptation, Exploratory Factor Analysis, Confirmatory factor analysis

There is a large and growing Body of Evidence that the mental health and behavioural performances of an individual depends more on how they deal with their thoughts and feelings. If they have rigidity that is in-flexibility in their thoughts it results in several psychological issues and on the other hand if they are flexible in their thinking pattern it results in less distress.

Psychological flexibility is the ability to be aware of and accept one's actual state without attempting to avoid or manage negative events is referred to as psychological flexibility. (Mc Craacken & Vowels, 2007; Hayes et al., 2006)It is a broad term that encompasses a variety of dynamic processes that take place over time. This can be seen in how a person (1) adjusts to changing situational demands, (2) re-allocate mental energy (3) transforms viewpoint, and (4) manages conflicting interests, desires, and life domains. Rather than focusing on particular content

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3.4.5

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Role of Age in Gratitude of Males and Females

Chitra Gupta and Alpna Agarwal***

The utility of gratitude has been recognized in many ideologies, culture and religion. The purpose of this research paper was to study the role of age in gratitude of males and females For this purpose 160 subjects were assigned from Bijnor and Meerut District (U.P). Four age groups (late adolescents, middle adulthood, late adulthood and old age) have been selected for this study. In each age group there were 40 subjects, out of which there were 20 males and 20 females. Hindi adaptation done by Rai and Singh (2010) of Gratitude Questionnaire (GQ-6) constructed by McCullough, Emmons and Tsang (2002) has been used. 4X2 factorial design was used. For calculation ANOVA, multiple comparison test (Tukey test), mean and SD have been used. 'F' value of age is significant at .01 level and gender is also significant at .05 level. On the basis of results it can be said that age and gender affects the gratitude of adults

[Keywords : Gratitude, Age and Gender]

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Editorial: The Balanced Triad of Perception, Action, and Cognition

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Keywords: perception, action, cognition, embodied cognition, imitation, self-concept

The Editorial on the Research Topic

Perception, Action, and Cognition

Conceptual distinctions between perception, action, and cognition are convoluted in real world proceedings, as we meander through life, tied to past thoughts and actions, oriented toward future goals, guided by current perceptions. The research topic "Perception, Action, and Cognition" aimed to go beyond the already established perception-action links to study the role of cognitive mechanisms in this triad.

A popular way of conceptualizing the triad of perception, action, and cognition is the idea of embodied cognition. The first section entitled "Embodied cognition" presents seven articles related to this concept. In the leading article, Hommel develops an efficient way to conceptualize embodied cognition using the Theory of Event Coding (TEC) framework. Arguing against the anti-cognitivist stance of many embodiment theorists, he firmly puts cognition back in the perception-action link, by maintaining the importance and involvement of internal representations in the production of actions. Vernon et al. propose that perception-action coupling is not only manifest in the behavioral arena, but also shows up in the internal processes of the agents, particularly those related to the self. The self-organizing, self-producing, and self-maintaining processes explain the reciprocity of perception and action. The sense of presence, which is the focus of the article by Triberti and Riva actually implies the presence of the "self" in the environment where perception-action coupling is manifest. Brizio and Tirassa go a step further to expound on how the mind is rooted in the self, particularly the biological self. They offer a taxonomy of control systems based on whether they are intentional, non-intentional, or meta-intentional, drawing on arguments from diverse disciplines ranging from psychology to biology to philosophy to artificial intelligence. The next two articles provide evidence for embodied cognition from clinical samples. Dreyer et al. report evidence from two patients with focal lesions, regarding sensorimotor systems in the cortex being crucial for the processing of semantic concepts, suggesting that without intact perceptual motor systems, meaningful cognition is all but impossible. Wolpe et al. show that Parkinsons' Disease (PD) patients with higher levodopa dose equivalent show an abnormally high awareness of their actions and their positive outcomes, providing evidence for intact action systems feeding perceptual awareness. Finally, evidence regarding action being important for cognition also comes from a cross cultural study by Wang et al. who studied children's use of imitation in learning how to categorize objects. They propose that imitation of an action leads to direct experience, which in turn stimulates rule learning/categorization. This process is the same across the two cultures studied—Chinese and US.

The rest of the articles are ingenious forays into the socio-cultural realm. The second section of the research topic is, therefore, titled "The external world and inner reality." We begin the section with mirror mechanisms in the brain, the biological underpinnings of social perception and interactions. Volta et al. report an fMRI study that showed similar brain areas to be activated whether participants were actually walking or merely observing someone else walking,

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Editorial: What Next - The Cognition of Sequences

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Keywords: working memory, sequences, cognition, sequential learning, sequential effects

Editorial on the Research Topic

What Next - The Cognition of Sequences

Sequences are ubiquitous in our lives, yet mysterious and difficult to research because of many confounds. The research topic "What next: The Cognition of Sequences" aimed to understand sequencing behavior by gathering theoretical and empirical articles showcasing current views. Gratifyingly, contributions not only addressed the theoretical debates but also focused on memory for sequences in special populations such as the autistic and the dyslexic, hinting at possible applications in this area. The recurring theme in the contributions is that sequencing is a process within Working Memory rather than merely a perceptual entity.

Proposing a unified theoretical framework for cognitive sequencing, Savalia et al. bring together two diverse debates in the sequencing literature—the implicit vs. explicit nature of sequencing, and the goal directed vs. habit-oriented response systems. They propose that the brain implicitly (automatically) extracts regularities from the myriad, ever changing stimuli, but uses attention to organize them in a hierarchical way. Attention is also needed to organize sequences of responses/actions to achieve a future goal, although when repeated often enough, these sequences acquire the force of habit with a concomitant release from the processes of attention. This theoretical framework serves for both humans and animals, and is perhaps best exemplified by skill acquisition.

In line with these thoughts, Rogers et al. provide empirical evidence that statistical learning of stimulus sequences is indeed implicit, being unaffected by reward contingencies. In their experiment, they found significant visual statistical learning effects, but no-, low-, or high-reward conditions did not cause any differences in the strength of learning. Thus, the amount of rewards did not affect statistical learning of sequences. They conclude that the system that detects links and regularities among stimuli, functions independently of the system that identifies reward contingencies.

Poth and Schneider explore how we remember objects from previous episodes. This could be because we remember visual features of objects or we remember the objects stored in VWM. Using a new paradigm combining letter report and probe recognition, they evaluated the dependence of episodic short term recognition on VWM. The first experiment showed that participants recognized probes more often if they had reported them earlier in a whole report. The second experiment required partial report of one letter, and probes were either for this letter, or those near it, or those far from it. Probe recognition was better for near than for far letters, indicating that episodic short term recognition is only possible for a limited number of simultaneously presented objects due to the encoding limitation of VWM presentations.

De Lillo et al. provide evidence for VWM factors being more crucial than perceptual grouping in the retention of spatial sequences. They used variants of the Corsi task on touch screen monitors and in virtual reality to establish that serial spatial recall is least affected by path length. It is the structure or organization imposed on the stimuli which is the most important factor in the performance of the participants. Their experiments show that visual perceptual grouping factors

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Predicting Human Response in Feature Binding Experiment Using EEG Data

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***Abstract*—The ability to predict future human responses via analysis of electroencephalogram (EEG) signals is an active area of research from the viewpoint of understanding human brain and behavior, brain computer interface (BCI) applications, and neuro-rehabilitation of patients suffering with neurological symptoms and disorders. In this work, we predict human responses via analysis of EEG signals of healthy young adults collected during an experiment of visual feature binding. The subjects were asked to detect changes in color-shape binding of four objects shown in two successive screens with a gap of 1500 ms. The behavioral experiment comprised 96 trials as EEG data was collected simultaneously from a 21-electrode machine. The EEG data was pre-processed and artifacts were removed using independent component analysis (ICA). Feature reduction was carried out using principal component analysis (PCA) and linear discriminant analysis (LDA). A number of machine learning classifiers were trained on the EEG data of 15 subjects to predict the response of the subject in the color-shape binding experiment. Results are promising and show that EEG signal analysis can help in building relevant tools for the neuro-rehabilitation of subjects suffering with impairments in visual feature binding or tools for BCI applications.**

***Keywords*: EEG Signal Processing, Feature binding, Deep learning, Brain Computer Interface**

I. Introduction

Feature binding is the process of integrating various features to accurately perceive an object. Extracting features from the environment and accurately integrating them as objects is the basic step in information processing in humans as well as in machines. Retaining these objects in memory enables higher order processing involving manipulation of the objects.

Several previous studies have used EEG to identify evoked response potential (ERP) components related to various cognitive tasks. The ERPs have been combined with change detection tasks [14]. Using a specific ERP component related to attention, namely, N2pc, the role of spatial attention in the binding process has been shown in [3]. It is well established that N2pc is an early measure of distracter suppression [9], [10], [11], [12], [16], whereas contralateral delay activity (CDA) is associated with virtual working memory (VWM) [7], [16], [17], [13]. However, all these studies focused on uni feature objects, at most in relation to the objects' locations. There are no studies associating EEG with binding of surface features irrespective of location, which is how memory operates in the real world because we do not remember the locations of all the objects we know and remember. Further, no study has tried to assess the predictability of binding response from EEG. This is the unique contribution of our present study.

In this work, we aim to predict the response of a person in a feature binding experiment using EEG data. The behavioural experiment carried out in this work on feature binding used a change detection task inline with earlier experiments [5], [6], [4], [8]. The subjects were asked to detect a change from one display to another in the combination of color and shape in a set of four objects. In half of the trials, the combination of color and shape was swapped between any two objects, whilst they remained the same on the other half of the trials. All shapes and all colors in the first display appeared in the second display. Thus, this task could not be done by remembering the colors alone or shapes alone. The subjects must remember the connection or 'binding' between colors and shapes to be able to accurately detect swaps. The effect of locations was controlled by randomizing them from study to test display.

Salient Contributions

1) To the best of our knowledge, this is the first work that studies human response prediction in feature binding experiment using the EEG data.
2) Although deep learning based classifiers are being used actively in image and video processing based applications, their use in EEG data is so far limited. In this work, the conventional as well as recent convolutional neural network based classifiers are used on EEG data to assess the predictability

II. Data Description and Pre-processing

A. Data Acquisition

A total of 15 subjects aged 19-24 years participated in the experiment conducted by us under uniform setting. All participants signed the consent forms and reported normal or corrected-to-normal vision. Approval of the institute's Ethics Committee was taken and the identity of subjects was removed from the data. All participant were seated comfortably and were instructed to avoid physical movements while doing the experiment. Participants were unaware of the hypotheses of the experiment.

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आपकी रचना.....ROLE OF INTERNATIONAL COVENANTS IN PROTECTION AND PROMOTION OF HUMAN RIGHTS: AN ANALYSIS

Ashish Kaushik, Harsh Kumar .....की स्वीकृति संख्या कला सरोवर वर्ष .....24/616..... है। पत्र व्यवहार करते समय इसका उल्लेख अवश्य करें।

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न्यायप्रवाह

न्यायः मम धर्मः

Nyayapravah

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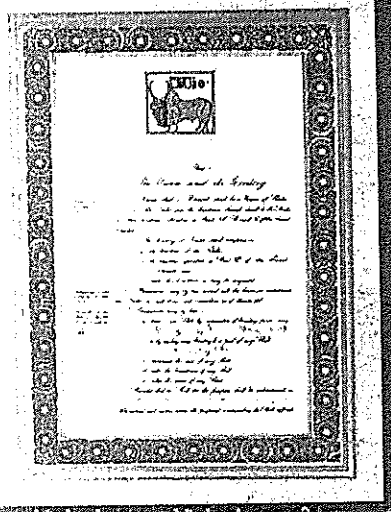
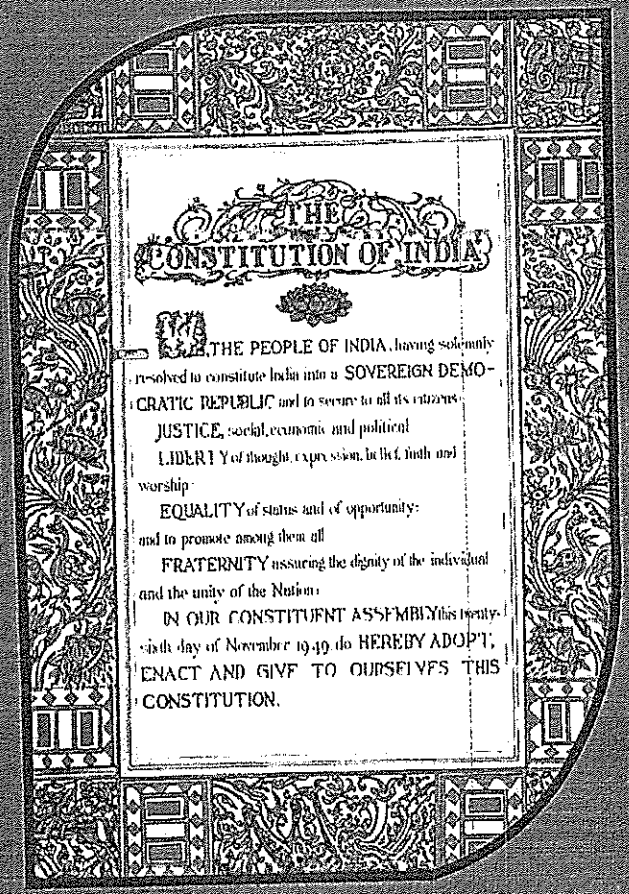
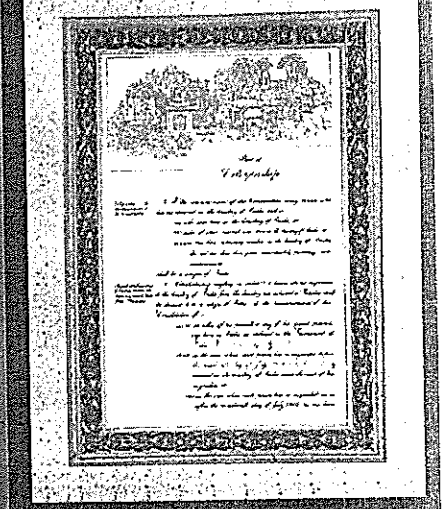


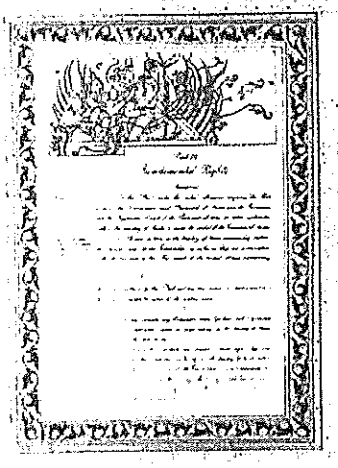
मोहनजोदड़ो काल : मोहनजोदड़ो कोश की मुहर
Decoration with Mohenjodaro Seal



Pictures from the original Constitution of India



वैदिक काल : वैदिक आश्रम (गुरुकुल) का दृश्य
Scene from Vedic Ashram (Gurukul)



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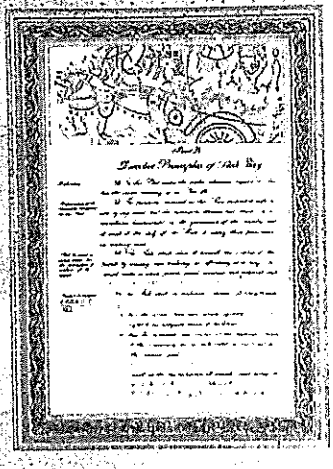
Scene from the Ramayana (Conquest of Lanka and recovery of Sita by Rama)



महाकाव्य काल : महाभारत का दृश्य (अर्जुन को गीता का उपदेश देते श्रीकृष्ण)
Epic Period : Scene from the Mahabharata
(Krishan Propounding Gita to Arjuna)

SPECIAL EDITION

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Index

न्यायः मम धर्मः

Jaimini's Mimamsa : A Document for Indigenization of Interpretation of Statues in Bharat

Ashish Kaushik[1]

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Interpretation of law is an significant twig of jurisprudence. The doctrine of interpretation assist in understanding the accurate sense of a provision of law. A few significant questions which happen for contemplation while implementing or enforcing a provision of law are posed here.[2]

(1) The real meaning that should be given to a particular word used in a particular law, when it is not defined in the law and when it has a general meaning as well as a technical meaning?

(2) If a sentence used in law is ambiguous, how should its sense be ascertained?

(3) If two requirements in a law are apparently opposing, what is the path required to be adopted?

(4) If a condition is not happily worded or the construction of a sentence is defective, how should the real meaning be ascertained?

(5) Whether a particular law which stipulates a certain act being performed in a particular manner is mandatory or directory?[3]

These problems are of everyday occurrence in courts when the parties opposing each other contend placing two differing interpretations on the same provision. The power and duty of the court is to implement the law, and for this purpose it is obliged to ascertain the real meaning of the law and apply it accordingly. The courts have no power to change the law. That power belongs to the Legislature. It is not open to the courts to usurp the function of Legislature by giving an unwarranted interpretation to any law[4]. Therefore they have to follow certain well recognized norms or rules to interpret the law in order to resolve the various problems regarding interpretation arising before them. Under the modern legal systems, a large number of well settled and accepted principles governing interpretation of law has been developed.[5]

Relevancy of Mimamsa

In the ancient Indian society, the rules of Dharma incorporated in the Vedas, Smritis and Dharmasastras covered every aspect of human activity. The Vedas, being the primordial source of Dharma, mostly prescribed rules and procedure for religious rituals and sacrifices. The source of the Vedas was believed to be divine and therefore the ritualistic rules contained in them were considered inviolable and unalterable by the society. But the provisions

[1] *Ashish Kaushik, Assistant Professor, Institute of Legal Studies, Chaudhary Charan Singh University, Meerut*
[2] *M.Rama Jois J. Legal and Constitutional History of India, Universal Lexis Nexis Publication, 2019 p 433.*
[3] *M.Rama Jois J. Legal and Constitutional History of India, Universal Lexis Nexis Publication, 2019 p 433*
[4] *Mangilal v. Sugan Chand, AIR 1965 SC 101.*
[5] *M.Rama Jois J. Legal and Constitutional History of India, Universal Lexis Nexis Publication, 2019 p 433.*

in the Vedas were in a cryptic and difficult language. a Therefore the possibility of divergent interpretations was always there In order to resolve this difficulty and for the purpose of understanding their correct import, Mimamsa (rules of interpretation) came to be written by those who were eminent Vedic scholars and logicians and who were well versed both in language (Bhasha) and grammar (Vyakarana). Mimamsa became an important branch of study of the Dharmasastras. Maharshi Jaimini is the oldest renowned author of the monumental work under the title Mimamsa. He laid down the principles of interpretation of the Vedic provisions regulating religious sacrifices and rituals.

Though the principles so laid down were for the purpose of interpreting the Vedic provisions, many of those principles were so fundamental that they could be applied for interpreting the vyavahara portions of the Smritis which contained civil and criminal laws. Leading Smriti writers and commentators of the Smritis fully utilised the fundamental rules of Mimamsa laid down by Jaimini for clarifying and expounding the several complicated provisions of law Therefore Mimamsa, though originated in interpreting the rules governing performance of religious acts, came to occupy an important position in the ancient legal system of this country.[7]

Mr. Colebrooke, who recognised the importance of Mimamsa in the interpre. tation of Hindu law, observed :

"A case is proposed either specified in Jaimini's text or supplied by his scholiasts. Upon this a doubt or question is raised, and a solution of it is suggested, which is refuted, and a right conclusion established in its stead. The disquisitions of the Mimamsa bear, therefore, a certain resemblance to judicial questions, and in fact, the Hindu law being blended with the religion of the people, the same modes of reasoning are applicable, and are applied to the one as to the other The logic of the Mimamsa is the logic of the law—the rule of interpretation of civil and religious ordinances. Each case is examined and determined upon general principles, and from the cases decided, the principles may be collected A well ordered arrangement of them would constitute the philosophy of the law, and this is, in truth, what has been attempted in the Mimamsa."[8]

Sir John Edge stressed the importance of Mimamsa (rules of interpretation) in the interpretation of the Hindu law as follows:

"The question is, 'How is the text of Vasistha to be construed ? It must clearly be construed according to the rules for the construction of the texts of the sacred books of the Hindu law, if authoritative rules on the subject exist. That rules for the construction of the sacred texts and laws of the Hindus do exist cannot be disputed, although those rules have been frequently overlooked or not referred to by Judges or English text writers probably because they are in Sanskrit and have, so far as I am aware, not yet been translated That they are rules of the highest authority is obvious from the manner in which they have been referred to by Mr. Colebrooke."[9]

The above observation by eminent scholars and judges and the prescription of the knowledge of Mimamsa as one of the qualifications for judges[10] indicate the importance of Mimamsa as also its relevance to the interpretation of the provisions of positive law. At this stage, it should be mentioned that Mimamsa is a vast and independent subject and therefore in the nature of things it constitutes an

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[7] *M.Rama Jois J. Legal and Constitutional History of India. Universal Lexis Nexis Publication, 2019 p 434.*
[8] *Colebrooke's Miscellanous Essays. Vol. 1. p. 342.*
[9] *Tagore Law Lecture*
s 1905. pp. -89.
[10] *See Qualification of Judges. Part VII, Ch. 1.*

independent subject for study.[11] However, as indicated above, in view of its importance to the branch of law, legal history would be incomplete without any reference to the rules of Mimamsa. Hence the fundamental rules of Mimamsa, which are relevant to the interpretation of forensic law alone, are set out in this part and that too only to a very limited extent. As stated earlier, the Sutras which are relevant for interpretation of law originated with reference to interpretation of rules regulating performance of religious ceremonies or sacrifices. Therefore, while setting out the relevant Sutras, the reference to their origin is left out as unnecessary in many cases as it would serve no useful purpose, but only the principles laid down and their relevancy in the context of interpretation of law are given.

Dr. Thibaut, in his introduction to the translation of Artha Sangraha, observes :

"The Mimamsa certainly deserves greater attention than it has hitherto received It has indeed none of the attractions which the other Dharshanas derive from the speculative character of their content; its scope is limited and the nature of the investigations in which it is engaged leaves no room for high flights of imagination. But it possesses counterbalancing advantages. Its subject matter is of a positive nature, its method is sound and its reasoning in most cases convincing."[12]

Ganganatha Jha in his introduction to the third volume of his English translation of Sabara Bhasya which is an elaborate and authoritative commentary on Jaimini states:

"Unfortunately, for modern Hindus, the examples that Jaimini chose for illustrating his rules of interpretation were all from sacrificial rituals. Naturally, during his time, every Brahmana was familiar with these rituals, and hence they were regarded as providing most suitable illustrative examples. Latterly, however, sacrificial ritual has gradually all but disappeared from the life of the Hindus; and this has led to the neglect of the study of the Mimamsa sastra. Even so, it continues to be recognized that the rules that Jaimini evolved are still found useful in the interpretation of law texts, and they have been so widely used that there is no important Legal Digest which does not draw upon the Nyayas of Jaimini."[13]

K. L. Sarkar, in his 'Tagore Law Lectures 1905', observes :

"Jaimini's sutras are quoted and discussed in the Mitakshara. They are referred to as the venerable old authorities. So, manifestly, they cannot be subsequent in date to the Mitakshara. By the Hindu tradition, Jaimini's Sutras preceded the Vedantasastra.

But whatever be the date of the Sutras, they are decidedly the most comprehensive and prevailing authorities on the subject of interpretation. Jaimini's work, for the first time, reduces the subject of interpretation to what is called Darshana or Philosophy and, in effect, may well be regarded as a scientific system of interpretation."[14] so the importance of Mimansa has been recognized by the time and over the interpretation of the statute in respect of Indian Society. As the laws has been derived from the common law principles that might be an alien to the Indian society. So to make the laws more responsive for our society we have to make then interpreted in the manner the Indian society look toward laws and legal system. For more indigenization of the laws we have to interpret then in this light. So in this context the Jamini's Mimansa is the document that makes the laws much relevant for our society. ❑

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[11] *See Sabara Bhasya Translated into English by Ganganatha Jha in 3 Vols, 2429 pages*
[12] *Tagore Law Lectures 1905, p. 10.*
[13] *Sabara Vol. III Introduction, pp.ix x.*
[14] *I. L. L., 1905, pp. 29-30.*

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INDIAN FRANCHISE AGREEMENT AND LEGAL ISSUES

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Abstract

A Business man always wants a expansion of his business for the profits, and to provide his goods/services/products to its customers or to make new customers too. Due to limitation of funds and movability he finds himself incapable to do that as they wants, if he allow another person to do that task than he is not able to earn his enterprise to meet out these difficulty, the answer us franchisee mechanism. Franchisee system allow the other parties / person on different location to do the same Business which is developed by someone else and that person eligible to earn the outcomes of his enterprise while he is not Physically involved in that process. Due to this facility and due to support of legal system, it became the best choice of Business world. In this paper researcher tries the depict the relevant process of law required for the well functioning of this system.

Key words :- ***Franchise, Franchisee Agreement, Law of Contract, Company Law, LL.P. Business Module, Global Business, Trade name, Trademark, Competition law, Consumer Protection MRTP etc.***

Now a days we are living in a boundary less or Beyond the boundaries world where we have a web Based world, which enabled us to connect any where it makes us eligible to talk or do business round the globe as per our wishes and choices.

Where we are thinking about the availability of commodities of all destination at our door steps. Whether you are in big Metropolitan city or smaller town, one look around you is bound to reveal bright signage with recognizable names all around. From heading to the nearest Kentucky's Fried Chicken (KFC) for a bite to shopping for a particular international Brand of Clothes. The Indian masses have helped the franchising industry rise substantially in the country in recent years.[1] Due to this development and globalization our neighborhood market becomes the world plate form or global market.

In past decades Globalization and market liberalization has fuelled brand awareness among the Indian masses making the importation of foreign Brands (Commodity provides) to Indian stores an attractive business opportunity for local businessmen. It also bound to think, Many Foreign companies or Business entities to consider franchising to convenient mode of entry into any geographically vast and culturally diverse markets, which offers a very favorable franchising environment. India is one of the most potential place for Commercial investment & for Establishing the Franchises too for Business expansion for the world of Business.

The Indian Legal framework has not defined the term Franchise. However, its meaning can be inferred from the Finance Act of 1999, which provides that a 'Franchise' is an agreement that authorises the 'franchise' to sell on manufacture goods, provide services or pursue business identified with the Franchisor.

A Franchise agreement involves a franchisor and a franchisee. While the former refers to an entity which lends its Business or marketable ability or trademark, trade name or any other form of Intellectual Property Rights along with the business system, the latter refers to a person who undertakes the former's business under the mark or name or Franchisor by paying a royalty and an initial fee. Actually its not limited to use the logo or Trade Mark or Trade Name only, using of Trade Secret recipe or method of manufacture, any food or substance to which also be needed an IP Protection or we may say that IP exploitation its an commercial exploitation in any form.

[1] https://www.ibef.org/blogs/India franchise-industry-the-road-so-far-and-way-forward, visited on 20-01-2021 at 12:01AM

India is an attractive destination for a franchising entrepreneurs. The continued growth of the Economy and the Central governments continuous efforts to liberalise the foreign investment policy and improve ease of doing business has led to foreign investors considering India as an attractive investment destination. The Indian franchising market has been growing steadily, to the tune of 30 to 35 percent annually.[2]

Franchise Business:

A Franchise is basically a type of license given to a third party by the original owners of the inventor, manufacturer or IP right holder or Business enterprise. The license lets the buyer or franchise use the business name, logo, and products, etc to conduct business under the existing brand name and business model. This has been a successful type of business expansion used all over the world. In India, there are many international and local brands currently operating successfully on the franchise business model. Some famous names include Subway, McDonald's , Kidzee, Khadims and Lakme Salon[3] and many more.

An Overview of Indian Franchise Industry:-

One major advantage that players in the franchise industry have is that business model and products/services are already marked the presence with proven marketability or utility in the Business world or markets. It becomes much easier to run a readymade operation, and at times, even support for training and planning of finances are provided by owners to new franchisees. This is just one of the reasons due to which this mechanism made their remarkable presence not only in Indian Market but also in world market too.

The model of franchise management began in the 1990 in India, with the start of the era of liberalization. This system was initially adopted by a few educational institutions and IT Companies for Business expansion and was slow to grow at first. But today the franchise Industry in the country has several well known brands in various cities operating under this model. In a Press conference held at Shastri Bhawan on June 25, 2013 newly sworn in HRD Minister outlined a heavy agenda for primordial reform of India's school and higher education

[2] http://thelawreviews.co.uk/edition/the franchise law review edition-7/1214163/India visited on 19-01-2021 at 11:52 PM
[3] https://www.ibef.org/blogs/India-s franchise industry-the-road-so-far-and-way forward visited on 20 01 2021 at 12:11 AM

systems. Remarkable he introduce, he talks about to enact a law to regulate entry and operation of foreign education providers in Indian territory.

Franchise Industry in India:-

The testify or quality accredited business model that franchisor offers is a major reason why the industry is growing in leaps and bounds all over However, there are several more reasons behind it due to which it achieve a huge success and among the fastest growing Business module in India:-

- Lower rate of failure
- Demand for Franchised Business
- India is big market
- Privatization in different sectors
- Indianization of products and services
- First time – entrepreneurs [4]

Essentials of a Franchise Agreement:-

A Legal document between the franchisors and franchisee which defines the role and responsibilities of both the parties is known as Franchise agreement. It is necessary to go through Franchise Disclosure Document (FDD) before signing the franchise agreement. FDD precisely mentions even the minute details of agreement. It narrates what one can expect from the settlement, mentions franchisors and franchisee's name, the sort of franchise that being purchased, information in relation to part execution of the franchisor with the project, the region, promotional strategies and the kind of help that a franchisor with the project, the region, promotional strategies and the kind of help that a franchisee may need to grow the business. Franchise agreement is legal proof of broad deal between two parties. It contains information like franchisee's commitments, litigations underlying expenses, income claims. Gain a good knowledge the financial status of business to clearly understand this document.

Element of a Franchise Agreement :-

- An outline of the Relationship
- Location & Territory

[4] https://www.ibef.org/blogs/India-s-franchise-industry-the-road-so-far-and-way-forward visited on 20-01-2021 at 12:33 AM

- Duration of the Agreement
- Use of Intellectual Property
- Advertising
- Insurance
- Training[5]

The different forms of business entities in India that may be relevant to a franchisor are:

- Sole proprietorship;
- A partner under the Partnership Act 1932;
- A limited liability partnership under the Limited Liability Partnership (LLP) Act 2008; and
- A company incorporated under the Companies Act 2013.

A Sole proprietorship also referred to as a sole trader or proprietorship is an unincorporated business that has just one owner who pays personal income tax on profits earned from the business. A sole proprietorship is the easiest type of business to establish or take apart, due to a lack of government regulation.

A Partnership business may be started by any two or more persons: individuals, partners of firms or even a company, if allowed. Under the partnership, the partners are severally and jointly bound by unlimited liability for the debts and liabilities of the firm and for all actions taken within the scope of partnership.

A limited liability partnership is a body corporate under the LLP Act 2008, where the liability of the limited liability partnership is met by the property of the limited liability partnership and the partners are not personally liable, directly or indirectly, for any obligation arising by the virtue of being a partner in the limited liability partnership.

The Fourth and most convenient kind of legal entity is a company under the Companies Act, 2013. The liability of the members of a company is limited to the assets of the company up to the capital contribution by the members, even if the liabilities of the company far exceed its assets.

[5] https://corpbiz.io/franchise-agreement visited on 20.01.2021 at 11:29PM

It should be noted that for a foreign franchisor to grant a franchise in India it need not establish an entity in India. The franchise can be granted by entering into a franchisee agreement under the aegis of an existing set of laws related to franchise business. However, if the foreign franchisor intends to set up an entity in India, the most convenient form of business entity would be a company incorporated under the Companies Act 1956/2013 and under the foreign direct investment policy of India. As per the rules and regulations of the Foreign Exchange Management Act 1999 (FEMA), a person resident outside India can invest in an Indian proprietary, partnership or LLP subject to prior permission form the Reserve Bank of India (RBI).

The FEMA and RBI regulate the terms of Payment under Franchise Agreement (such as franchise fees, management fees, development fees, administration fees, royalty fees and technical fees) where one party is a Non-Indian entity including the amount to be paid and procedure for remittance of these payments outside India. The RBI prescribes certain requirements such as furnishing of tax clearances and CA certificate at the time of remittance of royalty payments by the franchises to franchisor outside India.

The Indian government permits foreign franchisors to charge royalties up to 1% of domestic sales and 2% on exports for use of the foreign franchisors brand name or trade mark, without transfer of technology. The laws in Indian also permit lump sum and royalty payments to be made by Indian franchises to their foreign counter parts for use of foreign technology which includes manuals, systems etc. lump sum payments upto US $ 2 million are permitted and royalties of 5% on domestic sales and 8% on exports can be paid to the foreign franchisor.

The government has specified formula for calculation of Royalties which must be adhered to before the foreign company can remit funds out of India. If the franchise agreement proposes royalties or lump sum fees beyond the specified limits, the approval of the foreign investment promotion Board is required.[6]

[6] http://www.Setharroclates.com/franchising-law-in-india.htmlvisited at 12.05 pm on 10-04-2021

Foreign direct investment (FDI) in India is governed by the FDI Policy announced by the government of India and by the provisions of the Foreign Exchange Management Act (FEMA) 1999. FDI is freely permitted in almost all sectors. Under the Foreign Direct Investments (FDI) Scheme, non-residents can invest in the shares, convertible debentures or preference shares of an Indian Company through two routes: the Automatic Route and the Government Route.

Under the Automatic Route, the foreign investor or the Indian company does not require any approval of the investment from the Reserve Bank or government of India. Under the Government Route, prior approval from the government of India, the Ministry of Finance and the Foreign Investors Promotion Board (FIPB) is required.

Investors under the Automatic Route are required to notify the relevant regional office of the RBI within 30 days of receipt of inward remittances, and to file required documents with that office within 30 days of the issue of shares to foreign investors. FDI in activities not covered under the Automatic Route requires prior government approval.

Foreign investment in any form is prohibited in a company, a partnership firm, a proprietary concern or any entity, whether incorporated or not (such as a trust), which is engaged or proposes to engage in the following activities.

- A chit fund;
- A nidhi company;
- Agricultural or Plantation activities;
- Real estate business or construction of farmhouses, except the development of townships and the construction of residential or commercial premises, roads, bridges, educational institutions, recreational facilities and/or city and regional level infrastructure; or
- Trading in transferable development rights (TDRs)

A nidhi company is a kind of non banking finance company formed with the exclusive object of cultivating the habit of thrift and savings, It functions for the mutual benefit of members.

Investment in the form of FDI is also prohibited in certain Sectors, such as:

- Retail trading (except single brand product retailing);
- Atomic energy;
- Lottery business;
- Gambling and betting;
- A chit fund;
- A nidhi company;
- Trading in transferable development rights;
- Activities or Sectors not opened to private sector investment;
- Manufacturing of cigars, cheroots, cigarillos, cigarettes, tobacco or tobacco substitutes; and
- Agriculture (excluding floriculture, horticulture, development of seeds, animal husbandry, pisciculture and cultivation of vegetables, mushrooms, etc. under controlled conditions and services related to agro-sectors and allied Sectors) and plantations (other than tea plantations).

Regulatory Framework :-

The important labour and employment laws that might be applicable to franchisors are:

- The Apprentices Act 1961;
- The Child Labour Act 1986;
- The Contract Labour (Regulation and Abolition) Act 1970;
- The Employees Provident Funds and Miscellaneous Provisions Act 1952;
- The Employers Liability Act 1938;
- The Employees State Insurance Act 1948;
- The Equal Remuneration Act 1976;
- The Factories Act 1948;
- The Industrial Disputes Act 1947;
- The Minimum Wages Act 1948;
- The Maternity Benefit Act 1946;
- The Payment of Bonus Act 1965;
- The Workmen's Compensation Act 1923;
- The Payment of Gratuity Act 1972;

- The Payment of Wages Act 1936;
- The Relevant State Shops and Establishment Act; and
- The Trade Unions Act 1926.

In general in India, but also subject to the agreement between the parties, the franchisor and the franchisee do not share a principal agent relationship in the conduct of the business. However, whether the franchisor is or is not resident in India, it is always preferable and advisable to incorporate substantive provisions in the franchise agreement delineating responsibilities, including responsibilities with respect to employees, ensuring that the franchisee's employees are not deemed to be employees of the franchisor.

Franchise agreements in India aren't governed by any Franchise-specific legislation but by various applicable statutory enactments of the country. A few of them includes the Indian Contract Act 1872; the Consumer Protection Act 2019; The Trade Mark Act, 1999; The Copy Right Act, 1957; The Patents Act, 1970; The Design Act, 2000; The Specific Relief Act, 1963; The Foreign Exchange Management Act, 1999; The Transfer of Property Act, 1882; The Indian Stamp Act, 1899; The Income Tax Act,1961; The Arbitration and Conciliation Act, 1996; and The Information Technology Act, 2000.[7]

Legal Aspects :-

Compared to other parts of the world, the franchise sector in India is at a nascent stage and the general feeling at the moment is that there is no need for Franchise specific legislation. As a consequence, franchising in India is governed by a number of a Statutes, Rules and Regulations, some of which are discussed below.

The Contract Act :-

The Contractual relationship between the franchisor and the franchisee is governed by the ICA, 1872. There is no specific requirement under Indian Law as regards a particular language; however, English is customarily accepted as the standard language.

[7] https://www.indiafilings.com/learn/franchising-law-in-India/ visited on 19-01-2021 at 11:24PM

Under the contract Act, "a contract" is an agreement enforceable by law. A Franchise agreement would be enforceable under Indian law since it would meet the criteria of a valid agreement.

However, care needs to be taken to ensure that the agreement does not contain any provisions that render the contract void & voidable. This contract includes a number of provisions that help both parties in understanding their obligations to avoid disputes. The Basic structure or format of the contract popularly known as franchise agreement various from organization to organization. This format depends on the kind of products or services provided by the company.

Restraint of Trade :-

Section 27 of the Contract Act deserves specific mention. As per said section, agreements in Restraint trade are void. The Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act). Also regulates agreements that relate to restrictive Trade Practices; however, in the contract of the Contract Act, it is imperative to understand the implications of a Restrictive Provision in a franchise agreement.

While deciding on the issue of restraint of trade in the land marks case of Gujarat Battling Company Limited v. Coca Cola Company (AIR 1995) (Supreme Court 237) the Supreme Court held that :-

" There is a growing trend to regulate distribution of goods and services through franchise agreement providing for grant of franchisee by the franchisor or certain terms and conditions to franchisee. Such agreement is often in corporate a condition that the franchise shall not deal with competing goods. Such a condition restricting the right of the franchise to deal with competing goods is for facilitating the distribution of the goods of the franchisor and it cannot be regarded as a restraint of Trade."

The International Franchise Association (IFA):-

Defines Franchising as a "continuing relationship in which the franchisor provides licensed privilege to do business, plus assistance in organizing, training merchandising and management in return for a consideration from the franchisee."[8]

Indian Competition Law:-

In India laws to prevent monopolistic, restrictive and unfair trade practices that distort, free competition in the market are formed in Part A of MRTP Act 1969. Also, the remedies available to the individual consumers for loss and injury suffered as a result of Defective and Sub-standard goods and deception are found in the Consumer Protection Act, 1986 and part B of MRTP Act, 1969. The first part of MRTP ACT, 1969 is mainly directly against the franchisors, whereas Consumer Protection Act and Part B of MRTP act are directed mainly at those masters Franchisees and Franchisees who produce the goods which the Indian Consumer Purchases.

Labour Laws in India:-

India has numerous labour laws which any Foreign or domestic franchisor must be well aware of before doing business, and to mention a few:-

Apprentices Act 1961, Contract Labour (Regulations & Abolition) Act, 1970, Employees Provident Funds and Miscellaneous Provisions Act, 1952, Employees State Insurance Act, 1948 Equal Remuneration Act, 1976, Factories Act, 1948, Industrial Dispute, Act, 1947, Minimum Wages Act, 1948, Payment of Bonus Act,1965, Workmen's compensation Act, 1923, Payment of Gratuity Act, 1972, Payment of Wages Act, 1936, Parties involved : In a typical franchise agreement, there are minimum two parties involved.

1 . The Franchisor who lends his trade name and the Business System.

2 . The Franchisee who pays an agreed royalty fees for doing the business under the name of franchisor.

[8] www.inter lawyer.com/lex e scripta/articles/franchisingindia htm visited on 06/01/2019 at 5.23 PM

International Franchising :-

Following are essentially some of the ways in which a franchisee system may be expanded overseas:

. The Franchisor, either from its headquarters or from a foreign branch operation, grants individual franchises to franchisees in the Target Country.

. The Franchisor enters into master franchisee agreement

. The Franchisor establish a subsidiary in the target country, and that subsidiary acts as the franchisor.

. A Joint venture is established between the franchisor and third party who is knowledgeable about the target country. The Joint venture will act as the Franchisor is the Target Country.

In the Contract of Internationalizing a business, it is important to bear in mind that intellectual property rights are essentially territorial, that is, the rights are limited to the territories in which they have been registered / granted or arisen. Therefore, if a business is planning to take a franchisee operation overseas, it would be important to ensure that its intellectual property rights are protected in the territory.

Franchising Legal Framework in India[9] :-

Indian Contract Act, 1872
Foreign Exchange Management Act,1999
T.P. Act, 1882
Labour Laws
Intellectual Property Laws
Compensation Act, 2000
Consumer Protection Act, 2019
Taxation Laws

While franchising as an innovative way of expanding a business into new market places has spread all around the world, different countries have different laws which are applicable to franchising.

[9] https://india.franchiseasia.com/information/franchisinglawinindia/. visited on 1.9.19 at 2:26 PM.

. In the USA there are a range of laws governing the franchising industry. There laws govern the franchisor – franchisee relationship requiring all franchisees offering to be registered and franchisors to provide through disclosure documents. Other Countries with a high degree of franchise regulation include Australia, Brazil and Malaysia.

In many other regions of the world there are no specific laws in place governing the franchise industry. In these places more general laws are applicable to the franchise industry such as in the European Union where franchise relationships are governed by Compensation Laws.

License :- Permission a Grant.
Can be Remarked anytime For mark
Lease :- agreement of employment :- Specific employment for
Property
Agency :- without consideration

Enforceability and Validity of the Franchising agreement:-

Fundamentally, every franchising relationship is a Contractual relationship and therefore, the Indian Contract Act 1872 (Contract Act) would be applicable to all franchising arrangements.

Under the Contract Act, a 'Contract' is an agreement enforceable by law. The following elements are required to constitute a contract:

a – Capacity of Parties

b – A offer and an proper acceptance

c An Lawful Consideration

d – Lawful object

e – Free consent

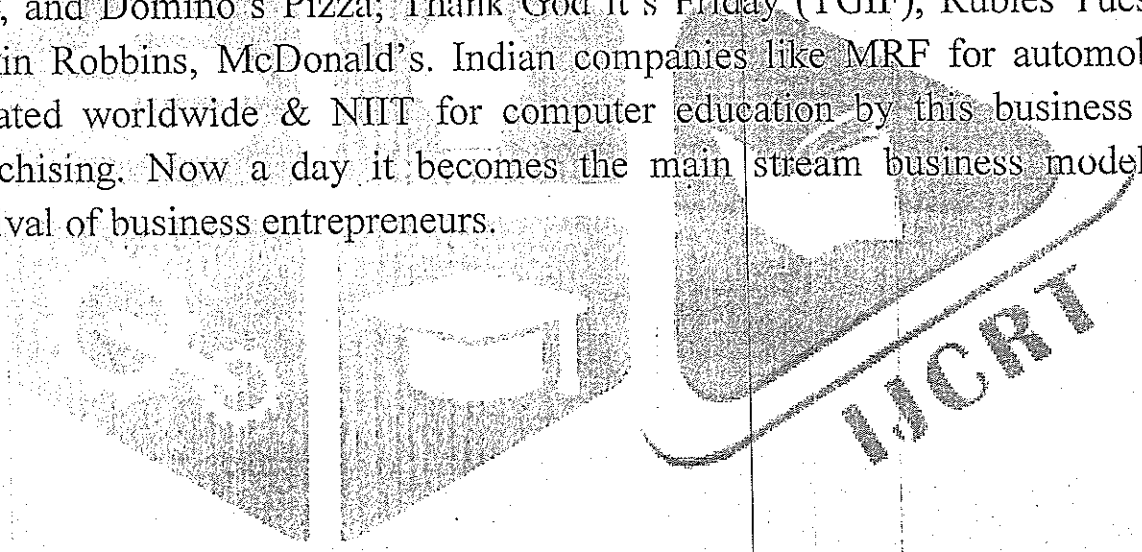
Every franchising agreement would have to necessarily meet the above five criteria in order to be legally enforceable. For example, if the Franchising

agreement is entered into for distributing arms and weapons in India, the same may not be for a lawful object and the hence invalid.[10]

Conclusion-

In this study researcher go through the various laws relating to Franchise system in India as well as international law. Through these Municipal /International legal framework it became a convenient business module round the globe. In this regard a firm step was taken in the year 1999 towards consolidation of Franchise industry in India by establishing the Franchising Association of India (FAI) through the efforts of Indo-American chamber of commerce.

Due to globalization & liberalization of economy worldwide, several foreign companies with strong brand names have shown their presence in market places. An international company that operates through Franchise includes Radisson, KFC, and Domino's Pizza; Thank God it's Friday (TGIF), Rubies Tuesday and Baskin Robbins, McDonald's. Indian companies like MRF for automobile tires operated worldwide & NIIT for computer education by this business module, Franchising. Now a day it becomes the main stream business model for the survival of business entrepreneurs.



[10] http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Legal_Issues_In_Franchising.pdf visited on 04/02/2021 at 11.02PM

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ROLE OF SEBI IN PROHIBITION OF INSIDER TRADING IN PRESENT SCENARIO

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ABSTRACT

This paper aims to examine the efficiency of Indian and foreign trade compliance actions. The analysis is focused on the rules on insider trading and modifications made during the 1992-2017 timeframe. The remarkable findings of the report are the dearth of insider trading convictions and the lack of legal proceedings for insider trading in India. It is hard to withstand the conclusion that monitoring and compliance are more essential than writing the appropriate laws and regulations in the emerging markets. In contrast, developing economies have a higher record than developing nations in prosecutions. In future studies, the reasons that impede successful enforcement could be examined and new approaches recommended for could the influence of insider trading rules by the Securities and Exchange Board of India The present paper provides guidelines on regulating and prosecuting insider trading in India for international institutional investors, regulators and market participants.

Keywords: Emerging markets, Insider trading, Legal trading, Regulatory ambiguity, Trade on disclosures, Judgment, SEBI

1. INTRODUCTION

The stock market forms the foundation of every financial sector in the world in helping to stimulate development and investment by putting together businesses and individuals that participate in it. Although the general consumer, national and multinational, has been regarded on the one hand as an outlet for investment in the economy and, on the other, it encourages the use of public money in their undertakings by companies. However, only a robust stock market will ensure an effective exemption of the aforementioned feature. Only if the ordinary investor retains its trust in the activity of the equity exchange will the equilibrium of the financial market remain. Such confidence is hurt by many malpractices of the stock market that hamper the growth of the market, the most rampant, worth noting and important being the 'insider trade'

To incorporate the term into uninitiated trade the insider can be represented as persons who have access to proprietary corporate data that may influence the valuation of shares that are not recognised by shareholders or the general public as the buying and selling of the securities of company. The main aspect of the behaviour which may be defined as in-house trading, in addition to the apparent necessity of buying or selling security, is that the trader has knowledge which is material for the valuation of exchanged stocks to any extent and which does not include information that is already known to others or known more clearly to the market. Insider trading may often be seen as cases when the individual is engaged in security on the basis of price sensitive knowledge, which he or she has because of his or her relationship with the company and by engaging with the information, the price of the shares being exchanged is possibly and significantly affected.

The practise of the insider trade is frowned upon in order to explain the effects it casts.

1. The trade of insiders is not founded on an even basis and is harmful to the rights of the owners of the corporation when their position in general is totally disregarded in terms of the self-interest of the insider.
2. It discourages the general population, degrades their trust in the legitimacy of the scheme, from participating/investing in the stock sector.
3. It symbolises the misappropriation of sensitive business knowledge and is actually the exclusive property of an issuer and thus damages the exclusive access to such information.
4. It creates possible conflicts of interest where the best interests of the business can wrongly take second position to the self interest of the insider.

5. Corrodes the trust of market holders, the prime beneficiary of insider dealing. The economy is less liquid as buyers are priced out of the market and thus less willing to boost free business' growing capital requirements.
6. If insider trade happens regularly on the international stock market today in a certain state's markets, the market for foreign investors would be less competitive

2. INSIDER TRADING

The literal meaning of "insider trading," as this word indicates, is the illicit traded to other places and countries of a company's shares, stock and securities and knowledge which is withheld from the public and is confidential Section 2(e) of the SEBI Ban on Insider Trading Regulations Act, 1992 sets it out There is no provision defining unlawful trade in Company Law Act Insider trading allows insiders to gain millions of dollars with access to confidential information that will ultimately impact the credibility of the corporation and other ordinary investors that lack access to secret information. Initial trade involves illicit trading behind the cloak of a company's corporate curtain. Anyone engaging in classified or closed knowledge secretly is accused of insider trading. It has a wide view and is described differently across countries In this post, we discuss the restrictions on insider trading in India.

3. INSIDER TRADING IN INDIA

For several decades now, in India, cases of insider trading have been and remain an enduring form of market bad. In the 1940s, such cases were first recorded when managers, developers, agents and other company officers discovered that inside knowledge was being used for the profitability of speculation in their own company's security. In the case of leading firms, President of Bombay Stock Exchange cited cases which did not promptly and openly disclose incentive shares and dividend declarations. In the 1940s, though, it was a lack of general awareness of the facts about insiders' advantage being drawn out of the innocent public's share that did not raise a lot of public fury. It was not tested until the end of the 1970s when it actually came to light in the Indian stock market and was recognised as unjust. The first case found was that of Garware Nylon in the early 1970s, when a rapid rumour came to the market regarding a bonus problem for the firm, which led the company's share price to spike. The President quickly refuted, though, that such evidence was authentic, which contributed to a decline in stock prices and a final recovery at a lower stage. However, the share price again began to rise after the announcement of the prize issuing by the firm. Journal media speculated that the price boom was for the second time due to a strong Garware Headquarters purchase order The same applied even to the Great Eastern Shipping Business, the share value of which was approximately Rs. 34, but unexpectedly in 1982 increased to Rs. 72. It was envisaged that management of the organisation had leaked reports of a major brokerage company that began purchasing its stock and also saw the other brokerage companies starting up the same thing. The board of the firm sold a large amount of its shares through all of this. As the reports of the topic of incentive shares did not come true, the share rates dropped dramatically and eventually the stock crashed due to the hysteria, both of which continued to sell the company's shares. The Hindustan Motors Company instance subsequently appeared. The last bonus was released in 1971 and reserves accumulated up to 1985, but there was no bonus problem In August 1985, the owners asked for a bonus at AGM, but the president refused the chance, unfortunate in the immediate future, to sell off the company's stock. The brokers are said to have purchased them on spree and the firm revealed that they had a liberal incentive.

The Government of India has set up many Committees time and time again to propose and review the insider trade regulatory system. In 1948, in keeping with the related Suggestion of Cohen Committee in the United Kingdom, the Thomas Committee recommended that transparency be strengthened under company law. In June 1977 the Sachar Committee expressed its opinion that Sections 307 of the Companies Act of 1956 were not adequate to curb inside dealing misfortune, and suggested that those who possess price sensitive details and a ban on deals by those individuals over a particular span of time should be able to provide a more comprehensive divulgation of their

transactions. In order to enable a thorough analysis and to make suggestions to the government on the functioning of stock exchanges, the Government of India appointed Patel Committee. He proposed that the exchange authority should be allowed, by statute, to pursue corrective measures themselves and to bring a civil and criminal proceeding against the criminals such that they are not unpunished to discourage those actions and to be supervised and considered an offence that has a legal ban. It was therefore recommended that anyone who misuse knowledge may therefore, by statute, be obliged to return to stock exchanges the benefit they have gathered or the sum equal to the damages they have avoided. In 1989 the Abid Hussain Committee was considered a conduit for the implementation in India of insider trade legislation and suggested that the necessary compliance mechanisms should be addressed to a large degree, thus proposing that inside trade be a criminal and civil offence. The Council indicated that it could draught appropriate regulations where the jurisdiction to enforce the proceedings is granted to the Securities and Exchange Board of India.

4. INSIDER TRADING REGULATIONS IN INDIA

The SEBI Regulation for the Prohibition of Insider Trading in India is usually governed. Section 2(e) of the Act defines insider dealing. But in the company's law of 1956 the word insider trading is not specified. However, under section 195 of the 2013 company law the insider dealing of the chairman or the principal manager is prohibited. Section 458 of the Act of the Company in 2013 grants SEBI a representative or authority for the prosecution of all listed and listed firms for insider dealing unlawful inside any one of those firms.

According to the 1992 SEBI ban on insider trading, consisting of chapters IV. The following provisions are provided for:

Section 2(c) of the Act defines 'connected person'.

1. Who is the director of a business described in or regarded as a company in Section 2(13)?
2. If it is an employee, a business officer, or other persons or insiders who have access to confidential, undisclosed shares or bonds material.
3. Therefore, in principle, any person associated may be any individual explicitly or indirectly linked with the company's business.

Section 2(h) Defines the individual considered related. Therefore, any person who's directly or indirectly linked to an informant or to a connected person may be considered a 'person associated.'

Section 2(e) The 'insider' was described by this act. An insider may be someone who is affiliated with the firm or has access to details not yet made public or information about the company's business. Here, "price sensitive knowledge" means confidential information of some sort that needs to be held secret to protect the integrity of a firm and to harm the prices or shares of the business through disclosure of such details.

Under Section 3 SEBI Regulation 1992, no insider or any associated party is entitled to make any confidential details concerning the business of the firm available to the public if the information made public can impact the company's prices or securities.

Under Section 12 of the Act the internal code of procedure and moral ethics should apply in accordance with the rules laid down in Annex 1 to all companies with SEBI, intermediaries, self-regulatory bodies, recognisable stock exchanges, public finance institutions, enterprises and professional firms and strictly respect these to prevent illegal insider trades

It is important to note that, under this law, price sensitive knowledge must only be communicated to those people who require it, so as to fulfil their duties on the grounds of 'need to know.'

The management or group employee is responsible for keeping price sensitive details private. Anyone involved or disclosing confidential knowledge in respect of business trade shall be found responsible in a criminal fashion and stringent measures against him shall be taken. Any individual or company's employee/manager/worker who breaches any code of behaviour rules or guidelines shall be kept responsible for global actions such as pay freeze, cessation of potential involvement in the company's businesses etc. The above measures and rules and fines are the same for listed corporations, companies or specialist companies.

5. SEBI (PROHIBITION OF INSIDER TRADING) REGULATION, 1992

The increasing occurrences of insider trading in India's increasingly the stock market need a more stringent law for regulating insider trading. Article 30 of the SEBI Act of 1992 authorises SEBI by notice published in the Official Gazette of India to comply with the Act and Rules made therein for the purposes of implementing it. SEBI has this authority to enact the 199220 regulations concerning SEBI (Insider Trading). In 1989, Abid Hussain Committee report proposed that SEBI draught regulations and codes regulating the prevention of unfair business was produced on whose recommendations the SEBI Regulation (Prohibition of Insider Trading), 1992, was adopted. "The main purpose of the Legislation is to ensure that no individual is trading in the stock sector while holding undisclosed price sensitive data that can provide him or her an additional benefit over other investors. The Securities Appellate Court of Alpha Hi-Tech Fuel Ltd. v. SEBI21 has outlined the goal of these Regulations. In other terms, the rules guarantee that all customers who join the stock market trade are given equal opportunities."

6. SEBI (PROHIBITION OF INSIDER TRADING) REGULATION, 2017

In its meeting on 19 November 2014 the Sodhi Committee Report was debated and authorised by SEBI and provided the foundation for the enactment of the SEBI (Insider Trading Prohibition), 2017 Regulations. SEBI exercised its powers pursuant to the SEBI Act of 1992, which replaces the earlier rules of insider trading in India by Regulation 2017 dated 15 January 201528. This Regulation entered into force in the official Gazette on the 120th day of release, that is to say on 15 May 2017. The Press Release accompanying the 2017 Regulation states that the primary purpose of the Regulation's implementation is to improve the legal and enforcement system, harmonise the Indian regime with foreign norms, make the meanings and terms clear and promote the transaction of lawful business. The aims are (a) to correct the deficiencies in the 1992 Regulation; (b) to create a regulatory framework that is compatible with global good practise; and (c) to consolidate reforms to India's securities laws since 1992, including the improvements made in circulars, notices, adjustments to enactments and legal precedents.

7. JUDGMENTS ON INSIDER TRADING

One of the early instances in which SEBI was acting against insider dealing was the case of HIL limited (HIL)Vs SEBI [5], with about eight lakhs securities being purchased from the Unit Trust of India and a merger of HIL and the second subsidiary being declared several weeks afterwards. SEBI carried out an inquiry and requested an appeal to the Appellant Authority, and rejected claim made by HIL denying that the SEBI had the information or awareness of it. SeBI rejected the case for the information provided by HIL. Subsequently, SEBI amended and inserted the term 'unpublished' and specified it to the regulations. The word "Unpublished Price Sensitive Information in India" was originally described here.

RIL had an interest of about 5 per cent in the L&T firm in another case with Reliance Industries Limited (RIL) Vs SEBI and, furthermore, Mr. Mukesh and Anil Ambani were nominees for two of them. In addition, RIL has acquired shares in L&T and almost 10% In addition, RIL sold these securities in excess of the Grasim Industries market price, which excluded the two appointers and prevented RIL from further trade of L&T shares. In the case against RIL, SEBI undertook an inquiry and was found guilty of insider trading. The appeal overturned SEBI's order that the details has not been forwarded to the L&T candidates, nor that the information was not communicated or transferred. The Court also reversed SE BI's order. The deal was not even known to L&T, nor was it shown by any proof. RIL has also not been held responsible for the trade in insiders.

If we can see in these circumstances, SEBI is less convicted of insiders and the punishment for perpetrating such criminal activity levied on the convict is even less. Therefore, we will talk about SEBI issues and the enforcement of insider trading in the next section of this article.

8. PROBLEMS REGARDING INSIDER TRADING IN INDIA

The legitimacy and illegality of insider trading has been the subject of several arguments. However, several analysts and investors state that Insider Trading is opposed to market integrity This is since it allows the persons with access to knowledge an unfair benefit, because there is little chance of losses to them. It often allows investors to lose capital, when individuals with proprietary details perform such misconducts to manipulate and disperse rumours that alter many investors' minds when investing on financial exchanges. This often contributes to a lack in consumer interest in markets that is really important to the economy and impacts international investment. Insider Trading thus is very dangerous to economies and a regulatory agency has to be in place to monitor these abusses and to avoid them

Furthermore, another issue faced by SEBI is the proof of insider trading as there is not often enough proof that the trading by insiders is a product of a single deal. Because people who have links to certain UPSI have access to third parties, it is not their responsibility and are not kept responsible for other transactions. In several circumstances, the court has declined to offer an appropriate decision because no clear ties between information and the exchange had been established by the regulatory authority. As a consequence, customers are losing their capital and stocks are suffering the damage.

In addition, SEBI faces another challenge: the proof of insider manipulation, because not enough evidence exists that insider trading is a result of a single transaction. Because people with connections to such UPSIs have access to third parties, they are not responsible for other transactions and are not liable for them. The Court has in certain cases refused to make a suitable judgement because the regulatory authority has not identified direct links between knowledge and trade. As a result, consumers lose their money and stocks endure the loss.

9. ROLE OF SEBI IN INSIDER TRADING

SEBI is a regulatory entity operating under the Securities and Exchange Board of India, 1992. Section 11 of the SEBI Act 1992 addressed the different functions and powers of SEBI.

- SEBI's main responsibility is to safeguard the safety and fair trade of investors. • SEBI's main authority is to set up an investigation committee whenever someone has infringed the requirements of this Act.
- SEBI can select officers who look after the insiders and other related persons' books and records to investigate.
- The Board can also nominate an inspector to review books on insiders' accounts and affairs.
- SEBI shall be required to have an appropriate communication before commencing the inquiry.
- It is the insider's responsibility to provide the prosecuting authority with the requisite documents. It has, though, no powers of oath examination or the powers assigned to a civil court in accordance with the 1908Code of Civil Procedure as it tries a complaint.
- The officer must present the report within 1 month after all the inquiries in accordance with the regulations of the SEDI 1992. It also relies on the investigator to take longer if he finances not to finish the work within the prescribed time frame.
- After submitting the final report, SEBI must notify the insider of the findings and make a showcase within 21 days of receipt of the correspondence to the insider or to any other individual.
- The individual to whom the finding was transmitted must respond in the 21 days following receipt of the notification. In the report of August 2004 SEBI formed the Expert Group (headed by Justice M H Kania) which proposed that Section 11(?)(i) of the SEBI Act should be changed to allow SEBI to seek technical intelligence, subject to the rights of the practitioners (for not parting with the privileged information in their possession).
- Someone who feels aggravated by the SEBI directives can appeal to the Court of Appeal (Regulation 15).

- An appeal can be made within 45 days from the day the appeal was lodged on receiving the copy of the order. The 1992 rules for SEBI (Insider Trading) was made up of 3 chapters and 12 regulations.

An insider is a related individual who is directly or indirectly linked to the firm. The word 'related individual' is an essential principle for the definition of insider trading responsibility. It represents an individual who is the director of a company listed or an official or a staff member of a company listed. Unpublished price sensitive knowledge for the organisation is available to the connecting people. It also requires an individual linked to the enterprise before 6 months in respect of the application of insider trading legislation.

10. INSIDER TRADING INVESTIGATIONS BY SEBI

In India the first cases of insider trading were registered in 1996-1997. The cumulative number of reports of insider trading reported between 1996 and 2014 is 203, with 185 cases being investigated by the end of March 2014. In 2007-2008, there were 28 probes and in 2010-2011 there were 28 further insider trading incidents. In 2008-2009, 2009-2010 and 2013-2014 SEBI did not settle cases in its investigations it was noticed that (Figure 1).

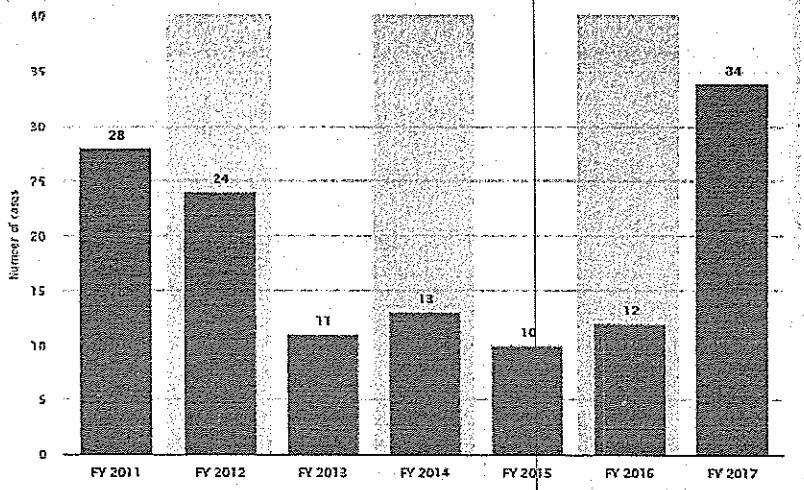

Figure 1: Number of insider trading cases taken up for investigation by SEBI in India from FY 2011 to FY 2017

The U.S. Department of Justice and SEC will carry out the insider trade investigations and convictions. They were charged criminally and civilly with determining the credibility of stock markets with insider dealing. In 2014, SEC levied a $13.9 million settlement in a 2012 civil insider trade conviction against former Indian operator Rajat Gupta of Goldman Sachs. He was prohibited from working as a public sector manager for ever. Two years in jail and $5 million in punishment have also been levied on criminal offences. In India, SEBI, the regulator of the stock sector, examined cases involving insider trading In 2007 SEBI launched a lawsuit against former arm Reliance Petroleum in the forward-looking business sector, in connection with Reliance Industries Limited (RIL). In the insider trading situation, RIL requested SEBI from the SAT. In India, people and businesses may resolve conflicts without recognising or denying suspected wrongdoing, by paying a penalty.

11. CONCLUSION

While in law and finances literature controversy over the advantages and disadvantages of authorising insider trading on capital exchanges has become quite controversial, insider trading bans are critical in maintaining business credibility and consumer trust. In the developing world, prosecution is better than developed economies (Bhattacharya and Daouk, 2002) In the mid 1990s, however, the Indian regulator could not obtain a conviction in any of the insiders' trading

proceedings, which consisted of reputable business groups, was tested and brought to justice by SEBI. In the U.S., both the SEC and the individual market watch schemes normally spot the insider trade prematurely. The exchanges and SEC are both concerned and punishable by either the exchanges or the SEC for suspicious transactions.

The conclusion that monitoring and compliance are more important than drawing up the relevant laws and legislation is impossible to avoid. Published insider trading cases in India are remarkably unusual. However, more stringent legislation works well to reduce the impact of illicit trade in insiders and deferred notification to regulatory bodies. We therefore recommend SEBI to devise frameworks for the identification of illicit trading of insiders. It must place enormous sanctions on those that break the rule. The reasons preventing efficient enforcement can be explored and new approaches recommended for the improvement of SEBI trading regulation. Future study.

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FDI IN INSURANCE SECTOR: INDIAN LEGAL FRAMEWORK IN PRESENT TIME

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FDI IN INSURANCE SECTOR: INDIAN LEGAL FRAMEWORK IN PRESENT TIME

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ABSTRACT

In recent years, India's insurance industry has experienced rapid growth. Despite a slew of reforms aimed at boosting the sector's growth, it still has a long way to go, as its share of the global insurance business remains pitiful. Follow the trends in Indian insurance industry and their growth. Low density and penetration rates, low spending in insurance offerings, public sector insurers' leading status, and their declining financial health are only a few of the problems the industry faces. Since India's economic growth is dependent on how shock-absorbent its economy is, resolving these issues is critical for the development of a strong insurance industry.

The Insurance Laws (Amendment) Bill, 2015 has been passed by Parliament. It was first passed in the Lok Sabha on March 4, 2015, and then in the Rajya Sabha on March 12, 2015. When the President signs it, it will become an Act. The reform bill seeks to make changes and amendments to India's current insurance regulations. The bill also aims to replace outdated regulations of previous legislation with new insurance industry activities that are evolving in a changing dynamic world, including private involvement. It is projected that the overall financing in short funds would be between 20,000 and 25,000 crores. The proposed reform lifts the insurance industry's FDI (Foreign Direct Investment) cap from 26% to 49%. The global insurance fund segments would include international direct investment, foreign funding, foreign portfolio investment, depository receipts, and non-resident Indians. Insurance companies can raise funds via non-equity securities, rather than equity bonds. The Regulatory and Development Insurance Authority of India will issue separate rules that define the instruments (IRDA).

Keywords: FDI, Insurance, Legal Framework, Indian, Sector

INTRODUCTION

In comparison to its global peers, India's insurance market has been increasingly growing, with overall insurance rates rising at a fast pace. In the last 17 years, India's insurance sector has increased by 16.5 percent at a compound annual rate of growth (CAGR). The insurances of 3.69% and 73 USD were equivalent to the other nations, respectively, in FY2017-18 (IRDAI, 2019). The poor coverage and density rates suggest that substantial parts of the population of India are not covered and show that an insurance shortfall exists. The causes were household income thresholds, negative selection, moral hazards and usability difficulties. Though India's life and non-life insurance market penetration and density are poor in comparison with advanced countries, they have steadily been increasing in recent years. The nationalization of life and non-liberation sectors and the creation of an Insurance Regulatory and Development Agency have had a significant impact on the industry in recent years (IRDA), the business opening to private and multinational firms as well as the increase by 49% in the limit of external ownership. The market has developed into a competitive economy from a monopolical state monopoly. Today, 59 firms, including 24 life insurers and 35 Non life insurers (even reinsurers), are part of the Indian insurance sector (IRDAI, website). The Indian health Insurance company holds 74.7% of its market share, while the other 25.3% controls life insurance. (IRDAI 2013). 2018. In recent 17 years, India's insurance sector has grown by 16.5 percent at the annual compound growth rate (CAGR). The penetration and density of the Indian insurance industry, on the other hand, are abysmally poor, representing the sector's low level of growth. Even after introducing a series of reform steps, the Indian insurance industry, which accounted for just 2% of the global insurance market in 2017, has a long way to go in comparison to the insurance markets in emerging economies.

Insurance is a thriving industry in India, with both domestic and foreign companies participating and rapidly increasing. It accounts for 12.9 percent of India's GDP, along with banking and real estate. However, policy coverage penetration for both life and non-life insurance is still low, at 3.9 percent

in 2013. In 2001, the Indian insurance industry was liberalized. As a result of the liberalization, some of the world's biggest insurance firms have entered the industry, citing India as one of the most important emerging markets. Over the last 14 years, India's insurance sector has undergone significant reforms. Rising the FDI ceiling on Indian insurance firms to 49 percent from 26 percent will enable global reinsurance companies to open offices in India.

FDI IN INDIA

A majority stake of a business company in one country by an individual located in another country is known as foreign direct investment (FDI). Foreign direct investment (FDI) is a significant source of non debt financial resources for India's economic development, in addition to being a critical engine of economic growth. Foreign firms invest in India to benefit from lower salaries and special investment benefits such as tax exemptions, among other things. It also entails gaining technological know how and creating jobs in a country where foreign investments are made.

OPPORTUNITIES DUE TO EXPANSION OF FDI

1. Increase insurance penetration

India, with a population of over 100 crores, needs more insurance than any other country. However, in terms of total premiums underwritten annually, insurance penetration in the country is just about 3% of our gross domestic product. When compared to Japan, where insurance coverage is above 10%, this is a significant difference. Increased FDI limits would boost existing businesses while still allowing new entrants to enter, allowing more consumers to purchase life insurance.

2. Level playing field

The insurance industry would have a level playing field with the rise in foreign direct investment to 49 percent. Currently, India's state-owned Life Corporation manages about 70% of the life insurance industry.

3. Increased capital flow

The majority of private-sector insurance providers have been losing money. The increased FDI cap has provided much-needed relief to these businesses, with an estimated inflow of more than 20,000-25,000 crore in the near future. Depending on how things turn out, this could rise to 40,000-60,000 crore in the mid to long term.

4. Job creation

By more revenue pouring in, insurance firms will be able to hire more people in order to fulfil their goals by expanding into underserved areas through greater technology, facilities, and manpower.

5. Consumer friendly

Common people will be the ultimate beneficiaries of this amendment. With more competitors in the market, there is bound to be fierce competition, resulting in lower prices, better facilities, and a higher claim payout ratio.

THE INSURANCE SECTOR'S EVOLUTION AND GROWTH

While foreign and foreign firms and private-sector insurers are being gradually opened up to the industry, public sector insurers dominate the Indian insurance business. In recent years, the insurance sector in India has experienced a paradigm shift from an exclusive state monopoly to a competitive, free market. There has been rapid growth in the insurance sector of India. In 2017, gross insurance rates in India rose at a fast rate of 10.1 percent, compared to 1.5 percent for their international counterparts (IRDAI, 2018). With its massive market share, life insurance appears to reign supreme. Owing to the introduction of novel products such as unit-linked insurance policies in the life insurance market and emerging sales networks such as banc assurance, the sector's product range has shifted. NBFCs and online distribution are expanding the sector's scope (IBEF, 2019). The Life Insurance Corporation (LIC) is the only public sector firm of the 24 life insurers currently operating in India. The non life insurance market is growing due to the rise of the automobile, wellness, and crop insurance markets. Six public sector insurers are among the 35 non life insurers. There is also the Indian General Insurance Corporation, the only national re insurer of the world (GIC Re). Other

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players in the Indian insurance sector include personal and business advisers, agents, surveyors and managers managing health insurance claims.

COMPOSITION OF THE SECTOR: PUBLIC VS. PRIVATE

The majority of private sector insurers joined the industry in the decade following its opening, and recent new entrants to the sector have been in the nonlife, standalone health, and reinsurance (including ERBs) markets (IMF, 2018) While having a smaller number of insurers, public sector insurers have a larger market share. In both the life and non-life markets, private sector insurers are gradually growing their market share. The private sector's share of the life insurance market has increased from 2% in FY03 to 33.8 percent in FY19 (IBEF, 2019) In the non-life insurance market, private players raised their share from 13.12% in FY03 to 55.7 percent in FY209 (IBEF, 2019).

Source: IRDAI Annual Report 2017-18

Insurers at a glance

NEED FOR FDI AND PAST POLICY CHANGES

- Major non debt resources are foreign direct investment (FDI) for the country's economic growth.
- The influx of investment into India has vastly improved after the LPG (Liberalization, Privatization, and Globalization) reforms of 1991, when the Government of India (GOI) introduced the LPG (Liberalization, Privatization, and Globalization) reforms, Since then, India has grown in popularity as a foreign direct investment (FDI) destination, ranking among the top five in the emerging Asia region.
- The Foreign Exchange Management (Transfer or Issue of Protection by an Individual Residing outside India) Regulations, 2000, which act in compliance with the FEMA, govern FDI inflows in India. According to its provisions, a foreign investor, who is a person residing outside of India and is a resident of a foreign state, or a company registered outside of India, may invest in India.
- A FERA Act 1973 was enacted to promote investment through the empowerment of the Reservation Bank of India (RBI) as a statutory supervision and oversight agency. The Government of India adopted over time the Foreign Exchange Management Act of 1999 with the aim of improving management (FEMA).

FDI INFLOW INTO INDIA

- • DPIIT (formerly the Ministry for Industry and Trade), which is the Ministry of Industry and Commerce, focuses on promoting the access of FDIs into a nation through a Consolidated FDI policy to ensure optimum spending by international investors in different sectors of the economy
- DPIIT (formerly the Department of Industrial Policy and Promotion). In order to control, or de-regulate, investment falls into India, the DPIIT issues prescribed sartorial limits.

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- According to DPIIT's quarterly figures, the data for FDI inflow in 2019-20. Singapore got the most FDI (14.67 billion USD), followed by Mauritius, the Netherlands, the United States, and Japan.

The top tier sectors attracting the most FDI's are:

a) Much of the FDI equity inflows were collected by the services sector for $7.85 billion.
b) Computer and hardware are at near range of $7 67 billion in inflows,
c) USD 4.44 billion of telecommunications, and
d) $4.57 billion in market capitalization.

- While over time FDI inflows into India increased significantly, the increase in FDI flows was followed by high regional levels with Maharashtra, Karnataka, Delhi and Gujarat among the top FDI attractive countries. According to findings of a research expert3, countries with a tradition of attracting FDI inflow win further equity inflows, which makes the attraction of new investment even more challenging for countries with a lagging history of FDI inflows.

ROUTES FOR FDI

- There are two routes for bringing FDI into the country:

I. Government Route : After first obtaining the GOI's permission no investment can be made on this path. Approval is required, and the organization must submit an application to the Foreign Investment Facilitation Portal, which allows for single-window clearance The FDI application is forwarded according to the protocol to the corresponding ministry, which, following consultancy with DPIIT can approve or refuse the application.

II. Automatic Route: For private foreign investors, no prior approval or authorization from RBI and GOI is necessary (both non-resident and Indian companies).

- FDI prices in India are not standardized. Any firms have received 100% FDI to guarantee that full support from the FDI is provided to an organization. Additional well established figures include 26%, 49%, 51% and 74%. Certain strategic sectors have been exempted from FDI under each of the roads.
- Clearance procedure and timeline: The application can be submitted at www fifp gov in/, which will start the internal approval process including DPIIT, which will identify the relevant Ministry or Department and then circulate the request within two days.

CHALLENGES

The automatic route would allow foreign investment of up to 26 percent of the insurer's total paid up equity, and the increase of FDI from 26 percent to 49 percent (i.e.23 percent) would be allowed by the Foreign Investment Promotion Board, rather than the automatic route, which means that the FIPB would issue guidelines on management control, which would lie with the FIPB. The appointment of CEOs and CFOs of insurance joint ventures will also be governed by FIPB guidelines. Another problem is the stability of Indian financial markets, as insurance companies can introduce contagion risk, such as risky derivatives and a polluted balance sheet. The government is mainly interested in how much money the insurance firms can carry with them, rather than the amount of business they can produce, since rural participation is supposed to be poor. Being listed on a stock exchange to collect FIIs might not be appealing to all insurance firms. Under the rules of the Insurance Regulatory and Development Authority, companies whose embedded value is twice their paid up capital shall be included on the stocked. In the insurance sector, embedded valuation is a common accounting measure calculated by multiplier the net modified value of the commodity by the actual value of the expected income of a firm The current value of projected earnings takes into account the expected profits that shareholders will earn in the future, while adjusted net asset value takes into account the funds that shareholders have received in the past. When insurers list their stock on stock exchanges, another problem may emerge. According to Indian law, the public must own 25% of a publicly traded stock.

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CONCLUSION

Overall, the rise in FDI for insurers is a significant improvement at a time when new insurance acquisitions are scarce. However, despite the notice of the reform act, it is still unclear whether the changes will take effect. Furthermore, since the regulatory system also requires Indian ownership and control to some degree, the enforcement of the amendment act is likely to throw the industry into a temporary state of flux before all subsequent amendments are made under the applicable regulations and guidance.

Fundamental regulatory reforms in the insurance industry will have a major effect on different segments of the economy and will be important for potential development. Foreign engagement is critical for the industry because it brings the best know-how and allows for the implementation of best practices. India is one of the world's fastest expanding insurance markets, with the industry forecast to expand by 12% percent in the next decade. However, there is a possibility that foreign insurers will be unable to invest in India unless they are granted management power.

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वास्तव में संविधान के अनुच्छेद 1 के अंतर्गत जब भारत के भौगोलिक क्षेत्रों के परिमाप का वर्णन किया जाता है तो उनमें राज्यों को मुख्य अवयव के रूप में प्रदर्शित किया जाता है। परंतु राज्यों के साथ ही देश के विविध हिस्सों में स्थित सात केंद्र शासित क्षेत्र भी भारत वर्ष के अभिन्न अंग के रूप में अपनी उपस्थिति दर्ज कराते हैं ये सातों केंद्र शासित प्रदेश देश के विभिन्न हिस्सों में स्थित वे विशिष्ट क्षेत्र हैं जिन्हें उनकी अनूठी राजनीतिक, सांस्कृतिक अथवा भौगोलिक स्थिति के कारण किसी अन्य राज्य में समाहित करना समुचित नहीं माना गया। इस दृष्टि से जहाँ दिल्ली और चंडीगढ़ जैसे क्षेत्रों को उनके राजनीतिक महत्व के कारण अलग क्षेत्र के रूप में मान्यता दी गई, वहीं लक्षद्वीप, अंडमान–निकोबार, पुडुचेरी, दादरा और नागर हवेली जैसे क्षेत्रों को उनकी विशिष्ट भौगोलिक स्थिति के कारण भारतीय संघ की अलग इकाई के रूप में स्वीकार करना समीचीन प्रतीत हुआ। संविधानिक रूप से ये केंद्र शासित प्रदेश न केवल राज्यों की तुलना में विशेष दर्जा प्राप्त क्षेत्र हैं अपितु इनमें से कई क्षेत्रों के लिए अनूठे प्रकार की राजनीतिक–प्रशासनिक व्यवस्था का भी सृजन किया गया हैं। उदहारण के लिए, दिल्ली के लिए एक विशेष प्रकार की शासन व्यवस्था का गठन संविधान के अनुच्छेद 239 (अअ) के अंतर्गत किया गया है जो दिल्ली की राष्ट्रीय राजधानी के स्वरूप को देखते हुए काफी समुचित व्यवस्था मानी गई है।[13]

भारत की संघीय व्यवस्था की दूसरी महत्वपूर्ण असमरूपता को संसद के उच्च सदन अर्थात राज्य सभा में राज्यों के असमान प्रतिनिधित्व के रूप में देखा जा सकता है।[14] रोचक बात यह है कि संघवाद के पुरातन सैद्धांतिक चिंतन में, जिसका कि सर्वोत्कृष्ट व्यावहारिक प्रतिफलन अमेरिका में देखने को मिलता है, में इस बिंदु पर काफी बल दिया गया कि चूँकि संघीय विधायिका का ऊपरी सदन संघीय विधायिका में राज्यों का प्रतिनिधित्व सुनिश्चित करने के लिए बनाया जाता है, इसलिए उसमे राज्यों को समान प्रतिनिधित्व दिया जाना चाहिए। इसी कारण अमेरिकी सेनेट में प्रत्येक अमेरिकी राज्य को बराबर का प्रतिनिधित्व प्रदान किया गया है। परंतु भारतीय संविधान निर्माताओं ने संघवाद के इस पुरातन सिद्धांत को भारत के लिए स्वीकार करने से मना कर दिया। इसके विकल्प स्वरूप भारतीय संसद के ऊपरी सदन राज्यसभा में राज्यों को उनकी जनसख्यां के अनुसार समानुपातिक प्रतिनिधित्व की अवधारणा को स्वीकार किया। इसका मूल कारण यह है कि भारतीय राज्यों के मध्य जनसंख्या का अंतर इतना विराट है कि इस तथ्य को नकार कर हर राज्य को राज्य सभा में समान प्रतिनिधित्व देने की बात पूर्णतः अतार्किक और अविवेकपूर्ण प्रतीत होती। साथ ही भारतीय संसद के ऊपरी सदन को भारतीय संवैधानिक परंपरा में राज्यो के हितो के रक्षक से अधिक संसद की विधायी प्रक्रिया के सशक्त भागीदार के रूप में स्वीकार किया गया है। इसलिए राज्य सभा के गठन में राज्यों को इकाई मानने की बजाय जनसंख्या को ही आधार मानना संविधान निर्माताओं को उपयुक्त लगा।

उपसंहार

संघीय शासन प्रणाली के पसंदीदा सैद्धांतिक अवयव के रूप में समरूपता की अवधारणा अनेकोनेक देशों की जटिल सामाजिक, आर्थिक, सांस्कृतिक–नृजातीय परिस्थितियों के सम्मुख अपनी उपयोगिता को बरकरार रखने में सर्वथा विफल रही है। भारत के मामले में इस प्रणाली को देश की एकता और अखंडता को अक्षुण्ण रखने की अतिरिक्त चुनौती का भी सामना करना पड़ा परिणामतः, भारत सहित संसार के कई अन्य देशों ने भी संघवाद के इस सैद्धांतिकता राद्धांतता को सरासर अस्वीकार कर अपने संविधानों में अनेक असमरूप विशेषताओं को समाहित कियां विशेषकर भारत के संविधान निर्माताओं ने संघवाद को एक जड़मूलक अवधारणा मानने की बजाय इसे एक जीवंत राजनीतिक व्यवस्था के रूप में स्वीकार करना अधिक श्रेयस्कर समझा। इस व्यवस्था के द्वारा संविधान निर्माताओं ने न केवल देश के सामाजिक, आर्थिक, सांस्कृतिक और नृजातीय वैविध्य को संजोकर रखा, अपितु देश की एकता और अखडता को भी काफी सीमा तक अक्षुण्ण रखने में सफल रहे। इन्ही सांस्कृतिक और भौगोलिक चुनैतियों से निपटने के क्रम में भारतीय संघवाद में प्रादेशिक और अप्रादेशिक दोनों प्रकार की असमरूपताओं को

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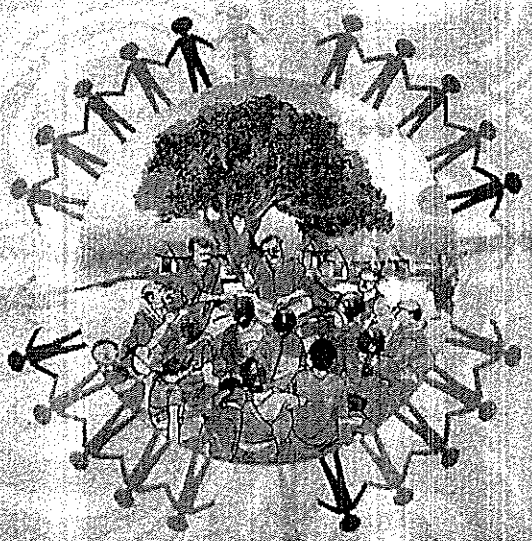

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'ज्ञान गरिमा सिंधु' एक त्रैमासिक पत्रिका है। पत्रिका का उद्देश्य है-हिंदी माध्यम से विश्वविद्यालयी व अन्य छात्रों के लिए सामाजिक विज्ञान-संबंधी उपयोगी एवं अद्यतन पाठ्य पुस्तकीय तथा संपूरक साहित्य की प्रस्तुति। इसमें वैज्ञानिक लेख, शोध-लेख, तकनीकी निबंध, शब्द-संग्रह, शब्दावली-चर्चा, पुस्तक-समीक्षा आदि का समावेश होता है।

लेखकों के लिए निर्देश-

1. लेख की सामग्री मौलिक, अप्रकाशित तथा प्रामाणिक होनी चाहिए।
2. लेख का विषय मूलभूत मानविकी एवं सामाजिक विज्ञान से संबंधित होना चाहिए।
3. लेख सरल हो जिसे विद्यालय/महाविद्यालय के छात्र आसानी से समझ सकें।
4. लेख लगभग 2000 से 3000 शब्दों का हो। कृपया टाइप किया हुआ या कागज के एक ओर स्पष्ट हस्तलिखित लेख भेजें जिसके दोनों तरफ हाशिया भी छोड़ें।
5. प्रकाशन हेतु भेजे गए लेख के साथ उसका सार भी हिंदी में अवश्य भेजें। लेख में आयोग द्वारा निर्मित शब्दावली का प्रयोग करें तथा प्रयुक्त तकनीकी/वैज्ञानिक हिंदी शब्द का मूल अंग्रेजी पर्याय भी आवश्यकतानुसार कोष्ठक में दें।
6. श्वेत-श्याम या रंगीन फोटोग्राफ स्वीकार्य हैं।
7. लेख के प्रकाशन के संबंध में संपादक का निर्णय ही अंतिम होगा।
8. लेखों की स्वीकृति के संबंध में पत्र-व्यवहार का कोई प्रावधान नहीं है। अस्वीकृत लेख वापस नहीं भेजे जाएँगे। अतः लेखक कृपया टिकट लगा लिफाफा साथ न भेजें।
9. प्रकाशित लेखों के लिए मानदेय की दर 2500/ रुपए प्रति हजार शब्द है, तथा भुगतान लेख के प्रकाशन के बाद ही किया जाएगा।
10. कृपया लेख की दो प्रतियां निम्न पते पर भेजें:

संपादक, 'ज्ञान गरिमा सिंधु'
वैज्ञानिक तथा तकनीकी शब्दावली आयोग
पश्चिमी खंड-7, रामकृष्णपुरम, नई दिल्ली-110066

अध्यक्ष की ओर से

वैज्ञानिक तथा तकनीकी शब्दावली आयोग विभिन्न वैज्ञानिक, तकनीकी, उच्चतर शिक्षा एवं मानविकी आदि से संबद्ध क्षेत्रों में तैयार की गई शब्दावली का समुचित उपयोग सुनिश्चित करने के उद्देश्य से तथा वैज्ञानिक एवं तकनीकी लेखन को प्रोत्साहित करने के लिए 'ज्ञान गरिमा सिंधु' पत्रिका का प्रकाशन करता है। आयोग द्वारा समय-समय पर इस पत्रिका के कुछ विशेष विषयों पर केंद्रित विशेषांकों का प्रकाशन किया जाता है। प्रस्तुत अंक को अपने पाठकों व लेखकों को उपलब्ध कराते हुए मुझे अपार हर्ष का अनुभव हो रहा है। 'ज्ञान गरिमा सिंधु' का जुलाई सितम्बर-2019 का यह अंक भारतीय जीवन दर्शन, मुद्दों एवं समकालीन विषयों पर केंद्रित है।

पत्र-पत्रिकाएँ न केवल संस्था विशेष के ज्ञान के वैशिष्ट्य की परिचायक होती हैं बल्कि राष्ट्रीय स्तर पर अलग-अलग क्षेत्रों में हो रहे महत्वपूर्ण अनुसंधानों व शोध-कार्यों का एक समेकित व जनोपयोगी सार्थक मंच भी होती हैं। यद्यपि अन्य वैज्ञानिक पत्रिकाओं के समानांतर ही 'ज्ञान गरिमा सिंधु' का उद्देश्य भी मूल रूप से हिंदी में मानविकी विषयक लेखन को प्रचारित-प्रसारित करना है, जिसका कार्यान्वयन व अनुपालन पत्रिका अपने प्रत्येक अंक में करती रही है। ऐसे अंकों के कारण विविध विषयों पर वैविध्यपूर्ण जानकारी प्रस्तुत करने से, पाठकों को संबंधित क्षेत्रों में हो रहे नवीनतम अनुसंधानों एवं शोध-कार्यों की अद्यतन जानकारी एक ही स्थान पर, उनकी भाषा में, उपलब्ध हो जाती है। पत्रिका का यह अंक कई दृष्टियों से महत्वपूर्ण व संग्रहणीय है। देश भर से विविध विषयों पर चिंतन-मनन करने वाले विभिन्न प्राध्यापकों/लेखकों द्वारा अपने-अपने विषयों के महत्वपूर्ण आलेख तैयार किए गए हैं।

मैं इस अवसर पर देश के प्रतिनिधि विश्वविद्यालयों, तकनीकी, वैज्ञानिक एवं अन्य संस्थानों के अध्यापकों, वैज्ञानिकों एवं अधिकारियों से अपेक्षा करता हूँ कि वे आयोग के विशेषज्ञ विद्वानों के सहयोग से तैयार की गई प्रामाणिक व मानक शब्दावली का अधिक से अधिक प्रयोग कर अपना सार्थक सहयोग प्रदान करें।

इस कार्य को पूर्ण रूप से संपादित कर प्रकाशन योग्य तैयार करने का उत्तरदायित्व डॉ. शाहजाद अहमद अंसारी द्वारा निभाया गया है। इस पत्रिका के परामर्श एवं संपादन समिति के प्रत्येक विशेषज्ञ तथा संपादक डॉ. शाहजाद अहमद अंसारी के प्रति धन्यवाद व्यक्त करता हूँ। मैं इस अंक के लेखकों को भी साधुवाद देता हूँ। सुधी पाठकों के अमूल्य सुझावों व सहयोग की प्रतीक्षा रहेगी।

(प्रोफेसर अवनीश कुमार)
अध्यक्ष एवं प्रधान संपादक
वैज्ञानिक तथा तकनीकी शब्दावली आयोग

संपादकीय

'ज्ञान गरिमा सिंधु' का 63 वाँ अंक आपके समक्ष है। इस अंक में विविध सरोकार हैं जिन पर लेखकों ने अपनी चिन्ताएँ प्रकट की है और चिन्तन मनन कर अपने दृष्टिकोण को स्पष्ट करने के प्रयत्न किए हैं।

प्रस्तुत अंक पाँच खण्डों में बांटा गया है। कुल 38 आलेखों को विषय के अनुसार विभिन्न खण्डों के अन्तर्गत रखा गया है। पहला खण्ड वैचारिक परिप्रेक्ष्य से सम्बन्धित है जिसमें गांधी-अम्बेडकर भगतसिंह व नवमानव पर केन्द्रित आलेख हैं जिसमें विभिन्न विचारकों की दृष्टि के आधार पर धर्म, राजनीति, जाति को समझने का प्रयत्न किया गया है। दूसरा खण्ड 'शिक्षा एवं समाज' केन्द्रित है जिसमें समाज व शिक्षा की समस्याओं पर चिन्तन मनन किया गया है। तीसरा खण्ड 'स्त्री विमर्श' पर चर्चा करता है और विकास की प्रक्रिया में स्त्री संघर्ष व उनसे मुक्ति की खोज तथा स्त्री सशक्तीकरण पर विस्तृत विवेचन, विश्लेषण प्रस्तुत किया है। चतुर्थ खण्ड 'अन्तरराष्ट्रीय परिदृश्य' में अन्तरराष्ट्रीय स्तर पर राजनीति, आर्थिकी, राष्ट्रवाद, आतंकवाद व विभिन्न देशों के आपसी सम्बन्धों पर विस्तृत चर्चा की गई है। अंतीम खण्ड 'विविध' मे अन्तर्गत पर्यावरण, सिनेमा, साहित्य, सरकारी योजनाओं, आपदाओं व तुलनात्मक राजनीति पर केन्द्रीत है। उपरोक्त सभी खण्डों में चर्यानत आलेखों में जहाँ गांधी-अम्बेडकर बार-बार वर्तमान की समस्याओं को ऐतिहासिक परिप्रेक्ष्य में समझने पर बल देते हैं वहीं समाज राजनीति व शिक्षा के क्षेत्र में जरुरी बदलावों की आवश्यकता पर भी जोर देते हैं।

प्रस्तुत अंक में देश भर से कुल 60 आलेख प्राप्त हुए थे। मूल्यांकन हेतु उपस्थित सभी विशेषज्ञों ने विचार विमर्श के पश्चात मूल्यांकन के बाद अंत में 38 आलेखों को स्वीकृति प्रदान की। मैं सभी आलेख-लेखकों व परामर्श संपादन समिति के सदस्यों के प्रति आभार प्रकट करता हूँ।

मैं माननीय अध्यक्ष महोदय के प्रति कृतज्ञ हूँ, जिनके मार्गदर्शन व प्रोत्साहन से यह कार्य नियत समय पर निष्पादित हो सका। मुझे पूर्ण विश्वास है कि प्रस्तुत अंक पाठकों के लिए लाभदायक एवं उपयोगी साबित होगा। आप लोगों के सुझावों की प्रतीक्षा रहेगी।

(डॉ. शहजाद अहमद अंसारी)
सहायक वैज्ञानिक अधिकारी
राजनीति विज्ञान

परामर्श एवं संपादन मंडल

अनुक्रमाणिका

संपादकीय

28. संस्कृत वाङ्मय में तुलनात्मक राजनीति के सूत्र

डॉ. पवन कुमार शर्मा*

भारत के सर्वांगीण विकास के परिप्रेक्ष्य में सामान्यतः विद्यार्थियों को यही अध्ययन कराया जाता रहा है कि यह सब, जो आज हमारे पास है, हमें ब्रिटिशर्स की बदौलत ही प्राप्त हुआ है। यदि भारत में ब्रिटिश सरकार की स्थापना न हुई होती तो न जाने भारत की क्या दशा होती ? कुछ विद्वान तो यह भी मानते हैं कि भारत में अंग्रेजों का आगमन दो सौ वर्ष बाद हुआ और वे दो सौ वर्ष पूर्व ही प्रस्थान कर गए। इस दृष्टिकोण से सोचने वाले विद्वानों ने, न केवल स्वंय को धोखे में रखा बल्कि भारत की युवा पीढ़ी को भी अंधकार में रखकर उसे आत्मविश्वास विहीन बना दिया। भारत का अतीत कितना स्वर्णिम रहा है कि यदि उससे भारत की तरुणाई को परिचित कराया गया होता तो निश्चित ही भारत का वर्तमान, और अधिक उन्नत होता, जितना की अभी है। प्राचीन भारत के अध्ययन से हमें न केवल यह ज्ञात होता है कि भारत का अतीत क्या था बल्कि हम इससे भी परिचित होते हैं कि उसने विश्व का मार्गदर्शन किस प्रकार किया। प्रसिद्ध इतिहासकार विल ड्यूरण्ट अपनी बहुचर्चित पुस्तक 'केस फार इण्डिया' में स्पष्ट रुप से इस महत्व को रेखांकित करते हुए लिखते हैं: भारत अनेक प्रकार से पाश्चात्य जगत की माता है, चाहे वह भाषा हो, विज्ञान हो, करूणा हो या स्थानीय शासन या लोकतंत्र।[1]

1853 में मार्क्स भी कुछ इसी प्राकर से लिखते है ''हम निश्चयपूर्वक, न्यूनाधिक सुदूर अवधि में, उस महान और दिलचस्प देश को पुनर्जीवित होते देखने की आशा कर सकते हैं जहाँ के सज्जन निवासी राजकुमार माल्तिकोव (रूसी लेखक) के शब्दों में ''इटालियन लोगों से अधिक चतुर और कुशल हैं; जिनकी अधीनता भी एक शांत गरिमा से संतुलित रहती है, जिन्होंने अपने सहज आलस्य के बावजूद अंग्रेज अफसरों को अपनी वीरता से चकित कर दिया है, जिनका देश हमारी भाषाओं, हमारे धर्मों का उद्गम है, और जहाँ प्राचीन जर्मन का स्वरूप जाट में, प्राचीन यूनानी का स्वरूप ब्राह्मण में प्रतिबिंबित है।''[2] यद्यपि, मार्क्स ने कभी भी भारत भ्रमण नहीं किया था इसलिए वह भारत के पुनर्जीवित होने की बात करता है, जबकि सच्चाई यह रही कि भारत सनातनी परंपरा का होने के कारण स्वयं अपने को अद्यतन करता रहा। यहाँ पर पुनर्जीवित शब्द का प्रयोग मार्क्स ने भारत की प्रकृति से अनभिज्ञ होने के कारण किया है और माल्तिकोव भी भारत के जाट को जर्मन के समकक्ष तथा ब्राह्मण को यूनानी के समकक्ष इसलिए रखता है क्योंकि उसके सम्मुख इन्हीं दोनों समाजों के उदाहरण थे। वास्तविकता इसके

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विपरीत है क्योंकि भारतीय समाज जर्मनी और यूनान से अधिक पुराना है। जैसा कि मैं ऊपर भी उद्धृत कर चुका हूँ कि इस प्रकार की मनोवृत्ति उपनिवेश काल की देन है। इस प्रकार के विचार भारत में बहुत पहले से विदेशियों के द्वारा प्रचारित किए जा रहे थे, किंतु कालान्तर में भारत के साम्बन्ध में सकारात्मक विचारों को उद्घाटित करने वाले व्यक्ति एवं साहित्य को या तो प्रतिबंधित कर दिए जाने की परंपरा विकसित हुई या फिर उन्हें मुख्य धारा से ही बाहर कर दिया गया। यही कारण था कि विल ड्यूरण्ट की यह पुस्तक सर्वप्रथम 1930 में प्रकाशित हुई थी लेकिन उसके बाद बहुत लंबे समय तक भारत का बुद्धिजीवी वर्ग इस पर बात करने से कतराता रहा; क्योंकि यह भारत के महानतम् अतीत को उद्घाटित करती है और ब्रिटिश राज ने भारत में किस प्रकार शोषणकारी शासन किया उस पर भी प्रकाश डालती है। भारत के विषय में यह एक अत्यधिक प्रमाणिक अभिलेख है जो भारत के गौरवशाली अतीत तथा शेष विश्व को उसके योगदान से परिचित कराता है।

इसी प्रकार सर विलियम जोन्स, जो कि ब्रिटिश ईस्ट इण्डिया कंपनी के कलकत्ता स्थित सुप्रीम कोर्ट, में जस्टिस बनकर 15 जनवरी 1784 में भारत आए और उन्होंने भारत के ऊपर बहुत लिखा जो कि लगभग पांच खण्डों में संकलित है, को भी भारत के तथाकथित बुद्धिजीवियों ने भुला दिया। सर विलियम जोन्स ने 1784 में रायॅल एशियाटिक सोसायटी की स्थापना की और उसके माध्यम से भारत के विपुल संस्कृत साहित्य का अनुवाद कराया। यह संपूर्ण साहित्य न केवल ब्रिटिशर्स के लिए प्रेरणास्पद रहा बल्कि यूरोप के विकास में भी इसने महत्वपूर्ण भूमिका निर्वहन की।

किन्तु, परिस्थितियाँ कुछ ऐसी बनीं कि भारत की युवा पीढ़ी को इस प्रकार के ज्ञान से सदैव दूर रखा गया। इस ज्ञान के बिखिन्न आयाम रहे हैं। यहाँ पर हम राजनीति शास्त्र के अंतर्गत पढ़ने और पढ़ाए जाने वाले एक आयाम तुलनात्मक राजनीति पर भारतीय परिप्रेक्ष्य में बात करेंगे। जब मैं भारतीय परिप्रेक्ष्य लिखता हूँ तो उसका अभिप्राय प्राचीन से है; क्योंकि आधुनिक तो लगभग सभी पाश्चात्य ही है, चाहे वह प्राचीन हो या अर्वाचीन। जब हम तुलनात्मक राजनीति के विषय में अध्ययन करते हैं तो ध्यान में आता है कि तुलनात्मक राजनीति का अभ्युदय भी अन्य शास्त्रों या अवधारणाओं की भांति ही यूनान में हुआ और प्रायः अरस्तू उसके प्रारंभ कर्ता माने गए। सर्वप्रथम, उन्होंने 158 देशों के संविधानों का अध्ययन किया, जिससे तुलनात्मक राजनीति का आधार बना। लेकिन राजनीतिशास्त्र के विद्यार्थी को कभी भी यह नहीं पढ़ाया गया कि प्राचीन भारत में भी अनेक प्रकार की शासन प्रणालियाँ प्रचलन में थीं और उनका अध्ययन भी तुलनात्मक दृष्टिकोण को विकसित करने में सहायक हो सकता था। आधुनिक तुलनात्मक राजनीति के परिप्रेक्ष्य में समकालीन राजनीति शास्त्री जे.डब्ल्यू.गार्नर लिखते हैं कि "वर्तमान अथवा अतीत में विद्यमान राज्य व्यवस्थाओं के माध्यम से ऐसी निश्चित सामग्री एकत्रित की जाए जिससे कोई अन्वेषक

चयन तुलना और निरसन की विधियों से राजनीतिक इतिहास में आदर्श प्रारूपों और प्रगतिवादी शक्तियों की खोज कर सके।''[3] जब हम इस परिभाषा का संज्ञान लेते हैं तो समकालीन राजनीति शास्त्रियों की विशेषकारी दृष्टि समझ में आती है कि वे पाश्चात्य राज्यों के स्वरूप को तो तुलनात्मक राजनीति के दृष्टिकोण से सम्यक पाते हैं; किंतु भारतीय राज्य उन्हें इस दृष्टि से उपर्युक्त प्रतीत नहीं होते। कई बार तो वे ऐसा ही प्रगट करते हैं कि भारत में आधुनिक या पाश्चात्य परिप्रेक्ष्य के राज्यों को व्यवस्था का सर्वथा अभाव था। यदि भारत में ब्रिटिशर्स नहीं आए होते तो भारत राजनीतिक इकाई के रूप में स्वयं को संगठित ही नहीं कर सकता था। यही दृष्टि उन विद्वानों को पक्षपाती बनाती है और प्राचीन भारत के अध्ययन की ओर दृष्टिपात करने से रोकती है। मैं गार्नर की परिभाषा के आलोक में ही प्राचीन भारत में विभिन्न राज्यों की कार्य प्रणाली को आधुनिक तुलनात्मक राजनीति के परिप्रेक्ष्य में समझने की कोशिश करुँगा। प्राचीन भारत की राज्य व्यवस्थाओं को समझने के दृष्टिकोण से वेद, रामायण, महाभारत, ब्राह्मण ग्रंथ, धर्मसूत्र एवं गृहसूत्र तथा कुछ बौद्ध एवं जैन ग्रंथ महत्वपूर्ण हैं। इन्हीं के आलोक में जो शासन प्रणालियाँ प्रचलन में थीं वे अग्रवत् हैं।

1. भौज्य शासन प्रणाली 2. स्वराज्य शासन प्रणाली 3. वैराज्य शासन प्रणाली 4. मद्र शासन प्रणाली 5. राष्ट्रिक शासन प्रणाली 6. पैत्तनिक शासन प्रणाली 7. द्वैराज्य शासन प्रणाली 8. अराजक शासन प्रणाली 9. उग्र और राजन्य शासन प्रणाली ये न केवल राज्य प्रणालियाँ थीं अपितु इनके शासक भी भिन्न-भिन्न उपाधियों या पदवी से विभूषित होते थे और उसी नाम से वे जाने या पुकारे जाते थे।

1. भौज्य शासन प्रणाली:- इस प्रकार की शासन प्रणाली का उल्लेख ऐतरेय ब्राह्मण में मिलता है।[4] पाली त्रिपिटक ने भी इस पर प्रकाश डाला है।[5] भौज्य शासन प्रणाली में राजा का निर्वाचित होना अनिवार्य शर्त थी। किंतु, जब हम इस विषय की और गहराई से जाँच करते हैं तो स्पष्ट होता है कि भौज्य और राष्ट्रिक या राष्ट्रिक दोनों एक ही हैं।[6] किंतु इनका नेतृत्व वंशानुक्रमिक नहीं होता था। ये मिल-जुल कर नेतृत्व करते थे। इस प्रकार सामान्यतः नेतृत्व एक से अधिक के द्वारा किया जाता था। हम इसे बहुल कार्यपालिका के समकक्ष या बहुलकार्यपालिका भी कह सकते हैं। महाभारत के शांतिपर्व में जो विभिन्न शासकों की सूची दी गई है उसमें भी भौज्य का नाम सम्मिलित है।[7] ऐतरेय ब्राह्मण भी इसका समर्थन करता है और इसे एक जाति के रुप में भी मान्यता देता है। कालान्तर में इसी शासन प्रणाली के आधार पर इसमें रहने वाली जाति भोज के नाम से जानी गई। इस प्रकार की शासन प्रणाली पश्चिमी भारत के गुजरात प्रदेश के काठियावाड़ क्षेत्र में विद्यमान थी। वर्तमान भुज जिला भोज या भौज्य शासन प्रणाली का ही प्रतिनिधि है।

2. स्वराज्य शासन प्रणाली:- स्वराज्य शासन प्रणाली का उल्लेख भी ऐतरेय ब्राह्मण में ही मिलता है।[8] इस

शासन प्रणाली में राजा को 'स्वराष्ट' कहा जाता था जिसका अर्थ है-'स्वयं शासन करने वाला।' 'तैत्तरीय ब्राह्मण' इस शब्द पर विस्तार से प्रकाश डालता है जिसमे वाजपेय यज्ञ की प्रशंसा में लिखा है कि जो यथोपयुक्त विद्वान वाजपेय यज्ञ के द्वारा यज्ञ प्रदान करता है वह 'स्वराज्य' प्राप्त करता है और स्वराज्य शब्द की व्याख्या में लिखा है-अपने समान लोगों का नेता बनना, वह बड़प्पन या ज्येष्ठय प्राप्त करता है।[9] यानि 'स्वराज्य' वह शासन प्रणाली जिसमें राजा समान लोगों पर अपने गुण वैशिष्टय के कारण नेतृत्व करने की क्षमता रखता हो। ये गुण इन्द्र के गुणों के समान समझे जाते थे। इस प्रकार की शासन प्रणाली भी पश्चिमी भारत में प्रचलित थी। यह प्रारंभिक अवस्था का वर्णन है क्योंकि शुक्ल यजुर्वेद के अनुसार यह शासन प्रणाली उत्तरी भारत में भी प्रचलन में थी।[10]

3. वैराज्य शासन प्रणाली- ऐतरेय ब्राह्मण में ही वैराज्य शासन प्रणाली पर भी प्रकाश डाला गया है। इस प्रकार की शासन प्रणाली हिमालय के पार्श्व मे प्रचलित थी। किंतु कालान्तर में यह दक्षिण मे भी प्रचलन में आई। इस प्रकार से इसका प्रचलन पर्याप्त क्षेत्र में था।[11] वैराज्य का शाब्दिक अर्थ होता है 'बिना राजा की या राजा रहित शासन प्रणाली'।[12] ऐतरेय ब्राह्मण इस पर प्रकाश डालते हुए लिखता है कि सारा देश या जाति (जाति से अभिप्राय एक भाषा बोलने वाले लोग, यहाँ पर संस्कृति अलग और भाषा/जाति अलग है) राजपद के लिए अभिषिक्त होता था। जिस प्रकार से संपूर्ण प्रजा ही राजा के रूप में अभिषिक्त हो रही है वह निश्चय ही प्रजातंत्र की प्रतिनिधि शासन प्रणाली होगी।

4. मद्र शासन प्रणाली- प्राचीन भारत में मद्र एक सुव्यवस्थित शासन प्रणाली वाला राज्य था और राज्य की राजधानी भी अत्यधिक भव्यता को प्राप्त थी। यद्यपि, पाणिनी ने अपने अष्टाध्यायी में कहीं पर भी मद्रों की राजधानी का नाम नहीं लिया है किंतु उसका उल्लेख अवश्य किया है, जिसको मार्गों के द्वारा चिन्हित करने पर शाकल (स्यालकोट जो कि वर्तमान में पाकिस्तान में है) के रूप में पहिचाना जा सकता है। प्रारंभिक दिनों में यह निश्चित ही उत्तर मद्रों का निवास स्थान रहा होगा। आज से लगभग दो हजार दो सौ वर्ष पूर्व यह राज्य मैनेन्डर की अधीनता में आया और यहाँ से मद्रों ने दक्षिण की ओर पलायन किया। भौज्य की ही भाँति यहाँ पर भी बहुल कार्यपालिका का अस्तित्व था और उसका निर्वाचन होता था। यह प्रणाली राष्ट्रिक कहलाती थी। इसी शासन प्रणाली के आधार पर पश्चिम के राज्यों का नामकरण हुआ जैसे- भौज्य से भुज बना वैसे ही राष्ट्रिक से सौराष्ट्र बना। अर्थशास्त्र के अनुसार सौराष्ट्र के लोग प्रजातंत्री थे।[13] इसी प्रजातंत्री शासन प्रणाली के आधार पर इस क्षेत्र का नाम सुराष्ट्र और बाद में सौराष्ट्र हुआ।

5. राष्ट्रिक शासन प्रणाली:- साहित्य के अध्ययन से यह संज्ञान में आता है[14] कि पश्चिमी भारत में राष्ट्रिक शासन प्रणाली प्रचलन में थी। यद्यपि इसकी कार्य प्रणाली भौज्यों एवं पैत्तनिकों के समकक्ष ही थी किंतु इसमें इनकी भाँति न ही वंशानुक्रमिक रूप से कोई एक व्यक्ति राजा होता था और न ही समस्त प्रजा।

लेकिन साहित्य में इस शासन प्रणाली में शासक का उल्लेख बहुवचन में किया गया है, यह स्पष्ट है।[15] इससे यह स्पष्ट हो जाता है कि यह भी एक प्रजातन्त्री शासन प्रणाली ही थी और थोड़े से भेद के साथ क्रियाशील थी।

6. पेत्तनिक शासन प्रणाली:- पेतनिक शासन प्रणाली से अभिप्राय है पैतृक या वंशानुक्रमिक नेतृत्व, जो कि पूर्वजों के समय से चला आ रहा हो।[16] यह शासन प्रणाली भौज्यों एवं राष्ट्रिकों के बिल्कुल विपरीत थी क्योंकि वहाँ निर्वाचन था और यहाँ पर वंशानुक्रम के आधार पर राजा पद प्राप्त करता था। ऐतरेय ब्राह्मण में भी भोजों से भिन्न एक विशिष्ट प्रकार के भोज बताए गए हैं, जिनको 'भोजपितरग्' कहा गया है।[17] इसका अर्थ है वंशानुक्रमिक भोज या वह भोज जो किसी अन्य भोज का पिता भी हो।[18] सही अर्थों में यह विशिष्ट वर्ग की शासन प्रणाली थी जो कि सरदारी या गण शासन की प्रणाली के रुप में पश्चिमी भारत में प्रचलित थी।[19]

7. द्वैराज्य शासन प्रणाली:- वैराज्य शासन प्रणाली के ही समान कौटिल्य ने अर्थशास्त्र में द्वैराज्य शासन प्रणाली का भी उल्लेख किया है जिसका अर्थ होता है दो का शासन। इसमें प्रतियोगिता के आधार पर पारस्परिक संघर्ष होता है जो कि अंत में नाशकारक सिद्ध होता है।[20] किंतु यह नाशकारक सदैव नहीं होता, क्योंकि भारत के प्राचीन इतिहास में इसके सुखद उदाहरण भी मिलते हैं। महाभारत में इसके विषय में उल्लेख है कि अवंती में विंद और अनुविंद इन दो राजाओं का राज्य था और ये दोनों राजा मिलकर राज्य करते थे।[21] 6वीं एवं 7वीं सदी में नेपाल में भी द्वैराज्य शासन प्रणाली प्रचलन में थी। लिच्छवी राजवंश तथा ठाकुरी राजवंश के राजाओं के यहां भी इसी प्रकार की शासन प्रणाली थी, इसके शिलालेख काठमांडू में पाए गए हैं।[22]

8. अराजक शासन प्रणाली - जैसा कि शब्द से ही विदित है कि 'अराजक' यानि बिना शासक वाली शासन प्रणाली।[23] भारत में इस प्रकार की शासन प्रणाली का महाभारत में भी उल्लेख आया है।[24] सही अर्थों में यह शासन सबसे आदर्श है क्योंकि इसमें कोइ किसी पर राज्य नहीं करता बल्कि स्वधर्म के आधार पर प्रत्येक मनुष्य के द्वारा राज्य का संचालन होता है। निश्चय ही अराजक शासन प्रणाली का राज्य बहुत ही कम जनसंख्या वाला राज्य रहा होगा, जहाँ पर प्रत्येक विषय पर सभी नागरिक किसी निष्कर्ष तक पहुंचने के लिए एकत्रित होते होंगे। महाभारत में भी इस प्रकार की व्यवस्था का उल्लेख है। प्राचीन भारत के इन राज्यों के अध्ययन से इनकी शासन प्रणाली ध्यान में आती है। निश्चय ही शासन प्रणालियों के आधार पर प्रशासन तंत्र भी निर्मित किया गया होगा, जिससे शासन का संचालन सुचारू रूप से किया जा सके।

9. उग्र और राजन्य शासन प्रणाली - वेद में इसका उल्लेख मिलता है। केरल के मालाबार में इस प्रकार की शासन प्रणाली प्रचलन में थी। इसमे शासक तो होता था किंतु राजा नहीं। अशोक के शिला लेखों में उसे केवल पुत्रों के रूप में उल्लेख किया गया है।[14]

कालांतर में इन शासन प्रणालियों का और अधिक विस्तार हुआ और उस विस्तार के आधार पर राज्यों के कर संग्रहण की क्षमता के बल पर राजा की पदवी निर्धारित की जाने लगी। शुक्रनीति इस विषय पर विस्तार से प्रकाश डालती है।[15] वह लिखती है कि-राज्यों के अधिष्ठाताओं की पदवी का निर्धारण कर संग्रहण की क्षमता के आधार पर होगा। वस्तुतः कर संग्रहण की क्षमता राज्य के क्षेत्रफल के विस्तार का भी द्योतक था। शुक्र के अनुसार:

1. सामान्त उसे कहा जाता था जो कि एक लाख से 3 लाख तक प्रतिवर्ष चादी के सिक्के कर के रूप में एकत्रित करता था।
2. माण्डलिक उसे कहा जाता था जो 4 लाख से 10 लाख तक चांदी के सिक्के कर के रूप में प्रतिवर्ष संग्रहित करता था।
3. राजन उसे कहा जाता था जो कि 11 लाख से 20 लाख प्रतिवर्ष चांदी के सिक्के कर के रूप में संग्रहित करता था।
4. महाराज उसे कहा जाता था जो कि 21 लाख से 50 लाख तक चांदी के सिक्के कर के रूप में प्रतिवर्ष संग्रहित करता था।
5. स्वराज उसे कहा जाता था जो कि 51 लाख से 100 लाख तक चांदी के सिक्के कर के रूप में प्रतिवर्ष संग्रहित करता था।
6. साम्राज्ञ उसे कहा जाता था जो कि 1 करोड़ से 10 करोड़ तक चांदी के सिक्के कर के रूप में प्रतिवर्ष संग्रहित करता था।
7. विराज उसे कहा जाता था जो कि 11 करोड़ से 50 करोड़ तक चांदी के सिक्के कर के रूप में प्रतिवर्ष संग्रहित करता था।
8. सार्वभौम वह होता था जो 51 करोड़ से ऊपर प्रतिवर्ष चांदी के सिक्के कर के रूप में संग्रहित करता था।

ऐतरेय ब्राह्मण में इन्हीं को अग्रवत् बताया गया है।

ऐतरेय ब्राह्मण-

ऐतरेय ब्राह्मण भी राजा की विजीगीषु प्रकृति के अनुरूप ही उसे राज्य के विस्तार की प्रेरणा देता है। इस प्रेरणास्पद सूक्त में अनेक प्रकार के राज्यों को समाविष्ट करने का आह्वान है।

स य इच्छेदेवं वित्क्षत्रिय मयं सर्वा जितीर्जयतायं स सर्वाल्लोकान्विन्देतायं सर्वेषां राज्ञां श्रैष्ठयमतिष्ठां परमतां

गच्छेत् साम्राज्यं, स्वाराज्यं, वैराज्यं परमेष्ठ्यं राज्य, महाराज्यमाधिपत्यमयं समंत पर्यायो स्यात्सार्वभौम: सार्वायुष आन्तादा परार्धात्पृथिव्यै समुद्र पर्यन्ताया एकराडिति तमेते नैन्द्रेण महाभिषेकेण क्षत्रियं शापयित्वाऽभिषिंचेत्।[6]

यानि, जो ब्राह्मण पुरोहित यह इच्छा करे कि अभिषिक्त होने वाला क्षत्रिय सब जितियों को जीते, सब लोकों को प्राप्त करे, सब राजाओं में श्रेष्ठता प्राप्त करे, एवं साम्राज्य, भौज्य, स्वाराज्य, वैराज्य, परामेष्ठ्यम, राज्य, महाराज्य, अधिपत्य, इन विभिन्न प्रकारों से अभिषिक्त होकर परमस्थिति प्राप्त करे, चारों दिशाओं के अंत तक पहुंचकर आगु पर्यन्त सार्वभौम बने और समुद्र पर्यन्त पृथ्वी का एक राट् बने, उस याजिग को इस ऐन्द्र महाभिषेक की शपथ दिलाकर राज्य में अभिषिक्त करना चाहिए।''

ऐतरेय ब्राह्मण में वर्णित आठों प्रकार के राज्य एवं वे जोकि पूर्व में अनेक प्रकार की शासन प्रणालियों का परिचय कराते और बाद के सूक्त में राजा से यह अपेक्षा की गई है कि वह छोटी (राज्य) इकाई से बढ़कर सार्वभौम राजा तक की यात्रा को पूर्ण करे और उस पद पर जीवन पर्यन्त बना रहे। यहाँ पर यह बात भी ध्यान देने योग्य है कि ये आठों प्रकार की राज्य शासन प्रणाली राज्यों की तुलना की दृष्टि से पर्याप्त संभावनाएँ अपने में समेटे हुए हैं, क्योंकि सभी के शासन में पर्याप्त भेद है और यह भेद शासनिक दृष्टि से और प्रशासनिक दृष्टि से भी अनुभव किया जा सकता है।

1) भौज्य शासन प्रणाली में नेतृत्व मिलजुलकर या बहुल रूप में किया जाना पाया जाता है। यदि वे ऐसा करते थे तो शासन और प्रशासन के संचालन के लिए उन्होंने एक संरचना भी तैयार की होगी और वह संरचना क्षैतिज और लंबवत् दोनों ही प्रकार की रही होगी। यदि, ऐसा नहीं रहा होता तो राज्यों का लंबे समय तक संचालन और संस्कृत वाङ्मय में उनकी उपस्थिति संभव नहीं हो सकती थी।

2) इसी प्रकार से ऐतरेय ब्राह्मण के सूक्त 5/15 में पुरोहित के द्वारा राजा के लिए जो इच्छा व्यक्त की गई है उसमें भी राज्य और राजा के विभिन्न रूपों का उल्लेख अनेक शासन प्रणालियों का प्रतीक है। वासुदेव शरण अग्रवाल इन सभी की विशद व्याख्या करते हुए लिखते हैं कि "सार्वभौम यानि, सर्वभूमि या महापृथिवी का राज्य। सार्वभौम राजा को चक्रवर्ती के रूप में भी उल्लेखित किया है। चक्रवर्ती यानि, जिसके रथ का चक्र अपने राज्य के बाहर भी निर्बाध गति से चले, वह चक्रवर्ती। सार्वभौम राजा के लिए यह अनिवार्य था कि वह अन्य राज्यों या राजाओं को किसी भी प्रकार से अपने राज्य का भाग बनाये। जब वह ऐसा करता है तो उसे अपने शासन और प्रशासन के दोनों स्वरूप क्षैतिज एवं लम्बवत् का विस्तार करना पड़ता है"।[7] भरत, दुष्यन्त, चंद्रगुप्त एवं समुद्रगुप्त इसी श्रेणी के राजा थे।

3) महाभारत के आदिपर्व में आधिपत्य या आधिराज्य शासन प्रणाली के प्रचलन का भी उल्लेख मिलता है।

इस शासन प्रणाली में राजा अन्य शासकों से कर लेकर उन्हें अपने राज्य में सुरक्षित रहने देता था। पाण्डु ने कुरू जनपद की शक्ति का विस्तार करके मगध, विदेह काशी, सहम, पुण्ड आदि जनपदों को अपना कर दाता बना लिया था[28] और आधिराज्य का भोक्ता कहलाया। जब हम, आधिराज्य के शासन तंत्र की तुलना सार्वभौम राजा या चक्रवर्ती राजा के साथ करते हैं तो दोनों में शासनिक और प्रशासनिक दृष्टि से पर्याप्त भेद प्रतीत होता है। यही भेद तुलनात्मक दृष्टिकोण को विकसित करने के लिए हमें पर्याप्त सामग्री उपलब्ध करवाता है।

4) साम्राट जो कि साम्राज्य का अधिपति होता था, को वाङ्मय थोड़ा हीन भाव प्रदान करता है। क्योंकि, सम्राट अपने जनपद की सीमा से बाहर निकलकर किसी भी जनपद को सुरक्षित नहीं रहने देता था। महाभारत के सभापर्व में सम्राट को हड़पने वाला कहा गया है।[29] इसी में साम्राज्य का आधार बल को भी माना है।[30] इन्हीं कारणों से इसको थोड़ा हेय माना है और इसकी शासन व्यवस्था भी अन्यों से अलग हो गयी। महाभारत में जरासंध और रामायण में रावण इसी परंपरा के शासक थे।

5) इसी प्रकार से पारमेष्ठ्य प्रणाली थी जो कि साम्राज्य के विपरीत परंपरा का निर्वहन करने वाली थी।

यह प्रणाली गणराज्यों के मध्य प्रचलन में थी। इस व्यवस्था में शासन का संचालन कुलों के आधार पर होता था और परिवार का ज्येष्ठ व्यक्ति 'राजा' कहलाता था।[31] शाक्यों और लिच्छवियों में यह शासन प्रणाली प्रचलन में थी।[32] यहाँ पर यह ध्यातव्य है कि साम्राज्य में जिस प्रकार से शासन का आधार बल होता था उसी प्रकार से 'पारमेष्ठ्य' शासन व्यवस्था में शासन का आधार शान्ति की नीति होती थी।[33] इस प्रकार से निश्चय ही इस प्रकार की शासन प्रणाली में अन्य शासनों से भिन्न व्यवस्थाओं की संरचना की गई होगी। सही अर्थों में यह शासन कल्याणकारी राज्य की अवधारणा पर अवलंबित था।[34] समन्तपर्यायी या चतुरन्त प्रकार की शासन प्रणाली से अभिप्राय था कि ऐसा शासन जिसमें पृथ्वी के चारों खूँट आपस में संबद्ध हैं। जब हम पृथ्वी के चारों खूँटों की बात करते हैं तो इसका निर्धारण विष्णु पुराण के आधार पर-

उत्तरं यस्य समुद्रस्य, हिमाद्रेश्चैव दक्षिणम्।
वर्ष तद् भारतम् नाम, भारतिः यत्र सन्ततिः।।[35]

किया जाता है। महाभारत इसी की कल्पना करता है। ऐतरेय ब्राह्मण में 'जो एक राट' का उल्लेख किया गया है वह भी इसी ओर संकेत करता है। मौर्य साम्राज्य का उदय इस प्रकार के शासन का ज्वलन्त उदाहरण है।

वासुदेव शरण अग्रवाल इस प्रकार की शासन व्यवस्था की प्रशंसा करते हुए लिखते हैं कि मौर्य साम्राज्य का मधुर फल दो रूपों में प्रकट हुआ। एक तो इससे समस्त देश में समान शासन-संस्थाओं की

स्थापना हो गई। शासन के कर्मचारी, विभाग, आय के साधन, कर व्यवस्था, यातायात के मार्ग, दंड और व्यवहार, दीवानी और फौजदारी की न्याय व्यवस्था, नाप-तौल और मुद्राएँ इन सब बातों में देश ने एक सूत्रता का अनुभव किया। इससे जनता के जीवन को एकरूपता प्रदान करने वाले बंधन दृढ़ हुए। विष्णुगुप्त का अर्थशास्त्र साम्राज्य के मंथन से उद्भूत उस एकरूपता का परिचायक महान ग्रंथ है। उदाहरण के लिए, मौर्य साम्राज्य में जो सिक्के चालू थे उनके बहुत से निधान (जखीरे) तक्षशिला से लेकर राजस्थान, मगध, कलिंग, मध्यभारत, महाराष्ट्र, आंध्र, हैदराबाद , मैसूर आदि प्रदेशों में पाए गए हैं। चांदी की इन आहत मुद्राओं की तौल सब जगह 32 रत्ती थी। उन पर बने हुए रूपया चिह्न भी सब जगह एक से पाए गए हैं।[16]

मौर्य साम्राज्य का दूसरा सुफल यह रहा कि उससे देश में अंतर्राष्ट्रीय चेतना उत्पन्न हुई। भारत वर्ष की जनता अपने चारों ओर के देशों से सच्चे अर्थ में परिचित हुई। भारत वर्ष में जाने वाले लंबे राज्य मार्ग और अधिक लंबे होकर दूसरी राजधानियों से जुड़ गये जिनके द्वारा यहाँ का व्यापारिक यातायात विदेशों के साथ बढ़ा। इन्हीं मार्गों से विदेशी दूत मंडल साम्राज्य की राजधानी पाटलीपुत्र की ओर मुड़े और भारत वर्ष से अनेक धर्म प्रचारक विदेशों में गये।[17]

इस प्रकार से भारत में अनेक प्रकार के राज्यों की शासन प्रणालियाँ अस्तित्व में थीं। उस शासन प्रणाली का सम्मान सभी पड़ोसियों के द्वारा किया जाता था। कालान्तर में दो प्रकार की व्यवस्थाएं बहुतायत में प्रचलन में आई (1) चक्रवर्ती सम्राट या (2) एकराट की। इस कारण से बाद में विभिन्न शासन प्रणालियों का स्वरुप प्रचलन से बाहर हो गया।

इस प्रकार यह ध्यान में आता है कि तुलनात्मक राजनीति के दृष्टिकोण से संस्कृत वाङ्मय में पर्याप्त सामग्री उपलब्ध है, आवश्यकता है तो बस इतनी कि उसकी, उसके अनुरूप व्याख्या हो पावे। पश्चिम के राजनीतिक सिद्धान्तों के अंतर्गत तुलनात्मक राजनीति का विकास सही अर्थों में संविधानवाद के अभ्युदय के बाद और व्यवस्थित रूप से 19वीं सदी के अंत में होना प्रारंभ हुआ। भारत में संविधानवाद जैसी कृत्रिम अवधारणा कभी विकसित ही नहीं हुई। भारतीय जीवन का प्राणतत्व धर्म था उसी के आधार पर समस्त प्रक्रियाएँ संचालित होती थीं। भारतीय धर्म ने समस्त प्राणियों के जीवन को सांगोपांग आच्छादित कर रखा था। वही धर्म उन्हें जीवन को व्यवस्थित करने का मार्गदर्शन करता था। अनेक शासन प्रणाली होने के बाद भी संपूर्ण व्यवस्था का संचालन धर्मानुसार ही होता था। यही कारण रहा कि भारत में अनेकानेक प्रणालियों के बावजूद भी उनके मध्य उक्त प्रकार का विभेद दिखाई नहीं देता जैसा कि पाश्चात्य राज्यों के मध्य दिखता है। यही भारत का वैशिष्ट्य था कि अनेक शासन प्रणालियों के बावजूद भी वे एक ही धर्म व्यवस्था पर आधारित थीं और उसी के अनुरूप कार्य करती थीं। यही समकालीन विद्वानों के लिए

विधाता की अनुभूति जीवित रहे इसलिए विधाता ने प्राचीन काल में 'स्वर और व्यंजन' वर्णों से चिन्हित लेख का निर्माण किया।[26] इन लेखों को शुक्र दो श्रेणी में विभाजित करते हैं।

1.समाचार संबन्धी लेख 2. आय व्यय संबंधी लेख। इनमें प्रत्येक आचार और क्रिया के भेद से बहुविध होते हैं।[27] (इस श्लोक से यह भी प्रतीत होता है कि समाचार लेखन की परंपरा का विकास हो चुका था और संपूर्ण कार्यवाही को लेखबद्ध करने की व्यवस्था प्रचलन में थी यानि कार्यवाही का दौरा लिपिबद्ध किया जाता था) अब इस व्यवस्था के प्रकाश में नें यहाँ पर शुक्र ने जो 21 प्रकार के 'पत्रों' का उल्लेख किया है, पर विस्तार से लिखता हूँ। आय–व्यय संबंधी लेख के इस पत्र के लिए समीचीन नहीं समझता हूँ इसलिए इस पर चर्चा नहीं की गई है।

1. जय पत्रक : जिसमें ठीक ढंग से कहे गए अभियोगी विषयों का तथा उनके उत्तर में कही गयी बातों का अन्तिम निर्णय अंकित हो, उसे 'जय पत्रक' कहते हैं।[28] समकालीन भारत में यह डिक्री के नाम से जाना जाता है। यह सिविल प्रक्रिया संहिता 1908 की धारा 2(2) के अंतर्गत परिभाषित है।[28A]
2. आज्ञा पत्र : जिस लेख के द्वारा सामन्तों, राज्यपालों, तथा अन्य पदाधिकारियों को निर्दिष्ट काम करने का आदेश दिया जाता है, उसे 'आज्ञापत्र' कहते है [29] (अंग्रेजी में इसी को चार्टर कहते हैं)
3. प्रज्ञापना पत्र : जिस पत्र के द्वारा यज्ञकर्ता, पुरोहित, आचार्य तथा अन्य पूज्य लोगों के लिए राजा लेख के माध्यम से कार्य की सूचना देता है या सूचित करता है, उसे 'प्रज्ञापना पत्र' कहते हैं।[30]
4. शासन पत्र : जिस पत्र के द्वारा राजा प्रजा से अपनी बात कहता कि हे प्रजा! तुम सभी मेरी बातें सुनो, मेरी आज्ञा से निर्धारित अपने कर्तव्य कर्म को करो ऐसा नेथि के साथ हस्ताक्षर युक्त पत्र 'शासन पत्र' कहलाता है।[31](आज के समय मे इन्हें सरकारी आदेश या जी.ओ. कहते हैं।)
5. प्रसाद लिखित पत्र : राजा किसी भी व्यक्ति के कार्यकलापों से प्रसन्न होकर पुरुस्कार स्वरूप कोई जनपद (जागीर) आदि दे देता है, को प्रसाद लिखित पत्र कहते हैं।[32] (आज–कल भी यह परंपरा प्रचलन मे है, अद्भुत वीरता, शौर्य, उदभट विद्ववत्ता, खेल–कूद में विशेष उपलब्धि पर इस प्रकार के आदेश जारी होते हैं।) समकालीन भारत में अदभुत वीरता और शौर्य के लिए परमवीर चक्र आदि–आदि, खेल के लिए अर्जुन पुरुस्कार तथा विद्ववत्ता के लिए पदम श्री, पदम विभूषण आदि–आदि पुरुस्कार दिये जाते हैं।[32A]
6. भोग पत्र : जिस पत्र में यह लिखकर दिया जाए कि 'तुम इसका उपभोग करो' उसे भोग पत्र कहते हैं।[33] समकालीन भारत में यह पट्टे के रूप में जाना जाता है तथा संपत्ति (अंतरण) हस्तांतरण अधिनियम 1882 की धारा 105 के अंतर्गत परिभाषित है।[33A]
7. करदीकृत पत्र : माल गुजारी वसूल करने के सम्बन्ध में जारी किए गए पत्र को

'करदीकृत' पत्रक कहा जाता है।[34]वर्तमान में यह भारत के प्रत्येक राज्य में प्रचलित भूराजस्व संहिता के अंतर्गत परिभाषित है।

8. उपायनीकृत पत्र : उपहार स्वरूप जो संपत्ति दी जाती है उससे संबन्धित जो पत्र जारी किया जाता है, को उपायनीकृत पत्र कहते हैं।[35] वर्तमान भारत में संपत्ति (अंतरण) हस्तांतरण अधिनियम 1882 की धारा 122 के अंतर्गत परिभाषित हैं।[35A]
9. पुरुषावधिक पत्र : किसी भी संपत्ति आदि का जब एक से अधिक लोगों को उपभोग करने के लिए जो पत्र जारी किया जाता है उसे 'पुरुषावधिक पत्र' कहते हैं।[36] वर्तमान में यह भारतीय न्यास अधिनियम 1882 के अंतर्गत वर्णित है।[36A]
10. कालावधिक पत्र : जिस पत्र में किसी भी कार्य या अधिकार आदि से संबन्धित 'काल' या समय सीमा का निर्धारण करके पत्र दिया जावे उसे 'कालावधिक पत्र' कहते हैं।[37] वर्तमान में से मुख्तारनामा/प्राधिकार पत्र कहते हैं।[37A]
11. विभाग पत्र : स्वेच्छा से भाइयों के मध्य बंटवारे संबन्धी पत्र को भागलेख/विभाग पत्र कहते हैं।[38] वर्तमान में यह पारिवारिक बटवारा के नाम से जाना जाता है और इससे संबंधित कोई विधि प्रचलन में नही है यह आपसी समझ पर आधारित है।[38A]
12. धर्म पत्र : घर, धरती, आदि किसी को देकर सार्वजनिक रूप से यदि यह घोषित कर दिया जावे कि यह अन्हार्य है तो उसे धर्म पत्र कहते हैं।[39] वर्तमान में यह भारतीय न्यास अधिनियम 1882 में सार्वजनिक न्यास के अंतर्गत वर्णित है।[39A]
13. क्रय पत्र : घर, जमीन आदि का उचित मूल्य देकर जो खरीददारी होती है, उसके लिए जो प्रामाणिक दस्तावेज तैयार किया जाता है उसे 'क्रय पत्र' कहते हैं।[40] वर्तमान में यह संपत्ति (अंतरण) हस्तांतरण अधिनियम 1882 की धारा 54 के अंतर्गत वर्णित है [40A]
14. सादि लेख पत्र : चल–अचल संपत्ति को रेहन रखकर 'यह रक्षणीय एवं उपभोग्य है' इस तरह की शर्त के साथ जो अनुबन्ध पत्र लिखा जाता है, उसे 'सादिलेख पत्र' कहते हैं।[41] वर्तमान में संपत्ति (अंतरण) हस्तांतरण अधिनियम 1882 की धारा 58 के अंतर्गत अचल संपत्ति से संबंधित रेहन को बंधक कहते है ।[41] इसी प्रकार भारतीय संविदा अधिनियम 1872 की धारा 172 के अंतर्गत इसे चल संपत्ति के रेहन को गिरवी कहते हैं।[41B]
15. संवित्लेख्य पत्र : ग्रामीण एवं नगरिक एक साथ मिलकर प्रशासन के सहयोगी धर्म की रक्षा के लिए जो प्रतिज्ञा – पत्र (उवन) लिखते हैं, उसे 'संवित्लेख्य' कहा जाता है।[42] (आजकल प्राइवेट पब्लिक पार्टनरशिप संवित्लेख्य –पत्र का ही आधुनिक रूप है।)
16. ऋण पत्र : सूद की शर्त पर रुपये उधार लेकर गवाही के साथ अपने हाथ से लिखे या किसी से लिखवाए पत्र को विद्वान लोग 'ऋण – पत्र' कहते हैं।[43] वर्तमान में परक्राम्य विलेख अधिनियम 1881 की धारा 4 के अंतर्गत यह वचन पत्र के रूप में प्रचलित है।[43A]
17. शुद्धि पत्र : लगाए गए अभियोग को प्रमाणित न होने पर प्रायश्चित कर चुकने के बाद गवाह के हस्ताक्षर युक्त जो अभियोग मुक्ति प्रमाण – पत्र मिलता है उसे 'शुद्धि पत्र' कहते

है।[44]

18. सामयिक लेख पत्र : कुछ उद्योगपति अपने धन का हिस्सा लगाकर भागीदार के रूप में कोई उद्योग चलाने के लिए संवित पत्र तैयार करते है उसे –'सामयिक लेखपत्र' कहते है।[45](वर्तमान में शेयर होल्डिंग प्रक्रिया के रूप में यह प्रचलन में हैं।) वर्तमान में यह भारतीय भागीदारी अधिनियम 1932 की धारा 4 के अंतर्गत वर्णित है।[45A]
19. सम्मित संज्ञक पत्र : शिष्ट नागरिक, पदाधिकारी वर्ग, अमात्यादि प्रधान पुरूषों एंव पार्षदों के द्वारा लिए गए अप्रदर्शित निर्णय यदि वादियों को मान्य हों तो उस संबन्ध के लेख पत्र को 'सम्मित संज्ञक पत्र' कहते हैं।[46] वर्तमान में यह शासकीय गुप्त बात अधिनियम 1923 के अंतर्गत वर्णित हैं।[46A]
20. क्षेम पत्र : जिस पत्र में संपूर्ण समाचार से संबंधित ब्यौरा, हमेशा स्वस्ति या मंगल सूचक शब्दों से प्रारंभ करके प्रश्नोत्तर युक्त असंदिग्ध, स्पष्ट अर्थ वाले तथा साफ एवं सुडोल अक्षरों वाले हस्तान्तरित होने से बचने के लिए अपने या दूसरों के पिता आदि के नामों से युक्त एक; दो या बहुवचनों से प्रशस्ति युक्त काम को सही ढंग से सूचित करने वाला, वर्ण, मास, पक्ष, दिन, नाम तथा जाति बोधक शब्दों से चिन्हित, सुसंगत, यथायोग्य प्रणाम या आशीर्वाद युक्त, स्वामी एवं सेवक के बीच परस्पर सेवा से संबन्धित पत्र को 'क्षेमपत्र' कहते हैं।[47] (वर्तमान में स्पीकिंग लेटर इसी श्रेणी में आता हैं।)
21. भाषा पत्र/अभियोग पत्र/वेदनार्थक पत्र : उपर्युक्त समस्त गुणों से वर्णित लेखक की मनोव्यथाओं को व्यक्त करने वाले पत्र को 'भाषापत्र/अभियोग पत्र/वेदनार्थक' पत्र कहते है।[48]

शुक्र के विचारों की समकालीन परिस्थितियों में उपादेयता

यद्यपि शुक्रनीति का प्रणयन आज से लगभग 2600 वर्ष पूर्व हुआ था तथापि उसमें सुशासन से संबंधित जो सूत्र उपलब्ध हैं वे आज भी उतने ही प्रासंगिक है जितने तब थे। यथा जय–पत्र (डिक्री), आज्ञा–पत्र (चार्टर), शासन–पत्र (जी.ओ.), प्रसाद–लिखित पत्र जिनके माध्यम से पुरूस्कार आदि की घोषणा की जाती है) सामयिक पत्र (शेयर आदि से संबंधित) क्षेम–पत्र (समझौता पत्र, एग्रीमेंट आदि) उसी प्रकार प्रचलन में है जिस प्रकार से शुक्रनीति के प्रणयन के काल में थे। नोटशीट पर लेखन के द्वारा संबंधित अधिकारी की जवाबदेही भी आज सर्वविदित है। राजा से लेकर प्राथमिक स्तर तक नोटशीट प्रस्तोता के विषय में जिस प्रकार से शुक्र ने क्रमतय किया है वह भी आज के परिप्रेक्ष्य में न केवल अनुकरणीय है बल्कि यह जवाबदेही भी सुनिश्चित करता है। इस प्रकार एक पारदर्शी शासन व्यवस्था जो कि सुशासन का आधारभूत आयाम है,को लागू करने में शुक्र के सिद्धान्त/सूत्र आज भी समीचीन प्रतीत होते हैं। नोटशीट लेखन, को वे पर्याप्त नहीं मानते बल्कि उसकी पूर्णता वे तब मानते है जब तक कि उसके आधार पर पत्र का लेखन, वितरण, कार्यालयीन संग्रहण आदिन हो जाये। यानि, वर्तमान में कोई भी कार्यवाही जब तक सार्वजनिक परिक्षेत्र में न जावे तब तक उसका पूर्ण होना नहीं माना जाता, इसी प्रकार की व्यवस्था होने की वे बात करते हैं। शासकीय क्रियाकलापों से संबंधित अभिलेखों को वे

सार्वजनिक करने की बात करते है, बशर्ते वे अत्यंत गोपनीय नहीं हैं।

इस प्रकार शुक्रनीति के अध्ययन के उपरांत यह दृष्टिगत होता है कि शुक्र के द्वारा लिख गया ग्रंथ सुशासन के दृष्टिकोण से लिखा गया सर्वश्रेष्ठ ग्रंथ कहा सकता हैं क्योंकि यह ग्रन्थ उन्हीं मुद्दों पर प्रकाश डाल रहा हैं जिन मुद्दों पर आजकल सुशासन पर लिखी गई पुस्तकें प्रकाश डाल रहीं है और स्मार्ट (SMART) सरकारों की बातें कर रही है। ये बतें न केवल आज की जा रही हैं बल्कि आज से डेढ़–दो सौ वर्ष पूर्व भी अंग्रेज इन बातों को भारत के ग्रन्थों से सीख कर उनके आधार पर व्यवहार करने की प्रयास करते प्रतीत होते हैं। मैंने जो उद्धरण तुलनात्मक दृष्टिकोण से दिए हैं, वे 1871, 1882, 1923 के हैं। यह वह समय हैं जब अंग्रेजों ने संस्कृत साहित्य को न केवल पूर्ण रूपेण पढ़ लिया था बल्कि उसका उन्होंने यूरोप की कई भाषाओं में अनुवाद भी कर लिया था।[49] भारतीय ज्ञान के प्रति ललक जगाने का कार्य सर्वप्रथम ब्रिटिश ईस्ट इण्डिया कंपनी के कलकत्ता स्थित सुप्रीम कोर्ट के मुख्य न्यायाधीश सर विलियम जोन्स थे, जो 1783 में भारत आए और लगभग 10 वर्ष तक भारत में रहे; उन्होंने न केवल संस्कृत ग्रन्थों का अनुवाद किया बल्कि स्वयं भी संस्कृत व्याकरण का अध्ययन किया तथा इस कार्य को करने के लिए 'रॉयल एशियाटिक सोसायटी ऑफ बंगाल' की स्थापना भी 1784 में की। वारेन हेस्टिंग्स भारत के गवर्नर जनरल को इसका अध्यक्ष और स्वयं को उपाध्यक्ष बनाया। वे न केवल भारत के साहित्य से प्रभावित थे, बल्कि 'मनुस्मृति' को वे नाय की दृष्टि से लिखा गया एक श्रेष्ठ ग्रंथ मानते थे और यही कारण था कि उन्होंने इसका 'इंस्टीट्यूट्स ऑफ हिन्दू लॉ' के नाम से अंग्रेजी भाषा में अनुवाद भी किया। इस प्रकार से जब यूरोप के क्रमिक विकास का हम अध्ययन करते हैं तो यह ध्यान में आता है कि जैसे–जैसे संस्कृत वांग्मय का यूरोपीय भाषाओं में अनुवाद होता जा रहा है वैसे–वैसे ही यूरोप में उनका प्रभाव दृष्टिगोचर होता जा रहा है। इसी बात को विल ड्यूरण्ट अपनी 1935 में लिखी गई पुस्तक 'केस फॉर इंडिया' जिसका पुनर्मुद्रण 2111 में हुआ स्पष्ट रूप से लिखते हैं कि "भारत माता अनेक रूपों में हम सब की माँ है।"[50] किन्तु अंग्रेजो के व्याहमोह में पढ़कर इसने अपने अपार श्रेष्ठ साहित्य को दुर्लक्ष्य किया और विश्व के पिछलग्गू बन गए है। संपूर्ण विश्व ने हमसे सीखा और आज इन अपना खोया हुआ ज्ञान ही शेष विश्व से प्राप्त करने का प्रयास कर रहे हैं। यह शोध पत्र इसी दिशा में किया गया एक लघुतम प्रयास है।

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4[B] ई–वायुनंदन तथा डॉली मैथ्यु द्वारा संपादित, गुड गवर्नेन्स इनिशिएटिव्स इन इण्डिया : प्रेन्टिस हाल ऑफ इण्डिया प्राइवेट लिमिटेड नई दिल्ली, 2003, पृष्ठ–8

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22. तदैव 2/293
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32. तदैव –2/303

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सारांश

प्राचीन भारत का समस्त ज्ञान वेदों, स्मृतियों, संहिताओं, उपनिषदों, आरण्यकों, सूत्रों, पुराणों, महाकाव्यों एवं नीतियों आदि के रूप में प्राप्त होता है। ये ग्रन्थ या तो किसी एक ऋषि या आचार्य के द्वारा लिखे गये थे या फिर विचार परंपरा (School of Thought) के वाहकों के द्वारा, जो भी हो इन सभी में राज्योपयोगी एवं जीवनोपयोगी अथाह सामग्री उपलब्ध है। यद्यपि इनके काल निर्धारण में कुछ विद्वानों को समस्या हो सकती है, क्योंकि ये विद्वान भारतीय ज्ञान परंपरा से या तो परिचित नहीं हैं या उसे पाश्चात्य की तुलना में कमतर आकते हैं। भारतीय ज्ञान परंपरा में काल, व्यक्ति आदि से महत्वपूर्ण ग्रन्थ की विशय वस्तु एवं समाज की आवश्यकता की पूर्ति होती थी, उसी के दृष्टिगत विद्वान स्वयं अपने नाम तथा कालादि पर कम बल देते थे। इसलिए पाश्चात्य विद्वान या पश्चिम परक विद्वान भ्रमित हो जाते हैं। किन्तु भारत की 'चिति' को समझने वाले अध्येता इस भ्रम से परे रहकर विषय वस्तु को महत्व देते हैं। यही कारण है कि यहाँ पर ज्ञान महत्वपूर्ण है समय, नामादि नहीं।

प्रस्तावना

संस्कृत वांग्मय में उदभट्नीतिकार शुक्र की कृति का नाम बहुत ही सम्मान से लिया जाता है। इसमें कुल पांच अध्याय तथा दो हजार चार सौ चौवन श्लोक हैं। पश्चिमी विद्वान इसके काल को लेकर थोड़ा ऊहापोह में हैं किन्तु भारतीय विद्वान शुक्रनीति को लगभग 2600 वर्षो से अधिक प्राचीन मानते हैं और इसके उनके पास पर्याप्त प्रमाण हैं।[1] यद्यपि इसका उल्लेख महाभारत में भी आया है; महाभारत में उल्लेख आने के कारण इसका काल खण्ड लगभग 5 हजार वर्ष से अधिक हो जाता है।[2] मीमांसकों के द्वारा यह पाणिनी के काल से पूर्व की है; इस आधार पर भी इसका काल खण्ड 2600 वर्ष से अधिक का हो जाता है।[3] जो भी हो, शुक्रनीति के अध्ययन से अनेक विषयों, जोकि प्राचीन भारत में प्रचलन में थे और सुशासन के लिए राजा को उनका उपयोग करना चाहिए, पर शुक्रनीति में शुक्र ने विस्तार से प्रकाश डाला है। यद्यपि भारतीय मान्यता के आधार पर ये वही शुक्र हैं जो दानवों के गुरू थे और जिन्होने येन-केन-प्रकारेण अपने शिष्यों को स्वर्ग का न केवल अधिपति बनवाया बल्कि देवताओं को अपनी औशनस नीति

के द्वारा लम्बे समय तक प्रताड़ित भी किये रखा, इस प्रताड़ना से मनुष्य और देवों की मुक्ति के लिए भगवान को पृथ्वी पर मनुष्य के रूप में समय–समय पर अवतरित होना पड़ा।[4] तथापि, इसमें अभी और अधिक अनुसंधान की आवश्यकता है जिससे यह स्पष्ट हो सके कि शुक्रनीतिसार दानव गुरू भृगुवंशी शुक्राचार्य द्वारा प्रणीत है या उनकी विचार परंपरा के अध्येताओं द्वारा उसका संकलन किया गया है। अस्तु।

भारत में सुशासन की अवधारणा प्राचीन संस्कृत साहित्य में बहुतायत में देखने को मिलती है। रामायण, कौटिल्यीय अर्थशास्त्र, महाभारत का शान्तिपर्व एवं सभापर्व तथा जाँगाक्षी स्मृति आदि प्रमुख हैं। इन सभी ग्रन्थों में सुशासन पर कहीं सूत्र रूप में और यही पर विस्तृत उल्लेख देखने को मिलता है। किन्तु शुक्रनीति में इन सभी ग्रन्थों से थोड़ा अलग सुशासन की अवधारणा पर विस्तृत प्रकाश डाला गया है, जिसमें पारदर्शिता के सिद्धान्त को इसका मुख्य आधार माना गया है और इसके लिए शासकीय लेख–पत्रों की (नोट शीट्स) की परंपरा के निर्वहन पर स्तत् बल दिया गया है। प्राचीन भारत में जब आज जैसे इलेक्ट्रॉनिक संसाधन नहीं थे तब शासकीय लेखपत्र ही सुशासन के प्रधान अवलंबन थे जिनके माध्यम से न केवल विषय–वस्तु की सत्यता से अवगत हुआ जा सकता था बल्कि पारदर्शिता का भी पूर्ण परिचय प्राप्त होता था, जिसके आधार पर उत्तरदायित्व और जवाबदेही सुनिश्चित होती थी। स्मल नोट शीट्स की महत्ता का अनुमान प्राचीनकाल और वर्तमान में भी इससे लगाया जा सकता है कि उस पर जो भी टिप्पणी संबंधित अधिकारी ने कर दी उसको किसी भी अधिकारी के द्वारा पलटना या उसको नकारना आसान कार्य नहीं होता। शुक्र के काल से लेकर आज तक शासकीय लेख–पत्र का महत्व यथावत बना हुआ है। इसी बात को दृष्टिगत रखकर लोक कल्याण के लिए विश्व बैंक ने जो दस्तावेज 'गवर्नेस एन्ड डेवलेपमेन्ट' (1992) के नाम से जारी किया, वह भी सुशासन का अर्थ कुछ इसी प्रकार बताता है।अतः विश्व बैंक के अनुसार, 'वह व्यवस्था/विधि, जिसमें शक्तियों का उपयोग किसी देश के आर्थिक एवं सामाजिक विकास के लिए किया जाता है, सुशासन कहलाता है।'[4A]

उपर्युक्त परिभाषा के आधार पर शुक्रनीति में उल्लिखित सूत्रों के अध्ययन से सुशासन की अवधारणा का स्पष्टतः न केवल अनुभव होता है बल्कि उसकी महत्ता का भी प्रतिपादन होता है।

प्रस्तुत शोध–पत्र में शुक्राचार्य द्वारा प्रणीत विभिन्न विचारों में से उत्तरदायी शासन, के सूत्रों पर प्रकाश डाला जाएगा। समकालीन सुशासन के दृष्टिकोण से जो 'SMART सिम्पल, मॉरल, एकाउंटेबल, रिसपॉन्सिबल ट्रांसपरेन्ट,) का संक्षिप्तीकरण प्रचलन में है[4B] उसी को शुक्राचार्य आज से हजारों साल पूर्व भी शासन के द्वारा अनिवार्य रूप से प्रचलन में लाकर शासन को उत्तरदायी बनाने की पहल करते हैं। शुक्राचार्य के सूत्र आज भी सुशासन के दृष्टिकोण से शासन/प्रशासन में प्रयुक्त होते हैं किंतु हमें उसका भान नहीं है क्योंकि हमने शुक्रनीति का अध्ययन इस दृष्टिकोण से किया ही नहीं है। प्रस्तुत शोध पत्र में, न केवल शुक्रनीति में वर्णित सूत्रों पर प्रकाश डालूंगा बल्कि समकालीन भारत में सूत्र किस प्रकार अधिनियम, अनुच्छेद

(संविधान के) धारा के रूप में प्रचलित हैं, भी प्रस्तुत करने का प्रयास करूंगा यही इस शोधपत्र का प्रमुख उद्देश्य है।

नोटशीट लेखन की परंपरा

शुक्रनीति के द्वितीय अध्याय में विस्तार से इस विषय पर प्रकाश डाला गया है कि टिप्पणी पत्र (Note sheet) को कैसे लिखें। शासकीय कार्य में तथा उत्तरदायी शासन के लिए इसका सर्वाधिक महत्व होता है। इसी को दृष्टिगत रखकर शुक्र लिखते हैं" थोड़ा या ज्यादा विषयानुसार लेख लिखने के लिए लम्बे कागज के ऊपर उसे चार भागों में विभाजित करके उसके तीन भाग के भीतर आधे या चौथाई हिस्से में आड़ी–तिरछी लकीरों की पंक्ति बनाकर पत्र लिखना चाहिए।[5] इस श्लोक के माध्यम से नोटशीट का उपयोग कैसे करें उस पर प्रकाश डाला गया है। फिर आगे नोटशीट लेखन के गुण–दोषों का उल्लेख करते हैं–यथा" पूर्व कथित तीन तरह की पदावलियों में जो पत्र बांए से दाहिनी ओर भीतर तीन भागों में लिखा जावे, वह श्रेष्ठ होता है। इसके विपरीत दाएं से बाएं की ओर तीन भागों में जो पत्र लिखा होता है वह मध्यम श्रेणी का होता है तथा अर्द्धांश में लेख गया पत्र मध्यम से भी कमतरतथा चतुर्थांश में लिखा गया अधम कोटि का माना गया है।[6] पत्र लेखन के विभाजन को देखकर लगता है कि शुक्र नियमानुसार पत्र के अधिकतम उपयोग को महत्व देते हैं वे आगे लिखते हैं कि पत्र (नोटशीट) सुन्दर एवं सुपाठ्य हो तथा अक्षरों का संयोजन आकर्षक हो।[7] यानि, नोटशीट का आरंभ इस प्रकार से किया गया है कि राजा उसको पढ़कर विषय को समझ लेवे तथा उस पर विचार कर लेखानुसार (जैसा विषय नोटशीट पर अंकित है) जैसा चाहे वैसा अपना अभिमत उस पर दे।[8] तदोपरान्त पत्र पर (नोटशीट, मन्त्री, विधिवेत्ता विद्वान, राजप्रतिनिधि अपना–अपना अभिमत लिखने के बाद ही राजा के सामने उस पत्र (नोटशीट, को उपस्थित करें।[9] यानि, मन्त्री, विधिवेत्ता, विद्वान तथा राजप्रतिनिधि सभी के लिए यह अनिवार्य है कि वे उस पर अपनी–अपनी योग्यतानुसार, दायित्वानुसार अभिमत दें, जिससे पत्र के पढ कर राजा उस पर निर्णय ले सके। इस श्लोक के प्रकाश में यह ध्यान में आता है कि राजा के सहयोगियों में से भी कोई भी पद या व्यक्ति ऐसा नहीं है जो अपने उत्तरदायित्व से बच पावे। मन्त्री अपने ज्ञान कौशल के आधार पर, विधिवेत्ता विधि सम्मत, विद्वान (जिन्होने विषयों को व्यवस्थित रूप से समझा है और विशेषज्ञता अर्जित की है उस के अनुसार टीप देवें। हो सकता है वह टीप पूर्व टीपों से भिन्न हो किन्तु विशेषज्ञ का मत सर्वाधिक महत्वपूर्ण होता है।) तदोपरान्त राजप्रतिनिधि राज्य के हितानुसार टीप देवें और इन समस्त टीपों को दृष्टिगत रखकर राजा धर्म सम्मत निर्णय ले। इस प्रकार से वरिष्ठता के क्रम से दायित्व में भी वृद्धि हो रही है और वह पत्र पर टीप के रूप में उपस्थित भी है। इस प्रकार से शुक्र आज से हजारों वर्ष पूर्व उत्तरदायी शासन/प्रशासन की न केवल बात करते हैं बल्कि वह व्यवहारिक रूप से प्रचलन में कैसे आवे इस पर भी प्रकाश डालते हैं। वे लिखते हैं कि सर्व प्रथम अमात्य के द्वारा यह लेखा जावे कि 'यह लेख यानि टिप्पणी अच्छी है' फिर उस पर सुमन्त्र (यानि मंत्रियों में भी श्रेष्ठ मंत्री जिसकी मन्त्रणा शुभ हो)[10]लिखे कि "मैंने इस पर भलीभांति विचार किया है।"[11] सुमन्त्र अपने विचार से भी अवगत करावे कि उसका विचार इस

लेख के विषय में क्या है। अमात्य से अभिप्राय सचिव से है। कौटिल्य इसकी व्याख्या करते हैं। वे लिखते है कि क्रम मे अमात्य फिर महामात्य तदोपरान्त मंत्री आता है।[12] सुमन्त्र के बाद पत्र प्रधान के सम्मुख जाता है और प्रधान वस्तुतः यह यथार्थ है, ऐसा लिखे।[13] प्रधान के ऐसा लिखने से यह प्रतीत होता है कि पत्र पर जो टीप नीचे से लिखकर आ रही हैं उनका यथार्थ होना आवश्यक ही है; तभी तो प्रधान उस पर यथार्थ है की टीप लिख रहे हैं। इस प्रकार प्रत्येक स्तर पर उत्तरदायित्व सुनिश्चित किया जा रहा है। प्रधान के बाद पत्र राजप्रतिनिधि के सम्मुख उसका मंतव्य जानने के लिए जाता है। राजप्रतिनिधि के लिए भी शुक्र इसी प्रकार का प्रावधान करते हैं कि वह भी इस पर 'यह स्वीकार करने योग्य है' ऐसा लिखे।[14] शुक्र राजकुमार से भी यही अपेक्षा करते हैं कि वह भी यही लिखे कि 'यह लेख स्वीकार करने योग्य है' और इसके बाद पुरोहित भी इस पर अपनी स्वीकृति देवे।[15] यह भी अनिवार्य है कि सभी दायित्ववान पत्र पर अपनी मुहर लगावें और तदोपरांत पत्र राजा के सम्मुख जावे और राजा उस पर 'यह मुझे स्वीकृत है' लिख कर अपनी मुहर लगावे।[16] इस प्रकार प्रथम अवस्था में सभी चरणों से होता हुआ पत्र राजा तक पहुंचता है तथा सभी उस का अवलोकन करके उत्तरदायी भूमिका का निर्वहन करें ऐसा प्रावधान शुक्र देते हैं किन्तु कई बार कार्याधिक्य के कारण पूरा पत्र राजा के द्वारा या वरीयता क्रम में जो पद सोपान में वरिष्ठ अधिकारियों के द्वारा पढा जाना संभव प्रतीत नही होता है; ऐसी अवस्था में शुक्र प्रशासन को जिम्मेदार बनना सिखाते हैं यह उनके सुशासन का द्वितीय चरण है।

द्वितीय चरण में वे लिखते हैं कि जहां से पत्र प्रस्तुत किया जाता है वहाँ से पत्र पर लिखा जावें कि "दूसरे महत्वपूर्ण कार्यों (यानि इस पत्र के पठन–पाठन से अधिक महत्वपूर्ण) में व्यस्त रहने के कारण युवराज प्रभृति पत्र के लेख के संपूर्ण विषयों को नहीं पढ़ सके, अतः इस लेख के संपूर्ण विषय का ठीक से अवलोकन किया है।"[17] इस टीप को पढ़ने के बाद मन्त्रीगण भी उस पत्र पर अपनी मुहर लगा दें और इसी क्रम का निर्वहन राजा भी करे।[18] कार्याधिक्य के कारण कार्य में विलम्ब न हो इसलिए शुक्र इस 'जिम्मेदारी पूर्ण व्यवस्था' का प्रावधान द्वितीय चरण में करते हैं।

तृतीय चरण–पत्रों का निर्गतीकरण

शुक्र पत्र पर टीप–टिप्पणी के उपरांत कार्यों के क्रियान्वयन के लिए पत्रों के निर्गत करने की बात करते हैं तथा प्रत्येक आदेश के लिए यह अनिवार्य करते हैं कि उस के लिए राजा के द्वारा न केवल नोटशीट पर अनुमति दी जावे बल्कि उसके लिए पत्र भी निर्गत हों। इन पत्रों के सम्बंध में भी शुक्र विस्तार से चर्चा करते हैं। इस प्रकार के पत्र शुक्र नीति में कुल 21 हैं। पत्रों का निर्गत होना शुक्र अत्यधिक अनिवार्य मानते हैं। वे स्पष्ट रूप से व्यवस्था करते हैं कि "राजा के लिखित आदेश के बिना किसी भी राजकर्मचारी को कोई काम नहीं करना चाहिए। राजा भी लिखित आदेश के बिना किसी भी कर्मचारी से कोई छोटा या बड़ा काम करने को न कहे।"[19] वह ऐसा करना अनिवार्य इसलिए करते हैं जिससे शासन/प्रशासन व्यवस्थित रूप से चले। क्योंकि उनका मानना है कि "भूल मनुष्य का स्वभाव है; भ्रम न हो इसके लिए लेख बहुत बड़ा प्रमाण होता है। अतः जो राजा अलिखित आदेश देता है तथा जो सेवक बिना लिखित

राजाज्ञा के ही राजकाज करता है वे दोनों (राजा और कर्मचारी) चोर हैं।"[20] शुक्र की यह व्यवस्था न केवल राजा और कर्मचारी को एक व्यवस्था के अन्तर्गत लाने का प्रयत्न करती है बल्कि भारतीय परिप्रेक्ष्य में संप्रभुता राजा के पास नही अपितु संप्रभुता का स्वामी 'परम पिता परमात्मा' है की ओर भी इंगित करती है। राजा तो मात्र उनका पालक और संरक्षक मात्र हैं इसलिए अगले श्लोक में वे स्पष्ट रूप से लिखते हैं कि "राजा की मुहर लगा आदेश पत्र ही असली राजा है। केवल राजा ही राजा नहीं होता है।"[21] क्योंकि, यदि मात्र राजा ने कोई आदेश दे दिया तो वह राजा का व्यक्तिगत निर्णय हो सकता हैं किंतु यदि उस पर मुहर लगी है तो निश्चित ही वह प्रशासन के विभिन्न चरणों से होकर राजा के सम्मुख आता है जिसमें संपूर्ण पारदर्शिता है। विभिन्न चरणों से होकर आने के कारण उस पर विभिन्न प्रकार के अभिमत भी अंकित होते हैं जिनके प्रकाश में राजा उचित निर्णय लेने में सक्षम होता है और यदि अभिमत राजा सम्मत, विधि सम्मत, लोक सम्मत तथा धर्म सम्मत है तो उस के हस्ताक्षर कर के मुहर लगाने में कोई असुविधा नहीं होती। इस प्रकार से शासन में पारदर्शिता के तत्व स्पष्ट रूप से परिलक्षित होते हैं।

राज आज्ञाओं की स्थिति पर भी शुक्र प्रकाश डालते हुए लिखते हैं कि राजा की मुहर लगी राजाज्ञा परमोत्कृष्ट होती है। (क्योंकि विभिन्न चरणों से होकर आने के कारण इस पर सभी की सम्मति होती है।) मुहर सहित राजा के हस्ताक्षर युक्त राज निर्देश उत्तम कोटि का है। (यहां पर शुक्र यह स्पष्ट करते हैं कि राजाज्ञा यानि समस्त चरणों से होकर संपन्न होने वाली प्रक्रिया है, इसलिए वह सर्वोत्तम है क्योंकि उस पर किसी का विरोध या असहमति नहीं हैं, किंतु जो मुहररहित है राजाज्ञा नहीं अपितु राजा का निर्देश है क्योंकि वह व्यक्तिगत है अभी राजा की समस्त व्यवस्थाओं या प्रक्रियाओं द्वारा उसे मान्य नहीं किया गया है आज की व्यवस्था के अनुसार कहें तो वह गजेटेड नहीं हैं इसीलिए वह उत्तम कही गई है क्योंकि उसके बने रहने में संशय विद्यमान हैं) मंत्रियों का आदेश मध्यम कोटि में आता है। क्योंकि उसे भी अभी विभिन्न चरणों का सामना करते हुए परमोत्कृष्ट अवस्था तक जाना हैं। पुरवासियों (यानि पुर में कार्यरत अधिकारी/कर्मचारी) का आदेश अधम कोटि का है। (क्योंकि वह कभी भी उच्च स्तर के आदेश पर निरस्त करने योग्य है।)[22]

शुक्र न केवल कार्य का निर्धारण करते हैं, बल्कि कार्य व्यवस्थित हो तथा सभी के द्वारा निर्धारित कार्य नियत समय पर हो इसकी भी व्यवस्था करते हैं। इस व्यवस्था को आधुनिक समय में 'कार्यालयीन कार्य अध्ययन' की श्रेणी में सम्मिलित किया गया है।[23] वे लिखते हैं कि "जिन–जिन कामों के लिए जिन युवराज, सचिव आदि को पदधिकारी बनाया गया हो–वे सभी क्रमशः अपने कामों का विवरण दैनिक, मासिक, वार्षिक, बहुवार्षिक रूप में लिखकर सही ढंग से (सही ढंग से अभिप्राय निर्धारित प्रक्रिया के माध्यम से हैं राजा के सामने देखने के लिए प्रस्तुत करें।"[24] कार्यालय प्रति को सुरक्षित रखने का भी प्रावधान देते हैं; जिससे समय पड़ने पर काम आवे। क्योंकि भूलना वे मनुष्य का स्वभाव मानते है।[25]

समस्त राज्यव्यवहार का लेखा क्यों रखा जाए? इसके लिए जहाँ वे (सुशासन), मनुष्य के व्यवहार का हवाला देते हैं वहीं वे इसके लिए विश्वास की अनुभूति की भी बात करते हैं।

आश्चर्य का विषय रहा और इसी आधार पर उन्होंने यह समझ लिया कि भारत में शासन व्यवस्थाओं का विकास ही नहीं हुआ था। संस्कृत वाङ्मय को आधार बनाकर यदि विषय का अध्ययन किया जाये तो निश्चय ही यह भ्रम दूर हो सकता है।

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29. भारत में आपदा प्रबंधन नीति का विकास

राजेंद्र कुमार पांडेय*

किसी भी देश में आपदा प्रबंधन को एक व्यवस्थित और प्रभावी स्वरुप देने में एक सुविचारित और दीर्घकालिक आपदा प्रबंधन नीति की बड़ी महत्वपूर्ण भूमिका होती है। एक अच्छी आपदा प्रबंधन नीति न केवल उस देश में एक विस्तृत और सटीक आपदा प्रबंधन मशीनरी के निर्माण में मील का पत्थर साबित होती है अपितु उसके द्वारा आपदा प्रबंधन में संलगन विविध इकाइयों और कर्मियों की स्पष्ट भूमिका के निर्धारण का भी मार्ग प्रशस्त करती है। यह निसंदेह रूप से कहा जा सकता है कि पूर्व के समय में भारत समेत संसार के विभिन्न देशों में प्राकृतिक अथवा मानव निर्मित आपदाओं में हज़ारों लोगों की असमय और त्रासद मृत्यु का एक बड़ा कारण आपदा प्रबंधन नीति का सर्वथा अभाव रहा है। इसलिए द्वितीय विश्व युद्ध के उत्तरार्ध में कई अंतर्राष्ट्रीय मानवीय संगठनों द्वारा प्रत्येक देश में, विशेषकर अत्यधिक आपदा संभावित देशों में, आपदा प्रबंधन नीति के निर्माण पर बल दिया जाने लगा। इस संगठनों का मूल तर्क यह था कि प्राकृतिक अथवा मानव निर्मित आपदाएं वास्तव में व्यक्ति के प्रबंधकीय क्षमता और कौशल की परिधि से बाहर नहीं हैं।

अतः आधुनिक विज्ञान और तकनीक के क्षेत्र में हो रहे नित नूतन अन्वेषणों और उससे प्राप्त जानकारियों एवं यंत्रों के समुचित प्रयोग से व्यक्ति विभिन्न प्रकार की आपदाओं से होने वाली मृत्यु और संपत्ति के नुकसान को न्यूनतम तो कर ही सकता है यदि उन्हें पूर्णरूपेण रोक पाना संभव न प्रतीत होता हो। इस प्रकार की वैश्विक मुहिम के बावजूद भारत समेत संसार के अनेक देशों में लम्बे समय तक एक व्यवस्थित और व्यापक आपदा प्रबंधन नीति का विकास न हो सका। आपदा प्रबंधन नीति के निर्माण पर सरकारों का ध्यान वस्तुतः १९९० के दशक के दौरान ही गया जब संयुक्त राष्ट्र महासभा ने इस दशक को दशक के रूप में मनाने का प्रस्ताव पारित किया "अंतर्राष्ट्रीय प्राकृतिक आपदा न्यूनीकरण"। इस आलेख में भारत में आपदा प्रबंधन नीति की विकास यात्रा का विश्लेषण प्रस्तुत किया गया है।

ऐतिहासिक परिप्रेक्ष्य

भारत वर्ष की वैविध्यपूर्ण भौगोलिक स्थिति और जटिल जलवायु प्रणाली देश को हमेशा से ही प्राकृतिक आपदाओं की संभावना से युक्त बनाता रहा है। इसलिए यह स्वाभाविक ही माना जाना चाहिए कि प्राकृतिक आपदाओं का पर्याप्त ज्ञान और उनसे निपटने की कोई न कोई युक्ति इस देश के निवासी प्राचीनकाल से ही सोचते रहे होंगे। भौगोलिक रूप से देखने पर हमें यह ज्ञात होता है कि उत्तर में स्थित विशाल हिमालय जहाँ

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हैं।

अत: कौटिल्य यह स्पष्ट करते हैं कि इन आपदाओं से न केवल लोगों को अपना बचाव करना चाहिए वरन राजा का भी यह पुनीत कर्त्तव्य बनता हैं कि वह अपनी प्रजा को इन आपदाओं के दुष्प्रभावों से बचाए। दूसरे शब्दों में, कौटिल्य यह स्पष्ट करते है कि लोगो को अष्ट व्यसनों के दुष्प्रभावों को बखूबी समझकर उनसे दूर रहने अथवा उनसे बचने का प्रयास करना चाहिए। उदहारण के लिए, वह लोगों पर यह दायित्व डालते हैं कि यदि उन्हें लगे कि किसी प्रकार से भी बाढ़ की संभावना बन रही हैं तो उन्हें समय रहते अपने सामन और पशुधन समेत किसी ऊँचे और सुरक्षित स्थान पर चला जाना चाहिए। साथ ही वे शासक पर भी यह दायित्व डालते हैं कि बाढ़ अथवा सूखे की स्थिति से निपटने के लिए शासक को आवश्यक खाद्य पदार्थों सहित अन्य वस्तुओं का पर्याप्त भंडार अपने पास सुरक्षित रखना चाहिए। इस तरह कौटिल्य के माध्यम से यह स्पष्ट रूप से दृष्टिगोचर होता हैं कि प्राचीन काल में भी लोग प्राकृतिक आपदाओं से भली भांति परिचित थे और उनसे समुचित बचाव या प्रबंधन हेतु विविध प्रकार के उपायों का भी उस समय प्रचलन था। यद्यपि वर्तमान समय में प्राकृतिक आपदाओं के स्वरुप और उनके प्रभावी प्रबंधन के विषय में हमें कौटिल्य के विचार कुछ अटपटे या अधूरे लग सकते हैं, तथापि यह कदापि नहीं भूलना चाहिए कि प्राचीन समय में इस प्रकार के विषयों का विशद विवेचन ही उस समय के समाज की स्पष्ट दृष्टि और कौशल का परिचायक माना जा सकता हैं।

चूँकि प्राकृतिक अथवा मानव निर्मित आपदाओं की विभीषिका इतिहास के प्रत्येक कालखंड में हुई हैं इसलिए यह स्वाभाविक ही है कि इन आपदाओं से निपटने का कोई न कोई तरीका मध्यकाल में भी तलाशा जाता रहा होगा। किन्तु उल्लेखनीय बात यह है कि जिस स्पष्टता और सुविचारित ढंग से प्राकृतिक आपदाओं से निजात पाने पर विचार प्राचीन काल में किया गया था उस प्रकार की दृष्टि का मध्यकाल में सर्वथा अभाव पाया जाता है। इसका एक कारण यह भी हो सकता है कि आपदा प्रबंधन जैसे कदाचित बोझीले और लोकोपयोगी कार्य सरकारों द्वारा तभी किया जाते हैं जब उनके अंदर शासन व्यवस्था को लोकोन्मुखी और लोक कल्याणकारी बनाने की अभिलाषा पर्याप्त रूप में विद्यमान रहती है। इस सन्दर्भ में यह कहना समीचीन रहेगा कि मध्यकाल में अकबर जैसे कुछ गिने चुने शासकों को छोड़कर अधिकतर शासकों की मनोवृति विजय अभियानों पर जाने अथवा विलासिता में रत रहने की रही है जिसके कारण आपदा प्रबंधन जैसे विषय न ही उनके ध्यान में आ पाए और फलत: न उनके शासन की प्राथमिकता बन पाए। तथापि, अकबर जैसे शासकों के समय में प्राकृतिक आपदाओं से निपटने में लोगों की सहायता करने के अनेकों दृष्टान्त इतिहासकारों ने वर्णित किये हैं जिनसे यह निष्कर्ष निकला जा सकता है कि मध्यकाल में भी आपदा प्रबंधन के कतिपय प्रयत्न लोगों और शासकों दोनों के द्वारा किये जाते रहे हैं।

जैसी स्थिति से निपटने में वे सक्षम रहें और लोगों को असमय काल कवलित होने से बचा सकें। किन्तु यह प्रशासनिक कदम न केवल सैद्धांतिक रूप से अपर्याप्त और त्रुटिपूर्ण था अपितु इसके द्वारा प्रशासनिक अधिकारियों पर कोई निश्चित एवं ठोस कार्य का दायित्व नहीं सौंपा गया जिनके द्वारा वे लोगों के कष्टों का निवारण कर सकते। इससे भी अधिक सोचनीय विषय यह था कि यह फेमिन कोड केवल अकाल की विभीषिका से निपटने के लिए कल्पित था और अन्य प्राकृतिक अथवा मानव निर्मित आपदाओं से आगे भी सरकार का कोई लेना देना नहीं था। इस प्रकार औपनिवेशिक आपदा प्रबंधन का प्रयास सर्वथा निष्फल रहा। अंग्रेजी सरकार न केवल आपदा प्रबंधन के क्षेत्र में किसी नीति के निर्माण में विफल रही अपितु इसने आपदा प्रबंधन को बहुत ही सतही और हल्के तरीके से लिया। फलतः अंग्रेजी शासन के दौरान अनेक प्रकार की प्राकृतिक और मानव निर्मित आपदाएं लोगों के जीवन क्रम को खंडित करती रहीं और सरकार हाथ पर हाथ धरे मूक दर्शक की भांति निहारती रही।

स्वातंत्र्योत्तर आपदा प्रबंधन नीति

स्वातंत्र्योत्तर काल में भी भारत में आपदा प्रबंधन नीति के विकास का क्रम सुगम नहीं रहा। इसमें कोई संदेह नहीं है कि स्वतंत्रता के पश्चात सरकार के समक्ष लोगों के आर्थिक और सामाजिक विकास की गति को द्रुतगामी और फलदायक बनाने का महती दायित्व था।साथ ही सरकार के पास आर्थिक और मानवीय संसाधनों की अपर्याप्तता के साथ साथ लोगों के भोजन, वस्त्र और आश्रय जैसी मूलभूत आवश्यकताओं को यथाशीघ्र पूरा करने का गुरुत्तर दबाव था। इसलिए आपदा प्रबंधन जैसे विषय न ही सरकार के ध्यान में आये और न ही उनकी ओर कोई विशेष प्रयास किया गया।दूसरे शब्दों में, स्वातंत्र्योत्तर काल में भी सरकार ने ब्रिटिश शासन की आपदा सहायता नीति को ही आपदा प्रबंधन का पर्याय मानना उचित समझा। इस बीच देश में आने वाली भीषण बाढ़ों और सूखों ने सरकार को विवश किया कि वो इन समस्यायों से निपटने का कोई दीर्घकालिक नहीं तो तात्कालिक उपाय ही तलाशे। फलतः, लम्बे समय तक देश में आपदा प्रबंधन के नाम पर केवल बाढ़ और सूखे की समस्या की ओर ही ध्यान दिया गया।

चूँकि 2017 तक देश में आर्थिक और सामाजिक प्रगति की दिशा को निर्देशित करने और संसाधनों के समुचित आवंटन का सर्वप्रमुख माध्यम पंचवर्षीय योजनाएं थीं, अतः अप्रत्यक्ष रूप से आपदा प्रबंधन के सूत्र विभिन्न पंचवर्षीय योजनाओं में भी देखे जा सकते हैं। इस दृष्टि से यह उल्लेखनीय हैं कि नौवीं पंचवर्षीय योजना तक सभी पंचवर्षीय योजनाओं में आपदा प्रबंधन के विषय को कृषि के विकास के साथ जोड़कर देखा गया। दूसरे शब्दों में, बाढ़ और सूखे जैसी प्राकृतिक आपदाओं को उसी सीमा तक प्रबंधकीय दृष्टिकोण से देखा गया जहां तक देश में कृषि की दशा सुधारने और खाद्यान्न के उत्पादन की अभिवृद्धि में उनकी कोई भूमिका पाई गई। अन्यथा भूकंप और समुद्री तूफान जैसी प्राकृतिक आपदाएं प्रलयंकारी होने

नीतियों को अपनाना प्राथमिकता रह सका होगा। किन्तु सबसे दुर्भाग्य की बात यह लगती है कि स्वतंतता प्राप्ति के पश्चात् भी काफी लम्बे अरसे तक आपदा प्रबंधन का विषय ही शासकीय शब्दावली का हिस्सा नहीं बन पाया और किसी आपदा प्रबंधन की बात करना तो शासकों के लिए दिवास्वप्न जैसा प्रतीत होता था। इस दृष्टि से स्वातंत्र्योत्तर भारतीय विकास की अवधारणा तथा उसके माध्यम से जन सामान्य के जीवन के जिन पहलुओं को प्राथमिकता के आधार पर ध्यान देने का चिंतन किया गया वे वस्तुतः दीर्घकालिक तो कतई नहीं प्रतीत होते है। अन्यथा प्राकृतिक आपदाओं से नियमित रूप से होने वाले भीषण नुकसानों से सरकार कैसे आँख चुरा सकती थी। परन्तु ऐसी स्थिति लम्बे समय तक देश में इस लिए बनी रह सकी कि आपदाओं को प्रकृति के अभिशाप के रूप में स्वीकार करने की जन मानस की वृत्ति को अक्षुण्ण रखा गया और इस प्रकार का आभास कराया गया कि प्राकृतिक आपदाएं शासकीय प्रबंधन की परिधि से बाहर की वस्तु हैं।

इस प्रकार के निराशावादी वातावरण में देशवासियों, विशेषकर नियमित रूप से प्राकृतिक और मानव निर्मित आपदाओं की मार झेल रहे लोगों, को अंतर्राष्ट्रीय संगठनों विशेषकर संयुक्त राष्ट्र संघ का आभारी होना चाहिए जिसने वैश्विक स्तर पर आपदाओं की बढ़ती चुनौती को समझा और उससे निपटने के लिए प्रत्येक देश की सरकार को कमर कसने के लिए प्रेरित किया। वस्तुतः भारत ही नहीं अपितु विश्व के अधिकतर देशों में आपदा प्रबंधन नीति के सृजन की समग्र प्रक्रिया नब्बे के दशक से आरम्भ होकर इक्कीसवीं शताब्दी के प्रथम दशक तक ही मूर्त रूप में आ पाई। इस दृष्टि से भारतीय प्रयास और भी शिथिल और मंद थे जिसके फलस्वरूप देश में एक व्यापक और सम्यक आपदा प्रबंधन नीति का निर्माण 2006 में फलीभूत हो पाया। तथापि इस बात से इंकार नहीं किया जा सकता है कि देर आए दुरुस्त आए। वर्तमान में यह आशा की जा सकती हैं कि एक समर्पित आपदा प्रबंधन नीति के निर्माण से देश के आपदा प्रबंधन तंत्र को एक नई दिशा मिलेगी और यह अन्तः वह आपदाओं से होने वाले जानमाल के नुकसान को न्यूनतम करने के अपने महती लक्ष्य की प्राप्ति में सफल होगा।

संदर्भ

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गांधी के पर्यावरण-विषयक विचार

डॉ. राजेन्द्र कुमार पांडेय[1]

महात्मा गांधी का चिंतन कालजयी और समावेशी है। व्यक्तिगत और सामाजिक जीवन के कतिपय ही ऐसे पक्ष या विषय रहे होंगे जिन पर गांधी ने अपने विचार व्यक्त न किये हों या उनको अपने व्यवहार में न उतारा हो। इस दृष्टि से पर्यावरण का विषय भी गांधी की चिंतन परंपरा में एक विशिष्ट स्थान रखता है। कालजयिता की बात करें तो यह बात पर्याप्त विस्मयकारी लगती है कि गांधी के पर्यावरण विषयक विचार जितने प्रासंगिक उनके समय में थे, उससे कई गुना अधिक प्रासांगिक और उपादेयी वे वर्तमान समय में माने जा रहे हैं। सैद्धांतिक तौर पर इसमें कोई दो राय नहीं है कि किसी भी महापुरुष का चिंतन उसके काल और स्थान के सापेक्ष होता है। फिर भी इस सत्य को भी नकारा नहीं जा सकता है कि काल और स्थान की सापेक्षता के बावजूद ऐसे चिंतन प्राय. सार्वकालिक और सार्वदेशिक होते हैं।

महात्मा गांधी भारतवर्ष के ऐसे ही महान कर्मयोगी विचारक हुए हैं। गांधी के विचार पुँज यद्यपि उनके समय और स्थान की मर्यादा में सृजित किये गए हैं किन्तु उनकी प्रासंगिकता और उपादेयता अभी तक अक्षुण्ण है और संभवतः भविष्य में भी यथावत रहेगी। परन्तु, एक चिंतक के रूप में गांधी का चिंतन सामान्य अकादमिक चिंतन परंपरा से दो मायनों में भिन्न प्रतीत होती है। प्रथम, गांधी का चिंतन-प्रवाह क्रमिक, व्यवस्थित और किसी व्यष्टिगत सिद्धांत के प्रतिपादन स्वरुप नहीं हुआ है। उदाहरण के लिए, कौटिल्य ने अपने महाग्रंथ अर्थशास्त्र की रचना शासन व्यवस्था और नीति विषयक सूक्ष्म सिद्धांतों की रचना हेतु क्रमबद्ध, व्यवस्थित और एकमुश्त रूप से किया। इस कसौटी पर गांधी का चिंतन परंपरा से हटकर और अनूठे प्रकार का माना जा सकता है। द्वितीय, गांधी का चिंतन प्रायः उनके व्यावहारिक आचरण से अनुप्राणित रहा है। या यूँ भी कह सकते हैं कि अपने किसी भी विचार को सैद्धांतिक स्तर पर प्रतिस्थापित करने से पहले गांधी ने उस विचार को अपने व्यवहार में उतारा जिससे कि उनका विचार अव्यावहारिक या कपोल कल्पना मात्र प्रतीत न हो।

गांधी के पर्यावरण विषयक विचारों के आलोचनात्मक विश्लेषण से पूर्व दो बातों को स्पष्ट करना समीचीन प्रतीत होता है। प्रथम, गांधी ने एक विषय अथवा समस्या के नाते पर्यावरण पर कोई क्रमबद्ध, व्यवस्थित और वृहत टीका नहीं लिखी है। इसका मूल कारण यह माना जा सकता है कि गांधी के काल में न तो पर्यावरण कोई उल्लेखनीय समस्या थी, न ही गांधी के अति प्रिय विषयों में पर्यावरण किंचित उच्च स्थान रखता था। द्वितीय, इन सबके बावजूद अप्रत्यक्ष रूप से गांधी पर्यावरण को भविष्य में होने वाले क्षयों की प्रकृति और परिमाप से भलीभांति परिचित प्रतीत होते हैं। इसलिए उनके लेखन के क्रम में कई ऐसी धाराएं दृष्टिगोचर होती हैं जिनके अन्तर्निहित भावों के विश्लेषण से गांधी के पर्यावरण विषयक विचारों की रुपरेखा प्रस्तुत की जा सकती है। इस प्रकार गांधी की विचार श्रृंखला में ऐसी धाराओं को चार मुख्य बिन्दुओं में रेखांकित कर सकते हैं।

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[1] एसोसिएट प्रोफेसर, राजनीति विज्ञान विभाग, चौधरी चरण सिंह विश्वविद्यालय, मेरठ (उ.प्र)

प्रौद्योगिकी के नित नूतन अविष्कार मनुष्य के हाथ में ऐसे यंत्रों, कौशलों तथा प्रविधियों का हस्तांतरण कर रहे हैं जिनके द्वारा शनैः शनैः मानव के लिए कुछ भी करना असंभव नहीं रह जाएगा। ऐसे वातावरण में मनुष्य स्वयं को प्रकृति का सहवासी मानने के स्थान पर प्रकृति का स्वामी और नियंता मान बैठेगा। आज की स्थिति देखें तो गांधी की यह आशंका पूर्णतः सत्य सिद्ध हो रही है। गांधी ने मशीनीकरण और शहरीकरण की प्रक्रिया को भी प्रकृति विरोधी और पर्यावरण विनाशक माना है। उनका कहना है कि मशीनीकरण की प्रक्रिया के चलते न केवल व्यक्ति की श्रम साधना की वृत्ति का क्षरण होता है अपितु कारखानो मे वस्तुओं का अरीगित और अनुपयोगी उत्पादन होने लगता है। इससे किस प्रकार प्राकृतिक संसाधनों का अंध दुरुपयोग होता है और मानव जीवन का बाज़ारीकरण होता है, यह किसी से छिपा नहीं है। इस क्रम में शहरीकरण की प्रक्रिया भी व्यक्ति को उसकी जड़ों से निर्मूल करके एक ऐसे शुष्क स्थान पर प्रतिस्थापित करती है जिनसे न तो उस व्यक्ति का कोई स्नेह होता है और न ही अर्जित उस नए स्थान पर अपनी पारम्परिक जीवन शैली के अनुरूप जीवनयापन का क्रम सुनिश्चित कर पाता है। साथ ही नयी-नयी भौतिक सुख-सुविधाओं की मृगमरीचिका में वह पर्यावरण के क्रमिक विनाश का प्रमुख कारण बनता है।

पारिस्थितिकीय संतुलन की अक्षुण्णता

सामान्यतः पारिस्थितिकीय संतुलन की अक्षुण्णता को पर्यावरणीय सततता का प्रमाण माना जाता है। नैसर्गिक रूप से मानव पारिस्थितिकी के स्वरुप का निर्धारण इस प्रकार किया गया है कि इसमें व्यक्ति तथा प्रकृति एक दूसरे के पूरक माने गए हैं। दोनों में से किसी एक के भी असंतुलित व्यवहार अथवा इस पूरकता को खंडित करने के परिणाम भयावह हो सकते हैं। वर्तमान समय में घटित होने वाली विविध प्रकार की प्राकृतिक आपदाएं वस्तुतः मानव द्वारा पारिस्थितिकी के संतुलन को खंडित करने के प्रयासों का दुष्परिणाम ही माना जाना चाहिए। यही कारण है कि गांधी के पर्यावरण विषयक विचारों की श्रृंखला में मानव और प्रकृति के पारस्परिक संबंधों की रुपरेखा का बहुत महत्व है। गांधी ने हमेशा प्रकृति को मानव जीवन में विविध प्रकार की नेमतों और प्रेरणाओं का स्रोत माना है। इसलिए उन्होंने इस बात पर जोर दिया कि व्यक्ति को सर्वदा प्रकृति की आराधना करनी चाहिए न कि उसके शोषण और विध्वंस के नित नए साधनों की खोज में तल्लीन रहना चाहिए। गांधी के इन विचारों का आधार मूलतः उनकी पारम्परिक भारतीय जीवन शैली में अटूट निष्ठा और विश्वास रहा है। वस्तुतः भारतीय जनमानस कालांतर से ही प्रकृति पूजक रहा है। इसने प्रकृति प्रदत नेमतों और अवयवों को देवी और देवताओं के रूप में देखा है। गांधी के अनुसार मानव और प्रकृति के संबंधों के निरूपण की यही दृष्टि ही श्रेयस्कर और उपादेयी है। आधुनिक सभ्यता में क्रम के बदलते जीवन मूल्यों तथा व्यक्ति के हाथों में आने वाले नित नवीन औजारों और कौशलों ने उसे प्रकृति पर विजय अभियान छेड़ने की प्रेरणा दी है। इसलिए गांधी आधुनिक सभ्यता को पर्यावरणीय विनाश का सर्वप्रमुख कारक मानते हैं।

भारतीय दर्शन परंपरा में प्रकृति के पांच तत्व माने गए हैं: क्षिति, जल, पावक, गगन और समीर । इस तत्वों को भारतीय सनातन परंपरा में सजीव और जीवनदायिनी माना जाता है। किसी भी प्रकार से इन तत्वों का विद्रूपण अथवा प्रदूषण मानव जीवन के लिए घातक और प्रकृति के लिए विनाशक समझा

के चिंतन का एक वैशिष्ट्य यह भी है कि जीवन की गूढ़तम और महत्तम चुनौतियों के समाधानस्वरुप उन्होंने जीवन के सहज, सरल और दैनिक जीवन के उपयोगी सूत्रों और कृत्यों के पुनर्स्थापन का प्रयत्न किया है। इस प्रकार आज जब हर व्यक्ति पर्यावरणीय समस्याओं के समाधानस्वरुप क्षेत्रीय, राष्ट्रीय और अंतर्राष्ट्रीग विकल्पों व समाधानों की चर्चा करने में व्यस्त है, गांधी ने उन अधिकतर समस्याओं का निराकरण दैनिक जीवन को सरल और सहज बनाये रखने में ही समाहित किया है। उनका मत है कि यदि उनके द्वारा सुझाई गई जीवन शैली को लोग अपना लें तो वर्तमान जीवन की पर्यावरण विषयक चुनौतियाँ उत्पन्न ही नहीं होंगी।

गांधी का विश्वास सादा जीवन और उच्च विचार की युक्ति को प्रत्येक व्यक्ति के जीवन का आधार बनाने में है। वे इस बात के कायल प्रतीत होते हैं कि आधुनिक सभ्यता और औद्योगीकरण की प्रक्रियाओं द्वारा जीवन में लाई गयी गूढ़ताएं किसी के लिए भी श्रेयस्कर नहीं हो सकती हैं। इसके विपरीत, ये गूढ़ताएं न केवल हर व्यक्ति के व्यक्तिगत जीवन को क्लिष्ट और वीभत्स बनाएंगी अपितु सामाजिक जीवन की अनेक विसंगतियों जैसे नैतिक मूल्यों के क्षरण, परिवारों के विखंडन और पर्यावणीय संतुलन को स्थाई रूप से विद्रूप करने की प्रक्रिया को भी जन्म देंगी। अतः इन सबसे बचने के लिए गांधी ने सादा जीवन और उच्च विचार की धारणा को अपनाने पर बल दिया। उनका यह दृढ़ मत है कि व्यक्ति की आश्यकताएँ जितनी न्यूनतम होंगी, उतना ही उसका जीवन सुखी और प्रकृति सम्मत रहेगा। उन्होंने इस बात पर भी बल दिया कि प्रत्येक व्यक्ति को अपने परिश्रम के द्वारा अर्जित रोटी ही खानी चाहिए । हम अपने जीवन को जितना अधिक मशीन आधारित होने से बचा के रख सकेंगे, उतना ही हम अपने जीवन के साथ-साथ प्रकृति के साथ भी न्यायसंगत व्यवहार कर पाएंगे।

गांधी की प्रकृति-सम्मत जीवनशैली के प्रतिमान का एक ठोस आधार उनके द्वारा रेखांकित किया गया 'आवश्यकता' और 'लालच' के मौलिक विभेद को भी माना जा सकता है। गांधी इस बात से पूरी तरह आश्वस्त थे कि प्रकृति के पास धरती पर रहने वाले हर व्यक्ति की आवश्यकता को पूरा करने के लिए पर्याप्त संसाधन हैं। परन्तु किसी भी व्यक्ति का लालच जब प्राकृतिक संसाधनों के उपयोग अथवा दोहन का आधार बन जाता है तो प्रकृति प्रदत्त संसाधन न केवल अपर्याप्त पड़ जाते हैं अपितु उनका क्षरण इतनी तीव्र गति से होने लगता है कि प्रकृति उनका पुनः पोषण नहीं कर पाती है। अंततोगत्वा प्राकृतिक संसाधनों का विलोपन होने लगता है और व्यक्ति के समक्ष किंकर्तव्यविमूढ़ता की स्थिति उत्पन्न हो जाती है। साथ ही लालच प्रेरित विकास की यह अंधाधुंध दौड़ पर्यावरण के विनाश का कारण भी बनती है। अतः गांधी अपने जीवन और जीवन-शैली से संपूर्ण विश्व को यह सन्देश देना चाहते थे कि अपनी आवश्यकताओं को न्यूनतम रखकर भी व्यक्ति सुखी और प्रसन्न रह सकता है। उनके द्वारा स्थापित आश्रम और अन्य आश्रयगृह इसी न्यूनतम आवश्यकता के सिद्धांत पर कार्य करते थे और अपने निवासियों की मूलभूत आवश्यकताओं को बखूबी पूरा करते थे।

गांधी के पर्यावरण विषयक चिंतन की एक अनूठी विशेषता उनके द्वारा रेखांकित की गयी ग्रामीण और शहरी जीवन शैलियों में अन्तर्निहित विभेद है। गांधी इस बात पर बल देते हैं कि ग्रामीण जीवन ही प्रकृतिसम्मत जीवन होता है। वे शहरी जीवन का आधार आधुनिक सभ्यता और औद्योगीकरण

समालोचना

पर्यावरण विषयक गांधी के विचार कई मायनों में अनूठे और अपारम्परिक हैं। इसलिए इन विचारों की कई लोगों ने कटु आलोचना भी की है। किन्तु, समालोचना की दृष्टि से गांधी के विचार अन्य चिंतकों और नीति-निर्माताओं के लिए धर्मसंकट की स्थिति पैदा करते हैं। यह धर्मसंकट इस बात में निहित है कि एक तरफ तो वे गांधी के विचारों को कपोलकल्पित, दिवास्वप्नीय और अव्यावहारिक सिद्ध करने का प्रयत्न करते हैं। परन्तु, दूसरी ओर वर्तमान जीवन की अनेकानेक विसंगतियों और समस्याओं का सरल समाधान जब उनकी समझ से परे लगने लगता है तो वे गांधी के विचारों के अनुपालन की ओर भी संकेत करते हैं। अतएव गांधी के विचारों की आलोचना का मूल स्वर दो दिशाओं से सुना जा सकता है। एक, गांधी के विचारों की इस आधार पर आलोचना की जाती है कि वे आधुनिक जीवन की मूल परिपाटियों की कुतार्किक आलोचना करते हैं। यह तर्क दिया जाता है कि आधुनिक जीवन की कल्पना में क्या औद्योगीकरण, मशीनीकरण, शहरीकरण, वैज्ञानिक और तकनीकी अविष्कारों और आधुनिक व्यवसायों तथा जीवन शैलियों को ख़ारिज किया जा सकता है और उत्तर दिया जाता है कि यह संभव नहीं है। अतः गांधी द्वारा इन बिन्दुओं के आधार पर की गयी आलोचना उपयुक्त नहीं है।

गांधी के विचारों की आलोचना की दूसरी धारा का प्रवाह उनके द्वारा प्रस्तावित प्रकृतिसम्मत जीवनशैली की अव्यावहारिकता के रूप में दृष्टिगोचर होती है। आलोचकों का यह तर्क है कि गांधी द्वारा प्रस्तुत जीवन शैली उस समय के लिए उपयुक्त हो सकती है किन्तु आज के आधुनिक तकनीक आधारित जीवन शैली के युग में गांधी के विचार सर्वथा अव्यावहारिक हैं। उनका यह भी तर्क है कि गांधी के विचारों को जब भारत में ही नहीं स्वीकार किया गया तो उनकी सार्वभौमिक और सार्वकालिक उपादेयता पर प्रश्नचिन्ह लगना स्वाभाविक ही है। यह भी कहा जाता है कि गांधी के विचार अतिरेकी हैं और एक विशिष्ट प्रकार की जीवन-शैली की श्रेष्ठता का प्रतिपादन करते हैं। परन्तु, इन सब आलोचनाओं के बावजूद गांधी के विचारों की सार्वत्रिकता और उपादेयता का प्रमाण वर्तमान समय की वे अनुलझी गुत्थियां हैं जिन्हें सुलझाने के विविध प्रयास अभी तक कारगर और कालजयी नहीं प्रतीत हो रहे हैं।

वर्तमान समय में पर्यावरणीय संकट और पारिस्थितिकीय असंतुलन की समस्या मानव-सभ्यता के समक्ष यक्ष प्रश्न बनकर खड़ी है। अब व्यक्ति को इस बात का बखूबी अहसास हो रहा है कि कैसे प्रकृति के संबंध में उसके भौतिकवादी विचार और विजयशालिनी दृष्टिकोण ने उसके सामने अस्तित्व का संकट उत्पन्न कर दिया है। कतिपय क्षेत्रों में अब इस बात पर बल दिया जा रहा है कि यदि समकालीन पर्यावरणीय संकट का कोई स्थाई हल निकालना है तो गांधी के विचार हमारे लिए एक व्यावहारिक विकल्प के रूप में मौजूद हैं। परन्तु, गांधी के अन्य विचारों की तरह पर्यावरणीय विचारों के प्रति भी लोगों के अंदर भ्रम की स्थिति विद्यमान दिखती है। यह भ्रम इस बात को लेकर है कि वैश्विक स्तर पर गांधी के विचार किस मर्यादा तक लोगों के व्यावहारिक जीवन में उतर सकते हैं। इस दृष्टि से यह बात काफी विडम्बनापूर्ण लगती है कि गांधी के विचारों की सैद्धांतिक परिपक्वता के विषय में तो सम्पूर्ण विश्व में सर्वसम्मति का मुखर स्वर प्रतिध्वनित होता है। किन्तु जब इन विचारों के अनुरूप लोगों की जीवन शैलियों को निरूपित करने की बात होती है तो अभी भी वैश्विक स्वर में मतभेद नज़र आता है।

महात्मा गाँधी और आपदा प्रबंधन

राजेंद्र कुमार पाण्डेय

सारांश : महात्मा गाँधी आधुनिक समय के ऐसे चिन्तक रहें हैं जिनकी सूक्ष्म दृष्टि और पैनी लेखनी से शायद ही मानव जीवन के विरले पक्ष अछूते रह गए होंगे। इसलिए यह स्वाभाविक ही है कि भारत के लोक प्रशासन के विविध पक्षों पर उन्होंने समय-समय पर अपने निश्चित और सुविचारित मत व्यक्त किए हैं। इन पक्षों में जो विषय कदाचित लेखकों और विश्लेषकों का ध्यान अपनी ओर आकृष्ट करने में काफी हद तक विफल रहा है वह है आपदा प्रबंधन। मानवता के समक्ष घटित होने वाले कतिपय प्राकृतिक आपदाओं पर गाँधी ने विस्तृत और सारगर्भित भाषण दिए हैं और लेख लिखे हैं। इनके माध्यम से आपदा प्रबंधन के कुछ महत्वपूर्ण बिन्दुओं पर गाँधी ने बहुत ही उत्कृष्ट विश्लेषण प्रस्तुत किये हैं जो आज भी कदाचित उतने ही सटीक प्रतीत होते हैं जितने कि वे उस समय रहे होंगे। अतएव, इस आलेख में आपदा प्रबंधन पर गाँधी की अंतर्दृष्टियो का विश्लेषणात्मक अध्ययन प्रस्तुत किया गया है।

प्रस्तावना

महात्मा गाँधी के चिंतन का स्वरूप इतना व्यापक तथा सर्वस्पर्शी है कि मानव जीवन का कोई विरला ही पक्ष होगा जिस पर उन्होंने कुछ कहा या लिखा न हो। उनके चिंतन के इस मूल में कदाचित उनका वह जागृत आत्मबोध रहा है जिसके कारण वे स्वयं को भारत की मूल चेतना और जीवन दर्शन से कभी भी पृथक नहीं कर पाए। फलतः भारतीय चिंतन परंपरा के प्राणतत्व के रूप में आदिकाल से विद्यमान सत्य, अहिंसा और परोपकार के शाश्वत मूल्य गाँधी के भी चिंतन का मूल आधार बन गए। इन्हीं जीवन मूल्यों को अपने दर्शन और कर्म का आधार मानते हुए गाँधी निरंतर अपने देश काल की परिस्थितियों, घटनाक्रमों, और समस्याओं पर न केवल पैनी नजर रखे हुए थे अपितु उनके ऊपर निश्चित मत भी व्यक्त करते रहे। इस प्रकार गाँधी की चिंतन परम्परा और उनके विचार पुंज के प्रस्फुटन की दो समानांतर धाराएँ दृष्टिगोचर होती हैं। *प्रथम,* उन्होंने अपने कतिपय प्रबल और सुसंश्लेषित विचारों के निरूपण के लिए कुछ सुगठित और सूत्र रूपी ग्रंथों की रचना की जिनमें 1909 में प्रकाशित हिन्द

प्रबंधन के सम्बन्ध में गाँधी के मंतव्य को निरूपित करने का भागीरथ प्रयत्न किया जा सकता है। परन्तु यह अप्रत्यक्ष पद्धति प्रस्तुत आलेख के दायरे से बाहर है और इसलिए आपदा प्रबंधन पर गाँधी के विचारों को अभिव्यक्त करने के लिए उपरोक्त शोध सामग्रियों की सहायता नहीं ली गई है।

द्वितीय गाँधी के जीवन काल में ही भारत और भारत से बाहर विभिन्न कालखंडों में कई प्रकार की प्राकृतिक आपदाओं ने लोगों के जीवन को अभिशप्त किया था। इनमें से कई प्राकृतिक आपदाओं ने गाँधी का ध्यान अपनी ओर आकृष्ट किया जिसके फलस्वरूप उन आपदाओं के कारण, उनके निवारण तथा प्रबधन के कतिपय पहलुओं पर गाँधी ने अपने विचार व्यक्त किये। इन आपदाओं पर उन्होंने अपनी पत्र-पत्रिकाओं में सारगर्भित लेख और सम्पादकीय लिखे और लोगों को इनसे निबटने हेतु कुछ संकेत-रेखाओं का निरूपण किया। इस प्रकार आपदा प्रबंधन पर गाँधी की चिंतन सृष्टि से प्रचुर मात्रा में ऐसे संकेतात्मक बिन्दुओं को प्राप्त किया जा सकता है जो इस विषय पर गाँधी के विचारों को निरूपित करने में सहायक सिद्ध हो सकती हैं। इस दृष्टि से भिन्न-भिन्न कालखंडों में घटित चार प्राकृतिक आपदाओं पर गाँधी ने अपने विशद् विचार व्यक्त किए हैं। इनमें सर्वप्रथम घटित होने वाली प्राकृतिक आपदा 1910 की पेरिस की बाढ़ थी जिसने फ्रांस के इस ऐतिहासिक शहर को विनाश के कगार पर लाकर खड़ा कर दिया था। कालान्तर में सम्पूर्ण विश्व में इस विभीषिका का समाचार इस प्रकार प्रसारित हुआ कि गाँधी की मानवीय संवेदना भी इससे प्रभावित हुए बिना न रह पायी। तदुपरांत, उन्होंने अपने पत्र इंडियन ओपिनियन में इस प्राकृतिक आपदा पर विस्तार से अपने विचार व्यक्त किये। इसी प्रकार, 1924 में केरल के मालाबार क्षेत्र में आयी भीषण बाढ़ की आपदा से भी गाँधी विचलित हुए बिना न रह सके। कालांतर में जिन दो अन्य प्राकृतिक आपदाओं पर गाँधी ने विस्तार से अपने विचार व्यक्त किये और अनेक व्यक्तियों से उनका वाद-विवाद भी हुआ वे थीं– 1920 और 1930 के दशकों में ओडिशा में आने वाली बाढ़, अकाल और चक्रवात की विभीषिकाएँ, और 1934 में बिहार में घटित होने वाला विनाशकारी भूकंप। निसंदेह, उपरोक्त घटनाओं पर गाँधी ने अपने जीवन मूल्यों और चिंतन के गुणधर्मों के आधार पर अपना मत व्यक्त किया जिसके आधार पर आपदा प्रबंधन विषयक गाँधी के विचारों को संकेत रूप में निरूपित किया जा सकता है। अग्रिम पृष्ठों में इसी पद्धति के अनुसार आपदा प्रबंधन पर गाँधी के विचारों का विश्लेषण करने का प्रयत्न किया गया है।

प्राकृतिक आपदा का सभ्यताजनित स्वरूप

वर्तमान समय में इस तथ्य को लगभग अकाट्य मान लिया गया है कि जिन्हें प्राकृतिक आपदा कहा जाता है उनके घटित होने में मनुष्य की भी बड़ी महत्वपूर्ण भूमिका होती है। कई अर्थों में तो प्राकृतिक आपदाएं प्रकृति की स्वाभाविक क्रियाएँ ही होती हैं जिन्हें आपदा का स्वरूप मानव की अतृप्त पिपासा और प्रकृति के कार्यक्षेत्र में उसके

और उनकी पूर्ति हेतु किए जाने वाले प्रयत्न न केवल अनैतिक हैं बल्कि पाप के समान है। वे पाश्चात्य जनमानस को जागृत करते हुए स्पष्ट शब्दों में लिखते हैं कि यदि उन्हें प्राकृतिक आपदाओं की बारंबारता से स्वयं को बचाना है तो उन्हें निश्चित रूप से अपने भोगी और विलासी जीवन की पुनर्संरचना करनी पड़ेगी। केवल इस प्रकार की पुनर्संरचना ही उनके जीवन और भौतिक परिसम्पत्तियों को प्राकृतिक आपदाओं के कहर से सुरक्षित कर सकती है। इसके अभाव में संभवतः यूरोपीय लोग अपनी सुख सुविधा के बोझ तले ही दबकर समाप्त हो सकते हैं। इस प्रकार गाँधी पेरिस की भीषण बाढ़ को यूरोप की भौतिकवादी सभ्यता का एक दुष्परिणाम मानते थे। वे इस बात से काफी आश्वस्त थे कि ये बाढ़ वस्तुतः पेरिस के लोगों के लिए प्रकृति की ओर से दी गई एक चेतावनी है जिसे उन्हें नजरअंदाज नहीं करना चाहिए। अतः उनकी भलाई इसी में है कि वे अपने जीवन को प्रकृति सम्मत बनाएं जिससे कि वह निरंतरता और संपोषित हो सके।

आपदा प्रबंधन की समग्रता

इस बात से इनकार नहीं किया जा सकता है कि काफी लम्बे समय तक, और विशेषकर उपनिवेशी शासन के दौरान भारत में आपदा प्रबंधन को अनावश्यक और अंशकालिक कार्य समझा जाता था। इससे भी अधिक सोचनीय बात यह थी कि आपदा प्रबंधन का पूरा फलसफा केवल प्राकृतिक आपदाओं के समय पीड़ित लोगों को कुछ राहत और सहायता प्रदान करने तक ही सीमित कर दिया गया था। इन सब बातों से गाँधी काफी चिंतित और व्यथित दिखाई पड़ते थे। इसलिए 1920 और 1930 के दशकों में ओडिशा में आने वाली अनेक प्रकार की प्राकृतिक आपदाओं यथा-बाढ़, सूखा, अकाल और समुद्री तूफानों आदि को गाँधी ने काफी गंभीरता से लिया और इनमें से कुछ के ऊपर उन्होंने अपने पत्रों में काफी सारगर्भित और विस्तृत लेख और सम्पादकीय भी लिखे। इन लेखों के माध्यम से उन्होंने ने केवल उस समय में प्रचलित आपदा प्रबंधन की नीतियों और प्रक्रियाओं की तीखी आलोचनाओं की अपितु उनके विकल्पस्वरूप कई प्रकार के रचनात्मक सुझाव भी दिए। उन्होंने इस बात को पूरी तन्मयता के साथ रेखांकित किया कि प्राकृतिक आपदाओं का स्वरूप बहुआयामी है और यदि उनका समग्रता में अध्ययन और चिंतन न किया गया तो उनके प्रबंधन के विविध उपाय अधूरे और निष्फल ही सिद्ध हो सकते हैं। अतः उनका यह दृढ़ निवेदन था कि प्राकृतिक आपदाओं पर जो भी विचार किया जाए वह समग्रता में किया जाए जिससे कि उनके विविध पक्षों के अनुरूप ही आपदा प्रबंधन की व्यवस्था का निरूपण किया जा सके।

गाँधी ने इस बात पर काफी बल दिया कि प्राकृतिक आपदाएं अपने आप में परिपूर्ण संकल्पना नहीं हैं और यदि उनको समग्रता में समझना है तो किसी क्षेत्र विशेष की भौगोलिक संरचना को दृष्टिगत करने के साथ ही उस क्षेत्र के लोगों की

गाँधी की यह युक्ति वस्तुतः आज के सर्वविदित तथ्य का लगभग 90 वर्ष पूर्व के उनके विचार को इंगित करता है। वर्तमान समय में इस बात को अकाट्य सत्य माना गया है कि प्राकृतिक आपदाओं और गरीबी में ऐसा विषम सम्बन्ध है कि दोनों एक दूसरे को बढ़ाने और सुदृढ करने में महत्वपूर्ण भूमिका निभाते हैं। दूसरे शब्दों में, जब किसी गरीब व्यक्ति का प्राकृतिक आपदा से सामना होता है तो उसके ऊपर उस आपदा का पड़ने वाला प्रभाव बहुत ही भीषण और प्रलयकारी होता है। इसलिए उसकी गरीबी की दशा और अधिक दयनीय हो जाती है और जैसे-जैसे उसकी गरीबी की दशा दयनीय होती जाती है वैसे-वैसे ही प्राकृतिक आपदाओं के सांघातिक खतरे उसके लिए कई गुना बढ़ते जाते हैं। इसलिए ओडिशा में 1926 में आई भीषण बाढ़ के सम्बन्ध में गाँधी ने उत्कलमणि गोपबंधु दास को यह निश्चित सन्देश दिया कि वहां पर बाढ़ प्रभावित लोगों की स्थिति बहुत दयनीय है और इसलिए उन्हें सर्वदूर भ्रमण करने के स्थान पर जहाँ पर हैं वहाँ पर लोगों की भरपूर सहायता करनी चाहिए। चूँकि इस बाढ़ से लोगों का सबकुछ नष्ट हो गया होगा इसलिए अगली फसल के होने तक उन्हें अनवरत रूप से राहत सामग्री के साथ-साथ अन्य प्रकार की सहायता भी प्रदान करते रहना चाहिए।

आपदा राहत

आपदा राहत का विषय गाँधी के आपदा प्रबंधन सम्बन्धी चिंतन में बड़ा महत्वपूर्ण स्थान रखता है। उन्होंने जब-जब किसी भीषण प्राकृतिक आपदा के दृश्य को देखा या उसके द्वारा की गई विनाशलीला के बारे में सुना तो उनका प्रथम विवेचन यही होता था कि कैसे आपदा प्रभावित लोगों को विविध प्रकार की राहत पहुंचाई जाये। उनका यह सुविचारित मत था कि किसी भी प्राकृतिक आपदा के पश्चात जब आपदा प्रभावित क्षेत्र में लोगों के जान और माल का नुकसान अपरिमित हो जाता है तो उस समय उनके लिए जीवित रहने और जीवन को नए सिरे से आरम्भ करने के लिए कोई भी संबल उपलब्ध नहीं रहता। ऐसे समय में आपदा प्रभावित लोगों को पहुंचाई गई किसी भी प्रकार की राहत उनके लिए बहुत बड़े आश्रय के रूप में प्रतीत होती है। इसलिए गाँधी ने लगभग प्रत्येक विनाशकारी प्राकृतिक आपदा के पश्चात लोगों से उदारतापूर्वक सहायता देने का अनुरोध किया। इस प्रकार की सहायता का प्रमुख रूप तो यद्यपि नकद रूपये के रूप में प्रदान की गई धनराशि ही होती थी किन्तु अन्य प्रकार की सहायता के लिए भी स्थानीय लोगों से उनका निवेदन रहा करता था।

इस सन्दर्भ में महत्वपूर्ण बात यह है कि आपदा राहत की गाँधी की संकल्पना दो रूपों में अनूठी प्रतीत होती है। एक तो गाँधी अपने वचन और कर्म की एकरूपता के अनुरूप जब भी किसी प्राकृतिक आपदा के सन्दर्भ में आपदा राहत की अपील करते थे तो वे प्रायः स्वयं ही उस राहत के संकलन और प्रबंधन में अग्रणी भूमिका निभाने को तत्पर रहते थे। दूसरे शब्दों में, गाँधी के आपदा राहत संकलन का निवेदन औरों

उस व्यक्ति का, जो इन दैवीय प्रकोपों से सही सलामत बचा रहता है, का पुनीत कर्त्तव्य होता है कि वह आपदा प्रभावित लोगों की अथक सहायता करे और उन्हें पर्याप्त मात्र में राहत पहुँचाने में अपने योगदान दे। गाँधी का यह भी मानना था कि इस प्रकार के आपदा काल में लोगों द्वारा प्रदान की जाने वाली सहायता राशि या राहत सामग्री अमूल्य होती है और उनके परिमाण देखे बिना उन्हें स्वीकार किया जाना चाहिए। अतएव, आपदा राहत के विषय मे गाँधी ने जिन विचारों का प्रतिपादन आज से लगभग सौ वर्ष पूर्व किया था। वे विचार आज भी उतने ही समीचीन और उपयोगी प्रतीत होते है। वर्तमान समय मे भी घटित होने वाली प्राकृतिक आपदाओं के समय सरकार द्वारा किये जाने वाले राहत कार्यों के अतिरिक्त जन सामान्य द्वारा दी जाने वाली सहायता और सहयोग ही वास्तव में आपदा प्रभावित लोगों को असली सुकून पहुंचाता है।

आपदा प्रबंधन का सामाजिक पक्ष

गाँधी के आपदा प्रबंधन सम्बन्धी विचारों का निरूपण करते हुए इस आश्चर्यजनक तथ्य का रहस्योद्घाटन करना भी आवश्यक प्रतीत होता है कि वे प्राकृतिक आपदाओं के सामाजिक पक्ष को भी बखूबी समझते थे और उन्हें समाज सुधार के एक यन्त्र के रूप में प्रयोग करने में भी कोई गुरेज नहीं समझते थे। इस दृष्टि से जनवरी 1934 में बिहार में आये भूकंप के बारे में गाँधी का वक्तव्य न केवल अपने समय में बहुत विवादित रहा है अपितु अभी तक भी उस विषय के ऊपर विद्वतजनों के मध्य विभिन्न प्रकार के वाद-विवाद का आधार बनता रहता है। वस्तुतः जब इस भूकंप के घटित होने का समाचार गाँधी को मिला तो उस समय वे सुदूर दक्षिण में मद्रास प्रेसीडेंसी के तिरुन्वेली जिले में अस्पृश्यता के विरूद्ध जनजागरण के अपने सुविचारित कार्य में लगे हुए थे। बिहार में आये प्रलयकारी भूकंप का समाचार सुनने के पश्चात उन्होंने अपनी एक सभा मे अपने इस विचार को उदघोषित किया कि यह भूकंप बिहार के लोगों को उनके अस्पृश्यता के अनुपालन के पाप के बदले में प्राप्त हुआ दैवीय दंड है। इस प्रकार गाँधी ने न केवल इस भूकंप को दैवीय प्रकोप कहा अपितु इस बात को भी रेखांकित किया कि प्रकृति का यह प्रकोप बिहार कि लोगों को इसलिए झेलना पड़ रहा है कि वे समाज के कुछ बंधुओं के विरूद्ध अस्पृश्यता के पाप का वरण करते हैं। इस तरह गाँधी ने भूकंप और अस्पृश्यता के मध्य एक नवीन अभिकल्प की रचना प्रस्तुत करने का प्रयत्न किया।

भूकंप जैसी प्राकृतिक आपदा के सामाजिक निहितार्थ को आगे बढ़ाते हुए गाँधी ने कहा कि वास्तव में यह प्रकृति के द्वारा मानवनिर्मित सामाजिक असमानता को खंडित कर समाज में अन्तर्निहित समानता को स्थापित करने का भी एक दैवीय प्रयत्न है। उन्होंने इस बात पर काफी बल दिया कि ईश्वर ने समाज में सबको समान रूप से दैवीय गुणों और मूल्यों से परिपूर्ण करके भेजा है। इसलिए व्यक्ति-व्यक्ति के मध्य किसी भी प्रकार की मानव निर्मित कृत्रिम भेदभाव के लिए कोई स्थान नहीं बचता।

किया। यहाँ पर रोचक बात यह है कि आपदा प्रबंधन के कतिपय पक्षों पर गाँधी ने अपने विचार और वर्ष से भी अधिक समय से पूर्व व्यक्त किये थे। किन्तु उन विचारों के कालजयीपन का अनुमान इसी बात से लगाया जा सकता है कि उस समय गाँधी ने जो आपदा प्रबंधन के जो प्रतिमान सुनिश्चित किए थे अभी भी विश्लेषक उन्हीं प्रतिमानों को आपदा प्रबंधन का मूल आधार मानते हैं। इसलिए आवश्यकता इस बात की है कि आपदा प्रबंधन पर गाँधी के विचारों का पुनर्पाठ किया जाए और उन्हें समकालीन भारतीय आपदा प्रबंधन की नीतियों और प्रक्रियाओं का अभिन्न अंग बनाया जाए ।

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भारतीय राजनीति विज्ञान परिषद् का अर्द्धवार्षिक प्रकाशन

वर्ष-द्वादश, अङ्कः-प्रथम, जनवरी-जून, *2020*

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प्राचीन भारत में राजधर्म की अवधारणा: महाभारत में राजत्व के परिप्रेक्ष्य में कतिपय संकेत

संजीव कुमार शर्मा

प्राचीन भारत में राजधर्म का अत्यन्त सूक्ष्म, वैदुष्यपूर्ण एवं विस्तृत वर्णन किया गया है। भारतीय राजदर्शन में प्रजा–हितैषी राजा, शासन की सुरक्षा, उन्नति, सुस्थिरता एवं प्रजा आकांक्षाओं हेतु नीतियों का निर्माण, नियोजन एवं कार्यान्वयन में जिन पद्धतियों का अनुसरण करना है, उसी को राजधर्म कहा गया है प्राचीन भारतीय चिन्तन में राजधर्म जीवन का उच्च आदर्श है, जिसमें सामाजिक, धार्मिक, नैतिक राजनीतिक, एवं आर्थिक पक्ष सन्निहित हैं। वास्तव में प्राचीन भारतीय वांगमय में राजधर्म का आशय राजा एवं राजव्यवस्था से है। धर्म को सामान्यतः कर्त्तव्य के अर्थ में लिया गया है। भारतीय मान्यताओं के अनुसार जिसमें धर्म विद्यमान है, वही राजा है, क्योंकि राजा धर्म का पालन करने तथा प्रजा से धर्म का पालन कराने के लिए ही होता है महाभारत महाकाव्य में राजा के लिए विभिन्न पर्यायवाची सम्बोधन प्राप्त होते हैं जो राजा के विराट स्वरूप एवं राज–कर्त्तव्यों के द्योतक हैं।[1]

महाभारत महाकाव्य में राजधर्म विषयक व्यवस्था उद्घोष करते हुए भीष्म पितामह कहते हैं कि राष्ट्र का सर्वप्रथम कर्त्तव्य राजा का विधिवत् राज्याभिषेक करना है। राजा रहित राज्य दुर्बल रहता है। ऐसे राज्य में दस्यु आक्रमण करते हैं।[2] जिन राष्ट्रों में कोई राजा नहीं होता, वहां धर्म की स्थिति नहीं रहती अतः वहां के लोग एक–दूसरे को इड़पने लगते हैं। इसलिए जहां अराजकता हो, उस देश का सर्वथा धिक्कार है।[3] राजा का आवाहन करने से इन्द्र का आवाहन समझा जाता है। ऐश्वर्य की इच्छा रखने वाले पुरुषों को इन्द्र की भांति राजा की भी पूजा करनी उचित है। महाभारत के मत में राजा हीन राज्य में वास करना उचित नहीं है, क्योंकि वैसे राज्य में अग्निदेव भी देवताओं के निकट हव्य नहीं पहुँचाते हैं।[4] अतएव जो मनुष्य वैभव वृद्धि की कामना रखते हों, उन्हें सर्वप्रथम इस भूमण्डल में प्रजाजनों पर अनुग्रह करने के लिए राजा अवश्य ही बना लेना चाहिए।[5] इस प्रकार राजा राष्ट्र की उन्नति की आरम्भिक आवश्यकता है. जो राज्य को सबलता प्रदान करता है। महाभारत में राजधर्म की श्रेष्ठता को अतिरिक्त गम्भीरता के साथ विश्लेषित किया गया है। राज्य की सुव्यवस्था, संरक्षण एवं शान्ति का संचालन राजधर्म पर ही आधारित है

महाभारतकार का कहना है कि यदि पृथ्वी का पालन करने वाला राजा अपने राज्य की रक्षा करता है तो समस्त आभूषणों से विभूषित सुन्दरी स्त्रियाँ किसी पुरुष को साथ लिए बिना भी निर्भय होकर मार्गों से आती जाती रहती है। जब राजा रक्षा करता है तो सभी लोग अपने धर्म का ही पालन करते हैं। कोई किसी की हिंसा नहीं करता तथा सभी एक दूसरे पर अनुग्रह करते हैं। जब राजा रक्षा करता है तो विभिन्न वर्णों के लोग नाना प्रकार के अपने कार्य–दायित्वों का अनुष्ठान करते रहते हैं और विद्वान एवं जिज्ञासु लोग पूर्ण मनोयोगपूर्वक विद्याध्ययन में लगे रहते हैं।[6]

महाभारतकार का कथन है कि राजा के होने से ही सम्पूर्ण व्यवस्था सम्यक् चलायमान रह सकती है। वार्ता इस लोक का मूल है। कृषि आदि की समुचित जीविकोपार्जन व्यवस्था इस सम्पूर्ण जगत् जीवन का मूल है तथा वृष्टि आदि की हेतुभूत त्रयी विद्या से ही सदा जगत् का समुचित भरण–पोषण होता है। जब प्रजा की रक्षा में राजा संलग्न एवं सन्नद्ध रहता है, तभी वार्त्ता, त्रयी आदि सब कुछ ठीक प्रकार से चलता रहता है। जब राजा अपनी विशाल सैन्य शक्ति के सहयोग से भारी भार उठाकर प्रजा की रक्षा का दायित्व निर्वहन करता है, तब यह सम्पूर्ण जगत् प्रसन्न एवं आनन्दित होता है।[7]

महाभारतकार का मानना है कि राजा समस्त प्रजाओं की सावयव प्रस्तुति है। वह प्रजा का प्रथम अथवा प्रधान शरीर है। प्रजा भी राजा का अनुपम एवं अप्रतिम शारीरिक स्वरूप है। राजा के बिना कोई देश और वहाँ के निवासी नहीं रह सकते और देशवासियों के बिना राजा नहीं रह सकते हैं। राजा प्रजा का गुरुतर हृदय, गति, प्रतिष्ठा और उत्तम सुख है। हे नरेन्द्र राजा का आश्रय लेने वाले मनुष्य इस लोक और परलोक दोनों पर पूर्ण विजय प्राप्त कर लेते हैं।[8]

राजधर्म के आधार पर, राजा, राजा के अधिकार एवं कर्त्तव्य, प्रशासनिक, न्यायिक, विधायी एवं युद्धनीति सम्बन्धी विचारों का विस्तार से वर्णन किया गया है। राजधर्मचरण राजा के द्वारा ही प्रजा धर्माचरण एवं कर्त्तव्यपालन की ओर उन्मुख होती है। राज्य के सर्वांगीण विकास का एकमात्र मंत्र 'राजधर्म' ही है जिसे सर्वकल्याणकारी कहा गया है। भीष्म पितामह कहते हैं– राजा के धर्मों में सारे त्यागों का दर्शन होता है। राजधर्म में सम्पूर्ण विद्याओं का सुयोग सुलभ है तथा राजधर्म में सम्पूर्ण लोकों का समावेश हो जाता है।[9] सम्पूर्ण जीवलोक का अंतिम आश्रय राजधर्म में ही है।[10] त्रिवर्ग (धर्म, अर्थ, काम), चारों वर्णों के धर्म, आश्रम धर्म, यहां तक कि दुःखनिवृत्ति रूप मोक्षधर्म भी राजधर्म पर ही आश्रित है।[11] राजधर्म अश्वों को वश में रखने वाली बागडोर एवं गज को अधिकार करने वाले महावत (अंकुश) के सदृश है। यह समग्र लोक को प्रतिष्ठा के अन्तर्गत ग्रहण करने में समर्थ एवं प्रभावान्वित समझा गया है।[12] राजधर्म से न केवल प्रजा कर्त्तव्यनिष्ठ होती है बल्कि राजधर्म प्रजा के कष्टों का निवारण करके उनके जीवन को परमगति प्रदान कर उन्नत भी करता है। जिस प्रकार सूर्य उदित होते ही समस्त तिमिर (अंधकार) को मिटा देता है, वैसे ही राजधर्म मनुष्यों के अशुभ एवं पुण्य लोकों से विमुख करने वालों अमंगल आचरणों को दूर हटाता है।[13]

राजा के महत्त्व को रेखांकित करते हुए महाभारतकार कहता है कि राजा ही सभी प्राणियों का कर्त्ता (जीवनदाता) है। राजा ही उनका विनाश करने वाला है। जो राजा धर्मात्मा है, वह प्रजा का जीवनदाता है और जो राजा पापात्मा है, वह उस प्रजा का विनाशक है।[14] हे मान्धाता! कहा जाता है कि विधाता ने दुर्बल प्राणियों की रक्षा के लिए ही बलसम्पन्न राजा की सृष्टि की है। निर्बल प्राणियों का महान समुदाय राजा के बल पर टिका हुआ है।[15] हे नरश्रेष्ठ! सत्ययुग, त्रेता, द्वापर और कलियुग– ये सबके सब राजा के आचरणों में स्थित हैं। राजा ही युगों का प्रवर्तक होने के कारण युग कहलाता है।[16]

महाभारत राजाओं का चरित्र है। राजा के धर्म में राजधर्म की सम्पूर्ण त्याग की भावना में समाहित है। भीष्म पितामह कहते हैं कि राजधर्म में समस्त त्यागों का दर्शन समाहित है। राजधर्म में सारी दीक्षाओं का प्रतिपादन हो जाता है। सम्पूर्ण विद्याओं का सुयोग राजधर्म में सुलभ है। समस्त लोक राजधर्म में प्रविष्ट हैं।[17] राजधर्म को क्षत्रिय धर्म का विशेषरूप माना गया है क्योंकि राज्य में शासन सामान्यतः क्षत्रिय (भावार्थ पराक्रमी) ही किया करते थे। क्षत्रियों का सामान्य धर्मपालन भी राजधर्म पर ही अवलम्बित है। इसीलिए कहा गया है– पुरातन राजधर्म जिसे क्षात्रधर्म भी कहते हैं, यदि लुप्त हो जाए तो आश्रमों के सम्पूर्ण धर्मों का ही लोप हो जावेगा।[18] महाभारत में कहा गया है कि चारों आश्रमों के धर्म एवं चारों वर्णों के धर्म राजा पर ही आश्रित होते हैं। एक राजा में ब्राह्मण की विद्वत्ता एवं स्वाध्याय, क्षत्रिय का पराक्रम, वैश्यों का अर्थोपार्जन तथा शूद्र का सेवाभाव जैसे आन्तरिक गुणों को सन्निहित होना चाहिए। राजा को चारों धर्मों की रक्षा करनी चाहिए। प्रजा को धर्मसंकरता से बचाना राजा का सनातन धर्म है।[19] राजा राज्य का मूल है। जो कर्मसंकरता एवं वर्णसंकरता के प्राबल्य को समाप्त करके व्यष्टि को स्वकर्म और स्वधर्म की ओर प्रवृत्त करके एक राज्य का निर्माण करता है। राजा को समुद्र पार करने वाली नौका की उपमा देते हुए भीष्म पितामह कहते हैं– राजधर्म उस नौका के समान है जो धर्मरूपी समुद्र में स्थित है। सत्वगुण द्वारा यह संचालित होता है, धर्मशास्त्र ही उसे बांधने वाली रस्सी है, त्यागरूपी वायु का सहारा पाकर यह मार्ग पर शीघ्रतापूर्वक अपने गन्तव्य की ओर अग्रसर होती है। इस प्रकार संसाररूपी समुद्र का खिवैय्या राजा है जो अपने सदाचरण से प्रजा को भवसागर से पार कराता है। यदि राजा का आचरण सर्वहितकारी हो, तभी प्रजा धर्म का सन्धान करती है।[20] राजा को व्यवहारपरक सन्तुलन

की सीख देते हुए महाभारतकार का स्पष्ट परामर्श है कि जो राजा सदा सब प्रकार से कोमलतापूर्ण बर्ताव करने वाला ही होता है, उसकी आज्ञा का लोग उल्लंघन कर जाते हैं और केवल कठोर बर्ताव करने से भी सब लोग उद्विग्न हो उठते हैं; अतः तुम आवश्यकतानुसार अपने व्यवहार में कठोरता और कोमलता दोनों का अवलम्बन करो।[21] परन्तु राजा को समान भाव से सभी प्रजाजनों पर दृष्टि रखते हुए कार्य करना चाहिए। अतः विद्वान् राजा के चारों वर्णों पर सदा दया करनी चाहिये, धर्मात्मा और सत्यवादी नरेश ही प्रजा को प्रसन्न रख पाता है।[22] दण्ड के सन्तुलन को प्राचीन भारतीय साहित्य में अनेकानेक स्थानों पर रेखांकित करते हुए सम्यक् दण्ड की अवधारणा प्रस्तुत की गई है। भलीभाँति दण्ड धारण करने वाला राजा सदा धर्म का भागी होता है। निरन्तर दण्ड धारण किए रहना राजा के लिए उत्तम धर्म मानकर उसकी प्रशंसा की जाती है।[23]

राजा का कर्त्तव्यपरायण आदर्श प्रजा जीवन को नियमबद्ध, कर्त्तव्यबद्ध एवं धर्मबद्ध करता है। तदनुसार प्रजा धर्माचरण एवं कर्त्तव्यपरायण के लिए उन्मुख होती है महाभारतकार का मानना है कि राजधर्म में राजा के गुण सन्निहित होते हैं। राजोचित गुणों से सम्पन्न व्यक्ति ही राजपद पर सुशोभित होता है। महाभारत महाकाव्य में राजा के लिए अपेक्षित, असंख्य गुणों का विधिवत उल्लेख किया गया है भीष्म पितामह ने राजा के आचरण की उत्कृष्टता प्रदान करने वाले गुणों को छत्तीस प्रकार का बतलाया है जिन का अनुपालन करने से राजा इहलोक एवं परलोक में सुख प्राप्त करने का अधिकारी बनता है। धर्माचरण करते राजा को राग द्वेष से शून्य होना चाहिए। राजा को धर्म पर पूर्ण श्रद्धालु और परलोक सुधारने के लिए उसे दयालु होना चाहिए। राजा क्रूरता का आश्रय लिए बिना अर्थ का अतिक्रमण किये बिना इन्द्रियों को तृप्त करे। दीनता रहित होके प्रिय वचन कहे, शूरवीर बने और अपनी प्रशंसा न करे। उदार हो, किन्तु कृपालु को दान न दे। प्रगल्भता रखे, किन्तु दया का भाव न छोड़े अन्यायों के साथ सन्धि न करे। बन्धुजनों के संग विग्रह न करे। अभक्त पुरुष (जो राजभक्त न हों), का गुप्तचरों के कार्यों में नियत न करे किसी को कष्ट पहुंचाये बिना अपना कार्य न साधे।[24] राजा को चाहिए कि वह दुष्टों को अपना अभीष्ट कार्य न कहे आत्मप्रशंसी न हो। श्रेष्ठ पुरुषों से उनका धन न छीने। नीच पुरुषों का आश्रय न ले। अपराध की अच्छी तरह परीक्षा किये बिना किसी के लिए महादण्ड का प्रयोग न करे। गुप्त मंत्रणा को प्रकट न करे। लोभियों को धन न दे। जिन्होंने कभी अपकार किया हो उन पर विश्वास न करे। स्त्रियों की सदैव रक्षा करे। स्वयं शुद्ध रहे परन्तु निष्ठुर न बने। कामादि भोगों का अधिक सेवन न करे। शुद्ध और स्वादेष्ट भोजन करे परन्तु अहित करने वाली मधुर वस्तु कभी न खावे। उद्दण्डता छोड़कर विनीत भाव से माननीय पुरुषों का आदर–सत्कार करे। निष्कपट भाव से गुरुजनों की सेवा करे। दम्भ त्याग कर देवताओं की पूजा करे। अनिन्दित उपायों से धन सम्पत्ति पाने की चेष्टा करे।[25] महाभारतकार का मानना है कि राज्य संचालन एक सरल कार्य नहीं है। राज्य एक बहुत बड़ा तंत्र है जिन्होंने अपने मन को वश में नहीं किया है। ऐसे क्रूर स्वभाववाले राजा उस विशाल तंत्र को संभाल नहीं सकते। इसी प्रकार जो बहुत कोमल प्रकृति के होते हैं, वे भी इसका भार वहन नहीं कर सकते। उनके लिए राज्य बड़ा भारी जंजाल हो जाता है।[26] इसलिए प्रत्येक शासक को अपने लोक व्यवहार एवं आचरण को सन्तुलित तथा समानुकूल बनाने की आवश्यकता है। इसी क्रम में महाभारतकार राजा से अपेक्षा करता है कि वह समयानुसार कठोरता तथा नमनीयता का धारण कर अपने आचरण को आवश्यकता के अनुरूप तीक्ष्ण एवं मृदु बनाता रहे। लोग सामान्यतः कोमल स्वभाव के शासक की अवहेलना करते हैं। साथ ही अत्यन्त तीक्ष्ण स्वभाव के शासक से भी लोग उद्विग्न हो जाते हैं।[27]

महाभारतकार का मानना है कि विभिन्न प्रकार के व्यवहारकुशल व्यक्तियों के ऐश्वर्य पर शासन करना जितना कठिन कार्य है उतना दुष्कर कर्म कोई दूसरा नहीं है।[28] इसलिए शासक को असाधारण गुणों से युक्त होना चाहिए। इसी को दृष्टिगत करते हुए महाभारतकार राजा से अपेक्षा करता है कि वह कार्यकुशल हो, किन्तु अवसर के ज्ञान से शून्य न हो। केवल पिण्ड छुड़ाने के लिए किसी को सान्त्वना या भरोसा न दे। किसी पर कृपा करते समय आक्षेप न करे। बिना

जाने किसी पर प्रहार न करे। शत्रुओं को मारकर शोक न करे। अकस्मात किसी पर क्रोध न करे और कोमल हो किन्तु अपकार का प्रतीकार करने वाला हो। राजा यदि इस लोक में कल्याण की स्थापना करना चाहता है, तो संयमित व्यवहार ही करे।[29] भीष्म कहते हैं कि हे युधिष्ठिर! जो राजा समस्त प्राणियों के प्रति समानभाव रखते हुए दण्ड का त्याग करता है और क्रोध को जीत कर यथार्थपूर्वक इन सब गुणों का सम्यक् पालन करता है वह इस जगत में कल्याण का अनुभव करके मृत्यु के पश्चात् स्वर्गलोक में प्रतिष्ठित होता है।[30] राजधर्म का पालन करते हुए दण्डधारण करना और प्रजापालन करना एक असामान्य दायित्व है क्योंकि सभी धर्मों में राजधर्म ही प्रधान है, क्योंकि उसके द्वारा सभी वर्णों का पालन होता है। राजन्! राजधर्मों में सभी प्रकार के त्याग का समावेश है और ऋषिगण त्याग को सर्वश्रेष्ठ एवं प्राचीन धर्म बताते हैं।[31] राजा के द्वारा शुद्ध अन्तःकरण युक्त प्रसन्न भाव से समस्त चित्तवृत्तियों के निरोध और योगयुक्त समभाव आचरण की अपेक्षा करते हुए महाभारतकार का कहना है कि इस प्रकार आत्म नियन्त्रण अत्यन्त सुखपूर्वक प्रजापालन में संलिप्त रहने वाला राजा उत्तम धर्म के फल का भागी होता है।[32]

महाभारतकार का कथन है कि अरण्यों में तथा विभिन्न आश्रमों में निवास करते हुए जो (तपस्वी) लोग धर्माचरण करते हैं और जितना धर्म पालन करते हैं, उन सबकी रक्षा करने से राजा उनसे शतगुण (सौ गुना) धर्म का भागी होता है।[33] महाभारतकार का मानना है कि देशधर्म तथा कुलधर्म का पालन करने वाला राजा सभी धर्मों व सभी आश्रमों के पुण्यफल का भागी होता है। जो राजा विहित धर्म में स्थित होकर यथार्थ रूप में उसका पालन करता है, जिस पुरुष में स्थित हुए सद्गुणों का कभी नाश नहीं होता, जो राजा स्थान, कुल और अवस्था का मान रखते हुए कार्य करता है। जो समय-समय पर सम्पत्ति और उपहार के द्वारा समस्त प्राणियों का सम्मान करता रहता है और जो राजा धर्म के दस तत्त्वों में स्थिर होकर सभी जीवधारियों के धर्म पर दृष्टि रखता है वह राजा सभी आश्रमों के पुण्य फल को प्राप्त करने का अधिकारी होता है।[34]

भीष्म पितामह ने राजा के व्यक्तिगत गुणों की भांति राजा के दुर्गुणों की विधिवत् व्याख्या करते हुए राजा को सभी प्रकार के व्यसनों को त्यागने का परामर्श दिया है। उन्होंने व्यसन को 18 प्रकारों में विभाजित किया है। जिनमें इस प्रकार के व्यसन कामज (शिकार करना, जुआ खेलना, परनिन्दा करना, दिवस शयन, स्त्री सेवन, मद, वाद्यगीत, नृत्य और मदिरापान) एवं आठ प्रकार के क्रोधज (चुगली, साहस, द्रोह, ईर्ष्या, असूया, अर्थदूषण, वाणी की कठोरता और दण्ड की कठोरता) बताये हैं। राजा की षष्ठांशवृत्ति का उल्लेख करते हुए भी प्रजापालन और सम्यक् संरक्षण के ध र्म की प्रधानता का उल्लेख किया गया है। कुरुनंदन! बुद्धिमान् नरेश प्रजाजनों से उन्हीं की रक्षा के लिए उनकी आय का छठा भाग कर के रूप में ग्रहण करे।[35] इस आय को राजा को प्रजा के सर्वतामुखी कल्याण के कार्यों में व्यय करना है अतः राजा से अधोभूत संरचना के विकास की अपेक्षा की गई है। इस क्रम में महाभारतकार राजा से आग्रह करता है कि प्रत्येक नरेश को बड़ी-बड़ी सड़कें बनवानी चाहिये और जहाँ जैसी आवश्यकता हो उसके अनुसार जलक्षेत्र और बाजारों की व्यवस्था करनी चाहिए।[36]

महाभारत में राजा के कर्त्तव्यों का सम्यक्, व्यापक एवं विस्तृत वर्णन किया गया है। महाभारत के सभापर्व एवं शान्तिपर्व में राजा के उन कर्त्तव्यों का विधिवत् उल्लेख किया गया है, जिनका अनुपालन करना प्रजाहितैषी राजा के लिए अत्यन्त अनिवार्य है। महाभारत के सभापर्व में देवर्षि नारद द्वारा युधिष्ठिर को राजधर्म की शिक्षा प्राप्त होती है। वहीं महाभारत के शान्तिपर्व में भीष्म पितामह महाराज युधिष्ठिर का विनम्र आग्रह स्वीकार करते हुए राजधर्म पर प्रकाश डालते हैं। राजधर्म को सभी धर्मों में श्रेष्ठ माना गया है। यह सभी धर्मों का रक्षण करता है। राज्य में राजा की उपस्थिति राजा को प्राणवान् बनाती है। राज्यरूपी शरीर के सभी अंग राजा के द्वारा ही गतिमान होते हैं। भीष्म पितामह कहते हैं कि राष्ट्र का सर्वप्रथम कर्त्तव्य राजा का अभिषेक करना है। राजारहित राज्य दुर्बल रहता है। ऐसे राज्य में दस्यु आक्रमण करते हैं।[37] जिन राष्ट्रों में कोई राजा नहीं होता वहां धर्म की स्थिति नहीं रहती, अतः वहां के लोग एक-दूसरे को हड़पने लगते

हैं, इसलिए जहां अराजकता हो, उस देश को सर्वस्व धिक्कार है।[38] अराजकता की विकट स्थिति के पूर्ण निवारण के लिए उन्नति की कामना रखने वाले राज्य का किसी व्यक्ति को अपना राजा अवश्य ही बना लेना चाहिए। राज्य में राजा की उपस्थिति से न केवल राज्य का रक्षण होता है, बल्कि समस्त व्यवस्थाओं का क्रियान्वयन भी होता है। एक सम्प्रभु राजा, राज्य की अराजक स्थिति को व्यवस्थित, नियमित एवं नियन्त्रबद्ध व्यवस्था में परिवर्तित करता है। राजा अपनी दण्डधारी शक्तियों के माध्यम से आपसी संघर्षों पर पूर्ण विराम भी लगता है और अपनी सुधारात्मक शक्तियों का प्रयोग करके मानव जीवन को एक नवीन दृष्टि प्रदान करता है। महाभारत में कहा गया है कि यदि इस जगत में भूतल तल पर एक दण्डधारी राजा न हो तो जिस प्रकार जल में बड़ी मछलियां छोटी मछलियों को अपना आहार बना लेती हैं उसी प्रकार प्रबल मनुष्य दुर्बल मनुष्यों को अपना आहार बना लेते हैं। अतएव ऐसे समय में सदैव शक्ति संघर्ष की चरम सीमा होती है, अपने बल का प्रयोग निरर्थक दिशा में करने के कारण ऐसे राज्य प्रायः नष्ट हो जाते हैं।[39] अतएव सदैव उन्नति की आशा रखने वाले देश को अपनी रक्षा के लिए किसी व्यक्ति को राजा अवश्य ही बना लेना चाहिए। जिनके देश में अराजकता है, उनके धन और स्त्रियां सदैव उनके ही अधिकार में रहे, यह सम्भव नहीं है।[40] अराजकता का सम्पूर्ण महाभारत में निरन्तर निषेध किया गया है। अतः कहा गया है कि कल्याण की कामना करने वाले मनुष्यों को सर्वप्रथम राजा की आवश्यकता है जिससे प्रजा पर अनुग्रह रहे। अराजकता की स्थिति में जो दास नहीं है उसे दास बना लिया जाता है और स्त्रियों को बलपूर्वक हरण किया जाता है इसी कारण देवताओं ने राजा की सृष्टि की है।[41] अतएव जो मनुष्य वैभव की कामना रखते हों उन्हें सर्वप्रथम इस भूमण्डल में प्रजाजनों पर अनुग्रह करने के लिए राजा अवश्य ही बना लेना चाहिए। भीष्म पितामह कहते हैं कि राज्य का आवाहन करने से इन्द्र का आवाहन समझा जाता है। इसने ऐश्वर्य की इच्छा रखने वाले पुरुषों को इन्द्र की भांति राजा की भी पूजा करनी चाहिए। राजाहीन राज्य में वास करना उचित नहीं है, क्योंकि वैसे राज्य में अग्निदेव भी देवताओं के निकट हव्य नहीं पहुंचाते हैं।[42]

राजा में अपेक्षित गुणों का वर्णन करते हुए महाभारतकार का कहना है कि प्रजा की सहायता पाकर राजा दुर्धर्ष एवं प्रजा की रक्षा करने में समर्थ हो जाता है राजा को चाहिए कि वह मुस्कराकर बातचीत करे। प्रजावर्ग के लोग यदि उससे कोई बात पूछें तो वह मधुर वाणी में उन्हें उत्तर दे। राजा को उपकार करने वालों के प्रति कृतज्ञ होना चाहिए। अपने अनुयायियों पर सुदृढ़ स्नेह रखना चाहिए। राजा उपभोग में आने वाली वस्तुओं का सम्यक् प्रकार से यथायोग्य वितरण तथा विभाजन करे। अपनी इन्द्रियों को नियन्त्रण में रखना भी राजा का कर्त्तव्य है। जो लोग उसकी और अभिलाषा अथवा इच्छा से देखते हैं उन्हें सम्यक् रूप से प्रत्युत्तर देना चाहिए। राजा को चाहिए कि वह स्वभाव से मृदु, मधुर और सरल बने।[43] राजा का वेदों और वेदांगों का जानकार विद्वान्, बुद्धिमान्, तपस्वी सदा दानशील तथा यज्ञ/कर्मशील, कर्त्तव्यपरायण होना चाहिए।[44] राजा की महत्ता को रेखांकित करते हुए उसे सामान्य मनुष्यों से श्रेष्ठ बताते हुए महाभारतकार का कथन है कि 'यह भी एक मनुष्य है'- ऐसा समझकर कभी भी पृथ्वीपालक नरेश की अवहेलना नहीं करनी चाहिए; क्योंकि राजा मनुष्य के रूप में एक महान देवता को तन्ह प्रतिष्ठापित रहता है।[45]

भीष्म पितामह शान्तिपर्व के अध्याय 68 में युधिष्ठिर को राजा वसुमना एवं बृहस्पति के वृतान्त से राजाविहीन समाज एवं प्रजा की हानियों एवं राजा से सुशोभित राज्य के लाभों का वर्णन करते है। कथा के अनुसार कोसलदेश के राजाओं में राजा वसुमना एक महाबुद्धिमानी परमतेजस्वी, परमविवेकी, परमविनयी एवं सर्वलोकहितैषी राजा थे। उन्होंने प्रजाहित से प्रेरित होकर बृहस्पति से राजा के समस्त कर्त्तव्य विषयक प्रश्नों को प्रस्तुत किया। तब बृहस्पति ने राजा वसुमना से कहा- हे महाबुद्धिमान! प्रजा जो कुछ धर्माचरण करती है, राजा ही उसका मूल है, क्योंकि राजभय से ही प्रजा एक-दूसरे को हड़प नहीं लेती है। राजा ही मर्यादा का उल्लंघन करने वाले तथा अनुचित भोगों में आसक्त हो उनकी प्राप्ति के लिए उत्कण्ठित रहने वाले सारे जगत के लोगों को धर्मानुकूल शासन द्वारा प्रसन्न रखता है और स्वयं भी प्रसन्नतापूर्वक रहकर अपने तेज से प्रकाशित होता

है।[46] इस प्रकार इस संसार में सभी लोगों में निवास करने वाली शान्ति सौहार्द्रता, सामन्जस्य एवं धर्म की उपस्थिति सभी कुछ राजा पर ही निर्भर करते हैं। राजा राज्य व्यवस्था का संरक्षक है। राजा अपनी दण्डात्मक कार्यवाही के माध्यम से ऐसी प्रजा के चित्त का शुद्धिकरण करता है, जो लोभवश राज्य की मर्यादाओं का अतिक्रमण करते हैं। इस समय राजा का राजरूप समस्त जग में उजागर होता है। जो प्रजा का रक्षक बनकर समस्त अव्यवस्थाओं का निवारण करता है। राजा के विषय में बृहस्पति आगे कहते हैं। महाराज! जैसे सूर्य, चन्द्रमा का उदय न होने पर समस्त प्राणी घोर अंधकार में डूब जाते हैं और एक–दूसरे पर दृष्टिपात नहीं रख पाते हैं। जैसे थोड़े जल वाले तालाब में मत्स्यगण तथा रक्षक रहित उपवन में पक्षियों के झुंड बार–बार हिंसा करते हुए विचरते हैं, वे कभी तो अपने प्रहार से दूसरों को कुचलते और मथते हुए आगे बढ जाते हैं और कभी स्वयं दूसरों की चोट खाकर व्याकुल हो जाते हैं। इस प्रकार आपस में लड़ते हुए वे थोड़े ही दिनों में प्रायः संघर्ष करते हुए नष्ट हो जाते हैं।[47] वैसे ही राजा के न रहने पर प्रजा भी पालकहीन पशु की भांति घोर अन्धकार में पड़कर नष्ट हो जाती है।

यदि राजा दण्डनीति का उत्तम रीति से प्रयोग करे तो वह चारों वर्णों को अपने–अपने धर्म में बलपूर्वक लगाती है और उन्हें अधर्म की ओर जाने से रोक देती है।[48] इस प्रकार दण्डनीति के प्रभाव से जब चारों वर्णों के लोग अपने–अपने कर्मों में संलग्न रहते हैं धर्म मर्यादा में संकीर्णता नहीं आने पाती और प्रजा सब ओर से निर्भय एवं कुशलपूर्वक रहने लगती है; तब सभी वर्णों के लोग विधिपूर्वक स्वास्थ्य रक्षा का प्रयत्न करते हैं। इसी में मनुष्यों का सुख निहित है। यह तुम्हें ज्ञात होना चाहिए।[49] महाभारत में भीष्म कहते हैं कि हे नरश्रेष्ठ! तुम्हें यह ज्ञात होना चाहिए कि समस्त प्राणी दण्डनीति के आधार पर टिके हुए हैं। राजा दण्डनीति से युक्त हो और उसी के अनुसार चले–यही उसका सबसे बड़ा धर्म है।[50] यदि राजा, प्रजाजनों की रक्षा न करे तो बलवान प्रजाजन, निर्बल प्रजाजनों का घर स्त्री, धन, सम्पति इत्यादि को लूट और अपने घर–बार की रक्षा के लिए प्रयत्न करने वालों को मार डालें। राजा रक्षा न करे तो इस जगत् में स्त्री, पुत्र, धन अथवा घर बार कोई भी ऐसा संग्रह नहीं हो सकता। जिसके लिए कोई यह कह सके कि यह मेरा है, सब ओर सबकी सम्पत्ति का लोप हो जाये। यदि राजा पालन न करता, तो पाप्चारियों द्वारा धर्माचारियों के ऊपर बहुधा अस्त्र चलते लुटेरे वाहन, वस्त्र, आभूषण और रत्नों को लूट लेते और सब कोई अधर्म का आसरा ग्रहण करते। यदि प्रजापालक राजा न हो तो दुराचारी लोग अपने माता, पिता, आचार्य, अतिथि, गुरु तथा अन्य वृद्धजनों को या तो दुःख दें अथवा उन्हें जान ही से मार डालें। यदि राजा पालन न करे तो धनवानों को प्रतिदिन वध या क्लेश उठाना पड़े कोई भी किसी सम्पत्ति का अपना नहीं कह सकता।[51] राजा रक्षा न करता, तो सब ही अकाल असमय ही मृत्यु–मुख में पतित होते। समस्त जगत् के सब लोग ही डाकुओं के वश में हो जाते तथा सब कोई पाप के कारण घोर नरक यातनाएं सहते। यदि राजा रक्षा न करता, तो व्यभिचार से किसी को घृणा न हो, योनि दोष, कृषि और वाणिज्य कुछ भी न रहते सब नष्ट हो जाता, धर्म डूबता और वेदादि लुप्त हो जाते। राजा की रक्षा न करने से सात प्रकार के दक्षिणायुक्त यज्ञ, विवाह अथवा समाज कुछ भी विधिपूर्वक न निर्वाहित होते। राजा का शासन न रहता, तो वृषभ भी गौओं में वीर्यसिञ्चन न करते, गगरी भी न मथी जाती, इससे गोपालक लोग भी नष्ट हो जाते राजा रक्षा न करता तो सब लोग ही भयभीत और व्याकुल होकर हाहाकार करके चेतनारहित की भांति क्षणभर में नष्ट हो जाते।[52] महाभारत में राजा का सर्वप्रथम कर्त्तव्य आत्मविजयी होना बताया गया है। जो राजा स्व तन्त्र को नहीं जीतता है, वह शत्रु पर विजय प्राप्त नहीं कर सकता है।[53] राजा को सबसे पहले प्रजा का रंजन अर्थात् प्रजा को प्रसन्न रखने की इच्छा से देवताओं और ब्राह्मणों के प्रति शास्त्रोक्त विधि के अनुसार बर्ताव करना चाहिए।[54] क्योंकि प्रजा का रञ्जन करने का कारण ही राजा का नाम राजा है।[55] राजा का धर्म प्रजाजनों का पालन करना है। धर्म का अनुसरण करने वाले सदा धर्म को ही प्रमाण मानते हैं।[56] भीष्म पितामह युधिष्ठिर से कहते हैं कि सदा प्रजा रंजन में प्रवृत्त रहना, सत्य की रक्षा और प्रजा का पालन ही राजाओं का सनातन धर्म है।[57]

राजा की न्यायदृष्टि को अकलुषित, स्वेदनशील निष्पक्ष, निष्पाप तथा सन्देहरहित बनाने के लिए महाभारत के शान्तिपर्व में यह अपेक्षा की गई है कि राजा को चाहिए कि वह सर्वथा अपनी प्रजा के पुत्रों और पौत्रों की भाँति स्नेहदृष्टि से देख, परन्तु जब न्याय करने का अवसर प्राप्त हो, तब उसे स्नेहवश पक्षपात नहीं करना चाहिए। राजा न्याय करते समय सदा वादी–प्रतिवादी की बातों को सुनने के लिए अपने पास सर्वार्थदर्शी विद्वान् पुरुषों को साथ बिठाकर रखे क्योंकि विशुद्ध न्याय पर ही राज्य प्रतिष्ठित रहता है।[58] राज्य संचालन में नियमित निरीक्षण तथा पर्यवेक्षण की उपादेयता को रेखांकित करते हुए महाभारतकार का कथन है कि सोने आदि की खान, नमक, अनाज आदि की मण्डी, नाव के घाट तथा हथियों के यूथ–इन सब स्थानों पर होने वाली आय के निरीक्षण के लिए मंत्रियों को अथवा अपने हित चिंतक विश्वसनीय व्यक्तियों को राजा नियुक्त करे।[59] राजा को सप्तांग की रक्षा के दायित्व को बताते हुए भीष्म पितामह कहते हैं कि हे कुरुनंदन! राजा को उचित है कि वह सात तत्त्वों की अवश्यमेव रक्षा करे। वे सात कौन हैं। यह मुझसे सुनो। राजा को स्वत्व, मंत्री कोश, दण्ड (सेना), मित्र, राष्ट्र और नगर– ये राज्य के सात अंग हैं। राजा को इन सभी सातों का प्रयत्नपूर्वक पालन करना चाहिए।[60]

राजाओं के क्षात्र धर्म का वर्णन करते हुए महाभारतकार का कथन है कि युद्ध में अपने शरीर की आहुति देना, समस्त प्राणियों पर दया करना, लोक–व्यवहार का ज्ञान प्राप्त करना, प्रजा की रक्षा करना, विषादग्रस्त एवं पीड़ित मनुष्यों के दुःख और कष्ट से छुड़ाना– ये सब बातें राजाओं के क्षात्र धर्म में ही विद्यमान हैं।[61] महाभारत के शान्तिपर्व के अनुरूप राजाओं का परम धर्म तो यही है कि वे दुष्टों को दण्ड दें, सत्पुरुषों का पालन करें तथा युद्ध में कभी पीठ न दिखावें, पलायन न करें।[62] दण्ड की शक्ति को रेखांकित करते हुए द्रौपदी युद्ध के उपरान्त राज्य शासन के अधिकार से विमुख युधिष्ठिर से कहती है कि जो दण्ड देने की शक्ति नहीं रखता, उस क्षत्रिय की शोभा नहीं होती। दण्ड न देने वाला राजा इस पृथ्वी का उपभोग नहीं कर सकता। हे भारत! दण्डहीन राजा की प्रजाओं को कभी सुख नहीं मिलता है।[63] युधिष्ठिर को राजधर्म में प्रवृत्त होने की सलाह देते हुए अर्जुन का कथन है कि हे कुन्तीनंदन! कर्म कीजिए, यज्ञ कीजिए, दान दीजिए, प्रजा की रक्षा कीजिए और धर्म का निरन्तर पालन करते हुए अपने राजधर्म में प्रवृत्त रहिए। आप शत्रुओं का वध और मित्रों का संरक्षण कीजिए।[64] राजाओं के विशिष्ट गुणों का वर्णन करते हुए महाभारतकार का कथन है कि धर्म का अनुसरण करने वाले, सत्य, दान और तप में संलग्न रहने वाले, दया आदि गुणों से युक्त, काम–क्रोध आदि दोषों से रहित, प्रजापालनपरायण, उत्तम धर्मसेवी तथा गौओं और ब्राह्मणों की रक्षा के लिए युद्ध करने वाले नरेशों ने परम उत्तम गति प्राप्त की है।[65]

महाभारतकार का कथन है कि जो क्षत्रिय नरेश राज्यसिंहासन पर स्थित होकर अपनी सम्पूर्ण इन्द्रियों को सदा अपने अधीन रखता है, प्रिय और अप्रिय को समानदृष्टि से देखता है, यज्ञ से बचे हुए अन्न का भोजन करता है, शास्त्रों के यथार्थ रहस्य को जानता है, दुष्टों का दमन और साधुपुरुषों का पालन करता है, समस्त प्रजा को धर्म के मार्ग में स्थापित करके स्वयं भी धर्मानुकूल व्यवहार करता है, वृद्धावस्था में राज्यलक्ष्मी को पुत्र के अधीन करके वन में जाकर जंगली फल मूलों का आहार करते हुए जीवन व्यतीत करता है तथा वहाँ भी शास्त्र श्रवण से ज्ञात हुए शास्त्रविहित कर्मों का आलस्य छोड़कर पालन करता है, ऐसा व्यवहार करने वाला वह राजा ही धर्म को निश्चित रूप से जानने और मानने वाला है। अतः हे कुन्तीनंदन! तुम भी प्रयत्नपूर्वक इस धर्म का पालन करो।[66]

इस प्रकार महाभारत में राजत्व का परिप्रेक्ष्य प्राचीन भारतीय राजधर्म के विविध आयामों का सूक्ष्म एवं तलस्पर्शी विवरण प्रस्तुत करता है जिसका अधिकांश भाग समकालीन राजनीतिक नेतृत्व के लिए समुपयोगी हो सकता है। अतः इस दिशा में और अधिक विश्लेषणात्मक अनुसन्धान की आवश्यकता है।

सन्दर्भ–सूची

1- राजा भोजो विराट् सम्राट् क्षत्रियो भूपतिर्नृपः।

य एभिः स्तूयते शब्दैः कस्तं नार्चितुमर्हति।। महाभारत, शान्तिपर्व, अध्याय 68, श्लोक 54

2- राष्ट्रस्यैत् कृत्यतमं राज्ञ एवाभिषेचनम्।

अनिन्द्रमवलं राष्ट्रं दस्यवोऽभिभवन्त्युत।। महाभारत, शान्तिपर्व, अध्याय 67 श्लोक 2

3- अराजकेषु राष्ट्रेषु धर्मो न व्यवतिष्ठते।

परस्परं च खादन्ति सर्वथाधिगराजकम्।। महाभारत, शान्तिपर्व, अध्याय 67, श्लोक 3

4- इन्द्रमेव प्रवृणुते यद्राजानमिति श्रुतिः।

यथैवेन्द्रस्तथा राजा संपूज्यो भूतिमिच्छता।।

नाराजकेषु राष्ट्रेषु वस्तव्यमिति रोचये।

नाराजकेषु राष्ट्रेषु हव्यमग्निर्वहत्युत।। महाभारत, शान्तिपर्व, अध्याय 67, श्लोक 4–5

5- एवं ये भूतिमिच्छेयुः पृथिव्यां मानवाः क्वचित्।

कुर्यू राजानमेवाग्रे प्रजानुग्रहकारणात्।। महाभारत, शान्तिपर्व, अध्याय 67. श्लोक 33

6- स्त्रियश्चापुरुषा मार्ग सर्वालंकारभूषिताः।

निर्भयाः प्रतिपद्यन्ते यदि रक्षति भूमिपः।।

धर्ममेव प्रपद्यन्ते न हिन्सन्ति परस्परम्।

अनुगृह्णान्ति चान्योन्यं यदा रक्षति भूमिपः।।

यजन्ते च महायज्ञैस्त्रयो वर्णाः पृथग्विधः।

युक्ताश्चाधीयते विद्यां यदा रक्षति भूमिपः।। महाभारत, शान्तिपर्व, अध्याय 68, श्लोक 32–34

7- वार्तामूलो ह्यं लोकस्त्रय्या वै धार्यते सदा।

तत् सर्वं वर्तते सम्यग् यदा रक्षति भूमिपः।।

यदा राजा धुरं श्रेष्ठामादाय वहति प्रजाः।

महता बलयोगेन तदा लोकः प्रसीदति।। महाभारत, शान्तिपर्व, अध्याय 68, श्लोक 35–36

8- राजा प्रजानां प्रथमं शरीरं

प्रजाश्च राज्ञोऽप्रतिमं शरीरम्।

राज्ञा विहीना न भवन्ति देशा

देशैर्विहीना न नृपाः भवन्ति।।

राजा प्रजानां हृदयं गरीयो

गतिः प्रतिष्ठा सुखमुत्तमं च।

समाश्रिता लोकमिमं परं च

जयन्ति सम्यक् पुरुषाः नरेन्द्र।। महाभारत, शान्तिपर्व, अध्याय 68 श्लोक 58–59

9- सर्वे त्यागाः राजधर्मेषु दृष्टा

सर्वाः दीक्षाः राजधर्मेषु चोक्ताः।

सर्वा विद्या राजधर्मेषु युक्ताः

सर्वेलोकाः राजधर्मे प्रविष्टाः।। महाभारत, शान्तिपर्व अध्याय 63 श्लोक 29

10- सर्वस्य जीवलोकस्य राज्धर्मः परायणम् महाभारत शान्तिपर्व, अध्याय 55, श्लोक 3

11- त्रिवर्गो हि समाश्रित्तो राजधर्मेषु कौरव।

मोक्षधर्मश्च विस्पष्टः सकलोऽत्र समाहितः।। महाभारत शान्तिपर्व, अध्याय 56, श्लोक 4

12- यथा हि रश्मयोऽश्वस्य द्विरदस्यांकुशो यथा

नरेन्द्रधर्मो लोकस्य तथा प्रग्रहणं स्मृतम्।। महाभारत, शान्तिपर्व अध्याय 56, श्लोक 5

13- उदयन हे यथा सूर्यो नाशयत्यशुभं तमः।

राजधर्मास्तथालोक्यां निक्षिपन्त्यशुभांगतिम्।। महाभारत, शान्तिपर्व अध्याय 56, श्लोक 7

14- राजैव कर्त्ता भूतानां राजैव च विनाशकः।

धर्मात्मा यः स कर्ता स्यादधर्मात्मा विनाशकः। महाभारत शान्तिपर्व, अध्याय 91, श्लोक 9

15- दुर्बलार्थं बलं दृष्टं धात्रामान्धातारुच्यते

अबलं तु महद्भूतं यस्मिन् सर्वं प्रतिष्ठितम्।। महाभारत, शान्तिपर्व, अध्याय 91, श्लोक 12

16- कृतं त्रेता द्वापरं च कलिश्च भरतर्षभ।

राजवृत्तानि सर्वाणि राजैव युगमुच्यते।। महाभारत, शान्तिपर्व, अध्याय 91, श्लोक 6

17- सर्वे त्यागाः राज्धर्मेषु दृष्टाः

सर्वा दीक्षाः राजधर्मेषु चोक्ताः।

सर्वा विद्या राजधर्मेषु युक्ता

धर्म पुरुषशार्दूल प्राप्स्यते पालने रतः।। महाभारत, शान्तिपर्व, अध्याय 65, श्लोक 39

33- वने चरन्ति ये धर्ममाश्रमेषु च भारत।

रक्षणात् तच्छतगुणं धर्म प्राप्नोति पार्थिवः।। महाभारत, शान्तिपर्व, अध्याय 66, श्लोक 41

34- देशधर्माश्च कौन्तेय कुलधर्मास्तथैव च।

पालयन् पुरुषव्याघ्र राजा सर्वाश्रमी भवेत्।। महाभारत शान्तिपर्व, अध्याय 66, श्लोक 29

(साथ ही द्रष्टव्य महाभारत, शान्तिपर्व, अध्याय 66, श्लोक 4–32)

35- आददीत बलिं चापि प्रजाभ्यः कुरुनन्दन।

स षड्भागमपि प्राज्ञस्तासामेवाभिगुप्तये।। महाभारत, शान्तिपर्व, अध्याय 69, श्लोक 25

36- विशालान् राजमार्गांश्च कारयीतनराधिपः।

प्रपाश्च विपणांश्चैव यथोद्देशं समाविशेत्।। महाभारत, शांन्तिपर्व, अध्याय 69, श्लोक 53

37- राष्ट्रस्यैत् कृत्यतमं राज्ञ एवाभिषेचनम्।

अनिन्द्रमबलं राष्ट्रं दस्यवोऽभिभवन्त्युत।। महाभारत, शान्तिपर्व, अध्याय 67, श्लोक 2

38- अराजकेषु राष्ट्रेषु धर्मो न व्यवतिष्ठते।

परस्परं च खादन्ति सर्वथा धिगराजकम्।। महाभारत, शान्तिपर्व, अध्याय 67, श्लोक 3

39- राजा चेन्न भवेल्लोके पृथिव्यां दण्डधारकः।

जले मत्स्यानिवाभक्ष्यन् दुर्बलं बलवत्तरा।। महाभारत, शान्तिपर्व, अध्याय 67 श्लोक 11

40- तस्माद् राजैव कर्त्तव्यः सततं भूतिमिच्छता।

न धनार्थो न दारार्थस्तेषां येषामराजकम्।। महाभारत, शान्तिपर्व, अध्याय 67, श्लोक 2

41- एवं ये भूतिमिच्छेयुः पृथिव्यां मानवाः क्वचित्।

कुर्यू राजानमेवाग्रे प्रजानुग्रहकारणात्।। महाभारत, शान्तिपर्व, अध्याय 67, श्लोक 33

42- इन्द्रमेव प्रवृणुते यद्राजानमिति श्रुतिः।

यथैवेन्द्रस्तथा राजा संपूज्यो भूतिमिच्छता।।

नाराजकेषु राष्ट्रेषु वस्तव्यमिति रोचये।

नाराजकेषु राष्ट्रेषु हव्यमग्निर्वहत्युत।। महाभारत, शान्तिपर्व, अध्याय 67 श्लोक 4–5

43- गोप्ता तस्माद् दुराधर्षः स्मितपूर्वाभिभाषिता।

आभाषितश्च मधुरं प्रत्याभाषेत मानवान्।।

कृतज्ञो दृढ़भक्तिः स्यात् संविभागी जितेन्द्रियः।

ईक्षितः प्रतिवीक्षेत मृदु चल्गु च सुष्ठु च।। महाभारत, शान्तिपर्व, अध्याय 67, श्लोक 33–39

44- वेदवेदांगवित् प्राज्ञः सुतपस्वी नृपो भवेत्।

दानशीलश्च सततं यज्ञशीलश्च भारत।। महाभारत, शान्तिपर्व, अध्याय 69, श्लोक 31

45- न जात्ववमन्तव्यो मनुष्य इति भूमिपः।

महती देवता ह्येषा पररूपेण तिष्ठति।। महाभारत शान्तिपर्व, अध्याय 68, श्लोक 40

46- राजमूलो महाप्राज्ञ धर्मो लोकस्य लक्ष्यते।

प्रजा राजभयादेव न खादन्ति परस्परम्।।

राजा ह्येवाखिलं लोकं सनुदीर्ण सनुत्सुकम्।

प्रसादयति धर्मेण प्रसादे च विराजते।। महाभारत, शान्तिपर्व, अध्याय 68, श्लोक 8–9

47- यथा ह्यनुदये राज्ञस्तमांसि शशिसूर्ययोः।

अन्धे तमसि मज्जेयुरपश्यन्तः परस्परम्।।

यथा ह्यनुदके मत्स्या न्याकन्दे विहगमाः।

विहरेयुर्यथाकामं वैहिंसन्तः पुनः पुनः।।

विमथ्यातिक्रमेश्चैव विषज्झपि परस्परम्।

अभावमचिरेणैव गच्छेयुर्नात्र संशयः।। महाभारत, शान्तिपर्व, अध्याय 68, श्लोक 10–12

48- दण्डनीतिः स्वधर्मेभ्यश्चातुर्वर्ण्यं नियच्छति।

प्रयुक्ता स्वामिना सम्यग्धर्मेभ्यो नियच्छति।। महाभारत, शान्तिपर्व, अध्याय 69, श्लोक 76

49- चातुर्वर्ण्यं स्वकर्मस्थे मर्यादानामसंकरे।

दण्डनीतिकृते क्षेमे प्रजानामकुतोभये।। महाभारत, शान्तिपर्व, अध्याय 69, श्लोक 77

स्वास्थ्ये प्रयत्नं कुर्वन्ति त्रयो वर्णा यथाविधि।

तस्मादेव मनुष्याणां सुखं विद्धि सनाहितम्।। महाभारत, शान्तिपर्व, अध्याय 69, श्लोक 78

50- यस्यां भवन्ति भूतानि तद् विद्धि मनुजर्षभ

एष एव परो धर्मो यद् राजा दण्डनीतिमान्।। महाभारत, शान्तिपर्व अध्याय 69, श्लोक 104

51- एवमेव बिना राज्ञा विनश्येयुरिमाः प्रजा।

अन्धे तमसि मज्जेयुरपापाः पशवो यथा।13।।

हरेयुर्बलवन्तोऽपि दुर्बलानां परिग्रहान्।

हन्युर्व्यायच्छमानांश्च यदि राजा न पालेयत्।।14

ममेदमिति लोकेऽस्मिन्न भवेत्संपरिग्रह।

न दारा न च पुत्रः स्यान्न धनं न परिग्रहः।।

विष्वग्लोपः प्रवर्तेत यदि राजा न पालयेत्।।15।।

यानं वस्त्रमलंकारान् रत्नानि विविधानि च

हरेयुः सहसा पापा यदि राजा न पालयेत्।।16।।

पतेद् बहुविधं शस्त्रं बहुधा धर्मचारिषु।

अधर्मः प्रगृहीतः स्याद्यदि राजा न पालयेत्।।17।।

मातरं पितरं वृद्धमाचार्यमतिथिं गुरुम्।

क्लिश्नीयुरपि हिंस्युर्वा यदि राजा न पालयेत्।।18।।

वध बन्धपरिक्लेशो नित्यमर्थवतां भवेत्।

ममत्वं च न विन्देयुर्यदि राजा न पालयेत्।।19।। महाभारत, शान्तिपर्व, अध्याय 68, श्लोक 13–19

52- अन्ताश्चाकाल एवं स्युर्लोकोऽयं दस्युसाद् भवेत्।

पतेयुर्नरकं घोरं यदि राजा न पालयेत्।।20।।

न योनिदोषो वर्तेत न कृषिर्न वणिक्पथः।

मज्जेद् धर्मस्त्रयी न स्याद् यदि राजा न पालयेत्।।21।।

न यज्ञाः सम्प्रवर्तेयुर्विधिवत् स्वाप्तदक्षिणाः।

न विवाहाः समाजो वा यदि राजा न पालयेत्।।22।।

न वृषाः संप्रवर्तेरन् न मथ्येरंश्च गर्गराः।

घोषाः प्रणाशं गच्छेयुर्यदि राजा न पालयेत्।।23।।

त्रस्तमुद्विग्नहृदयं हाहाभूतमचेतनम्।

क्षणेन् विनशेत् सर्वं यदि राजा न पालयेत्।।24।। महाभारत, शान्तिपर्व, अध्याय 68, श्लोक 20–24

53- आत्मा जेयः सदा राज्ञा ततोजेयाश्च शत्रवः।

अजितात्मा नरपतिर्विजयेत कथंरिपून।। महाभारत, शान्तिपर्व, अध्याय 69 श्लोक 4

54- आदावेव कुरुश्रेष्ठ राजा रंजनकाम्यया।

देवतानां द्विजानां च वर्तितव्यं यथाविधि।। महाभारत, शान्तिपर्व, अध्याय 56, श्लोक 12

55- ततो राजेति नामाभूद अनुरागादजायत।। महाभारत, शान्तिपर्व, अध्याय 29, श्लोक 139

56- प्रजानां पालनं धर्मो राजा राजीवलोचन।

धर्मः प्रमाणं लोकस्य निन्द धर्मानुवर्तिनः।। महाभारत, शान्तिपर्व, अध्याय 32 श्लोक 2

57- लोकरञ्जनमेवात्र राज्ञां धर्मः सनातनः।

सत्यस्य रक्षण चैव व्यवहारस्य चार्जयम्।। महाभारत, शान्तिपर्व, अध्याय 57, श्लोक 1

58- यथा पुत्रास्तथा पौत्रा द्रष्टव्यास्ते न संशयः

भक्तिश्चैषां न कर्त्तव्या व्यवहारे प्रदर्शिते।।

श्रोतुं चैव न्यसेद् राजा राज्ञान् सर्वार्थदर्शिनः।

व्यवहारेषु सततं तत्र राज्यं प्रतिष्ठितम्।। महाभारत, शान्तिपर्व, अध्याय 59, श्लोक 27–28

59- आकरे लवणे शुल्कं तरे नागबले तथा।

न्यसेदमात्यान् नृपतिः स्वाप्तान् वा कुरुषान् हितान्।

महाभारत शान्तिपर्व, अध्याय 69, श्लोक 29

60- राज्ञा सप्तैव रक्ष्याणि तानि चैव निबोध मे

आत्मामात्याश्च कोशाश्च दण्डो मित्राणि चैव हि ।

तथा जनपदश्चैव पुरं च कुरुनंदन।

एतत् सप्तात्मकं राज्यं परिपाल्यं प्रयत्नतः।। महाभारत, शान्तिपर्व, अध्याय 69, श्लोक 64–65

61- आत्मत्यागः सर्वभूतानुकम्पा

लोकज्ञानं पालनं मोक्षण च।

विषण्णानां मोक्षण पीडितानां

क्षात्रे धर्मे विद्यते पार्थिवानाम्।। महाभारत, शान्तिपर्व, अध्याय 64, श्लोक 27

62- असता प्रतिषेधश्च सता च परिपालनम्।

एष राज्ञां परो धर्मः स्मृत चापलयानम्।। महाभारत, शान्तिपर्व, अध्याय 14, श्लोक 16

63- नादण्ड्याः क्षत्रियो नाति नादण्डो भूमिमश्नुते।

नादण्डस्य प्रजा राज्ञः सुखं चेन्दन्ति भारत।। महाभारत, शान्तिपर्व, अध्याय 14, श्लोक 14

64- यजं देहि प्रजां रक्ष धर्मं समनुपालय।

अमित्रान्जहि कौन्तेय मित्राणि परिपालय।। महाभारत, शान्तिपर्व, अध्याय 15, श्लोक 53

65- एवं धर्ममनुक्रान्ताः सत्यदानतपः परः।

आनृशंस्यगुणैर्युक्ताः कामक्रोधविवर्जिताः।।

प्रजानां पालने युक्ता धर्ममुत्तममास्थिताः।

गोब्राह्मणार्थे युध्यन्तः प्राप्ता गतिमनुत्तमाम् । महाभारत शान्तिपर्व, अध्याय 21 श्लोक 18–19

66- तस्मादेतत् प्रयत्नेन कौन्तेय प्रतिपालय।

यो हि राज्ये स्थितः शश्वद् वशी तुल्यप्रियाप्रियः।।

क्षत्रियो यज्ञशिष्टाशी राजा शास्त्रार्थतत्त्ववित्।

असाधुनिग्रहरतः साधूनां प्रग्रहे रतः।

धर्मवर्त्मनि संस्थाप्य प्रजा वर्तेत धर्मतः।

पुत्रवत्क्रामितश्रीश्च वने वन्येन वर्तयन्।।

विधिना श्रावणेनैव कुर्यात् कर्माण्यतन्द्रितः

य एवं वर्तते राजन् स राजा धर्मनिश्चितः।। महाभारत शान्तिपर्व, अध्याय 21, श्लोक 13–16

भारतीय राजनीति विज्ञान शोध पत्रिका, वर्ष–द्वादश, अङ्क: प्रथम, जनवरी–जून, 2020 ISSN-2229-452X

प्राचीन साहित्य में राज्य एवं राजनीतिक तथ्यों का तुलनात्मक आंकलन

अलका गोयल

संस्कृत साहित्य की विभिन्न विधाओं में राज्य राजनीति और राजनीतिक संस्कृति का समृद्ध चित्रण उपलब्ध है लेकिन प्राचीन भारतीय साहित्य में राजनीतिक चिन्तन पर मनन करते हुए विद्वतजनों ने महाकाव्यों, नीति ग्रन्थों व स्मृतियों से भिन्न साहित्य पर पर्याप्त ध्यान केन्द्रित नहीं किया। **प्रस्तुत शोध पत्र में प्राचीन भारतीय चिन्तन के प्रतिनिधि स्त्रोतों में चित्रित राज्य व राजनीति के विभिन्न पक्षों का विशद तुलनात्मक आंकलन एवं विश्लेषण करने का प्रयास किया गया है।**

राज्य का स्वरूप

रामायण में राज्य को एक उद्देश्यपूर्ण संस्था के रूप में चित्रित किया गया है और उत्पत्ति के संबंध में स्पष्टत न होते हुए भी संविदात्मक आधार स्पष्ट किया गया है जोकि तत्वतः स्मृतियों व नीति ग्रन्थों में व्यक्त दृष्टिकोण से पर्याप्त सादृश्य रखता है। मनुस्मृति में प्रकटतः राज्य के दैवीय उत्पति के सिद्धान्त का प्रतिपादन किया है[1] तथापि यह दैवीय सिद्धान्त राज्य के संविदात्मक आधार की सम्भावनाएँ अनिवार्यतः समाविष्ट करता है। अन्य प्राचीन भारतीय ग्रन्थों के समान मनुस्मृति में राज्य के स्थान पर राजा की उत्पत्ति का विवरण प्राप्त होता है[2] ग्रन्थ में यह स्पष्टतः कहा गया है कि राजा को देवताओं के नित्य सारभूत अंशों से निर्मित किया गया है अतः उसे अपने शासकीय दायित्वों के अनुपालन में उनके गुणों को परिलक्षित करना चाहिए। याज्ञवल्य–स्मृति में राज्य की उत्पत्ति के मूल विचार के साथ धर्म व दण्ड दोनों के अनिवार्य संयोग के द्वारा राज्य के संविदात्मक स्वरूप को ही स्पष्ट करने का प्रयत्न किया है। **महाभारत** में चित्रित राज्य से पूर्व की अवस्था एक संगठित व कार्यशील सामाजिक व्यवस्था थी जिसका आधार धर्म था।[3] धीरे–धीरे धर्म के लोप के साथ ही मत्स्य न्याय प्रचलित हो गया अतः पुनः धर्म के सिद्धान्तों को कार्यशील बनाने और उन्हें प्रवर्तित करने के लिए भौतिक अवलम्ब की आवश्यकता थी।[4] राज्य की उत्पत्ति उसी भौतिक अवलम्ब की खोज का परिणाम थी। यद्यपि महाभारत भी मुख्यतः राज्य के संविदात्मक पक्ष को पदस्थापित करता है तथापि ग्रन्थ में विभिन्न स्फुट प्रसंगों में राज्य की उत्पत्ति के प्रक्रियात्मक पक्षों के वर्णन के क्रम में ईश्वरीय हस्तक्षेप का संकेत दिया गया है। ग्रन्थ में राज्य को प्रयोजनहीन स्वयंभू संस्था के रूप में चित्रित न कर उत्पत्ति में संविदा का संकेत देकर तथा राज्य को धर्म की पुनः प्रतिष्ठा के लिए उत्तरदायी बताकर ग्रन्थ में राज्य के लोक कल्याणकारी व सकारात्मक चरित्र को प्रतिपादित किया गया है।[5] **शुक्रनीतिसार** में मात्र एक ऐसा प्रसंग है जिसे राज्य की उत्पत्ति से संबंधित माना जा सकता है जिसमें कहा है कि प्रजाओं से अपना वार्षिक कर वेतन के रूप में स्वीकार करने से स्वामी के रूप में स्थित राजा को ब्रह्मा ने प्रजाओं के पालनार्थ सेवक बनाया है[6] इस प्रकार शुक्रनीति भी राज्य के संविदात्मक आधार को ही स्पष्ट करती है। **कौटिल्य के अर्थशास्त्र** में व्यक्ति के आचरण पर बाह्यकारी नियन्त्रण आरोपित करने वाली एक प्रयोजनपरक संस्था के रूप में राज्य का अस्तित्व प्रजा द्वारा शासकीय आज्ञाकारिता को शिरोधार्य करने का प्रस्ताव और मनु के द्वारा इस प्रस्ताव की स्वीकृति का सहज परिणाम है। अर्थशास्त्र का

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यथाचतुर्भिः कनकं परीक्ष्यते
निघर्षणच्छेदनतापताडनैः।
तथाचतुर्भिः पुरुषः परीक्ष्यते
अधीतिबोधाचरणप्रचारणैः।।

The Quarterly Journal of Indian Political Science Association

The Indian Journal of Political Science

The Indian Journal of Political Science IJPS is the quarterly peer-reviewed and refereed journal published by the Indian Political Science Association in March, June, September and December every year. Started in 1939, the IJPS has become one of the most reputed and refereed journals of Political Science at national level and, in fact, the foremost journal of the discipline at the international level. We feature research articles pertaining to issues and practices in Political Science, Public Administration, International Relations, Governance in India and around the world and also select papers of interdisciplinary nature that delineates the trajectory, progress and issues in the contemporary world and it is also a platform to culminate into a dialogue amongst the scientists of the field. It also invites books for review. All papers are liable to be published after peer review.

The journal has over the years evolved as a major publication of scholarly articles on ideas and issues important to the study of politics. It seeks to encourage greater collaboration and exchange of ideas among political scientists in India and abroad. The position of the Editor of the Indian Journal of Political Science had been occupied by renowned political scientists of the country at various points of time.

IJPS has now entered 80th year of its publication. The periodicity and visibility of IJPS at national and international levels has also increased tremendously. The website of the journal www.ijps.net has been providing all the updated information. The national and global abstracting and indexing of the papers published has also been restored to a great extent. The impact factor of the journal has grown substantially and its representative character has made the journal truly a publication of a national body with global acceptance. It has become the best avenue of interaction and dialogue between Indian political scientists as well as international community.

Editor

Manas Chakrabarty

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GOOD GOVERNANCE IN ABHIJNANSHAKUNTALAM OF KALIDASA

Sanjeev Kumar Sharma

The present paper attempts to identify, locate, explore and analyze the dimensions of good governance in ancient Indian Sanskrit play by one of the greatest Indian poets, Kalidasa, in his Abhijnanshakuntalam with a perspective on contemporary relevance.

It has quite emphatically been argued and accepted that the study of political thinking in contemporary India is what could be termed as West-oriented and West-based. Our universities and colleges imparting knowledge about politics have essentially made us understand that the systematic study of political science begins with the Greeks. It is even more ironical that the so far all-accepted belief and knowledge that the study of state as a style of discourse started from the Greeks only has received widespread consent in academic quarters. One of the most celebrated political theorists of the West, George H. Sabine emphatically declares that "philosophical-scientific style of thinking of which political theory is a part began among the ancient Greeks."[1] Although in continuation of the same view Sabine does mention of India as "peripheral civilization that produced Buddha".[2] But this concomitantly underscores the assumed negligible contribution of India in the field of systematic philosophical or structural thinking about political institutions. This is also very interesting to note that the mention of the word India in his eight hundred seventy plus pages treatise does not find any further place. The other similarly distinguished writer on Greek political theory, Ernest Barker misses any mention of India in this regard even once in his off-quoted treatise on political theory.[3] His formidable declaration marks the opening of his off-quoted work that "political thought begins with the Greeks"[4] Going further and quoting Plato that 'philosophy is the child of wonder', he concludes that the Greeks dared to wonder about things visible and they attempted to conceive of the universe in the light of reason. Apparently, there is a well-conceived rejection of the Indian attempts of intellectual pursuits treated as activities pertaining to the sphere of religion.[5] This may appear to be little ironical that our political theorists in modern India have accepted these preconceived biased notions without posing any questions to the basic premises of this fundamentally faulty argument. D.R. Bhandari suggests that "we are on safe ground when we say that systematic political thought in the West begins with the ancient Greeks."[6] He further adds emphasis by opining that political thought originated with the Greeks because of the essential secularity of their mind which made them particularly prone to the reason about things."[7] One of the most respected political scientists of modern India, Edy Asirvatham travels little too far in this regard. He pronounces that "the Greeks were the first people to develop political science in its pure and systematic form. They were eminently fitted for this task by the rational and social outlook which characterized all their thinking."[8] We may find it interesting to note that Asirvatham keeps on to elaborate his argument by including all oriental thinking and comments that they "had speculated on the state and its problems even before the time of the Greeks. But they did not develop political science in its pure and systematic form. It was mixed up with a great deal of mythology and superstition. Religion and politics were so closely intertwined that no attempt was made to develop an independent science of politics. The social sciences were treated as a branch of theology."[9] Commenting on the Indian tradition of political and administrative institutions, Asirvatham also underlines that "early Hindu thought has much to say on kingship, village republics, organization of government, and the duties of rulers and subjects. All of this, however, does not produce a comprehensive political theory"[10] The preceding sketch of the inaugural observations of few of the leading political scientists of the Western world as well as India present before us a scenario which culminated in creation of an academic environment of the unquestioned ac-

Prof. Sanjeev Kumar Sharma, Vice Chancellor, Mahatma Gandhi Central University, Motihari (Bihar)

ceptability of the idea about the origin of the political thinking in Greek civilization. The argument that I wish to forward is that the unchallenged supremacy of the West in the domain of political thinking seems to have emanated out of the overwhelming ignorance of the ideational basis and theoretical premises of ancient Indian philosophical thinking preserved in Sanskrit, Pali and Prakrit texts. It must be interesting to note that the majority of our political scientists, teachers and scholars usually appears (and or attempts hard to appear to) to be substantially knowledgeable experts of concepts, theories, models, constructs, and thought of the Western ancient as well as contemporary political philosophers. And we might notice that this is why their references, sources, explanations, analysis and prepositions are abundantly based and dependent on works and writings of the political scientists residing or working in the west.

On a sincere examination, we may be witnessing the indomitable prevalence of a presupposed West-oriented-ness in the wider community and fraternity of political science in India with respect to the formulation of the reading material, text books, perspectives of research, academic orientation, and methods and fields of study and analysis, etc. This tendency gets immensely reflected in our scholarly publications including research journals. Quite naturally and obviously the corollary of all this has been evinced in the language, style, jargon, dogma, presentation, methodology and vocabulary of Indian political scientists being evidently West-based and attempted in continuation of Western thinking of political science.

Though this is also absolutely correct to state that despite this obedient following and aping of the scheme of thinking of the West in all possible dimensions of the study in Indian political science, we are yet to find any enviable recognition or respect or academic acknowledgement acquired by our political scientists at global level by this abject intellectual surrender. This unabated dominance earned by a large number of non-Indian writers and commentators of different countries in the area of political thinking even in Indian sphere makes us raise some intriguing questions such as – whether it is possible that a country (Rashtra) of the World's oldest civilization (Bhartavarsha), has since long been unable to produce any writer, thinker, philosopher, theory, concept or idea in its hitherto known history of philosophical excellence and metaphysical achievements of more than five thousand years which we could have assembled in comparison or consonance or equivalence of the academic explorations of the social scientists and political philosophers of the world? What would have resulted in a constant neglect of the political and administrative aspects of the nation by a society which through its multiple treatises and a great number of seers, could primarily, paved the way for ethical, transcendental and universal upliftment of the entire world? How it is that the exceedingly rich tradition of *rishis* and amazing method of *gurukul's* which got tremendously manifested in unbelievable intellectual and sufficiently extra-ordinary brilliance in diverse fields of philosophy, music, arts, literature, medicine, surgery, devotion *(bhakti)* etc. could not attempt to ponder upon some equally significant dimensions of state, society, administration and leadership? Whether the entire civilization in India did not have any worth mentioning line of thinking, system, organizational structure and/or administrative institution which could be present before the world as models? And, naturally the list of such questions may be extended to a great length with serious aspersion on the intellectual ability and capacities of our forefathers. It is also quite disturbing a fact that such attempts of understanding, analyzing or examining the tradition of socio-political thinking in ancient India are not witnessed in the realm of political science in Indian academia at any noticeable level or scale.

I have elsewhere argued that the complete westernization of the study and research of Indian political thinking has generally given birth to different noteworthy tendencies. First-our political science scholars have found and recognized the Western political thought as the only reason- based deep, scientific, fundamental, abstract tradition of thinking and therefore, not easily understandable for common students and thereby, they have accepted the natural superiority of the Western thinking over Indian minds. Next – so many theoretical constructs emerging out of the inner-contradictious and local socio-political requirements of the Western society have been included in the syllabi of political science students in Indian universities and higher education institutions even if those are quite insignificant (and sometimes irrelevant) in Indian contexts. The result is that our students are being made to understand and comprehend and get examined in a number of concepts which are completely alien to them and are in no way concerned with either the understanding or the analysis of the conditions prevalent before them and the possibilities

of their universal application are substantially bleak. In addition of that the disheartening impact of this has been the trend that the community of scholars of political science in India has very easily accepted the myth that the place of India in very long journey of the evolution and development of political theory and science is negligibly insignificant and irrelevant too. Fortunately, some of us have, by now, acceded to the demand of an analytical pursuit of the ancient Indian political thinking to be made a part of the syllabi in our academic institutions imparting higher education and conducting research. But interestingly that too has happened only to the extent of including the preliminary study of Kautilya in the scheme of the study of political thought for the purpose of providing initial understanding of the administrative dimensions of the rulers and kingdoms of early India. Ironically, in this context also, our students are made to understand that Kautilya was the Machiavelli of India which, somehow, is directed towards lowering the dignity involved with the name of a serious far-sighted philosopher and rather highlights the imputed cunningness and shrewdness in his characteristics. This imaginably fallacious and absurd comparison is made between the two thinkers without giving a serious note or attention to the fact that there is not only a time interval of more than fifteen hundred years between these two thinkers and also fundamentally Kautilya is essentially different and distinct in many ways from Machiavelli with regard to approach and treatment. His work is basically system – based and largely mechanical. He is out and out an Indian philosopher par excellence having roots in Indian cultural orientations and presenting an overarching assimilation of the ideas of most of the early political philosophers and thinkers of ancient India. It has to be understood that apart from Kautilya no other writer or philosopher has generally been considered worth studying for the students of political science in Indian university teaching departments. The necessary implications of all this have been quite interesting. Our teachers and scholars of political science generally appear to have been infected by a deep and latent (many a times manifest also) inferiority complex and the skepticism of wide general manifestation of this inferiority complex compels them to attempt for reaffirming the imagined superiority Western rational intellect. This trend often gets reflected in the academic activities and events such as the seminars, conferences and research papers published in different professional journals of the disciplines of political science and public administration.

It might be assumed that Asirvatham would have contemplated an assimilation of the political thinking of the West and the tradition of India as he suggests (though casually) that "in India there is an urgent need to graft the valuable political ideas of the entire world to the ancient tree of Indian tradition and culture. In so doing we may revive and revitalize such ancient concepts as *dharma, ahimsa*, and *asanga*, and put new meaning into them and provide them with new workable sanctions." In fact, to our understanding it appears that a closer and deeper understanding of the ancient Indian past systematically coupled with some sincere and proper analysis of ancient Indian literary works would essentially indicate that the *rishis*, seers, writers, poets, dramatists, historians, philosophers, thinkers of ancient India had provided very minute and very logical analysis of almost all the dimensions related to the holistic and integrated growth and development of state, society individual and all the living creatures. Therefore the argument of not having separate and exclusive attempts of political thinking is definitely misleading in the light of the fact that vast amount of ancient Indian thinking had and immensely holistic approach towards entire aspects of the life and functions of society, individual and the state. This is why the find that the rationalists of ancient India considered statecraft to be the essential element of the most universal *dharma* which would systematically regulate all spheres of the working and functioning of everyone including individual, state and society. Therefore, it has been observed that the theme of all the literary, Dharmik, academic and other treatises essentially remains the study of the various paths leading to the accomplishment of *dharma*. Therefore, the other dimensions of human life are considered to be the part of the pursuit of *dharma* though they have not been treated as at all irrelevant or ignorable. This is in this backdrop that the ancient Indian thinkers making continuous and sustained efforts in way of understanding the metaphysical aspects of human life have also been able to provide unimaginably excellent and tremendously composite expressions of various dimensions of human life in Vedic, Upanishadik and epic periods. It also might appear interesting to note that the prevalent myth of not having specific works on state, politics and administration in ancient India was demolished successfully by the invention of Kautilya's Arthshastra in early years of twentieth century. The quite famous Indologist Basham comments that "until the last half of the 18th century Europeans made no real attempt to study India's ancient

past, and her early history was known only from brief passages in the works of Greek and Latin authors."[12] He goes on to further elaborate that "though India had no formal political philosophy, the science of statecraft was much cultivated, and a number of important text books on this topic have survived. *Dandaniti*, the administration of force, or *rajniti*, the conduct of the Kings, was a severely practical science, and the texts cursorily dismiss the more philosophical aspect of politics, but give comparatively detailed advice on the organization of the state and conduct of governmental affairs."[13]

This is in this very context and sufficiently interesting to note that the works of ancient Indian literature considered to be full of romantic ideas and themes and primarily dwelling upon love stories only contain explicit and specific contents and components of political and administrative working and thinking that they seem to be inseparable testimony to the enormously enriched thinking tradition of ancient India. It is an established fact that the Sanskrit literature is the most ancient as well as the richest in the world. There is a large number of treatises that have been produced in Sanskrit from times immemorial, and which has been covering diverse fields of knowledge. Kalidasa has been considered to be the greatest of the poets and dramatists of Sanskrit literature. He successfully reached the superior pedestal of literary excellence incomparable in the whole world. Basham has observed that "on the whole classical Sanskrit literature has not been well received in the West. Though the works of Kalidasa delighted Goethe, the literature taken as a whole, has been called artificial, over-ornate, lacking in true feeling, or even an example of wasted and perverted ingenuity. Indians themselves are not always satisfied with it."[14] Primarily, we may find that apart from *Raghuvansham*, no other work of Kalidasa predominantly contains description of Kings or the rulers. Kalidasa is truly a poet of love. His *Raghuvansham* in its major portions a poetic re-presentation of *Ramayana* of *Valmiki*. But the most respected work of Kalidasa remains to be *Abhignanshakuntalam* (Shakuntala Recognized). This drama is actually drama based on *Shakuntalopakhyan* of *Mahabharatam* written by *Ved Vyas*. Kalidasa has been saluted by so many reputed laureates of the world for depicting his wonderful and extraordinary brilliance and flourishing beauty of his charming poetry. The place of Kalidasa in world literature has been immensely established by his excellent treatment of the story of Paurava King Dushyanta and hermit girl Shakuntala which was earlier narrated at susbtantial length in the *Adiparva* of *Mahabharatam*. The drama by Kalidasa has been divided into seven parts, called Anka.

A brief sketch of the story line would definitely be a great idea for the purpose of acquiring an insight into the actual situation and the resultant political comments therein. Once the Paurava King Dushyanta went with a huge army for hunting and reached the peaceful precincts of a hermitage on the banks of Malini River. He comes into contact of Shakuntala, the adopted daughter of sage Kanva in the ashram. Both Dushyant and Shakuntala fell in love with each other. The king left the ashram with a promise to Shakuntala inviting her to his kingdom in a few days. He presents her a ring bearing the name Dushyanta. Because of the incidental curse of *risei* Durwasa for ignoring his presence and knowing about the developments, Dushyanta forgets his love for Shakuntala. Sage Kanva, after his return from Somatirtham, sends Shakuntala to the King's place with his disciples. Shakuntala somehow loses the ring during the journey. Under the influence of the curse, the king fails to recognize Shakuntala and shows her the way out. A friend of Menaka, the actual mother of Shakuntala, comes down from the sky as a spread of light in female shape, picks her up and vanishes. The signet ring which Shakuntala lost in the river while coming to the King's palace is found by a fisherman who is produced before the king by the police whereupon the lost memory of king Dushyant gets revived and he becomes painfully aware of the enormity of his action. For him the sight of the signet ring marks the beginning of a long period of agonizing remorse to which there seems to be no end. He does not have any ideas as to where the celestial being has taken his beloved to Shakuntala to or whether she will ever come back to him. Meanwhile Dhushyanta has been called by Indra to render help to fight a horde of demons descended from Kalanemi. The king Dushyant shakes off his dejection and proceeds to the heavenly regions in Indra's chariot. Returning victorious from this battle, the king Dushyant happens to halt in hermitage of Marichi and Aditi, the divine progenitors of gods and men. In this ashram, Dushyant meets his son Sarvadamana and wife Shakuntala. The reunion of the two is depicted by the poet with great tenderness, pathos, and emotions which is perhaps unequalled elsewhere in Sanskrit drama.

Apparently, the drama does not contain an iota

of direct political element, yet the closer understanding of this world-famous play provides a substantially good idea of the political structures and institutions present in his age. Despite being demonstrably critical of the values of politics, Kalidasa has, unintentionally, included the administrative models in his description of the palace of king Dushyanta. In this regard also his depictions are sufficiently literary. May be because of that only the political component in this drama might have substantial theoretical limitations for students of political science but we must also take into account the considerable amount of light these depictions throw on the an overall comprehensive and systematic understanding of the administrative norms and political culture prevalent in yester years. Primarily, Kalidasa seems to follow the rule book given by Manu regarding dharma, society, state and king. Therefore, the king of Kalidasa not only appears prescribing rules, laws and punishment for those violating the established system and diverted from the path of their own *dharma*, but at the same time also decides punishment for his own sins, besides striving hard for regular conflict resolution and providing vigilant security to his people.[15] He performs the duty of the family members of his *praja* in the days of scarcity, thereby, acting as close relatives or family members of each and every citizen of the kingdom. The king is greatly committed to providing good governance through welfare schemes for the people and is morally accountable of his populace and therefore, he cannot be autocratic, tyrant and despotic. He is supposed to win over the hearts of the people and be competent to govern the people with immense empathy. Therefore, he must be profuse in observing his duties with a strong administration. Therefore, his entire working schedule is decided according to the division of time into different sections. For Kalidasa, "he looks upon his subjects as his own children and supports them with fond care. Now, tired in mind, he seeks seclusion like the prince of elephants who, having led his herds from place to place in the torrid sun, seeks the cooling shade."[16] His worries follow fast his ascending the throne. The sacred duty of people's welfare cannot be deferred by the king because no rest or leisure is meant for those who have the responsibility to rule the world. The king, for the tribute of a sixth portion that he takes, toils hard and long.[17] The king is usually found deeply and continuously engaged in the overall welfare of the people. He considers democratic value system to comprise the essential aspect of his everyday administration. The emphatic expression by a small duty officer of the king that 'the right to democracy is absolutely without any break or any discrimination', is essentially one of the most wonderful statements in whole treasure of the ancient Indian Sanskrit literature. Particularly, for a student of political science and public administration, the above quoted statement contains three very majorly significant components: democracy, right, and absence of discrimination. These constitute the major contours of our present-day political thinking also. It may be argued that the contemporary form and profile of democracy, rights and equality are altogether different from what Kalidasa or others could have conceived in their comments on the monarchical system of governance, yet despite the understandable admission of this argument, the ultimate significance of the prevalence of these three important terms in society at that time is not at all lowered. This also underlines proper acquaintance of Kalidasa with these socio-political terms. This would incidentally mean that Kalidasa had a definitive idea of these political concepts which would exhibit manifest content of the sense of accountability and responsiveness towards the people because of collecting six percent of their income as tax revenue. This revenue collection has twin purposes – one, to be able to provide basic amenities to the people; and two – to ensure the security of the population and the country through robust consolidation of the army. The receipt of tax and revenue concomitantly would inculcate sense of responsibility in the functioning of king who has to demonstrate his faith in public good through rules based on equality and the people have every right to approach the king for anything in their pursuance of the common good. This analysis on the formal and informal structures of democracy consisting of equality and rights may somehow sound mechanically different from the present-day functional models of democracy i.e. sensitivity of the rulers towards the people. It is in this backdrop that the sixth portion of the income of the people which is collected by the king as revenue has also to be spent in way such a which largely establishes explicit predominance of knowledge, philosophy, craft and *tapas* through the maintenance of *gurukulas*.[18]

The incomes of the king are not the purpose or pursuit of his entertainment. Unmindful of comfort he labours day by day for his people's welfare and so it has to be. Does not the spreading tree let the sun's fierce heat beat upon its head in order to refresh all who seek its shade.[19] His ascending the

throne ends his longing to become the king, while the task of guarding what he has obtained wears him out. It's truly like the parasol that's troublesome to hold in one's own hand but serves to protect one from the heat.[20] He accomplishes his normal duties as king along with providing security to the people from fears and calamities. He declares with pride that even the lowliest of his subject does not take the vicious path.[21] While the hermits appear at his place, he firstly enquires whatever the austerities of the sages are being conducted undisturbed; he is skeptical about any person doing some wicked harm to the beasts roaming around the woods; he is apprehensive of his own misdeeds restraining the creepers to bloom; and such varied doubts arise and fill his mind with deep distress.[22] And when the hermits ensure him that "how could they be hindered when you, the protector of the good, are here? When the sun is shining, no darkness there can be"[23], he feels immensely relieved and says that his title then is not in vain and he truly deserves to be a king. This depicts the sense of deep belongingness and concern for the people of his kingdom. Kalidasa indicates also about the education and training of the king, though in a casual and quite sarcastic way. He comments that the kings are taught deceit as a science.[24] This comment makes an effective indication of the teaching of diplomacy to the future kings. The usual *Bharata-vakyam* or benedictory verse is an indication of the feelings of the poet through the prayer of the king. "May monarchs of world strive for the common weal! May the heavenly muse inspire the learned and the wise! May the self-created, omnipotent, blue-red god release me from rebirths?"[25]

Kalidasa includes political elements in *Abhijnanshakuntalam* largely in indirect ways. Most of the characteristics of so-called Hindu polity have found place in the works of Kalidasa. The authority of the state and official legitimacy is reflected by so many examples in his different literary works. *Abhijnanshakuntalam* also contains the state authority explicitly manifested in the orders released for the officers through messengers,[26] inspection by the officers before royal visits,[27] the accessibility of the king,[28] the pronouncements on behalf of the king,[29] the ruler – people interface,[30] etc. The announcements made by the king are as a matter of fact sufficient and forceful indicators of the authority of king prevalent in the territory of state. The declaration by the king on being informed that the minister could not look into one case of a citizen because of being busy with heavy revenue collections, and the minister has sent his report on it for king's perusal, [31] that let him see the report and make a decision, also succinctly reveals that different ministers were assigned different tasks and duties and the reports were immediately submitted to the king for his perusal. For a student of political science, this part of the drama makes curiously interesting reading. It speaks about laws of property, laws of inheritance, laws of wealth, the intensity of the feeling of compassion for the people and so on. In the such case, the king is informed that the sea-faring merchant Dhanamitra has perished in a shipwreck. As the unfortunate man has no children, all his wealth escheats to the king. The king enquires that because of being wealthy this gentleman might have had many wives. It should be ascertained if any among them is expecting a child. He is then informed by the office staff that one of them, a Saketa merchant's daughter, recently celebrated the *pumsavana* rites. Listening to this, the king immediately pronounces that "surely then the child in the womb is entitled to the father's wealth. Go and tell the minster accordingly."[32] After a minute he gets a second thought and he summons his court- man and says "it matters not whether he has any off-spring or not."[33] He, then, directs that "let it be proclaimed, should any subject be bereaved of a dear relation, provided he be innocent of any crime his place will be taken by Dushyanta himself."[34] This pronouncement by king Dushyanta is a glaring indication of the intensity of affection, responsiveness, empathy, and sense of belongingness for public welfare in the mind of the king and this is a definite attestation tremendous of his integrity to people's common welfare. The king, who is the highest executive officer of the welfare state, is announcing that anyone who is deprived of any of his family member, close relatives, affectionate ones, need not feel bereaved and full of sorrow because except for the sins and crimes committed by a citizen, the king is always prepared to fulfill the duties of a father, a brother, a sister, a mother and so on. This deep sense of love for the populace is the testimony to social sensitivity inhibited in the mindset of the king. That is the quest of most of the citizenry even today and many a times we miss iota of this feeling in our contemporary rulers who are supposed claim to be the policy-makers and decision-makers of the modern governing models of democratic system of governance. This example prudently presents the ancient Indian monarchical system in a better light than the modern democracy. This pronouncement, it must be noted, is being made by the order of the king, on

behalf of the king and for the people of the kingdom. This shows the immense sensitivity of the king and the sense of responsibility in the king for the people. The mechanical form of governance may appear to be a monarchy but the intensity of the quest for people's welfare makes it evident that the democratic values and norms of ultimate common good were very much present in the kingship of ancient India and remained the guiding force behind the decision-making and policy formulation frameworks of the rulers of yesteryears as depicted by Kalidasa.

The king through the state, is considered to be the protector of the citizenry. He must ensure the establishment, regulation and accomplishment of social and cultural norms prescribed by the early philosophers. He has to ensure that all the functions of the state are normally performed as per the *rajadharma*. He hast make sure that in any case, the rituals, the duties, the functions, the sustenance and the performance of any member of the populace are not disturbed and hampered. This will be possible only when the king is genuinely involved in his *dharma* which would indirectly mean that the king is attempting to provide not only for the overall development of his people but also to make the hassle free observance of their own specific *dharma* by the people possible on all counts. And this would necessarily pave the way for better governance. There have been arguments that the discourse between state and people is absent in ancient Indian tradition but this is emphatically untruthful statement in the light of the fact that so many interactions of the general public persons with the king and the other officials of the kingdom are depicted in this drama. The overall construction and composition of the story include of the depiction of day to day functioning of the king through presentation of his immaculate power, potential, administrative acumen and sense of love and empathy for the people. The king is duty bound to provide security to those who have any kind of fear. He has a mandate to protect the people and has to exert sufficient expertise in performing this duty. The idea of his getting expertise and competence in the performance of his duties has – appeared several times in *Abhijnanshakuntalam*. Most of the descriptions of the functions of the king are eventually related either to his deep involvement in public good or to his role as protector of the people. This task of protection is closely corresponding to the duty of the king as a service provider, as a facilitator and as an arbitrator. These responsibilities of state and the king have been considered very significant in the discourses on public policy and governance in contemporary era.

Kalidasa makes indirect and symbolic indications in the *Abhijnanshakuntalam* about political system, king, criminal justice administration, law, and other aspects of ancient Indian polity. The presently discussed treatise is basically a love story and therefore, the poet appears to be avoiding any direct comment of the political and administrative affairs of the state. Yet the king being the main character of this drama, the political system gets immensely and visibly reflected through the description of the functioning and depiction of different acts of the officers and institutions of the state by way of indications about the *kanchuki, pratihari, dauwarik, mantri, sarathi, sayalc, rakshaka, purohita, amatya, senapati*, etc. The section of the fisherman and the warder having discussion and the treatment of the police and security officers given to the fisherman is indicative of some nuances of the civil administration. The conversation reveals that low-level corruption is also prevalent at some levels of bureaucracy. The *amatya* is supposed to complete day to day functions vehemently even in the absence of the king from the headquarters and his sending the official papers to the king for his final perusal and consent throws light on working system of the office of the king and his other officials.

We get pretty good idea of the different aspects of the communication system and at the same time the presence of effective means of transmission and flow of information to and fro the king and the other officials and administrative personnel through these indicative depictions in this drama. The king has to move from the seat of routine and judicial administration to a different place earmarked for meeting the people from hermitage and this is a clear indication that there were separate sub-offices of the king to perform variety of duties, roles and functions. In this connection, we may find that the comment by Bhambhani appears to be true when he opines preceding that "ancient literature on polity reveals that the king was, in reality, the servant of the people."[35] The preceding description basically establishes the argument for projecting the considerable availability and presence of organized ideas and concepts on political system, administrative institutions and tenets of public governance in this world fame drama of love.

We may tend to agree with the argument that

the "state in India was considered a means to the realization of decent, good and meaningful life. Political thought and speculation about the functions and the proper conduct of rulers and governments were conceived within the framework of the *chaturvarga* philosophy. Political thought, therefore, was called *rajadharma* or *arthashastra*."[36] The king, therefore, works primarily as the guardian of the whole community and an overall protector of the citizenry. And this provides a testimony to the ancient Indian utmost concern for a just government and immensely efficient administration. The above description may appear indicative of the presence of some really systematic thinking on political institutions and public governance in ancient India which was driven by evident elements of a value system that is democratic in its very nature.

It has been also argued that in ancient India, the different branches of knowledge were grouped under four heads, namely, Philosophy, the Vedas, Economics, and Politics. Of these, Politics was regarded as a very important if not the most important subject of study."[37] Shri Aurobindo was more emphatic in this direction when he observed that "there was a strong democratic element, if we must use the western terms, in Indian polity and even institutions that present a certain analogy to the parliamentary form."[38] In the preceding pages our attempt has largely been to summarize the elements having emphatic indications about public governance in this famous drama of Kalidasa. The overall analysis and the presentation reveal some very interesting dimensions of ancient Indian polity. This description also emphasizes the urgent and pertinent need for attempting closer, systematic, theoretical and scientific studies and analysis of more and more literary works. These research attempts at understanding ancient Sanskrit literature should include not only Kalidasa but also the works of other poets and dramatists of ancient India with a view to understand, examine and explore the traits and characteristics of political systems and institutions in that period. It would necessarily improve upon our existing comprehension and understanding of the nature and functioning of the contemporary political institutions in this largest and oldest democracy of the world. We should endeavor to further the study of present-day relevance and utility of discussed aspects of ancient Indian public administration in the theoretical context of traditional socio-cultural value systems and politico-institutional norms, procedures and prescriptions.

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GANDHI AND DEVELOPMENT: AN A STRATI

Since the 1990s , with the liberalization of the econ which have pushed her as the second fastest growin been unbalanced, unsustainable and excluded large groups like the indigenous communities, small farm despite being a rising global economic power an trails behind other South Asian countries in signi expectancy, literacy, education , health and stand third of the world's poor. Therefore the present west being contested and there is a call for 'alternative alternative development strategies in the light of vision is therefore re-examined in this context. It ar development strategies have failed to achieve we Gandhian ideas are seen as a beacon of hope to b not only in India but also globally. Keywords ; al inclusive, Gandhian.

"In the light of globalization, humankind is witnessing widespread prosperity on one hand accompanied by "intense poverty, unemployment and social exclusion on the other hand."[1]

As highlighted by the above report, globalization has brought in sweeping changes across the globe. Widespread development in science and technology have revolutionized human life. Increased production, trade and commerce have improved the material well-being of mankind. Nations have progressed in their gross domestic products (GDP) rates but questions are being raised on the human face of progress as this well-being is limited. Extensive literature since 1990s, have criticized the western notion of modernization and development (Aborro, 2008)[2]. Decades of development on the western expectations have not shown the consequences particularly in countries of Asia, Africa and South America. The "post development" critiques have challenged the reductionism and universalism of the Western concepts and the structuralist perspectives of capitalism [3].The structuralist perspectives refers to the structural imperatives of a hegemonic capitalism in which non-capitalist alternatives are destroyed or subsumed in a dependent re-

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समाज में स्त्रियों की स्थिति: भारत एवं पश्चिम के विशेष सन्दर्भ में

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भारत में लम्बे समय से यह धारणा बनी हुई है कि यहां पर महिलाओं को कभी भी किसी भी प्रकार के अधिकार नहीं थे। वे सदैव ही दोयम दर्जे की वस्तु के रूप में प्रयुक्त होती रहीं। महिलाओं के लिए 'वस्तु' शब्द मैं यहां पर इस महिलाओं को प्रयुक्त कर रहा हूं क्योंकि हमें उपनिवेशी साहित्य के द्वारा यही पढ़ाया गया है। जब वे वस्तु थीं तो उन्हें प्राणी क्योंकर माना जाता ? ये तो भला हो पाश्चात्य जगत के चिन्तकों का जिन्होंने हमें महिलाओं के अधिकारों के विषय में न केवल जागरूक बनाया बल्कि यह भी सिखाया कि वे भी पुरूषों की भांति प्राणी हैं; इसलिए उनके हितों का भी ध्यान रखना चाहिए और उसी अनुरूप व्यवहार करना चाहिए। पाश्चात्य जगत ने 18 वीं सदी के बाद अपनी महिलाओं के विषय में समझ को बदला और यह समझ उनकी भारत सदृश देशों के सम्पर्क में आने के बाद बदली। किन्तु हमें महिलाओं के विषय में सदैव पिछड़ी सोच वाला समाज बताया जाता रहा और उसी वृत्तान्त को पढ़ सीख कर भारत का जनमानस विकसित हुआ। यह जनमानस इसी वृत्तान्त को न केवल अपने विमर्श में सम्मिलित किए हुए है बल्कि उसे पीढ़ी दर पीढ़ी अग्रसारित भी कर रहा है। जबकि वास्तविकता प्रायः इसके विपरीत रही है।

भारतीय साहित्य के अनुशीलन से यह संज्ञान में आता है कि प्राचीन काल यानि वेद काल से लेकर 18वीं सदी तक स्त्री और पुरूष में प्रायः भेद नहीं किया जाता था। यद्यपि समय-समय पर ऐसी परिस्थितियों का निर्माण होता रहा जिसमें स्त्रियों पर कुछ प्रतिबंध लगते से प्रतीत हुए तथापि यह जन सामान्य के स्तर पर नहीं हुआ यह विशेष परिस्थितियों में कहीं-कहीं पर

दृष्टिगोचर होता है। मैं संस्कृत वांगमय में से (वेदो से प्रारंभ करके) कुछ प्रसंग ससन्दर्भ प्रस्तुत करने का प्रयास करता हूँ जिससे स्त्रियों की दशा-दिशा का हमें भान हो सकेगा तथा समकालीन स्त्री स्वातन्त्र्य की बात करने वालों को भी प्राचीन भारत की स्त्रियों की दशा-दिशा से तुलना करने का अवसर मिल सकेगा । मैं सभी बिन्दुओं को यहाँ सूत्र रुप में ही प्रस्तुत करूँगा । विस्तार से अध्ययन के लिए उनके सन्दर्भो का अनुसरण किया जा सकता है । इसके साथ ही कुछ पाश्चात्य उद्धरण भी प्रस्तुत करूँगा, जिनसे अध्येता भारत और पश्चात्य जगत में स्त्री स्वातन्त्र्य और बराबरी की तुलना कर सकें।

वेद – वेदान्त में स्त्री

यथा, वेदों में स्त्री न केवल पुरुष के साथ सृष्टि के विस्तार में संलग्न थी अपितु वह सांस्कृतिक अर्थतन्त्र का भी विकास कर रही थी घरेलु कार्यों के अतिरिक्त लघु/कुटीर उद्योगों के उन्नयन में इसकी बड़ी भूमिका थी ।[1] घरेलु कार्यों के साथ-साथ वह पशुओं के रखरखाव तथा उनके चराने जैसे कार्यों के लिए घर से बाहर भी निकलती थी। पुरंगलानी नामक स्त्री अपने पशुओं के रेवड़ को एकत्र कर हाँकने के लिए न केवल घर से बाहर निकलती थी बल्कि कुशलता के साथ इस कार्य के संपादन के लिए रथ का संचालन भी करती थी ।[2]

ऋग्वेद में ही रैवा राजा की सुयोग्य कन्या विपश्यला न केवल युद्ध लड़ती थी बल्कि ज्ञात इतिहास की वह पहली प्राणी है जो लोहे के पैरों को लगाकर, न केवल युद्ध लड़ी बल्कि शत्रु को परास्त करके विजय श्री का वरण भी किया ।[3]

ऋग्वेद के मन्त्रों के संकलन में भी ऋषिकाओं का महत्वपूर्ण योगदान रहा है। ऋग्वेद के कुल मन्त्रों में से 224 मन्त्र 24 ऋषिकाओं के द्वारा लिखे गए है। इनको हम सुगमता की दृष्टि से निम्न तालिका के आधार पर अध्ययन कर सकते हैं ।

क्रम.स०.	ऋग्वेद	मन्त्र संख्या	सन्दर्भ
1.	नदी	कुल 04 मन्त्र	ऋ. 3/33
2.	विश्वारा	कुल 6 मन्त्र	ऋ. 5/28

3.	अपाला आत्रेयी	कुल 7 मन्त्र	ऋ. 8/91
4.	शस्वती अंगीरशी	कुल 1 मन्त्र	ऋ. 8/1
5.	सूर्य सावित्री	कुल 47 मन्त्र	ऋ. 10मण्डल 85वाँ सूक्त
6.	सिक्ता निवावरी	कुल 20 मन्त्र	ऋ. 9/86
7.	घोषा	कुल 28 मन्त्र	ऋ.10/39, 10/40
8.	इन्द्राणी	कुल 17 मन्त्र	ऋ. 10/86, 10/145
9.	यमी वैवस्वती	कुल 11 मन्त्र	ऋ. 10/10, 10/154
10.	दक्षिणा प्राजापत्य	कुल 11 मन्त्र	ऋ. 10/107
11.	अदिति	कुल 10 मन्त्र	ऋ. 10/72, 4/18
12.	वाक् आंभृणी	कुल 8 मन्त्र	ऋ. 10/125
13.	जुहु ब्रह्मजाया	कुल 7 मन्त्र	ऋ. 10/109
14.	अगस्त्य स्वशा (भगिनी)	कुल 6 मन्त्र	ऋ. 10/60
15.	उर्वशी	कुल 6 मन्त्र	ऋ. 10/95
16.	सरम देव शुनी	कुल 6 मन्त्र	ऋ. 10/108
17.	शिरम्बिठेनी अप्सारा	कुल 6 मन्त्र	ऋ. 9/104
18.	पौलमी शची	कुल 6 मन्त्र	ऋ. 10/159
19.	देवजामयाः	कुल 5 मन्त्र	ऋ. 10/153
20.	श्रद्धा-कामायनी	कुल 5 मन्त्र	ऋ. 10/151

21.	सार्प राज्ञी	कुल 3 मन्त्र	ऋ. 10/189
22.	गोधा	कुल 1 मन्त्र	ऋ. 10/134
23.	वसुक पत्नी	कुल 1 मन्त्र	ऋ. 10/28
24.	रोमशा ब्रहमवादिनी	कुल 1 मन्त्र	ऋ. 11/126

जिस प्रकार से ऋग्वेद में ऋषिकाओ ने मन्त्रो को रचा है उसी प्रकार से अथर्ववेद भी ऋषिकाओं के मन्त्रों से विभूषित है। इसमें कुल 198 मन्त्र 5 ऋषिकाओं के द्वारा रचे गए हैं जिन्हें निम्न तालिका से सुगमता से समझा जा सकता है।

क्रम.स०	ऋषिका	मंत्र	सन्दर्भ
1.	सूर्या सावित्री	139	14/1-2
2.	मातृनामा	40	2/2, 4/20, 8/6
3.	इन्द्राणी	11	20/126
4.	देवजामयाः	5	20/93
5.	सर्पराज्ञी	3	20/48

इन ऋषिकाओं ने न केवल मन्त्रों को रचा बल्कि उनके रहस्यों को समझकर उनका प्रचार प्रसार भी किया। संस्कृत में ऋषि का अर्थ होता है- मन्त्रों का दृष्टा उनके रहस्यों को समझ कर प्रचार करने वाला।[4] संस्कृत वांगमय में ऋषिकाओं को ब्रहमवादिनी भी कहा गया है।[5]

वेद से आगे चलकर जब हम वेदान्त पर दृष्टिपात करते हैं तो और भी आश्चर्यजनक परिणाम स्त्रियों की दशा-दिशा के संबन्ध में हमारे सम्मुख प्रकट होते है। यथा - तैत्तिरीय ब्राहमण

में सोम द्वारा सीता सावित्री ऋषिका को तीन वेद दिए गए थे ।[6] (तै, ब्रा, 2/3/10,1,3) इसी प्रकार इसी ब्राह्मण में मनु की पुत्री इड़ा को गज्ञानुशासिनी कहा गया है,[7] जिसका अर्थ सायणाचार्य कुछ यों करते हैं- यज्ञ तत्व प्रकारान समर्था'। (तै,ब्रा 1/1/4/4) यहाँ पर पुत्री इड़ा अपने पिता मनु को संबन्धी सलाह देते हुए कहती है- कि तुम्हारी अग्नि का ऐसा आधान करूंगी, जिससे तुम्हें पशु, भोग, प्रतिष्ठा और स्वर्ग प्राप्त है ।[8]

प्राचीन काल में स्त्रिगों को प्रायः दो संबोधनों से पुकारा जाता था-

1. ब्रह्मवादिनी- जो यज्ञोपवीत, अग्निहौत्र, वेदाध्ययन तथा स्वगृह में भिक्षा करती है ।[9]

2. सद्योद्वाहा- यज्ञोपवीत तो इनका भी अनिवार्य था। यज्ञोपवीत विवाह के समय करा देते थे । ये सद्योद्वाहा सागान्तराः गृहस्थ का संचालन करने वाली होती थी ।[10]

इसी प्रकार शतपथ ब्राह्मण में याज्ञवल्क्य की पत्नी मैत्रेयी को ब्रह्मवादिनी कहा गया है । बृहदारण्यक उपनिषद मे ब्रह्मवादिनी का अर्थ आदि जगत गुरू शंकाराचार्य ने कुछ यों किया है- ब्रह्मवादन शील यानि ब्रह्म का अर्थ वेद । ब्रह्मवादिनी शील अर्थात वेद का प्रवचन करने वाली ।[11]

इसी उपनिषद में गार्गी भी ब्रह्मचारिणी कही गई है । यानी ब्रह्म यानि वेद का अनुसरण करने वाली ।[12] ये नारियाँ न केवल श्रेष्ठ गृहास्थिन की भूमिका निर्वहन करती थीं अपितु ज्ञान के क्षेत्र में भी अपनी पताका लहराती थीं । गार्गी के वैदुष्य के सम्मुख तो याज्ञवल्क्य जैसे उदभट विद्वान को भी विचलन हो गया और उसके वशीभूत उनको गार्गी को प्रश्न पूछने से यह कहकर रोकना पड़ा कि 'बराकर नहीं' तो तेरा अहित होगा ।[13] इसी प्रकार से छान्दोग्गोपनिषद में ऋषि सत्यकाम की माता जाबाल का उल्लेख भी आता हैं। जो न केवल सत्यकाम को पालती है बल्कि उसको सत्य कहने का साहस भी प्रदान करती है ।[14]

महाकाव्यों में स्त्री

इस प्रकार से वेद और उपनिषद काल की स्त्रियों के विषय में हमने कुछ विचार किया। अब हम महाकाव्य कालीन स्त्रियों के परिप्रेक्ष्य में कुछ विचार करने का प्रयास करते हैं। सर्वप्रथम रामायण काल पर प्रकाश डालते हैं। वाल्मीकि रामायण में स्त्रियों की दशा-दिशा न केवल उन्नत

थी बल्कि वे सभी क्रिया कालापों में भी सहभाग करती थीं । कैकयी जैसी विदूषी और साहसी स्त्री न केवल निर्णय निर्माण (Decision Making) में सहभाग करती थी बल्कि युद्ध कौशल में भी अत्यधिक प्रवीण होने के कारण महाराज दशरथ के साथ रणक्षेत्र में भी जाती थी। दो वरदान जिनके कारण रघुवंश का इतिहास परिवर्तित हुआ, कैकयी को रणक्षेत्र में ही प्राप्त हुए थे ।[15]

वेदवती नामक कन्या जिसे चारों वेद कंठस्थ थे, का उल्लेख रामायण, विष्णुपुराण, मार्कन्डेयपुराण आदि में आता है । रावण के साथ दुर्व्यवहार के कारण श्राप के वशीभूत ये अगले जन्म में सीता के रूप में उत्पन्न हुई ।[16]

हेमा, स्वयंप्रभा तो महिलाओं के लिए न केवल स्वतन्त्र रूप से गुरूकुल का संचालन करती थीं बल्कि बला-अति बला विद्याओं में भी पारंगत थी ।[17] शबरी भी जोकि मतंग ऋषि की शिष्या थी इसी प्रकार के वैदूष्य से परिपूर्ण थी, इसे श्री राम ने नवधा भक्ति का उपदेश दिया।[18] वस्तुतः यह भी ब्रहमवादिनी भी थी।

रामायण में सीता, अरुंधती, मन्दोदरी, सुलोचना, अनुसुइया आदि ऐसी अनेक स्त्रियों का उल्लेख है कि जो न केवल ब्रहमवादिनी थी बल्कि वक्त पड़ने पर निर्णय निर्माण प्रक्रिया को भी प्रभावित करने का सामर्थ्य रखती थीं ।[19]

महाभारत में भी अनेक स्थानों पर इस प्रकार की महिलाओं का उल्लेख है जो न केवल ब्रहमवादिनी हैं बल्कि शासन व्यवस्था पर भी उनका प्रभाव है। उदाहरण स्वरूप कुछ का नामोल्लेख करना समीचीन प्रतीत होता है।

महाभारत के शल्यपर्व में भारद्वाज ऋषि की पुत्री श्रुतावती ब्रहमचारिणी थी । वह अविवाहित थी और वेदाध्ययन करती थी ।[20] यहीं पर सिद्ध नामक ब्रह्मचारिणी का भी उल्लेख है । जो कि वेदाध्ययन करती थी और अपने तप के बल पर मुक्ति को प्राप्त हुई ।[71] इसी प्रकार महात्मा शांडिल्य की पुत्री श्रीमती थी जिससे अपने तप से अनेक व्रतों को धारण किया ।[22] वह वेदवित् थी। अपने इन स्वभाव के कारण वह ब्राहमणों के द्वारा पूजित होने के उपरांत स्वर्ग को प्राप्त हुई। इसी प्रकार से महाभारत में सुलभा नामक ब्रहमवादिनी सन्यासिनी का उल्लेख है जिसने जनक की सभा में अपना वैदूष्य प्रकट किया। यहीं पर यह कहती है कि मैं सुप्रसिद्ध क्षत्रिय कुल में

उत्पन्न सुलभा हूँ अपने अनुरूप पति न मिलने पर मैंने गुरूओं से शास्त्रों की शिक्षा प्राप्त की और अब सन्यास ग्रहण किया ।[23]

माध्वाचार्य ने महाभारत निर्णय में द्रौपदी के वैदुष्य को भी प्रमुखता से उद्घाटित किया है। इसी प्रकार भागवत में स्वधा की दो पुत्रियों का उल्लेख आता है जोकि वषुना और धारिणी नाम से जानी गईं वे अत्यन्त विदुषी थीं और ज्ञान-विज्ञान में निष्णात थीं ।[24]

अथर्ववेद कन्याओं को ब्रह्मचर्य पूर्ण करने के उपरांत विवाह के लिए निर्देश करता है ।[25] (अथर्व. 11///18) ब्रह्मचर्य से अभिप्राय वेदानुसंधान ही है । महाभारत का आदिपर्व इस बात का समर्थन करता है जब वह कहता है कि ब्रह्मचारियों का विवाह ब्रह्मचारियों से ही होना चाहिए। क्योंकि ज्ञान-विज्ञान की दृष्टि से दोनों ही समान होने पर संतुष्ट रह सकते है ।[26] (महा आदिपूर्व 1/131/10) महर्षि दयानन्द ने भी ऋग्वेद के भाव्य में इसकी पुष्टि की है वे लिखते हैं कि जो कन्याए 24 वर्ष तक ब्रह्मचर्यपूर्वक सांगोपांग वेद विद्याओं को पढती हैं वे मनुष्य जाति को शोभित करती हैं ।[27]

महाभारत में सुभद्रा भी सर्वगुण संपन्न थी और अस्त्र शस्त्र तथा राज्य संचालन में अपने भाईयों के ही समकक्ष थीं।[28] उपर्युक्त नारियों का उल्लेख यह नहीं दर्शाता कि इनकी संख्या एक-दो में ही रही होगी बल्कि ये समाज के स्वभाव का परिचय भी देती हैं । प्राचीन भारतीय समाज में स्त्रियों को अपने पतियों को वरने का भी अधिकार था । स्वयंबर व्यवस्था का अभ्युदय और व्यवहार उनके स्वातन्त्र्य और सम्मान का भी परिचायक था। अनेक विवाहों के लिए 'स्वयंवर' का उल्लेख हुआ है। यथा सीता, सावित्री तथा द्रोपदी आदि का विवाह स्वयंवर पद्धति से ही संपन्न हुआ। सावित्री-सत्यवान का प्रसंग तो न केवल स्त्री स्वातन्त्र्य का परिचायक है बल्कि उनकी नवाचारी पद्धति को प्रोत्साहन देने वाला भी है।[29] इस प्रकार से महाकाव्यों में भी स्त्रियों की दशा-दिशा पर्याप्त उन्नत थी। श्रीमद भागवत् महापुराण में देवहुति और कर्दम ऋषि का विवाह भी स्त्री स्वातन्त्र्य की ओर इंगित करता है।[30]

कालिदास द्वारा प्रणीत 'अभिज्ञान शाकुन्तलम्' जोकि महाभारत का ही विस्तार है,[31] में भी स्त्रियों की दशा-दिशा का उल्लेख मिलता है। 'मालविकाग्निमित्रम' आदि में भी स्त्रियों की दशा-दिशा पर पर्याप्त प्रकाश डाला गया है ।[32] बाणभट्ट, शूद्र, भारवि, भरत मुनि आदि संस्कृत के विद्वान

लेखकों के साहित्य में भी स्त्रियों की उन्नत तथा स्वातन्त्र्य मनोवृत्ति किन्तु समाज के साथ समन्वयकारी व्यवहार का परिचय भी हमें देखने को मिलता है।

स्मृतिकाल में भी स्त्रियों की दशा-दिशा न केवल पर्याप्त उन्नत थी बल्कि उनके संरक्षण-संवर्द्धन के उपायों के संबन्ध में भी पर्याप्त चिन्तन-मनन करने के उपरांत व्यवस्थाओं का निर्माण किया गया था। मनुस्मृति के 2694 श्लोकों में से लगभग (90) श्लोक मात्र स्त्रियों के संरक्षण/सवर्द्धन से ही संबन्धित हैं।[33]

इस प्रकार से पुराणों में भी महिलाओं की स्थिति अत्यंत उन्नत रही है। कौटिल्य के अर्थशास्त्र के अनुशीलन से भी ध्यान में आता है कि उस काल में न केवल महिलाओं को अनेक प्रकार के अधिकार पुरुषों की ही भांति प्राप्त थे बल्कि महिलाओं के अधिकारों के संरक्षण/संवर्द्धन के लिए अनेक प्रकार के प्रावधान किए हुए थे।[34] कश्मीर में कठुआ जोकि प्राचीन काल में कठ के नाम से प्रसिद्ध था, वह पूरा गणराज्य महिलाओं सहित बहुत ही बहादुरी से सिकन्दर के विरुद्ध लड़ा था।[35] इस प्रकार से महिला की स्थिति बहुविध प्रकार से सुदृढ़ थी।

पाणिनीय अष्टाध्यायी के अध्ययन से भी यह संज्ञान में आता है कि उस समय महिलाओं के लिए न केवल पृथक से गुरुकुलों का प्रचलन था बल्कि महिला आचार्या भी हुआ करती थीं। औधमेधा नाम की आचार्या पृथक से महिलाओं के लिए श्रेष्ठ गुरुकुल का संचालन करती थी। सहशिक्षा के केन्दों का भी उल्लेख मिलता है।[36]

पुष्यमित्र शुंग का कालखण्ड जोकि आज से लगभग 2150 वर्ष के आसपास बैठता है में महिलाओं की स्थिति अच्छी थी।[37] कालिदास रचित 'मालविकाग्निमित्रम' इस पर विस्तार से प्रकाश डालता है। कालिदास की पत्नी 'विद्योतमा' जोकि स्वयं भी बहुत विदुषी थी का विवाह कालिदास से किस प्रकार हुआ, वह हम सबको विदित ही है। इस प्रकार से आज से दो हजार वर्ष पूर्व तक भारत में महिलाओं की स्थिति अत्यन्त श्रेष्ठ थी। यद्यपि बौद्ध काल के उद्भव के कारण और उनका हिन्दू (वैदिक) परंपरा पर प्रभाव के कारण महिलाओं के अधिकारों में कमी आनी शुरु हो गई थी, क्योंकि बौद्ध परंपरा में महिलाएं निर्वाण की अधिकारिणी नहीं समझी गईं। कालान्तर में भगवान बुद्ध की माँ और पत्नी ने सैकड़ों महिलाओं के साथ दीक्षा प्राप्ति के लिए विभिन्न् प्रकार से संघर्ष किए।[38] तथापि उन्हें पूर्ण अधिकार नहीं मिले। महिलाओं का एक संघ बना दिया गया जोकि किसी वरिष्ठ बौद्ध भिक्षु के आधिपत्य में कार्यरत रहा।[39] इस प्रकार से स्त्री को माया और

नरक का द्वार भी बौद्ध परंपरा के प्रभाव के कारण ही माना गया। सनातनी परंपरा में स्त्री सर्वविद पुरुष के ही समान न केवल सर्वकार्यों में सहभागी रही अपितु पुरुष और सृष्टि के कल्याण का कारक भी रही। इसीलिए पुराणों में देवताओं के पूर्व देवियों के नामों के उल्लेख प्रचलन दृष्टिगोचर होता है। यथा- राधा कृष्ण, सीता राम, उमा महेश्वर, लक्ष्मी नारायण आदि-आदि। विलियम जोन्स भी अपने विचारों में भारतीय नारी के श्रेष्ठत्व का उल्लेख करते है।[40]

भारतीय इतिहास में स्त्री

कालान्तर में भी भारतीय नारियों ने अपने वैदुष्य और पराक्रम से सभी को विस्मित किया; उसके कुछ उदहारण निम्न हैं।

- 12वीं सदी में दक्षिण भारत काकातीय साम्राज्य की रानी रुद्रम्मा का पराक्रम सर्वत्र व्याप्त था।[41]
- भक्तिकाल में अनेक महिला भक्तों का उल्लेख हमें मिलता है। यथा- मीरा, तल्लेश्वरी, कृष्ण भक्तिन ताज बीबी, आदि-आदि।[42]
- होल्कर राज्य की महारानी अहिल्या बाई होल्कर जिनकी राजधानी इन्दौर थी ने, न केवल महिलाओं के उत्थान के लिए स्वयं कार्य किया बल्कि उनको आर्थिक स्वालंबन के लिए उनके सहयोगी समूहों (Self Help Groups) का भी निर्माण किया। म0 प्र0 की माहेश्वरी साड़ियों के उत्पादन और उन्नयन में उनका बहुत बड़ा योगदान है। सोमनाथ के मन्दिर के जीर्णोद्धार के निमित्त भी इन्होंने कार्य किया।[43]
- शिवाजी की माता जीजा बाई।[44]
- जबलपुर की रानी दुर्गावती।[45]
- झांसी की रानी लक्ष्मी बाई और उनकी सखी अवन्तिबाई।[46]
- 19वी सदी की प्रमुख शिक्षाविद जिन्होंने महिला शिक्षा के लिए बहुत कार्य किया। यद्यपि अंग्रेजों के आने के पूर्व भारत में महिला शिक्षा भी पुरुषों के ही समान दी जाती थी। किन्तु अंग्रेजों ने इसे ध्वस्त किया।[47]

इस प्रकार से वेदकाल से लेकर आज तक यदि समग्रता से महिलाओं की दशा-दिशा का मूल्यांकन किया जावे तो यह संज्ञान में आता है कि भारत (सांस्कृतिक भारत या वृहद भारत में आज भी) में महिलाओं की स्थिति सभी प्रकार से उन्नत एवं पुरुषों के समकक्ष रही है किन्तु

उपनिवेशी मानसिकता के चलते हमने इसे न केवल कमतर करके प्रस्तुत किया है बल्कि स्वयं को कटघरे में खड़ा करने के प्रयास भी किए हैं। इससे न केवल विश्व में भारत की छवि धूमिल हुई है बल्कि हमारी युवा पीढ़ियाँ भी आत्मविस्मृति को प्राप्त होकर आत्मविश्वास विहीन हुई हैं। मैं एक तालिका नीचे दे रहा हूँ जिससे स्पष्ट हो जाएगा कि बृहद भारत में किस प्रकार से महिलाएँ समान रूप से प्रतिष्ठापित थीं जबकि पश्चिम ने स्वयं अपनी महिलाओं के प्रति दोयम दर्जे का व्यवहार किया और भारत को कटघरे में खड़ा करता रहा। सर विलियम जोन्स ने इस विषय में विस्तार से प्रकाश डाला है।[48]

पाश्चात्य जगत में स्त्री

फ्रांसिसी दार्शनिक चार्ल्स फूरियर को 1837 में 'फेमिनिज्म' (नारीवाद) शब्द उत्पन्न करने का श्रेय जाता है। नारीवादी विचारधारा को 1872 में फ्रांस और नीदरलैंड में, 1890 में ब्रिटेन और 1910 में संयुक्त राज्य अमेरिका में देखा गया। ऑक्सफोर्ड इंग्लिश डिक्शनरी के अनुसार, वर्ष 1894 को पहली बार नारीवादी शब्द की उपस्थिति के रूप में मनाया गया।

नारीवादी महिला कार्यकर्ताओं ने विवाहित महिला संपत्ति अधिनियम के रूप में अधिक से अधिक विधायी समानता के लिए संसद और मताधिकार याचिकाओं के साथ 1840 के दशक में अमेरिका और ब्रिटेन में सार्वजनिक राजनीति के क्षेत्र में प्रवेश किया। एक सीमित मताधिकार और अमेरिका में 1920 में सार्वभौमिक मताधिकार के साथ ब्रिटेन में 1828 में, वोट जीतने में नारी मताधिकार को सफलता मिली। उन्नीसवीं और बीसवीं सदी में नारीवादी कार्यकर्ताओं द्वारा महिलाओं के लिए व्यापक स्तर पर समान अधिकार, समान अवसर और मताधिकार के लिए संघर्ष जारी रहे।[49]

फ्रांस में नारीवाद

सन् 1909 में शहमहल ने फ्रेंच यूनियन फॉर वीमेंस सफ्रेज की स्थापना महिलाओं के मताधिकार की मांग को लेकर की। 1918 में जाकर संपत्ति के अधिकार के आधार पर महिलाओं को सीमित मताधिकार प्रदान किया गया। 1928 में एक लम्बे संघर्षकाल के बाद भी वयस्क

मताधिकार के आधार पर महिलाओं को पुरूषों के बराबर अधिकार नहीं मिले थे। 1936 में फ्रांस के नए राष्ट्रपति लियोन ब्लूम ने अपनी पॉपुलर फ्रंट की सरकार में महिलाओं को भी शामिल किया था । उसके बाद 1944 में फ्रांसिसी महिलाओं को पूर्ण नागरिकता का अधिकार, जिसमें मताधिकार भी शामिल था, दिया गया ।[50]

ब्रिटेन में नारीवाद

1910 में महिलाएं कई प्रमुख चिकित्सा स्कूलो में भाग लेने भी गई थीं। 1915 में अमेरिकन मेडिकल एसोसिएशन ने महिला सदस्यों को स्वीकार करना भी शुरू कर दिया। 1918 के लोक प्रतिनिधित्व अधिनियम के अनुसार, महिलाओं को मतदान देने का अधिकार दिया गया, यदि वे संपत्ति की धारक और 29 वर्ष से अधिक आयु की थीं। वर्ष 1928 में यह अधिकार सभी महिलाओं को दिया गया जो 21 वर्ष से अधिक हैं ।[51]

अमेरिका में नारीवाद

1960 के महिला लिबरेशन मूवमेंट (Women's Liberation Movement (WLM)) के उददेश्य में प्रथम लहर नारीवाद के समानता का सिद्धान्त, ब्लैक अधिकार आंदोलन (Black Right Movement), नागरिक अधिकार और गुलामी विरोध (Civil Rights and anti-Slavery) एवं राजनीतिक व्यवस्था में परिवर्तन इत्यादि शामिल हो गए थे । इसके साथ ही पुरूषों की दुनिया से अलग विभिन्न नए राजनीतिक संगठनों, छोटे विरोधी दल, चेतना समूह, प्रत्यक्ष कार्रवाई समूह और वैकल्पिक समूहों का भी उदय हो चुका था । जिनका उददेश्य समाज में महिलाओं की भागीदारी और उनके अधिकारों की रक्षा करना था ।[52] इससे यह ध्यान में आता है कि पाश्चात्य जगत में पर्याप्त लम्बे संघर्ष के बाद महिलाओं को सामाजिक, आर्थिक आदि जीवन में स्थान प्राप्त हुए और अनेक स्थानों पर तो उनकी उपस्थिति आज भी नगण्य है या उसके योग्य ही नहीं समझी जाती है। इन परिस्थितियों में जब हम भारत के साथ तुलना करतें हैं तो भारत की स्थिति बहुत ही सुदृढ़ उभरकर हमारे सम्मुख आती है किन्तु उपनिवेशी वृतांत के चलते यह कमतर हो गई।

राजनीतिक क्षेत्रों में बृहद भारत की महिलाएँ और पश्चिम की महिलाएँ

देश का नाम	राष्ट्रीय प्रमुख का नाम	वर्ष
1. भारत	श्रीमती इन्दिरा गांधी	1966-77; 1980-84
2. श्रीलंका	श्रीमती सिरिमा बण्डारनायक (विश्व की प्रथम महिला प्रधानमन्त्री)	1960-65; 1970-77; 1994-2000
3.पाकिस्तान	बेनजीर भुट्टो	1988-90; 1993-96
4.बांग्लादेश	शेख हसीना	1996-2001; 2009-अभी तक
	खालिदा जिया	1991-96; 2001-2006
5.बर्मा	आंग-सांग-सूकी	2016-21(सेना द्वारा सत्ताच्युत किया गया)
6. श्रीलंका	श्रीमती चन्द्रिका कुमार तुंगा (बेटी) और उनकी माँ श्रीमती सिरि भावो भण्डार नामके (राष्ट्रपति) थीं (दोनों ने यह भूमिका एक साथ निर्वहन की थी)	1994 (प्रधानमंत्री) 1994-2005 (राष्ट्रपति)
1. अमेरिका	आज तक कोई महिला राष्ट्रपति नहीं बन सकीं	225 वर्ष से अधिक
2. इंग्लैण्ड	श्रीमती मार्गरिट थैचर (जो कि स्वयं का कार्यकाल भी पूरा न कर सकीं)	1979-90
	थेरेसा मे (समय पूर्व ही हटा दी गईं)	2016-19
3. फ्रांस	इडिथ क्रेसन	1991-92
4. जर्मनी	एंजेला मर्केल	2005- अभी तक

इस प्रकार यह भ्रमकारी है कि भारत में महिलाओं को यथेष्ट सम्मान प्राप्त नहीं था। यदि ऐसा नहीं था तो अनेक काम महिलाओं ने जो किए वे भारत की महिलाओं के ही द्वारा क्यों किए गए। भारत में ऐसा न केवल सामाजिक स्तर पर प्रचलित था बल्कि जैविक रूप से भी महिलाओं में यह गुण निर्कासित हो चुका था। किन्तु उपनिवेशी वृत्तान्त के चलते हमारी युवा पीढ़ी को काफी लम्बे समय से यही पढ़ाया जाता रहा है कि भारत में महिलाएं सदैव से ही दोयम श्रेणी की वस्तु रही हैं। यदि भारत का सम्पर्क पाश्चात्य जगत के साथ न हुआ होता तो भारत में नारी आज भी पद्दलित होती। यह भाव भारतीय जनमानस में कोई एक-दो दिन में विकसित नहीं हुआ है इसको विकसित करने में कई सौ वर्षों का समय लगा है।[53] और इस समय में जो प्रयास किए गए कालान्तर में वे ही प्रयास भारतीय शिक्षा व्यवस्था के माध्यम से अकादमिक जगत का विमर्श बने और वृहद वृतांत के रूप में हमारी युवा पीढ़ी के सम्मुख सिद्धान्तों या मान्यताओं के रूप में प्रस्तुत हुए। फलतः बहुत ही सहज-सरल रूप में वो सब जिसको साम्राज्यवादी प्रचारित-प्रसारित करना चाहते थे, भारत के युवाओं के मध्य में अकादमिक विमर्श के रूप में प्रचारित-प्रसारित होने लगा। इसलिए वास्तविकता के स्थान पर एक भ्रामक परिदृश्य न केवल निर्मित हुआ बल्कि उसने स्थैर्य भी प्राप्त कर लिया। इसलिए यह समीचीन है कि आज की युवा पीढ़ी संस्कृत वांगमय का विस्तार से अध्ययन करे जिससे वह अपनी समृद्ध विरासत से परिचित हो सके और पुनः विश्वगुरूत्व की श्रेणी को प्राप्त हो सके। और ऐसा न केवल भारत के लिए महत्वपूर्ण है बल्कि यह विश्व कल्याण के मार्ग भी प्रशस्त करेगा।

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वाल्मीकि रामायण में सुशासन के सूत्र

डॉ प्रो पवन कुमार शर्मा
आचार्य एवं अध्यक्ष
राजनीति विज्ञान विभाग
चौ. चरण सिंह विश्वविद्यलय
मेरठ

श्री राम भारत का पर्याय हैं। वे भारत की मर्यादा भी हैं और स्वयं भी वे भारत से मर्यादित हैं। वे भारत का अतीत, वर्तमान और भविष्य हैं। उन को केन्द्र में रखकर न केवल उनको अवतारी पुरूष मानने वालों ने महाकाव्य रचे हैं बल्कि उनको किंवदन्ती मानने वालों ने भी उनको एक ऐसा व्यक्तित्व माना है जो यद्यपि मिथ है तथावि लोक उससे आदृत है। तभी तो जहाँ एक ओर वाल्मीकि जैसा व्यक्तित्व जोकि सृष्टि का आदि कवि है वह उनपर प्रथम महाकाव्य रचता है वहीं दूसरी ओर 20 वीं सदी के भारत प्रेमी महान समाजवदी व्यक्तित्व डॉ० राम मनोहर लोहिया उन पर दो निबन्ध रामायण और राग, कृष्ण और शिव लिखते हैं। इनमें वे श्री राग को एक मर्यादित पुरूष निरुपित करते हैं।[1] यद्यपि वे श्री राम को 8 कलाओं का अवतारी पुरूष कहते हैं और इसलिए वे उनकी मर्यादा भी बताते हैं।[2] वहीं दूसरी ओर वाल्मीकि, रामायण में उन्हें एक ऐसे लौकिक राजकुमार के रूप में प्रतिष्ठापित करते हैं जो स्वयं की भी मर्यादा खींचता है और अन्यों को भी मर्यादित जीवन यापन करने की सीख देता है और जो ऐसा नहीं करता उसे वह शास्त्रोक्त शिक्षा देते हैं। इसलिए सृष्टि के पहले महाकाव्य के लेखन हेतु जब वाल्मीकि ने स्वयं का मानस बनाया तो देवर्षि नारद से उन्होंने संसार में सर्व श्रेष्ठ पुरूष के गुणों को बताते हुए प्रश्न पूछा कि मुने! संसार में गुणवान, वीर्यवान, धर्मज्ञ, उपकार मानने वाला, सत्यवक्ता, दृढप्रतिज्ञ, सदाचार युक्त, समस्त प्राणियों का हित साधक, विद्वान, सामर्थ्यशाली, एवं प्रियदर्शन पुरूष,

मनपर अधिकार रखने वाला, क्रोध को जीतने वाला, कान्तिमान, किसी की भी निन्दा न करने वाला तथा संग्राम में कुपित होने पर जिससे देवता डरते हैं। ऐसा पुरूष कौन है ?[3] ये तीनों श्लोक वाल्मीकि रामायण के बालकाण्ड के प्रथम सर्ग के हैं और इनमें वाल्मीकि जिस पुरूष को अपने महाकाव्य का नायक या केन्द्र मानकर रचना करना चाहते हैं उसके विषय में वे सभी विशेषण स्वयं ही चुनते हैं जोकि कुल 16 हैं।

भारत में ही नहीं अपितु सम्पूर्ण विश्व में ही श्रेष्ठता के मानक वे हैं जोकि जनकल्याणकारी हों। देश काल परिस्थिति के अनुसार ये न्यूनाधिक हो सकते हैं। किन्तु होते अवश्य हैं। इसलिए जब हम कोई भी कार्य प्रारम्भ करने के लिए उद्यत होते हैं तो उसमें परम आदर्श की अवस्था का भी मानक सुनिश्चित करते हैं। वाल्मीकि जब आदर्श पुरूष या श्रेष्ठ पुरूष का मानक निर्धारित करते हैं तो उसको वे स्वयं के मनोरूप ही चुनते हैं और इसी रामायण में जब रावण जैसा व्यक्ति जोकि घोर व्यक्तिवादी है वह भी राजा के गुण सामाजिक मानकों के ही अनुरूप बताता है[4] इस प्रकार यह तो सुनिश्चित है कि राजा के गुणों या किसी पुरूष के गुणों का निर्धारण चाहे व्यक्तिवादी करे या आदर्शवादी वह समान करते हैं, जोकि लोक को अच्छा लगने वाला हो। व्यक्तिवादी भी गुणों का निर्धारण तो वैसा ही करता है जैसा कि आदर्शवादी करता है। किन्तु अंतर मात्र इतना होता है कि आदर्शवादी स्वयं उन मानकों का अनुपालन करता है और व्यक्तिवादी उनका अनुपालन नहीं करता। रामायण में भी वाल्मीकि जिन 16 गुणों से विभूषित पुरूष के विषय में जानना चाहते हैं, उन गुणों को सर्व प्रथम हम

वर्गों में बांट लेते हैं जिससे महान पुरूष के मूल्यांकन में आसानी हो जावे। इन 16 गुणों को देखने पर यह संज्ञान में आता है कि इनके दो वर्ग सुगमता के दृष्टिकोण से बनाए जा सकते हैं। एक शारीरिक दृष्टिकोण से, दूसरे मानसिक दृष्टिकोण से।

1. शारीरिक दृष्टिकोणः- इस श्रेणी में उनके वीर्यवान, प्रियदर्शन, कान्तिमान, संग्राम में कुपित होने पर जिससे देवता डरते हों, को सम्मिलित किया जा सकता है।

2. मानसिक दृष्टिकोणः- गुणवान, धर्म यानि जो धर्म का ज्ञाता हो। यहाँ धर्म से अभिप्राय जो समत्व भाव रखता हो या जो अभ्युदय और निःश्रेयस दोनों का ध्यान रखता हो।[5] उपकार मानने

वाला यानि अपने सहायकों के प्रति जिसका हृदय विनम्र एवं सर्वस्व न्योछावर करने वाला हो। सत्यवक्ता, क्योंकि यही एकमात्र कल्याण कारी मार्ग है और यही सनातन धर्म भी है, मानव धर्म शास्त्री ने कहा है। दृढ़प्रतिज्ञ यानि एक बार जो निर्णय कर लिया उस पर अन्त तक डटे रहना। सदाचार पर चलने वाला, सर्वभूत हिते रत; (जो सभी में ईश्वर दर्शन करता हो या आत्मनः प्रतिकूलानि या आत्मवत् सर्वभूतेषु का भाव रखता हो वही सभी प्राणिगों का हित साधक हो सकता है) विद्वान, सामर्थ्यशाली (यानि शक्ति होने पर भी उसका दुरूपयोग न करने वाला) सर्वांग सुन्दर को ही प्रिय दर्शन कहा जाता है (यानि जिसके दर्शन मात्र से ही प्रिय होता हो) मन पर अधिकार रखने वाला (यानि जितेन्द्रिय) क्रोध को जीतने वाला (जो जितेन्द्रिय होगा वही राजा हो सकता है) कान्तिमान, परमशक्तिशाली (यानि जिसका संबन्ध न केवल देवताओं से बल्कि उपर्युक्त गुणों से विभूषित होने के कारण समय पडने पर देवताओं को भी जो भयभीत कर दे)।

इस प्रकार से वाल्मीकि के मन में एक ऐसा पुरूष समाया है जोकि सर्व गुण संपन होने के बाद भी मर्यादाओं का उल्लंघन न करे क्योंकि आदर्शों की प्रतिष्ठापना तो मर्यादित पुरूष ही कर सकता है। या यों कहें तो ज्यादा समीचीन प्रतीत होता है कि भारतीय समाज सभ्यताओं के दौर से निकलकर नए सांस्कृतिक परिवेश के पुष्टिकरण की ओर अग्रसर हो रहा था। इसलिए वाल्मीकि एक ऐसे महानायक पर काव्य रचना चाहते थे जो समाज में स्वयं के साथ-साथ अन्यों की भी मर्यादाएं सुनिश्चित करे; तभी तो वे एक ऐसा पुरूष ढूंढ़ रहे थे। जिसके कोप से देवता भी भयभीत हों। बेशक श्री राम आठ कलाओं के स्वामी हैं। कलाओं से अभिप्राय व्यक्तित्व में समाहित गुण तत्व से है। उपनिषद 16 कलाओं में 1. प्राण 2.श्रद्धा 3.पृथ्वी 4.अप 5.तेज 6. वायु 7. आकाश 8. इन्द्रिया 9. मन 10 अन्य 11. वीर्य 12. तप 13. मन्त्र 14.कर्म 15.लोक 16. नाम सम्मिलित करता हैं[6] और इनमें कौन सी 8 कलाएं श्री राम में समाहित थीं। यह ही जानने योग्य है किन्तु वे मर्यादा के पक्षधर थे, यह सुनिश्चित है, इसलिए वाल्मीकि अपने महाकाव्य के लिए एक ऐसे महानायक के विषय में नारद जी से प्रश्न करते हैं। तब नारद जी कहते है.- मुने! मैं आपके मनोरूप गुण वाले एक पुरूष को जानता हूँ, आप उसे सुनें। तब नारद जी ने इक्ष्वाकु वंश में उत्पन्न राम के विषय में बताना प्रारंभ किया। उन्होंने श्री राम के गुणों का वर्णन कुछ यों किया। उन्होंने कहा कि उनका नाम राम है, वे मन को वश में रखने वाले हैं, महाबलवान हैं, कान्तिमान है, धैर्यवान

और जितेन्द्रिय हैं। फिर कहते है कि वे बुद्धिवान है नीतिज्ञ हैं, वक्ता, शोभायमान, शत्रुसंहारक हैं। उनके कंधे मोटे और भुजाएँ बड़ी-बड़ी हैं, ग्रीवा शंखके समान है और ठोढी मांसल है। उनकी छाती चौड़ी है, धनुष बड़ी है, गले के नीचे की हड्डी मांस से छिपी है वे शत्रुओं का दमन करने वाले हैं। भुजाएँ घुटने से लम्बी हैं, मस्तक सुन्दर है, ललाट भव्य और चाल मनोहर है। उनका शरीर मध्यम और सुडौल है, रंग स्निग्ध है और वे बडे प्रतापी हैं। वक्ष स्थल भरा हुआ है। ऑखें-बडी बडी हैं। वे शोभायमान और शुभ लक्षणों से सम्पन्न हैं।, वे धर्म के ज्ञाता हैं, सत्य प्रतिज्ञ हैं, प्रजा के हित साधक है, यशस्वी, ज्ञानी पवित्र, जितेन्द्रिय और मन को एकाग्र रखने वाले हैं। प्रजापति के समान पालक, श्री संपन्न वैरि विध्वंसक, जीवों तथा धर्म के रक्षक हैं। स्वधर्म एवं स्वजनों के पालक हैं। वेद-वेदांगों के तत्त्व वेत्ता हैं, धनुर्वेद में प्रवीण हैं। वे सर्व शास्त्रों के तत्वो को जानने वाले हैं स्मरण-शक्ति से युक्त और प्रतिभा सपन्न है। सदाविचारी, उदार हृदयी, वाक चातुर्य, तथा सर्व लोकप्रिय हैं। वे, नदियाँ जैसे सागर से मिलती हैं वैसे ही सभी सदपुरूष उनसे आकर मिलते हैं। वे अपनी माता के आनन्द वर्धक हैं, गाम्भीर्य में समुद्र और धैर्य में हिमालय के समान हैं। वे भगवान विष्णु के समान बलवान हैं। उनका दर्शन चन्द्रमा के समान मनोहर है। क्रोध में कालाग्नि एवं क्षमा में पृथ्वी सदृश हैं। त्याग में कुबेर और सत्य में धर्मराज के समान है।[7]

वाल्मीकि को श्री राम के विषय में जब नारद मुनि बता रहे थे तो पहले उन्होंने, उनके बुद्धि विवेक सम्बन्धी गुणों का वर्णन किया। ये गुण कुल 80 हैं। फिर वे उनके शरीर शौष्ठव सम्बन्धी गुणों का बखान करते हैं और ये गुण भी 12 हैं। उसके बाद वे श्री राम के व्यक्तिगत गुणों का उल्लेख करते हैं जोकि कुल 18 हैं। इसके बाद वे उनके स्वभाव के विषय में बताते हैं जोकि संख्या में कुल 14 हैं। इस प्रकार श्री राम के विवेक सम्बन्धी गुणों, शरीर सौष्ठव एवं सौन्दर्य सम्बन्धी गुणों, उनके व्यक्तिगत गुणों के आधार पर जो स्वभाव बना उसके विषय में बताते हैं। इस प्रकार श्री राम के स्वभाव और गुणों की तुलना के आधार पर नारदमुनि उनके विषय में वाल्मीकि के सम्मुख एक महानायक किन्तु लौकिक पुरूष जोकि मर्यादाओं का पालन अपने विवेक के आधार

पर करता है, का वर्णन करते हैं और फिर वाल्मीकि ऐसे मर्यादा पुरूषोत्तम श्री राम को एक लौकिक पुरूष के रूप में अपने महाकाव्य में एक महानायक के रूप में प्रतिष्ठापित करते हैं।

वे श्री राम को भगवान की श्रेणी में नहीं मानते वे उन्हें एक लौकिक पुरूष ही मानते हैं; तभी तो ने उन्हें सुख-दुख, राग-द्वेष, मोह-माया, प्रेम-क्रोध आदि सांसारिक प्रपंचों से प्रभावित हुआ व्यक्ति प्रतिभागित करते हैं। इस शोध पत्र में उनके उपर्युक्त गुण दोषों के आधार पर ही वाल्मीकि रामायण के अयोध्या काण्ड के 100 वें सर्ग के श्री राम-भरत संवाद प्रसंग की सुशासन के सूत्र के रूप में व्याख्या करने प्रयास किए जाएगा। इसमें श्री राम का व्यक्तित्व न केवल उपर्युक्त गुणो के बल पर निखर कर हमारे सम्मुख प्रकट होता है बल्कि श्री राम के व्यक्तित्व में सम्मिलित मानवीय दुर्बलताओं यथा-भय, लाभ-हानि, सुख-दुख, हित-अनहित आदि को भी प्रगट करता है। एक विजिगीषु राजा का जैसा स्वभाव होना चाहिए वैसा व्यवहार करते हुए वे भरत के सम्मुख प्रस्तुत होते हैं। प्राचीन भारत में राजनय का व्यवहार किस प्रकार से किया जाता था इसका प्रत्यक्ष उदाहरण उन्होंने प्रस्तुत किया है। उन्होंने जिस प्रकार से भरत से वार्तालाप किया है वह राजनीतिक मनोविज्ञान का एक उत्कृष्ट उदाहरण है। श्री राम के उसी व्यवहार को शोध-पत्र के माध्यम से प्रगट करना ही मुख्य ध्येय है।

वाल्मीकि रामायण में श्री राम अपने अनुज भरत के साथ शिष्टाचार व्यवहार करते हैं और यहाँ पर सर्वप्रथम वाल्मीकि भरत की वेश-भूषा का वर्णन करते हुए लिखते हैं कि भरत ने भी वही रूप धारण किया हुआ है जो कि श्री राम धारण करके अयोध्या से वन को आए थे। यानि, जटा, चीर-वस्त्र धारित भरत ने चित्रकूट में श्री राम को देखते ही चरणों में दण्डवत प्रणाम किया। श्री राम ने भरत के इस सौंदर्य के फलस्वरूप उनको स्नेहभाव से उठाकर अपने हृदय से लगाया तथा उनके मस्तक को सूंघकर अपने निकट बैठाया। श्री राम ने इस व्यवहार से चक्रवर्ती साम्राज्य के युवराज को सर्व प्रकार से यह स्वष्ट करने का प्रयत्न किया कि तुम्हारी माता कैकयी द्वारा संपादित दुर्व्यवहार के बाद भी मेरे मन में तुम्हारे प्रति लेश-मात्र भी कलुषितता नहीं है और तुम्हारे औदार्यपूर्ण व्यवहार के प्रत्युत्तर में मेरा विशाल हृदय तुम्हारे स्वागत के लिए सदैव ही उत्सुक है; इसलिए तुम निःशंक होकर राज्य का सर्वविध कल्याण करो। किन्तु भरत के मन में विषाद तो है यह तो वे उनकी वेश-भूषा से समझ गए थे इसलिए उन्होंने भरत के प्रति बडप्पन का प्रदर्शन करते हुए संस्कारक्षम व्यवहार ही किया। लेकिन उनका यह भाव भी था कि वे अब आर्या

कैकयी पुत्र अयोध्या के युवराज भरत के सम्मुख हैं; इसलिए लोकाचार का व्यवहार करते हुए उन्होंने क्रमशः भरत के मन को समझना प्रारंभ किया।

यह आचरण उनमें राजा के गुणों की पुष्टि करता है जोकि वाल्मीकि, रामायण के प्रथम सर्ग में व्यक्त करते हैं और यही भाव उन्हें लौकिक महानायक के रूप में प्रतिष्ठापित करता है। यानि लौकिक महानायक क्षमतावान होते हुए भी लोकाचार को महत्त्व देता है। श्री राम अपने अनुज और अयोध्या के युवराज से क्रमश. जो जिज्ञासा व्यक्त करते हैं यह उनके वाक्यौशल का ही परिचायक है।

कुशलक्षेम

इस क्रम में उन्होंने सर्वप्रथम अयोध्या के चक्रवर्ती सम्राट और पिता दशरथ के विषय में प्रश्न पूछा हैं और उसका उत्तर भी स्वयं दिया कि "तात! पिताजी कहाँ थे कि तुम इस वन में आए हो"? बाद में उन्होंने स्वयं ही से प्रश्न करते हुए अपना उत्तर प्रस्तुत किया हैं। उनके जीते जी तो तुम वन में नहीं आ सकते थे।" श्री राम के द्वारा दिया गया यह उत्तर भरत को नानाविध श्री राम के सामर्थ्य से परिचित करवाता है। श्री राम का वाक कौशल्य इस सर्ग के प्रारंभ से अंत तक देखने को मिलता है। इसी सर्ग में उनके उच्चशिक्षित होने के विषय में स्पष्ट हो जाता है साथ ही दशरथ की मंशा की भी पुष्टि होती है कि वे श्री राम को लक्ष्मण के साथ वास्तव में अयोध्या का युवराज बनाना चाहते थे क्योंकि उच्च अध्ययन मात्र श्री राम ने ही प्राप्त किया था।, नहीं तो इस उपदेश के माध्यम से वे भरत को राजधर्म के विषय में उपदेश नहीं देते, उपदेश देने की आवश्यकता भी इस बात का द्योतक है कि वे इससे परिचित नहीं थे। श्री राम जैसा मर्यादा का पालन करने वाला व्यक्तित्व किसी भी हाल में महान गुरूओं से राजधर्म की शिक्षा प्राप्त करने के बाद भरत को राजधर्म का उपदेश नहीं करते। इसलिए श्री राम-भरत के अतिरिक्त वाल्मीकि रामायण का यह सर्ग वाल्मीकि कालीन भारत वर्ष के अन्य आयामों को भी उद्घाटित करता है। यथा उच्चशिक्षा सभी के लिए अनिवार्य नहीं थी चाहे वे राजकुमार ही क्यों न हो। चक्रवर्ती सम्राट दशरथ के चार पुत्रों में से दो ही (श्री राम-लक्षमण) उच्च शिक्षित थे। ये दोनों ही विश्वामित्र के द्वारा उच्च शिक्षित किए गए थे।[8]

फिर बहुत लम्बे समय बाद नाना के यहाँ से वापिस आए भरत की उन्होंने कुशल क्षेम पूछी और उनके वन में आने का कारण जानने की जिज्ञासा प्रकट की। यहाँ पर श्री राम लोकाचार और भावनात्मक संवाद को प्रतिष्ठापित कर रहे थे वहीं दूसरी ओर लक्ष्मण के मन में उठे संदेहों को समाप्त करने के लिए जो बाते उन्होंने लक्ष्मण को कही थीं, पुष्टि भी कर रहे थे। साथ ही वे भरत के साथ रथगं को और रथगं के साथ भरत को भावनात्मक संवेगों से साथ निमर्श प्रतिष्ठापन के लिए भी तैयार कर रहे थे। इसके बाद उन्होंने दशरथ के जीवित होने की पुष्टि की। क्योकि, मर्यादा पुरूषोत्तम की भूमिका पिता के रहते अलग होती और अभाव में अलग। इसलिए उनके जीवन की पुष्टि की, फिर उन्होंने उन सभी शंकाओं को व्यक्त किया जिनके कारण भरत को वन आना पड़ा। यहाँ पर उन्होंने राज्य की कुशलता के साथ साथ पुनः भरत से पिता की सेवा-सुश्रुषा के विषय में पुष्टि की क्योंकि अभी-तक श्री राम के द्वारा सामान्य स्नेहिल व्यवहार के बाद भी भरत ने अपना मंतव्य व्यक्त नहीं किया था। इसलिए भी राम समस्त शंकाओं के रहते हुए भरत के साथ न केवल संवाद संस्थापन का प्रयास कर रहे थे बल्कि वे सर्वनिष्ठ इसे स्वीकार भी करें ऐसा वातावरण भी निर्मित कर रहे थे।

अगले श्लोक में वे महाराज दशरथ के गुण वैशिष्टय यानि धर्म परायण, राजसूय एवं अश्वमेघ के अधिष्ठाता तथा सत्य प्रतिज्ञ कहकर वे स्वयं को और भरत को उनकी कीर्ति के साथ न केवल जोड़ रहे थे बल्कि वे भरत को कुछ धर्म से इतर करने से रोकने की चेतावनी भी पिता के गुणों के माध्यम से दे रहे थे। लेकिन भरत के द्वारा अभी तक कोई भी प्रतिक्रिया व्यक्त नहीं की गई थी। फिर उन्होंने वशिष्ठ जी जोकि इक्ष्वाकु वंश के आचार्य और महातेजस्वी थे, के स्वागत सम्मान के विषय में प्रश्न किया है। यहाँ पर यह विषय थोड़ा ध्यान देने योग्य है कि वशिष्ठ एक व्यक्ति हैं या परंपरा (School of Thought) क्योंकि वे ऋग्वैदिक ऋषि थे और श्री राम का जन्म त्रेतायुग में हुआ था तथा इक्ष्वाकु वंश भी बहुत ही प्राचीन था। विषय की तथ्यगत प्रस्तुति हेतु यह विचार परंपरा जोकि जैविक या विधा पर अवलंबित होती थी, के अनुरूप प्रतीत होती है।

प्रारंभिक रूप में श्री राम ने राज्य, महाराज एवं इक्ष्वाकु वंश के पूज्य वशिष्ठ के विषय में जानकारी प्राप्त करने का प्रयत्न किया किन्तु भरत के द्वारा कोई भी उत्तर प्राप्त नहीं हुआ। इसलिए श्री राम ने भरत के दृष्टिकोण से थोड़ा संवेदनशील विषय माताओं के संबन्ध में प्रगट किया। सर्वप्रथम उन्होंने माता कौसल्या के सुख, उत्तम संतान वाली (लक्ष्मण-शत्रुघ्न) सुमित्रा की प्रसन्नता एवं

आर्या कैकयी देवी भी आनन्दीत हैं।" यहाँ पर यह ध्यातव्य है कि श्री राम जैसे आदर्श व्यक्तित्व ने भी अपनी माताओं के विषय में जानकारी लेते हुए पृथक-पृथक विशेषणों का प्रयोग किया हैं। माता कौशल्या के सुख (जिसका पुत्र युवराज बनने वाला था किन्तु वन चला गया और स्वयं जोकि पटरानी थी वह न केवल पति को खोकर वैधव्य को प्राप्त हो गई बल्कि राजमहिषी के पद से भी च्युत हो गईं) की जानकारी नाही। सुमित्रा को उत्तम संतानों वाली कहकर प्रसन्नता की बात की (सुमित्रा के लिए प्रसन्नता विशेषण इसलिए लगाते हैं क्योंकि उनके पुत्रों को किसी भी अनरथा में राजसुख प्राप्त नहीं होता; लक्ष्मण और शत्रुघ्न दोनों ही अपने से बड़े श्री राम भरत के सहायक ही रहते। परिवर्तन मात्र इतना हुआ कि श्री राम के साथ लक्ष्मण को वन आना पड़ा) और सबसे अन्त में उन्होंने आर्या कैकयी देवी के आनन्द की बात की। यहाँ तक आते-आते श्री राम जैसा व्यक्तित्व भी वितृष्णा भाव को या तो नियन्त्रित नहीं कर पाया या वे भरत के मन के उद्वेलन को उस समय के सबसे संवेदनशील चरित्र पर लाक्षणिक कटुक्ति करके बाहर लाना चाहते थे; इसीलिए उन्होंने आर्या और देवी उपसर्ग और प्रत्ययों के साथ आनन्द शब्द का प्रयोग किया और जब देखा कि भरत अब भी कोई प्रत्युत्तर या प्रतिक्रिया नहीं कर रहे तब उन्होंने विषय को आगे बढ़ाया हैं। इस प्रकार से श्री राम ने सर्वविध भरत के मर्म को स्पर्श करने के प्रयास किए।

पुरोहित एवं कर्मकाण्ड में संलग्न श्रेष्ठ जनों की कुशलक्षेम

प्राचीन भारतीय परंपरा में यज्ञों का अत्यधिक महत्व था क्योंकि यज्ञ भारतीय संस्कृति का सदैव से आधार रहा है। इसलिए यज्ञ से सम्बन्धित सभी व्यवस्थाओं का समुचित प्रबंधन हो इस दृष्टि से श्री राम ने भरत से प्रश्न किया कि धर्मपरायण पुरोहित, हवन विधि के ज्ञाता, बुद्धिमान और सरल स्वभाव वाले ब्राह्मण जोकि अग्निहोत्र आदि के कार्य में नियुक्त हैं, वे समय पर आकर क्या तुम्हें यह सूचित करते हैं कि इस समय अग्नि में आहुति दे दी गयी और अब अमुक समय पर हवन करना है? श्री राम की जिज्ञासा से दो बात स्पष्ट होती हैं कि एक तो, हवन आदि के योग्य व्यक्ति नियुक्त होते थे और अग्निहोत्र आदि का समय प्रतिदिन के हिसाब से परिवर्तित होता था; तभी तो उन्होंने यह पूछा कि अग्निहोत्र के समय होने की सूचना समय-समय पर मिलती तो है न ?

वृद्धों, देवताओं, पितरों, भृत्यों, गुरूजनों, पिता सदृश आदरणीय वृद्धों, वैद्यों और ब्राह्मणों का सम्मान तो करते हो ? श्री राम के द्वारा व्यक्त की गई जिज्ञासा यह प्रकट करती है कि अवैदिक

परंपरा भी विकसित होने लगी थी इसलिए लोग उपरिवर्णित सभी का अनादर या अवहेलना करते होंगे। श्री राम के द्वारा भरत से यह पूछा जाना इसकी पुष्टि करता है और श्री राम भरत के आचरण से आश्वस्ति चाहते थे कि वे तो ये सब नहीं करने लगे हैं। क्योंकि शास्त्र कहता है कि इन सबका सम्मान व्यक्ति आयु, विद्या, यश और बल बर्धक होता है।

श्री राम भरत से अपने बाल्यकाल के शिक्षक सुधन्वा जोकि अर्थशास्त्र (राजनीति) के ज्ञाता थे और जिन्होंने प्रत्येक निषग की प्रारंभिक शिक्षा इन चारों भाइयों को दी, के सम्मान के विषय में पूछते हैं क्योंकि प्रायः ये देखने में आता है कि सभी युवावस्था के शिक्षकों को तो स्मरण रखते हैं किन्तु बाल्यावस्था के शिक्षकों को भूल जाते हैं। इससे यह ध्यान में आता है कि उपर्युक्त कार्यों में संलग्न व्यक्तियों का भी राजा के द्वारा सम्मान किया जाना चाहिए; ऐसा न करने पर राज्य में अव्यवस्था निर्माण हो सकती है।

मन्त्री के गुण, कर्तव्य आदि

श्री राम मन्त्री को भी राजा के ही समान शूरवीर, कुलीन, हाव-भाव-भंगिमा से मन की बात जानने वाला, शास्त्रज्ञ, जितेन्द्रिय आदि गुणों से विभूषित मानते थे; तभी तो उन्होंने भरत से इनका उल्लेख करते हुए मन्त्रियों की नियुक्ति के विषय में पूछा है। राजा के लिए मन्त्री के महत्व का प्रतिपादन करते हुए श्री राम ने कहा वे मात्र मन्त्रणा ही नहीं अपितु उसकी गोपनीयता के संरक्षण में मन्त्रियों के साथ सचिवों की भूमिका भी महत्वपूर्ण मानते थे। वाल्मीकि, वे मन्त्रिशिरोमणि अमात्य का प्रयोग अमात्य (सचिव); क्योंकि मन्त्रि और अमात्य के गुणों में बहुत भेद है।[9] इस पद पर अपने निकटस्थ को साथ रखना चाहिए, क्योंकि स्वयं (अकेले) या बहुतों के साथ विचार करने से निर्णय गलत हो सकता है। मन्त्रियों के शान्त स्वभाव और गाम्भीर्य को वे सर्वाधिक महत्वपूर्ण मानते थे। इसके अतिरिक्त अनेक के स्थान पर मात्र एक ही विद्वान को सहयोगी बनाने का उन्होंने परामर्श दिया क्योंकि राजा के लिए गुणों का ही महत्व होता है संख्या का नहीं। इसीलिए उन्होंने पुनः कहा कि व्यक्तियों के गुणानुसार ही तुमने उनको पदासीन किया है न ? ऐसा तो नहीं कि तुमने अधम को अत्तम और उत्तम को अधम स्थान पर आसीन कर दिया हो ? नियुक्ति में अनुवांशिक के सिद्धान्त को मान्यता प्रदान की गई है।

सेनापति के गुण/सैन्य संबन्धी विचार

वे कहते हैं कि सेनापति को सदैव संतुष्ट, शूरवीर, धैर्यवान, बुद्धिमान, पवित्र, कुलीन एवं स्वअनुरागी, एवं रणकर्म में दक्ष होना चाहिए। इसके अतिरिक्त अन्य सैनिक भी तुम्हारे द्वारा परीक्षित और प्रशिक्षित तो हैं। सबसे महत्वपूर्ण बात जो उन्होंने कही वह बहुत महत्वपूर्ण थी कि उनके सम्मान, वेतन तथा अन्य मदों का समय पर प्रदान किया जाना; क्योंकि समय का जीवन में अत्यधिक महत्व होता है। समय निकल जाने पर निवेश का महत्त्व नहीं रह जाता है और सेना में विद्रोह हो सकता है। तथा राजा स्वयं सैनिकों को प्रशिक्षित करे जिससे वह सैनिकों की क्षमता से परिचित हो सके।

राजदूत के गुण

राजदूत के विषय में वे कहते हैं कि उसे देश का ही निवासी होना चाहिए, वह विद्वान हो, कुशल, प्रतिभाशाली एवं यथार्थ भाषण करने वाला तथा विवेकी हो। क्योंकि राजदूत के बल पर ही परराष्ट्रों के साथ सम्बन्धों का निर्धारण होता है और राजा के लिए पड़ोसी राज्यों का अत्यधिक महत्त्व होता है।

राजा के कर्तव्य/गुण

वे राजा के लिए भी कुछ गुण-निर्धारित करते हैं। यथा-राजा को निद्रा जयी होना चाहिए, रात के अन्तिम प्रहर में उसे अर्थ चिन्तन करना चाहिए, सोचे हुए कार्यों को परामर्श उपरांत शीघ्र ही संपन्न कर देना चाहिए। कार्य की सिद्धि पर ही उसका अन्यों को भान होना चाहिए। दण्ड सरल किन्तु परिणामकारी होना चाहिए। लोभी और राज्य को हड़पने वाले का तत्काल बध करना चाहिए। राजा को शत्रुपक्ष के 18 (मन्त्री, पुरोहित, युवराज, सेनापति, द्वारपाल, अन्तर्वंशिक (अन्तः पुर का अध्यक्ष) कारागाराध्यक्ष, कोषाध्यक्ष, यथा योग्य कार्यों में धन का व्यय करने वाला सचिव, प्रदेश (पहरेदारों का प्रमुख) नगराध्यक्ष (कोतवाल), कार्य निर्माण कर्ता (शिल्पियों का प्रमुख) धर्माध्यक्ष, सभाध्यक्ष, दण्डपाल, दुर्गपाल, राष्ट्र-सीमापाल, तथा वनरक्षक तथा अपने 15 तीर्थ (सेनापति, द्वारपाल अंतः पुराध्यक्ष, कारागारध्यक्ष, धनाध्यक्ष राजा कि आज्ञा से सेवकों को

काम बताने वाला, वादी-प्रतिवादी से पूछताछ करने वाला प्राड्विवाक) तीन-तीन गुप्त चरों से जासूसी करवानी चाहिए। तीन-तीन से इसलिए कि इनमें से दो की बात एकसी जानकर निर्णय लिया जा सके। राज्य निष्कासित व्यक्तियों के वापिस आने पर उनको निर्बल तो नहीं मानते, यदि ऐसा है तो यह हानिकारक हो सकता है क्योंकि बाहर रहकर हो सकता है उसने विरोधियों से संबन्ध बना लिये हों। इन संबन्धों का उपयोग समय आने पर तुम्हारे विरूद्ध कर सकते है। नास्तिकों के संग से बचना चाहिए क्योंकि वे भोग में आसक्त कर देते हैं।

अर्थ के दृष्टिकोण से राजा को कृषकों एवं वैश्यों के प्रति मृदु एवं सरल होना चाहिए जिससे वे राज्य की समृद्धि में सहयोगी हो सकें। सभी के लिए लोक कल्याण के कार्यों का तो संपादन करते हो क्योंकि राजा का यही प्रमुख कर्तव्य होता है।

स्त्रियों की संतुष्टि एवं संरक्षण-संवर्द्धन तथा एक सीमा के बाद उन पर विश्वास न करने को कहते है क्योंकि वे स्वाभाविक रूप से ही सरल होती है।

पशुधन के प्रति राजा को लोलुप होना चाहिए क्योंकि वे न केवल सेना के लिए महत्वपूर्ण हैं बल्कि उनसे अर्थोपार्जन में भी सहयोग मिलता है तथा परिस्थितिकि भी ठीक रहती है। लोक दर्शन का कार्य तो करते हो। कर्मचारियों के प्रति सम्यक दृष्टि रखनी चाहिए। सभी दुर्गो की नानाविध चिन्ता तो करते हो। आय से अधिक व्यय तो नहीं है और खजाना अपात्र के हाथ में तो नहीं है। धर्म के फलन में धन का व्यय तो करते हो न ? निर्दोष को दण्डित तो नहीं करते। चोर सजा तो पाता है न? निर्धन को न्याय तो मिलता है न ? क्योंकि निर्दोष को दण्ड देने से धर्म का नाश होता है। वृद्ध पुरूषों, बालकों एवं प्रधान वैद्यों के सम्मान की चिन्ता तो करते हो न ? सप्तजनों (गुरू, वृद्ध, तपस्विगों, देवताओं, अतिथियों चैत्य, वृक्षों, रागरत पूर्णकाग ब्राह्मणों) को नमस्कार तो करते हो न ? धर्म-अर्थ का सही नियमन तो करते हो न ? तथा धर्म-अर्थ-काग का समयानुसार चिंतन तो करते हो संपूर्ण नगर तुम्हारे लिए कल्याण की कामना तो करता है न ?

राजा के दोष

आगे राजा के दोषों का बखान करते हैं और बताते हैं कि

1.**दशवर्ग-** काम से उत्पन्न होने वाले दस दोषों को दशवर्ग कहते है। ये राजा के लिये त्याज्य हैं। आखेट, जुआ, दिनमें सोना, दूसरों की निन्दा करना, स्त्री में आसक्त होना, मद्यपान, नाचना, गाना, बाजा बजाना और -व्यर्थ घूमना।

2. **पंचवर्ग-** जलदुर्ग, पर्वतदुर्ग, वृक्षदुर्ग, ईरिणदुर्ग और धन्वदुर्ग--ये पाँच प्रकार के दुर्ग पंचवर्ग कहलाते हैं। इनमें आरम्भ के तीन तो प्रसिद्ध ही है। जहाँ किसी प्रकार की खेती नहीं होती, ऐसे प्रदेश को ईरिण कहते हैं। बालू से भरी मरुभूमिको धन्व कहते हैं। गर्मी के दिनो मे वह शत्रुओं के लिये दुर्गम होती है। इन सब दुर्गों का यथा समय उपयोग करके राजा को आत्मरक्षा करनी चाहिये।

3. **चतुर्वर्ग-** साम, दान, भेद, और दण्ड--इन चार प्रकार की नीति को चतुर्वर्ग कहते हैं।

4. **सप्तवर्ग-** राजा, मंत्री, राष्ट्र, किला, खजाना, सेना और मित्रवर्ग---ये परस्पर उपकार करने वाले राज्य के सात अंग है। इन्हीं को सप्तवर्ग कहा गया है।

5. **अष्टवर्ग-** चुगली, साहस, द्रोह, ईर्ष्या, दोषदर्शन, अर्थदूषण, वाणीकी कठोरता और दण्ड की केठारता--ये क्रोध से उत्पन्न हैने वाले आठ दोष अष्टवर्ग माने गये हैं। किसी-किसी के मत में खेती की उन्नति करना, व्यापार को बढ़ाना, दुर्ग बनवाना, पुल निर्माण कराना, जंगल से हाथी पकड़कर मँगवाना, खानों पर अधिकार प्राप्त करना, अधीन राजाओं से कर लेना और निर्जन प्रदेश को आबाद करना--ये राजा के लिये उपादेय आठ गुण ही अष्टवर्ग हैं।

6. **त्रिवर्ग-** धर्म, अर्थ और काम को अथवा उत्साह-शक्ति, प्रभुशक्ति तथा मन्त्रशक्ति को त्रिवर्ग कहते हैं।

7. **विद्या-** त्रयी, वार्ता और दण्डनीति-ये तीन विद्याएँ हैं। इनमें तीनों वेदों को त्रयी कहते हैं। कृषि और गोरक्षा आदि वार्ता के अन्तर्गत हैं तथा नीतिशास्त्र का नाम दण्डनीति है।

8. **षाडगुण्य**- संधि, विग्रह, यान, आसन, द्वैधीभाव और समाश्रय--ये छः गुण हैं। इनमें शत्रु से मेल रखना संधि; उससे लड़ाई छेड़ना विग्रह, आक्रमण करना यान, अवसर की प्रतीक्षा में बैठे रहना आसन, दुरंगी नीति बर्तना द्वैधीभाव और अपने से बलवान् राजा की शरण लेना समाश्रय कहलाता है।

9. **पाँच दैवी बाधाएँ**- आग लगना, बाढ़ आना, बीमारी फैलना, अकाल पड़ना और महामारी का प्रकोप होना--ये पाँच दैवी बाधाएँ हैं। राज्य के अधिकारियों, चोरों, शत्रुओं और राजा के प्रिय व्यक्तियों से तथा स्वयं राजा के लोभ से जो भय प्राप्त होता है, उसे मानवी बाधा कहते हैं।

10. शत्रु राजाओं के सेवकों में से जिनको वेतन न मिला हो, जो अपमानित किये गये हों, जो अपने मालिक के किसी बर्ताव से कुपित हों तथा जिन्हें भय दिखाकर डराया गया हो, ऐसे लोगों को मनचाही वस्तु देकर फोड़ लेना राजा का कृत्य (नीतिपूर्ण कार्य) माना गया है।

11. विंशतिवर्ग बालक, वृद्ध, दीर्घकालका रोगी, जातिच्युत, डरपोक, भीरु मनुष्यों को साथ रखने वाला, लोभी-लालची लोगों को आश्रय देने वाला, मंत्री, सेनापति आदि प्रकृतियों को, असंतुष्ट रखने वाला, विषयों में आसक्त, चंचलचित्त मनुष्यों से सलाह-लेनेवाला, देवता' और ब्राह्मणों की निन्दा करने वाला, दैवका मारा हुआ, भाग्य के भरोसे पुरुषार्थ न करने वाला, दुर्भिक्षसे पीड़ित, सैनिक-कष्ट से युक्त (सेनारहित), स्वदेशमें न रहने वाला, अधिक शत्रुओंवाला, अकाल (क्रूर ग्रहदशा आदि से युक्त) और सत्यधर्म से रहित-ये बीस प्रकार के राजा संधिके योग्य नहीं माने गये-हैं। इन्हींको विंशतिवर्ग के नाम से कहा गया है।

12. **प्रकृतिमण्डल**- राज्य के स्वामी, अमात्य, सुहृद्, कोष, राष्ट्र, दुर्ग और सेना--राज्य के इन सात अंगों को ही प्रकृतिमण्डल कहते हैं। किसी-किसी के मत में मंत्री, राष्ट्र, किला, खजाना और दण्ड--ये पाँच प्रकृतियाँ अलग हैं और बारह राजाओं के समूह को मण्डल कहा है।

13. **द्वैधीभाव और समाश्रय**- ये इनकी योनिसंधि हैं और यान तथा आसन इनकी योनिविग्रह हैं, अर्थात् प्रथम दो संधिमूलक और अन्तिम दो विग्रहमूलक हैं।

इस प्रकार से श्री राम भरत को जोकि राज्य कार्य में दक्ष नहीं थे को भली भांति सुशासन के सूत्रों के द्वारा दक्ष बनाने का प्रयास करते हैं। क्योंकि, भरत जी को तो स्वतन में भी यह आशा नहीं थी कि एक दिन उन्हें अयोध्या जैसे विशाल साम्राज्य का युवराज बनना होगा। जिसका श्री राम जैसा योग्य एवं कुशल ज्येष्ठ भ्राता हो उसके लिए यह सब स्वपन जैसा ही था। अतएव जब श्री राम भरत को ये सब समझा रहे थे तो वे शान्तभाव से सभी कुछ सुन कर उसे आत्मसात करने का प्रयत्न कर रहे थे। श्री राम जी अनुपस्थित में भरत ने जिस प्रकार से अयोध्या नगर की सीमा से बाहर नन्दीग्राम नामक अरण्य में शासन सत्ता का संचालन किया था यह आज भी अनुसरणीय हैं। श्री राम ने जिन सूत्रों को यहाँ पर स्पष्ट किया है बाद में वे महाभारत, शुक्र, कौटिल्य, में भी प्रकारांतर से उल्लेखित हुए हैं। आज भी शासन सम्बन्धित नीतियों में इनका महत्त्वपूर्ण स्थान है; विशेषकर लोककल्याणकारी राज्य के सन्दर्भ में। इस प्रकार वाल्मीकि रामायण में वर्णित सुशासन के सूत्र जितने तब प्रासांगिक थे उतने ही आज प्रासंगिक हैं; इसमें कोई सन्देह नहीं है।

संदर्भ

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भारत के अतीत का विऊपानिवेशी आख्यान : पाश्चात्य विद्वानों के विशेष सन्दर्भ में

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जैसा कि हमों विदित ही है कि बहुत लंबे समय तक भारत ने विश्व का न केवल ज्ञान के क्षेत्र में मार्गदर्शन किया बल्कि वह व्यापार के क्षेत्र में भी 18 वीं सदी तक प्रथम स्थान पर रहा[1] । ज्ञान विज्ञान के क्षेत्र में भी उसके नाम अनेक कीर्तिमान अंकित हैं । किंतु भारतीय शिक्षा में ये सब बातें सम्मिलित ही नहीं कि गईं । भारतीय विद्यार्थियों को तो बस यही पढ़ाया जाता रहा कि भारत की खोज वास्को डी गामा ने की, जाति व्यवस्था भारत का अभिशाप है, अंग्रेजों के आने से पूर्व भारतीय जंगलियों का जीवन जीते थे, अंग्रेजों ने हमें एक किया, नहीं तो भारत अनेक टुकड़ों में बंटा हुआ था और सबसे बड़ी बात तो यह कि भारत एक राष्ट्र तो कभी नहीं रहा आदि । जब विद्यार्थियों को बचपन से यही सब पढ़ाया और सिखाया जाएगा तो वे भी इस सब पर विश्वास करते हुए घर परिवार में भारत की विशेषताओं के आख्यानों को हास्यास्पद मानने लगते हैं और पश्चिम के गुण वैशिष्ट्य के आगे नतमस्तक हो जाते हैं । 1947 में भारत स्वतन्त्रता को प्राप्त हुआ । यह परिप्रेक्ष्य तभी बदल जाना चाहिए था किन्तु बदला नहीं । गद्यपि 1948 में डॉ राधाकृष्णन आयोग की रिपोर्ट में[2] इन सब बातों पर विस्तार से प्रकाश डाला गया फिर उसके बाद 1964 में कोठारी आयोग[3] में भी यही सब मुद्दे उठाए गए । किन्तु न जाने क्यों इन को व्यवहार में नहीं लाया गया । 1947 से 2021 तक बहुत लंबा समय बीत गया, इन सब बातों को लिखे हुए लेकिन कुछ नहीं हुआ । 2021 में भारत के स्वातन्त्र्य का अमृतोत्सव वर्ष प्रारम्भ हुआ है जोकि 2022 में पूर्ण होगा । यह सही अवसर है कि जो कार्य 1947 में नहीं हुआ जो कार्य 1972 में रजत जयंती के अवसर पर भी नहीं हुआ और जो कार्य भारत के स्वातन्त्र्य के स्वर्ण

जयंती वर्ष 1997 में भी नहीं हो पाया वह भारत के स्वातन्त्र्य के अमृतोत्सव के वर्ष में पूर्ण हो रहा है। भारत की राष्ट्रीय शिक्षा नीति 2020 राष्ट्र को जुलाई 20 में समर्पित हो चुकी है और अधिकांश राज्यों में उसका क्रियान्वयन भी प्रारम्भ हो गया है। यही सही अवसर है कि भारत की तरुणाई को उसके स्वर्णिम अतीत से परिचित करवाया जाए, वह भी पाश्चात्य निद्रानों की दृष्टि से। उसी को दृष्टिगत रखते हुए यह आलेख लिखा जा रहा है जिससे भारत के गौरवशाली अतीत से परिचित हुआ जा सके।

ईस्ट इंडिया कंपनी की स्थापना दिसम्बर 1600 में भारत के साथ व्यापार करने के लिए हुई थी और ब्रिटिश रानी ने इसको 15 वर्ष का आज्ञा पत्र भारत के साथ व्यापार करने के लिए दिया था[4]। इस आज्ञा पत्र का नवीनीकरण होना था। इसके नवीनीकरण के पूर्व भारत के तत्कालीन शासक से भी व्यापार करते रहने देने की अनुमति चाहिए थी। इस अनुमति को प्राप्त करने के लिए ब्रिटिश रानी एलिजाबेथ का विशेष दूत सर टॉमस रो 1614 में भारत आया था। उस समय दिल्ली की सत्ता पर जहांगीर का शासन था। रो जब जहांगीर से आगरे में मिला तो उसके दरबार की शान शौकत के सामने रानी एलिजाबेथ के दरबार को फीका पाया। कुछ समय बाद जब वह जहाँगीर से मिलने अजमेर गया, जहाँ वह तंबुओं के द्वारा स्थापित शहर में ठहरा हुआ था। तो उसने इतना सुंदर तम्बुओं का शहर पहले नहीं देखा था। वह यहां के कारीगरों की कला देख कर अचंभित रह गया[5]। इस शहर की समृद्धि ने भी उसे प्रभावित किया।

इस प्रकार से वह इंग्लैंड, जिससे हमारा समाज आज इतना प्रभावित रहता है, के रानी के महल की 17वीं सदी में जो दशा थी, उसका वर्णन रो अपने संस्मरण में जिस प्रकार से करता है उससे इंग्लैंड के पिछड़े पन का अनुमान सहजता से लगाया जा सकता है। वह लिखता है की बादशाह के दरबार में सभी लोग कुछ न कुछ भेंट दे रहे थे जो सभी बेशकीमती थीं किन्तु जो भेंट मैं लेकर गया था वह अन्यों की तुलना में बहुत हल्की थी और बादशाह ने उस पर कोई ध्यान दिए बिना किनारे रखवा दिया[6]।

1757 में प्लासी की झड़प के 3 दिन बाद जब क्लाईव ने मुर्शिदाबाद के बाजार में अपनी शोभायात्रा के रूप में कदम रखा तो वह वहां की चकाचौंध को देखकर दंग रह गया और उसने मुर्शिदाबाद के बाजार की तुलना में इंग्लैंड के बाजार को कमतर पाया[7]। 18वीं सदी तक भारत

की समृध्दि विश्व के किसी भी देश की समृद्धि से कहीं अधिक थी। जबकि भारत में विदेशियों के द्वारा लूट का कारोबार लम्बे समय से चल रहा था। इस समृद्धि ने ही विदेशियों को भारत की ओर आकृष्ट किया था। प्लासी की लूट में ही अंग्रजों ने सात सौ संदूकों में खजाने को भरकर सौ किश्तियों में लादकर अपने जहाज़ के द्वारा इंग्लैंड भेजा था। जो कुल 72,71,666 चांदी के सिक्के थे[8]।

वर्ष 1783 में ब्रिटिश ईस्ट इंडिया कम्पनी के कलकत्ता स्थित सर्वोच्च न्यायालय के प्रमुख न्यायाधीश बनकर भारत आने वाले सर विलियम जोन्स भारत से बहुत अधिक प्रभावित थे। उनके प्रभावित होने का इससे ही पता चलता है कि जब वे भारत की यात्रा कर रहे थे तो पानी के जहाज में वे उन कार्यों की सूची बना रहे थे जोकि उनको भारत आकर करने थे। उस सूची में सम्मिलित कामों में हिन्दू मुस्लिम कानून, प्राचीन पाण्डुलिपियां, आधुनिक राजनीति, भारत का भूगोल, चिकित्सा, रसायन, सर्जरी, भारतीयों का शारीर विज्ञान व रचना सम्बन्धी ज्ञान, उनकी कविताएँ और संगीत शामिल था[9] और यह सब बिना संस्कृत के ज्ञान के संभव नहीं था। उन्होंने भारत आकर सँस्कृत भाषा सीखी और पाया कि सँस्कृत भाषा ग्रीक और लैटिन की तुलना में अधिक परिष्कृत और व्याकरण सम्मत तथा अन्य भाषाओं के लिए अनुकरणीय है[10]। वे यह भी मानते थे कि फ़ारसी भाषा के शब्दों की व्युत्पत्ति सँस्कृत की मूल धातुओं से ही हुई है[11]। उन्होंने महाकवि कालिदास विरचित नाटक अभिज्ञान शाकुंतलम का अंग्रेजी अनुवाद किया और उस अनुवाद को पढ़कर जर्मन कवि गेटे ने उसे विश्व की सर्वोत्तम कृतियों में से एक पाया[12]। जोन्स ने भारत को सदियों से ज्ञान का केंद्र माना। वे लिखते हैं कि यूनान के विद्वान ज्ञान प्राप्ति के लिए मिस्र आते थे और मिस्र के विद्वान इसके लिए गंगा जमुना के किनारे[13]। इस प्रकार से वे भारत को ज्ञान का अजस्र स्रोत मानते थे। श्रीमद्भगवद्गीता को वे संसार की श्रेष्ठतम पुस्तक मानते थे और उसको मूल रूप में पाकर उन्हे बहुत प्रसन्नता हुई थी[14]। विधि शास्त्र के रूप में वे मनुस्मृति एवं नीतिशास्त्र के रूप में हितोपदेश के भी प्रशंसक थे[15]। यहां के गणित और ज्योतिष से भी वे बहुत अधिक प्रभावित थे और लिखते हैं कि अभी हमें पुरी तरह से न्यूटन पर गर्व नहीं करना चाहिए क्योंकि भारत में उपलब्ध सूर्य सिद्धांत का अभी अंग्रेजी अनुवाद नहीं हुआ है[16]। इस प्रकार से विलियम जोन्स से बहुत सारी बातें अपने साहित्य में भारत के विषय में सकारात्मक लिखी हैं। इतना ही नहीं जो यूनानी फिलॉसफी पूरे यूरोप के ज्ञान का आधार रही है उस को वे षड दर्शन से प्रभावित मानते थे और तुलना करते हुए लिखते है कि गौतम के न्याय का सम्बन्ध अरस्तू, कणाद के वैशेषिक दर्शन का सम्बन्ध थलेस, जैमिनी के पूर्व मीमांसा का सम्बन्ध सुकरात, व्यास के उत्तर मीमांसा का सम्बंध प्लेटो, कपिल के सांख्य का सम्बंध पाइथागोरस, और पतंजलि के योग का सम्बन्ध जेनो के स्टोइक से है[17]। भारत के देवी देवताओं की साम्यता की भी बात वे प्राचीन यूनान के देवी देवताओं से करते हैं[18]। वे पहले ऐसे व्यक्ति थे जिन्होंने भाषा वैज्ञानिक

आधार पर आर्यों का भारत से बहिर्गमन का सिद्धांत दिया था[19] वे यूनानी लेखकों के हवालों से भारतीयों को सर्वाधिक बुद्धिमान मानते थे[19A]। इस प्रकार नानाविध उन्होंने भारत की प्रशंसा की है। 1775 में भारत में ही जन्में एच०एच० विल्सन भी भारत को एक समृद्ध और शांतिप्रिय देश मानते थे जोकि अपनी स्थानीयता के बल पर ही यह सब प्राप्त कर सका था[20]।

भारत में शिक्षा का तंत्र कितना मजबूत और व्यवस्थित था इसका अंदाजा चार्ल्स ट्रेवलीन के इस वक्तव्य से ही लगाया जा सकता है जोकि उसने अपनी पुस्तक 'द एजुकेशन ऑफ द पीपुल्स ऑफ इंडिया' में लिखा है कि हमारी चिंता भारतीयों को पढ़ाना नहीं अपितु जो वे जानते हैं उसको भुलाना है[21] क्योंकि यह सब इंग्लैंड की तुलना में ज्यादा अच्छा है। भारत में अंग्रेजों के आने के पूर्व प्रत्येक गांव में कम से कम एक स्कूल तो अवश्य ही था। ये स्कूल व्यक्तिगत और सामुहिक दोनो ही स्तरों पर कार्य करते थे। इन विद्यालयों में सभी जाति के शिक्षक और शिक्षार्थी होते थे। लड़कियां भी इनमें पढ़ने के लिए आती थीं[22]। शल्य क्रिया और वास्तु से सम्बंधित ज्ञान भी यहां दिया जाता था[23]। उच्च कोटि के इस्पात निर्माण के भी अनेक प्रमाण पर्याप्त मात्रा में उपलब्ध हैं। इस्पात निर्माण की छोटी छोटी भट्टियां नदियों के किनारे पर स्थापित होती थीं और आवश्यकता पड़ने पर इन्हें बैलगाड़ियों पर रखकर बहुत ही आसानी से एक स्थान से दूसरे स्थान ले जाया जा सकता था। इन भट्टियों में विश्व स्तरीय इस्पात निर्मित होता था[24]। बर्फ जमाने की स्वदेशी तकनीक प्रचलन में थी जोकि बहुत ही सस्ती और सरल थी[25]। चेचक का टीका भारत में बहुत ही सरल पद्धति से निर्मित किया जाता था और भारत पेन्सिलिन के उत्पादन से भी परिचित था[26]। इस प्रकार से अनेक ,वे सब कार्य जोकि बाद में हमें विदेशियों के हवाले से प्राप्त हुए, वे सब भारत के ही अविष्कार थे। शिक्षा के लोकव्यापीकरण में एंड्रू बेल के नाम से, जो पद्धति प्रचलित हुई उसे वे मद्रास में अपनी नियुक्ति के दौरान ही सीख कर गए थे। भारत में यह नायकीय प्रणाली के रूप में जानी जाती थी। बाद में उन्होंने इसे इंग्लैंड में जाकर अपने नाम से प्रचलित कर दिया[27]।

भारत के विषय में मैक्स मुलर ने एक पुस्तक लिखी, वस्तुतः यह उनके उन व्याख्यानों का संकलन है जोकि वे भारत आने वाले नौकरशाहों को दिया करते थे। इस पुस्तक का नाम है इंडिया : व्हाट कैन इट टीच अस ?
पुस्तक की विषय वस्तु भारत के परिचय से सम्बंधित है और विश्लेषणात्मक है। अनेक स्थानों पर भारत की प्रशंसा है और भारत की विद्या परम्परा के लोग जीवन को कितनी सहजता और सरलता से यापन करते हैं इसका वे ससन्दर्भ उल्लेख करते हैं। कई स्थानों पर आलोचना भी है आलोचना का आधार दृष्टिकोण में भेद है और उसे वैसे ही लेना चाहिये यह विदेशी आक्रांताओं

के सम्पर्क में आने के बाद बना व्यवहार है, हमें उसको भी सहजता में लेकर अपने में सुधार करने चाहिए यदि वे सुझाव इस योग्य हैं, तो। लेखक पूरे भारत के लोगों के विषय मे कई बार समग्रता में और कई बार अलग अलग वर्णन करता है। बिहार के लोगों के विषय में वह लिखता है कि वे अपनी कद काठी के लिए नहीं अपितु अपनी सच्चाई के लिए सम्माननीय हैं। उनकी सच्चाई उन्हें अंग्रेजों से अलग करती है। वे इनको अत्यधिक बुद्धिमान, बहादुर और दयालु भी मानते हैं। ये प्रोफेसर विल्सन के बहुत प्रशंसक थे और उनके हवाले से ही लिखते हैं कि वहां के शिल्पी, श्रमिक और अन्य सभी बहुत ही ईमानदार, परिश्रमी ,हँसमुख और आज्ञाकारी हैं। इतना ही नहीं वे इन्हें गीतोंका, और व्यसनों से मुक्त भी पाते है[28]। आगे वे पुनः प्रोफेसर विल्सन के हवाले से लिखते हैं कि वे वहां के पंडितों के विषय में लिखते हैं कि ये बहुत ही सरल, बुद्धिमान और निश्छल स्वभाव के धनी लोग हैं[29]। इस प्रकार से वे प्रोफेसर विल्सन के अनुभवों की व्याख्या प्रशिक्षुगणों के सम्मुख करते है। आगे पुनः वे लिखते हैं कि विल्सन फिर उन पण्डितों की बातें करते हैं जिन्हें अक्सर अपशब्द कहें जाते हैं, वे कहते हैं कि मेरा अध्ययन मुझे पढ़े-लिखे लोगों के संपर्क में लाया और मुझे उनमें वह समानांतर गुण मिले जो उनके काम से बहुत अलग थे जैसे उद्योग, बुद्धि और जो समान विशेषताएं उनमें दिखी विशेष रुप से हिन्दुओं में वह ही सादगी थी (बच्चे की भांति)। आगे कलकत्ते के एक परिवार के विषय में विल्सन बताते हैं कि मैंने उनमें शिष्टाचार, स्पष्टता व व्यापक समझ और भावनाओं में औदार्य देखा[20]।

भारत के विषय में विकृत वातावरण का निर्माण करने में जेम्स मिल की पुस्तत 'कैम्ब्रिज हिस्ट्री ऑफ ब्रिटिश इंडिया' की वे बहुत ही महत्व पूर्ण भूमिका मानते हैं वे लिखते हैं कि इस पुस्तक में जो बातें (जिनका कोई अर्थ नहीं है, यह भाव मेरा है जोकि लेखक को पढ़ कर बना) लिखी गई हैं उनको प्रोफेसर विल्सन की भारत के विषय में लिखी गई प्रशंसापूर्ण बातें भी नहीं काट सकती। एक और पुस्तक जोकि आप लोगों को अनिवार्य रूप से पढ़नी चाहिए , जिसकी अनुशंसा में बहुत लंबे समय से करता आ रहा हूँ। वह है कर्नल स्लीमैन द्वारा लिखित "रेम्बल्स एंड रिकलेक्शनस ऑफ एन इंडियन ऑफिसियल" जोकि मूलतः 1934 -35 में लिखी गई थी और 1944 में प्रकाशित हुई थी। किन्तु यह पुस्तक किसी को भी उपलब्ध नहीं कराई जाती क्योंकि ऐसा करने से मिल के द्वारा गढ़ा गया मिथक टूट सकता है।

वे मिल के विषय में लिखते हैं कि आखिर उसने इतना अनर्गल क्यों लिखा? तो वे पाते हैं कि वह अनेक फ्रांसीसी मिशनरी के द्वारा लिखित पुस्तकों से प्रभावित था और उनमें से भी उसने वे बातें

ग्रहण कीं जोकि भारत के प्रतिकूल थीं, अनुकूल तथ्यों का उसने संज्ञान ही नहीं लिया[31]। वे फिर आगे डॉ रॉबर्टसन की पुस्तक "हिस्टोरिकल डिस्कशनस कॉन्सर्निंग इंडिया" के हवाले से लिखते हैं कि हिन्दू उच्च सभ्यता वाले लोग हैं और उनके मुकद्दमें मुद्दे आधारित और पूर्ण ईमानदारी से सम्पन्न होते हैं। इस बात की पुष्टि वे आंकड़ों के माध्यम से तुलनात्मक रूप से करते हुए लिखते हैं कि इंग्लैंड में 10,000 में से 1 व्यक्ति को और इंडिया में 10 लाख में से किसी 1 व्यक्ति को मृत्युदंड दिया जाता है। ऐसा भारत की विद्या व्यवस्था के कारण था जिसमें मनुष्य अपने कर्मों के माध्यम से ही अपने अच्छे - बुरे का निर्धारण करता था। इसलिए वह सदकर्मी रहता था और गलत कार्यों से बचता था[32]। मैक्स म्यूलर लिखते हैं कि कर्नल स्लीमैन को 'रैमबल्स' को जितना सम्मान मिलना चाहिए, नहीं मिला। वे स्लीमैन के उस सन्दर्भ का हवाला देते हैं जोकि पुस्तक में वह अपनी बहिन को लिख रहा है कि अगर भारतीयों से पूछा जाए कि उनके आनन्द का क्या कारण है? तो दस में से नौ कहेंगे कि उनकी बहिनों के पत्र जोकि उनकी बहिनें उनके घरों से उनके लिए लिखतीं हैं[33]।

कर्नल स्लीमैन के हवाले से वे पुनः लिखते हैं कि भारत को लोग नहीं जानते क्योंकि भारत तो गांव में बसता है और लोग , शहरों के सम्पर्क में आते हैं और इसलिए भारत के सम्पर्क में नहीं आ पाते। वे लिखते हैं कि लम्बे समय से ही गांव ही भारत की राजनीतिक और सामाजिक गतिविधियों का केंद्र रहा है। यद्यपि उसने अनेक आक्रमणों का सामना किया है तथापि ये केंद्र कभी कमजोर नहीं पड़े। मनु के नियमों में हमने पढ़ा है कि कैसे ग्राम व्यवस्था का संचालन होता था। पूरी प्रशासनिक व्यवस्था विकेंद्रीकरण पर अवलम्बित थी और 100 में से 99 व्यक्तियों के लिए गांव ही उनकी दुनिया था[34]। भारत में गावों की भूमिका बहुत महत्वपूर्ण रही है (इस पर मेरा बल है)। वे लिखते हैं कि मेगस्थनीज ने भी लोगों को अपने परिवार के साथ गांव में रहने वाला बताया है और लिखा है कि वह शहरों की ओर जाने से बचता है। नर्चस कहता है कि वे सामूहिक रूप से खेती करते थे। स्लीमैन पहले ऐसे व्यक्ति थे जिन्होंने यह बताया कि हिंदुओं के गुणों का सम्बंध गांव से था। वे लिखते हैं कि गांव के लोग आपस में कभी भी झूठ नहीं बोलते थे। यदि गांव में अधिकारों,कर्तव्यों और हितों का कभी टकराव होता भी था तो सीमित जनता (गांव की पंचायत, यह मेरा अभिप्राय है) उसे गलत करने से रोकती थी[35]। म्युलर हिंदुओं को वहमी भी मानता था किंतु इस वहम के कारण वे सत्य का अनुसरण करते थे। वह लिखता है कि समाज का यह मानना है कि व्यक्ति का झूठ-सच ही यह निर्धारित करता था कि उसके पूर्वज स्वर्ग जाएंगे या नरक और इसलिए वह प्रायः सच ही बोलते थे। स्लीमैन के हवाले से ही वह गांव के लोगों को अपने ही लोगों के सामने झूठ बोलने से बचते हुए बताते हैं क्योंकि गांव में

सभी एक दूसरे से परिचित जो होते थे । यह परिचय ही हमें गलत काम करने से रोकता है क्योंकि हमारे परिचित ऐसा करने पर हमारे पूर्वजों का हवाला देकर रोकते हैं[36]।

यद्यपि महमूद गजनवी के पूर्व 2 हजार वर्ष के इतिहास पर दृष्टिपात किया जाए तो ध्यान में आता है कि यूनानियों, अरबों व चीनियों ने भारत की यात्रा की और उन्होंने इन्हें सत्य और न्याय में अग्रणी पाया । ने आगे चीनी यात्री ह्वेनसांग के हवाले से बताते हैं कि हिन्दू शांत, ईमानदार,न्याय प्रिय और कुशल तथा सरल प्रशासक होते हैं । गुस्तिाव इतिहासकार इदरीश के हवाले से लिखते हैं कि हिन्दू प्राकृतिक रूप से न्याय की ओर झुके हुए हैं और वह उनके दैनिक कार्यों में दिखाई भी देता है । इनके इन गुणों से प्रभावित होकर लोगों के झुंड के झुंड सब तरफ से इनकी ओर आते हैं । वे 13 वीं सदी के शमशुद्दीन अबदुल्ला के हवाले से लिखते हैं कि हिन्दू रेत के दानों की भांति असंख्य हैं और इनको जीवन मृत्यु का भी भय नहीं है । वह 13 वीं सदी के समुद्री व्यापारी मार्को पोलो का उद्धरण देते हुए लिखते हैं कि वह लिखता है कि यद्यपि ब्राह्मण वर्णगत व्यापारी नहीं होते तथापि राजा लोग उनको बड़े व्यापारों में लगाते हैं और यह समय ब्राह्मणों की दृष्टि में संकट का समय माना जाता है । मार्को पोलो की दृष्टि में ब्राह्मण दुनिया के सर्वश्रेष्ठ व्यापारी थे और वे किसी भी कीमत पर असत्य का सहारा नहीं लेते थे । वे इसी प्रकार की बात चौदहवीं सदी के विद्वान फ्रायर जोर्डन्स के हवाले से कहते हैं कि भारत के लोग सत्यनिष्ठ व न्यायप्रिय हैं[37]।

भारत व्यापारियों को सदैव से ही उत्कृष्ट सुरक्षा व्यवस्था उपलब्ध कराने का पक्षधर रहा है । इस बात की पुष्टि विजयनगर और कालीकट में दूत के रूप में आए कमालुद्दीन अब्द ए रजाक समरकन्दी करता है । अकबर का दरबारी अबुल फजल "आईने अकबरी" में लिखता है कि यहां हिन्दू धर्मिक , सुशील, हँसमुख, न्याय से प्रेम करने वाले, व्यवसाय करने वाले,सत्य के प्रशंसक,आभारी,और उनके सिपाही कभी भी मैदान से पीठ न दिखाने वाले है । वे आगे हिन्दू और मुसलमानों की आपसी तुलना करते हुए लिखते है कि मुसलमान, मुसलमानों की तुलना में हिन्दू, हिंदुओं के लिए अधिक सरल है । इसके अतिरिक्त हिन्दू गुण गाहक होता है और इसे वह सभी के लिए ठीक बताता है । जबकि मुसलमान इतना संकुचित होता है कि वह मुसलमानों के 72 सम्प्रदायों में से भी अपने सम्प्रदाय के ही आदमी को चुनता है और उसका सम्प्रदाय ही उसका सबसे बड़ा गुण होता है। भारत के हिंदुओं के सत्य प्रेम का वे इतने अधिक प्रशंसक थे कि वे लिखते है कि हमें यह देखना चाहिए कि जो लोग हिंदुओं के सम्पर्क में आए वे उनकी सत्यनिष्ठा को देखकर चौंक गए और उन्होंने सत्य को भारत के राष्ट्रीय चरित्र के रूप में स्वीकारा[38]।

वे आगे माउंट स्टुअर्ट एलफिंस्टन की पुस्तक "हिस्ट्री ऑफ इंडिया" के हवाले से भारतीयों के चरित्र की प्रशंसा करते हैं। वारेन हेस्टिंग्स भी भारतीयों को दयालु, आभारी,बदले की भावना न रखने वाले,वफादार व कानून के पालन कर्ता बतायें हैं । बिशप व्हियर हिंदुओं को साहसी,विनम्र,बुद्धिमान, ज्ञान के लिए तत्पर,शांत, मेहनती,माता पिता के प्रति कर्तव्यनिष्ठ, बच्चों को स्नेह देने वाले,धैर्यवान, दयावान,अपनी आवश्यकताओं की पूर्ति करने वाले बताते हैं तथा ऐसे लोग उन्होंने और कहीं नहीं देखे। एलफिंस्टन भी भारतीयों के विषय में बहुत ही प्रशंसनीय बाते लिखते हैं कि ठगों और डकैतों को मिलाकर भी भारत में इंग्लैंड की तुलना में कम अपराध होते हैं तथा यहां पर कैदियों के प्रति भी दयाभाव रखा जाता है। सर जॉन मैल्कम भी इसी प्रकार की राय रखते हैं। इस प्रकार से मैक्स म्युलर नानाविध सन्दर्भों के माध्यम से हिन्दुओ के चरित्र का बखान करते हैं और अंग्रेजों के लिए इस चरित्र को अनुकरणीय मानते हैं । सर थॉमस मुनरो के हवाले से वे बहुत ही रोचक बात कहते हैं कि अच्छी कृषि प्रणाली,कुशल उत्पादन जो जीवन जीने में सहायता करता है, हर गांव में विद्यालय जिसकी मदद से पढ़ना पढ़ाना ,लेखन,अंक गणित की समझ विकसित हो, अतिथियों का स्वागत, एक दूसरे के मददगार लोग ,महिलाओं को पूर्ण सम्मान मिलता हो यदि ये सभ्यता के संकेत हैं तो हिन्दू यूरोपीयों के बराबर हैं और यदि इसे हम व्यापार की सामग्री के रूप में देखें तो इंग्लैंड को इसे आयात करना पड़ेगा[39]।

मैक्स म्युलर कभी भी हिंदुस्थान नहीं आए थे किंतु उन्होंने पुस्तकों के माध्यम से उसे देखा था। हिंदुस्तान न आने का उन्हें अफसोस रहा और इस लिए वे लिखते हैं कि उनके स्वयम के अनुभव हिंदुओं के चरित्र को लेकर कम हैं क्योंकि वे एक बार भी भारत नहीं गए हैं। किन्तु, जिन से उन्हें मिलने का मौका मिला वे असाधारण व सर्वश्रेष्ठ थे । मैने जब उनकी तुलना यूरोपीय और अमेरिकी विद्वानों से की तो सदैव ही मैंने उनको सत्य का अनुपालन करते हुए पाया। मैंने यह भी पाया कि वे अपनी गलतियों को भी आसानी से स्वीकार कर लेते है और जब वे ठीक होते हैं तो वे अपने विरोधी के सम्मुख दृढ़ता से खड़े होते हैं। वे न तो किसी की सिफारिश करते हैं और न ही ऐसा करवाना पसन्द करते हैं। वे सदैव ही गलत के विरोध में होते हैं। यहां भी इंग्लैंड को आयात करने की आवश्यकता है। इतना ही नहीं वे यह भी जोड़ते हैं कि व्यावसायिक व्यवहार में भी हिन्दू अंग्रेजों से श्रेष्ठ हैं। उनका साहित्य भी उच्च कोटि का है और वह प्रेम और सत्य से सराबोर है। वे आगे चेतावनी स्वरूप लिखते हैं कि मैं चाहता हूँ कि हिंदुओं पर जो अनर्गल आरोप लगाए गए हैं वे झूठे और भ्रामक हैं तथा पूर्णतया असत्य हैं[40]। वे अंग्रेजों के शासन को भारत पर

गलत मानते हैं और उन सिविल सेवा के अधिकारियों को चेताते है कि वे ऐसे देश में जा रहें है जो नैतिक हैं[41]।

यद्यपि मार्क्स भारतीय समाज व्यवस्था को जड़ मानते थे तथापि वे भारत की समृद्धि में इसकी भूमिका को भी स्वीकार करते थे। उनका मानना था कि भारत में प्रारंभिक स्तर पर श्रम के विभाजन हो जाने से कौशल्य समाज का निर्माण हो गया और उससे उच्च स्तरीय उत्पादन होने लगा। फलतः वैश्विक स्तर पर भारतीय उत्पादों की मांग रही और यह मांग भारत उन देशों से सोना चांदी लेकर पूरी करता था। इस प्रकार से पूरी दुनिया का सोना चांदी भारत आ गया और भारत को सोने की चिड़िया कहा जाने लगा। भारतीय उत्पादों की उत्कृष्टता के चलते ही भारत 18 वीं सदी तक वैश्विक अर्थव्यवस्था में लगभग 23 प्रतिशत से अधिक भागीदारी बनाए रख सका था[42]। अंग्रेजों ने आकर इन उद्योगों को उजाड़ा और भारत का बाजार चौपट कर दिया। भारत का वह ,सब कुछ ,जो भारत के स्वत्व से सम्बंधित था, को नष्ट करना अंग्रेजों की पहली प्राथमिकता थी और उसके स्थान पर भारत को आत्मनिश्चास विहीन बनाने के सभी प्रयास करते थे। इसीलिए भारतीयों को उनके इतिहास के स्थान पर उनका इतिहास पढ़ाया जाता था जिन्होंने भारत पर आक्रमण किए थे[43] जिससे भारतीय युवा अपनी हार और अपने आक्रंताओं की विजय को पढ़ कर विषादग्रस्त हो जाएं। मार्क्स भारत की ग्राम व्यवस्था की जो तस्वीर प्रस्तुत करते हैं वह गांव के स्वावलम्बन की भूमिका को विस्तार से स्पषट करती है। वे लिखते हैं कि भारत में गांव की रचना स्थान के अनुसार अलग अलग है। ग्रामीण सामुहिक खेती करते हैं और पैदावार को आपस में बांट लेते हैं। प्रत्येक परिवार में सूत कातने और कपड़ा बुनने का काम सहायक धंधे के रूप में होता है। इस प्रकार से वे गांव में एक प्रकार के लोगों का उल्लेख करते हैं जोकि विशेष प्रकार के काम में संलग्न हैं। दूसरी ओर वे गांव की अन्य भूमिका निर्वाह करने वालों का वर्णन करते है कि गांव में एक मुखिया होता है जोकि गांव का जज, पुलिस और तहसीलदार होता है। गांव में शांति और न्याय उसकी जिम्मेदारी होती है। पटवारी खेतीवाड़ी से सम्बंधित सभी बातों का अभिलेखीकरण करता है। एक और कर्मचारी गांव की सुरक्षा, अपराधियों पर मुकद्दमें चलाने और अजनबी यात्रियों को अगले गांव तक सुरक्षित पहुंचने का काम करता है। लठैत पड़ोसी बस्तियों से गांव की सीमा की रक्षा करता है। एक व्यक्ति तालाबों से सिंचाई के लिए पानी वितरण की व्यवस्था की देखभाल करता है। ब्राह्मण धार्मिक अनुष्ठान संपन्न करवाता है।

पाठशाला का पण्डित बालू में बालकों को लिखना पढ़ना सिखाता है। ज्योतिषी, जोतने- बोने , फसल काटने और खेती के अन्य कामों के लिए मुहूर्त तय करता है[44]। (यहां पर मार्क्स ब्राह्मण

और पाठशाला के पण्डित तथा ज्योतिषी को अलग अलग बता रहे हैं। यदि यह कार्य एक ही व्यक्ति करता होता तो वे इन तीनों का उल्लेख अलग अलग नहीं करते। यह बात समझने की है कि बाद में इतिहासकारों ने भारत में एक वर्ग विशेष को घेरने के लिए ये तीनों काम उसी के मत्थे बांध दिए जिससे समाज में विद्वेष बढ़े) वह आगे लिखते हैं कि लोहार और बढ़ई खेती के औजार बनाते हैं। कुम्हार सारे गाव के लिए बर्तन - भाडे तैयार करता है। इनके साथ साथ वे नाई, धोबी, सुनार और कवि का भी उल्लेख करते हैं। कवि को कहीं-कहीं पर वे सुनार का काम और पाठशाला के संचालन से भी जोड़ते हैं। भारत में वैद्य को भी कविराज के नाम से सम्बोधित किया जाता था। यह गा गा कर लोगों को सामाजिक से सम्बंधित बीमारियों के प्रति जागरूक करने का भी काम करता था। इन दस बारह प्रकार के लोगों का जीवन निर्वाह गांव के सहयोग से होता था। आगे लिखते हैं कि जनसंख्या के बढ़ने पर इसी प्रकार की नई बस्ती बस जाती थी[45]। यह एक आदर्श व्यवस्था थी जो न केवल स्वावलम्बी थी बल्कि सम्पोषित भी थी। वे लिखते है कि अंग्रेजो ने इस व्यवस्था को तोड़ा जोकि क्रांतिकारी कदम था। यहां पर वे यूरोपीय दृष्टि से सोच रहे थे जोकि भारत पर सही नहीं बैठता था। अस्तु। आगे वे लिखते हैं कि अंग्रेजों ने रेल की स्थापना भारत के शोषण के लिए की है[46] उससे हिंदुओं का भला नहीं होने वाला। वे इस बात से भलीभांति परिचित थे कि भारत में हिन्दू - मुस्लिम सहित, कुछ अन्य पूजा पद्धति के लोग भी रहते हैं किंतु उन्होंने हिन्दू शब्द का प्रयोग किया क्योंकि हिन्दू शब्द पूरे भारत के लिए सबसे उपर्युक्त शब्द है और वही उन्होंने किया भी।

मार्क्स इतना ही नहीं बल्कि अंग्रेज भारत का शोषण किस प्रकार से कर रहे हैं इस विषय को भी लेकर अपनी चिंता व्यक्त करते थे। वे लिखते हैं कि कम्पनी के कर्मचारी भारतीय उत्पादों की कीमतें स्वयम तय करते थे और फिर वे हिंदुस्तानियों को लूटते थे। इस प्रकार वे सभी वस्तुओं पर एकाधिकार कर लेते थे और अकाल की स्थिति निर्मित हो जाती थी। 1760 - 70 में अंग्रेजों ने देश का सारा चावल खरीदकर कृत्रिम अकाल की स्थिति पैदा कर दी थी। वे उपनिवेशी मानसिकता का वर्णन ईसाई धर्म के विशेषज्ञ डब्ल्यू हैविट के हवाले से ईसाइयों की औपनिवेशिक व्यवस्था के बारे में लिखते हैं कि " ईसाई कहलाने वाली नस्ल ने दुनिया के हर उस हिस्से में और हर उस कौम पर, जिसे वह जीतने में कामयाब हुई है, जो जुल्म,बर्बरता और अत्याचार किया है, वह इतिहास के किसी भी युग में और किसी भी नस्ल ने, वह चाहे कितनी भी खूँखार और जाहिल क्यों न रही हो और दया तथा संकोच से कितनी भी हीन क्यों न रही हो, नहीं किया है[47]।"

इस प्रकार वे न केवल भारत की चिंता कर रहे हैं बल्कि अंग्रेजों के क्रियाकलापों पर भी प्रश्न चिह्न लगा रहे हैं। वे भारत के प्रति जहाँ एक ओर उसे आधुनिक परिवेश में लाने से रोकने के लिए उसकी यथा स्थितिवाद की आलोचना करते हैं वहीं दूसरी ओर उसके विभिन्न प्रकार के शोषण के लिए अंग्रेजो की लानत मलामत भी करते हैं। उन्होंने ही सर्वप्रथम1857 के स्वातन्त्र्य समर को भारत का प्रथम स्वतंत्रता संग्राम घोषित किया था और इस पर अपने निबन्धों को "फर्स्ट फ्रीडम वॉर ऑफ इंडियाज इंडिपेंडेंस" के रूप में प्रकाशित भी किया था। यह पहली पुस्तक थी जोकि 1857 के विद्रोह को उपनिवेशी शब्दावली से इतर स्वातन्त्र्य समर के रूप में निरूपित करती है[48]। (वीर सावरकर जी की पुस्तक से अलग) 20वीं सदी के महान इतिहासकार विल ड्यूरेन्ट ने 1930 में एक पुस्तक लिखी थी जिसको अंग्रेजों ने उस समय प्रतिबंधित कर दिया था क्योंकि उस पुस्तक में उनकी भारत सम्बन्धी लूट आदि को विस्तार से उजागर किया गया था, इस पुस्तक का नाम "द केस फॉर इंडिया" रखा गया था। इसी पुस्तक में वे भारत सम्बन्धी अन्य विशेषताओं के साथ साथ यह भी लिखते हैं कि भारत ने पश्चिम को किस प्रकार से उपकृत किया है। वे लिखते हैं कि 'भारत, हमारी नस्ल, संस्कृत यूरोपीय भाषाओं की, हमारे दर्शन की,अरबों के द्वारा हमारे गणित की, बुद्ध के द्वारा ईसाइयत में व्याप्त करुणा की, गाँवों में प्रचलित व्यवस्था के द्वारा हमारी सेल्फ गवर्नमेंट और लोकतंत्र की तथा अन्य अनेक रूपो में हमारी मां रहा है[49]।' वे आगे पुनः लिखते हैं कि हाल ही में होने वाली खुदाइयों ने इन सब की पुष्टि कर दी है कि यह कितनी पुरानी सभ्यता रहा है। वे मेगस्थनीज के हवाले से भारतीयों के सभ्य और कलात्मक स्वभाव की तुलना यूनानियों से करते हैं।

ब्रिटिश सरकार ने भारत को लाभ कम, हानि अधिक पहुँचाई है, इसको वे उदाहरण देते हुए लिखते हैं कि इस प्रकार की उच्च सभ्यता जोकि अनेक श्रेष्ठ सन्तों की जननी रही, जिसने बुद्ध से लेकर राम कृष्ण और गांधी जैसे महान व्यक्तित्वों को जन्म दिया, जिसने वेदों के दर्शन को प्रतिपादित किया, को अंग्रेजो ने बदूकों के बल पर लूट लिया और उसे नष्ट कर दिया[50]। इस प्रकार वे अंग्रेजों के कुकृत्यों को न केवल उजागर करते हैं बल्कि उन पर गहरा दुख भी व्यक्त करते हैं। साहित्यिक क्षेत्र में वे महाभारत जिसमें की श्रीमद्भगवद्गीता भी सम्मिलित है, से सरोजिनी नायडू, रविंद्र नाथ टैगोर तक कि प्रशंसा करते हैं और इसे संसार की श्रेष्ठतम कृतियों में सम्मिलित करते हैं। कला और शिल्प के क्षेत्र में वें एलोरा, मदुरै, अंगकोरवाट, दिल्ली, और आगरा का उल्लेख करते हैं[51]। उनके द्वारा भारत के वैशिष्ट्य का जो वर्णन किया गया है वह भारतीयों में आत्म गौरव का संचार करने के लिए पर्याप्त है।

भारतीय साहित्यिक कृतियों ने विश्व के महान कहे जाने वाले व्यक्तियों का किस प्रकार से मार्गदर्शन किया है, को विश्वविख्यात और नोबल पुरस्कार से सम्मानित फ्रेंच साहित्यकार रोम्यां रोलां के हवाले से सुगमता से समझ जा सकता है वे लिखते हैं कि "किन्तु थोरो महान पाठक था । 1837 और 1862 के बीच वह इमर्सन का पड़ोसी था । इमर्सन ने लिखा है, कि जुलाई 1846 में थोरो उसे अपनी 'ए वीक ऑन द कॉन्कर्ड एंड मेरीमैक रिवर्स' के अंश सुनाता रहा। इस कृति में (सोमवार खण्ड में) गीता, भारत के महान काव्यों और दर्शनों की प्रशस्ति है[52] ।" इसी वक्तव्य के पाद टिप्पणी को प्रस्तुत करने का मैं मोह नहीं संवरण नहीं कर पा रहा हूँ क्योंकि उसके अभाव में विषय के गम्भीरता की पुष्टि थोड़ी कम रह जायेगी, इसलिए उसे भी मैं यहां पर यथावत प्रस्तुत कर रहा हूँ । "थोरो ने अपने आधार ग्रंथ बताए । ये थे : गीता का फ्रेंच अनुवाद जिसका लेखक बरनफ होगा, वह उसका उल्लेख नहीं करता है; यह 1840 में प्रकाशित हुआ था । इससे भी महत्वपूर्ण था चार्ल्स विल्किन्स का 1846 में हाल ही में प्रकाशित अंग्रेजी अनुवाद जिसकी भूमिका वारेन हेस्टिंग्स ने लिखी थी । इस प्रसिद्ध विजेता शासक ने सार्वजनिक रूप से वेदों की भूमि की आध्यात्मिक प्रभुता को स्वीकार किया ।

1786 में ईस्ट इंडिया कम्पनी के प्रेसिडेंट से भगवद्गीता के अनुवाद करने की सिफारिश की । उसकी भूमिका में उसने घोषणा की, "जब भारत में ब्रिटिश प्रभुता का अंत हो जाएगा, तब उसकी सम्पत्ति और शक्ति ही केवल यादगार रह जायेगी, तब भी भारतीय दर्शनों के लेखक जीवित रहेंगे।" थोरो ने अन्य हिन्दू ग्रंथो का भी उल्लेख किया है, जैसे कालिदास का शकुंतला; उसने मनुस्मृति का भी उत्साहपूर्वक बखान किया है, जिससे उसका परिचय विलियम जोन्स के अनुवाद से हुआ था[53]। रोम्यां रोल यहीं पर प्रसिद्ध रहस्यवादी अमेरिकी कवि इमर्सन की कविता ब्रह्म को भारतीय विचारधारा के सिंचन का ही परिणाम मानते हैं[54]। इस प्रकार से रोलां, इमर्सन, थोरो, वाल्ट व्हिटमैन और एडगर एलन पो को भी भारतीय दर्शन और वेदांत से प्रभावित मानते हैं । इतना ही नहीं यदि इन सबके लिखे हुए साहित्य का गहन अध्ययन किया जाए तो भारतीय दर्शन की श्रृंखला बद्ध उपस्थिति देखने को मिल सकती है। रोम्यां रोलां ने इन सब बातों को बहुत ही विस्तार से अपनी पुस्तक में लिखा है ।

रोम्यां रोलां भारत कभी नहीं आए थे किंतु वे भारत से बहुत अधिक प्रभावित थे और उसी के वशीभूत वे पश्चिम की समस्त समस्याओं के समाधान के रूप में भारत की ओर ही देखते थे। वे लिखते हैं कि "और अब पश्चिमी नस्लें स्वयम को अंधी गली में गहरे फंसा हुआ पाती हैं, वे बर्बरता

पूर्वक एक दूसरे की हस्ती मिटाने में लगी हैं । आइए, हम इस रक्त रंजित भगदड़ से अपनी आत्माओं को बाहर खींच लें ! हम उस महान चतुष्पथ को फिर पाने का प्रयास करें जहा से आकाश की चारों दिशाओं में मानव प्रतिभा की धाराऐं प्रवाहित हैं । हम एशिया के ऊंचे मैदानों पर फिर चढ चलें[55]" यहां यह ध्यातव्य है कि एशिया के वे ऊंचे मैदान भारत में ही जिनसे वे शांति पा सकते थे । वे और लिखते हैं कि एशिया, महाभूखण्ड, यूरोप जिसका प्रागद्वीप मात्र है, सेना का अगदल, भारी पोत का शीर्ष भाग वहां से सदा हमारे देवता, और विचार आए हैं[56] तथा जहाँ पर जर्मन का रूप जात में और प्राचीन यूनान का रूप ब्राह्मण में देखा जा सकता है। मार्क्स ने यह भी लिखा है कि वह हमारी भाषाओं, धर्मों का स्त्रोत रहा है[57] ।

इस प्रकार से भारत सदैव पश्चिम के लिए मार्गदर्शक की भूमिका में रहा है । वही भारत आज आत्म विस्मृति के गर्त में पड़कर अपने गौरवशाली अतीत को भुलाकर पश्चिम का अनुगामी बन गया है और अपने भवितव्य को भी वैसा ही होने की शिक्षा दे रहा है । स्वातन्त्र्य के 75 वर्ष बाद वह घड़ी आई है जब हम अपने गौरवशाली अतीत को पाठ्यक्रम का हिस्सा बनाने को तत्पर हुए हैं । राष्ट्रीय शिक्षा नीति 2020 ने भारतीय ज्ञान परम्परा के अध्ययन के क्षितिजों को पढ़ने और समझने के अवसर प्रदान किये हैं । इसलिए अध्येताओं को इस अवसर का लाभ उठाते हुए अपने युवकों को उससे परिचित करवाने के उपक्रम करने चाहिए । यह उपक्रम उसी कड़ी का एक अंग हैं । मैंने पश्चात्यविद्वानों का हवाला मात्र इसलिए दिया है जिससे युवा पीढ़ी बिना किसी संकोच के बात गले उतार सके क्योंकि पश्चिम के सन्दर्भों के अभाव में हमारे गले कोई बात उतरती नहीं है । आज वैश्विक स्तर पर पुनः भारत विश्व का नेतृत्व करता हुआ प्रतीत हो रहा है । भारत ने अपने स्वरुप को पहचानने की पहल प्रारम्भ कर दी है । आवश्यकता है अनुसारों के सामानुसार व्यवहार में लाने की जिससे भारत पुनः अपने विस्तृत अतीत को साकार कर सके । इस कार्य में शिक्षकों की महती भूमिका होती है हम उसी का निर्वहन करें । यजुर्वेद यही कहता है कि 'वयं राष्ट्रे जागृयाम पुरोहितः'।

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प्रो० पवन कुमार शर्मा*

किसी भी राष्ट्र की संपन्नता और विपन्नता उसकी सक्रियता पर निर्भर करती है और सक्रियता संसाधनों पर। संसाधनो का निर्धारण दो प्रकार से किया जा सकता है; एकः- उनका राष्ट्रहित में उपयोग करने से, दुसरे उनके प्रति उदासीन भाव को प्राप्त करके। इसके अतरिक्त आन्तरिक नीति के बल पर भी राष्ट्र की संपन्नता का नियामक निर्धारित किया जा सकता है। यथा किसी वर्ग विशेष को अतिरिक्त लाभ देकर उसकी ओर से उदासीन होकर या फिर सर्व सगाबेशी भाव के बल पर सभी के साथ समान भावी व्यवहार करके। आन्तरिक नीति के बल पर ही राष्ट्र हित/अहित के दृष्टिकोण से विदेश नीति का निर्धारण होता है। जो राष्ट्र उपर्युक्त बातों को दृष्टिगत रखकर स्वयं की विदेश नीति का निर्धारण करते हैं वे समृद्धि के शिखर को प्राप्त करके विश्व गुरूत्व को प्राप्त करते हुए विश्व का नेतृत्व करते हैं, शेष इस प्रकार के राष्ट्रों का अनुसरण करते हैं। 18वीं सदी तक भारत आर्थिक दृष्टिकोण से और 8वीं सदी तक भारत सैन्य दृष्टिकोण से राष्ट्र हित को दृष्टिगत रखकर व्यवहार करता था। आज से 2600 वर्ष पूर्व तक भारत की विदेश नीति का निर्धारण राष्ट्रहित को केन्द्र में रखकर ही किया जाता था। परिणामतः भारत न केवल आर्थिक, सांस्कृतिक, सैन्य दृष्टिकोण से विश्व का प्रेरक था बल्कि वह शेष विश्व को नियन्त्रित भी करता था। किन्तु, बौद्ध काल के बाद भगवान बुद्ध के सप्तशील सिद्धान्त को त्यागने के कारण भारत विश्वगुरूत्व के स्थान से स्खलित हुआ और स्वयं की भूमिका को छोड़ने लगा। 2200 वर्ष पूर्व पुनः उसने यह स्थान प्राप्त किया जब संवाद शैली को अपनाया। इस प्रकार से भारत की विदेश नीति निर्धारण के दृष्टिकोण से काल विभाजन को पांच वर्गों में रखा जा सकता है। भगवान बुद्ध के पूर्व, उनके बाद से 8वीं सादी तक, 8वीं सदी से 18वीं सदी तक, 18वीं सदी से 2014 तक तथा 2014 के बाद से सतत। अतएव, भारतीय विदेश नीति को देश काल परिस्थितियों के अनुकूल स्वयं को बदलते रहना चाहिए। वी०पी० दत्त स्पष्ट करते हुए लिखते हैं कि प्रत्येक देश की विदेश नीति का निर्धारण उस काल से होता है जिसमें इसे लागू किया जाता है। इस पर प्रकार इतिहास और इसकी भौगोलिक स्थिति का भी प्रभाव पड़ता है। देश की अवचेतन स्थिति को इसके हाल का अतीत प्रभावित करता है। दुनिया के साथ संवाद में जिस प्रकार आप अपनी स्थिति को देखते हैं, उसी तरह इसका भारी अंतर पड़ता है कि आप मानचित्र में कहाँ हैं। या यूँ कहा जाए कि विदेश नीति के विकास में भू-राजनीति एक महत्वपूर्ण भूमिका अदा करती है। इसके अतिरिक्त समय विशेष पर किसी देश की अपनी विशेष आवश्यकताए होती हैं जिनको अनदेखा नहीं किया जा सकता।[1] वी०पी० दत्त ने विदेश नीति के निर्धारण तत्वों का उचित वर्णन किया है। देश-काल परिस्थितियाँ महत्त्वपूर्ण भूमिका निर्वहन करती हैं और एतिहासिक तथ्य भी। फलतः कोई भी विदेश नीति गति शील होती है, जड़ नही। किन्तु भारतीय विदेश नीति के संचालन में 2014 से पूर्व के नीति नियन्ताओं ने भारत के एतिहासिक तथ्यों और देश-काल परिस्थितियों को दृष्टि ओझल किया और इतिहास को भी मात्र अंग्रेजी शासन तक

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आचार्य एवं अध्यक्ष , राजनीति विज्ञान विभाग , चौधरी चरण सिंह विश्वविद्यालय

सीमित करके ही आंकलन किया। परिणाम स्वरूप भारत की मौलिकता प्रभावित हुई और जो विदेशनीति निर्धारित हुई उसमें 'स्व' का अभाव रहा। फलतः भारत की विदेश नीति गतिशील न बन पाई। 2014 के बाद इस ओर दृष्टिपात हुआ और तदानुरूप काम भी प्रारंभ हुआ।

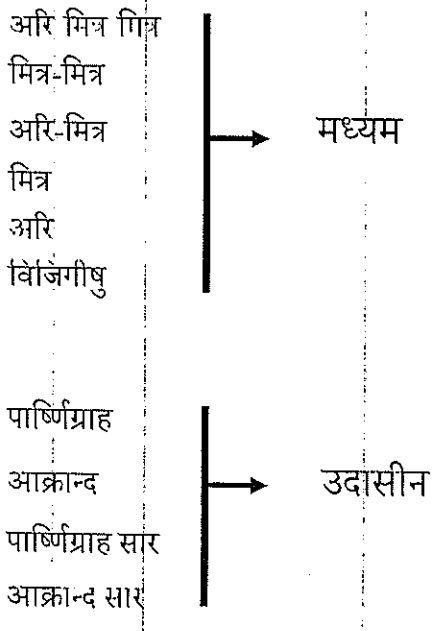
संस्कृत वांगमय में भारत की विदेश नीति के निर्धारक तत्व सूत्र रूप में और व्याख्या के रूप में बहुतायत में उपलब्ध हैं। प्रमुखतः महाभारत, पंचतन्त्र, हितोपदेश, सूत्र एवं नीति ग्रन्थ आदि। इन्ही नीति ग्रन्थों में से एक है कौटिलीय अर्थशास्त्र। इस ग्रन्थ में विदेश नीति के ऊपर पर्याप्त सामग्री उपलब्ध है किन्तु आज (स्वातन्त्र्योतर काल) किसी भी सरकार ने उसको केन्द्र में रखकर भारत की विदेश नीति का निर्धारण नहीं किया। यदि किया होता तो भारत स्वयं के खोए हुए स्थान को प्राप्त कर लिया होता। किन्तु 2014 के बाद की विदेशनीति के आधार के रूप में कौटिलीय अर्थशास्त्र में वर्णित मण्डल सिद्धान्त और षाड्गुण्य नीति को स्पष्टतः देखा जा सकता है। परिणामतः आज भारत की भूमिका परिवर्तनशील अवस्था में आने लगी है। भारत मण्डल सिद्धान्त में वर्णित विजिगीषु राजा की स्थिति को प्राप्त होकर दिग- दिगन्त में स्वयं की उपस्थिति अनुभव करा रहा है। 2014 के पूर्व भी यह काम हो सकता था किन्तु भारत और भारतीयता के दृष्टिकोण को चिन्तन का स्वभाव न होने के कारण ऐसा संभव न हो सका। भारत की विदेश नीति निर्धारण के संबन्ध में जो साहित्य रचा गया, उस पर भी उपनिवेशी छाप स्पष्टतः परिलाक्षित होती है। फलतः भारत नेतृत्व की अवस्था में न आकर अनुसरणक ही बना रहा। 2014 के बाद परिदृश्य बदला है। इस में भारत और भारतीयता का पक्ष स्पष्टतः न केवल प्रस्तुत किया जा रहा है बल्कि उसका अनुप्रयोग करके उसकी उपयोगिता को प्रमाणित भी किया जा रहा है। इस शोध पत्र का भी उद्देश्य यही है कि अध्येता कौटिलीय अर्थशास्त्र में वर्णित मण्डल एवं षाड्गुण्य सिद्धान्त को न केवल परिचित हो बल्कि उसके अनुप्रयोगीय व्यवहार से मोदी सरकार की विदेश नीति किस प्रकार प्रभावित है इसका विश्लेषण भी कर सकें।

जैसा कि हमें विदित है कि श्री नरेन्द्र मोदी के नेतृत्व में एन०डी०ए० द्वितीय ने 26 मई 2014 को सरकार का गठन किया था। इस अवसर पर इंग्लैण्ड के लोकप्रिय समाचार पत्र द गार्जियन ने अपने 19 मई 2014 के अंक के एक स्तंभ में लिखा था कि अन्ततः ब्रिटिशर्स ने भारत को छोड़ दिया। ये पंक्तियाँ आलेख के प्रारंभ में थीं और फिर इसके बाद उन्होनें श्री मोदी के विषय में अन्यान्य बातों का उल्लेख किया था और इसके समापन पर उन्होंने लिखा था कि अब मोदी को स्वयं को सिद्ध करना होगा। द गार्जियन के इस आलेख ने 2014 से पूर्ववर्ती सरकारों को यह अहसास करा दिया कि आप स्वयं को कितना भी भारत की सरकार कहते रहे हों किन्तु आपके क्रियाकलापों पर छाप ब्रिटिशर्स की ही रही है। और जब 2014 में एन०डी०ए० की सरकार जिसका नेतृत्व श्री नरेन्द्र मोदी की अगुवाई में भा०ज०पा० कर रही थी, वह स्वयं 282 स्थानों पर विजयी होकर 340 से अधिक स्थानों को एन०डी०ए० के पक्ष में करने में सफल रही थी। परिणामत: द गार्जियन को यह अनुभव हो गया कि अब भारत में ब्रिटिशर्स की व्यवस्था के स्थान पर भारतीय चिंतन को प्रश्रय मिलेगा और इसलिए ही उसने अन्त में लक्षणा में लिखा कि अब मोदी को स्वयं को सिद्ध करना होगा; क्योकि आज (2014) से पहले भारत में भारतीयता की बात कहने का प्रचलन ही नहीं था। श्री मोदी ने इसे एक

चुनौती के रूप में स्वीकारा और भारतीय वृतान्त को गढ़ना प्रारंभ कर दिया। सर्वप्रथम उन्होंने अपने शपथ ग्रहण समारोह में सार्क देशों (कुल 8) को ससम्मान आमन्त्रित किया। यहीं से श्री मोदी ने अन्तराष्ट्रीय सम्बन्धों के निर्धारण में संस्कृत वाङ्मय विशेषकर कौटिलीय अर्थशास्त्र को आधार बनाना प्रारंभ किया। कौटिल्य यहाँ पर राजा जिसके केन्द्र में रखकर सिद्धान्त का विकास होता है को विजिगीषु राजा कहता है। विजिगीषु से अभिप्राय विजय की अभिलाषा वाला राजा। विजिगीषु वह राजा होता है जोकि आत्मसंपन्न, अमात्य आदि द्रव्य प्रकृति संपन्न और नीति अवलम्बलित होता है।[2] मैं विषय को आगे बढाऊँ, उसके पूर्व विजिगीषु राजा स्वयं की विजय अभिलाषा को पूर्ण कैसे करते हैं के विषय में जो मण्डल सिद्धान्त, कौटिल्य के द्वारा निरूपित किया गया है को स्पष्ट कर देता हूँ। तदोपरान्त विषय को आगे विस्तृत करेंगे।

कौटिल्य कहते हैं कि विजिगीषु राजा मण्डल के केन्द्र में होता है। उसके सीमा से लगा हुआ राजा अरि होता है। अरि की सीमा से लगा हुआ राजा विजिगीषु का मित्र होता है। मित्र की सीमा से लगा हुआ राज्य अरि-मित्र होता है और अरि-मित्र की सीमा से लगा हुआ राज्य प्रायः विजिगीषु के मित्र का मित्र होता है जिसे वह मित्र-मित्र के नाम से संबोधित करता है। और इसके बाद पुनः अरि के मित्र के मित्र का राज्य आता है जिसे उसने अरि-मित्र-मित्र के नाम से वर्णित किया है। ये सभी पाँच राज्य विजिगीषु की विजयी होने की यात्रा में आगे के क्रम में आते हैं। जैसा क्रम आगे की ओर का है वैसा ही क्रम विजिगीषु राज्य के पीछे की ओर भी होता है। बस भेद है तो नाम का। यथा विजिगीषु राज्य के पीछे की ओर अवस्थित राज्य को पार्ष्णिग्राह कहते हैं जो कि सामान्यतः विजिगीषु के पृष्ठ यानि पीछे होने के कारण पार्ष्णिग्राह कहलाता है और विजिगीषु के साथ द्वैषपूर्ण संबन्धों का निर्वहन करने वाला होता है। पार्ष्णिग्राह से लगा हुआ राज्य आक्रान्द यानि विजिगीषु के साथ सौहार्दपूर्ण संबन्धों वाला होता है। फिर इसके बाद का राज्य पार्ष्णिग्राह का मित्र होने के कारण पार्ष्णिग्राह सार के नाम से जाना जाता है। और अन्त में पार्ष्णिग्राह सार की सीमा से लगा हुआ राज्य आक्रान्द सार कहलाता है; जो कि विजिगीषु के मित्र का मित्र होता है। इस प्रकार से विजिगीषु राज्य स्वयं के आगे 5 प्रकार के राज्यों से और पीछे चार प्रकार के राज्यों से घिरा होता है। ये विजिगीषु सहित कुल 10 राज्य होते हैं।[3] इसके अतिरिक्त कौटिल्य दो और राज्यों का उल्लेख मण्डल सिद्धान्त में मण्डल को पूर्ण करने के लिए करते है। वे लिखते हैं कि विजिगीषु राज्य की संधि में संधि और विग्रहों में विग्रहों का समर्थन करने वाला राज्य मध्यम कहलाता है।[4] वी०पी० वर्मा लिखते हैं कि मध्यम से अभिप्राय उस राज्य या राजा से है जो कि तटस्थ हो और जिसकी सीमाएं विजिगीषु तथा अरि दोनों से ही सटी हों। तथा यह दोनों कि अपेक्षा शक्ति में अधिक हो[5] तभी तो वह तटस्थ रह सकेगा। किन्तु, यदि कौटिल्य के वाक्य पर ध्यान दें तो स्पष्ट होता है कि वह विजिगीषु और अरि की संधि और विग्रह दोनों में वह उनके साथ खड़ा है तो तटस्थ कैसे हो सकता है। तटस्थ से अभिप्राय: तो दोनों ही अवस्थाओं में दोनों में से किसी का भी साथ न देने से होता है। अस्तु। आगे वे दूसरी प्रकार के राज्य या राजा की भी स्थिति स्पष्ट करते हैं और उसे नाम देते हैं उदासीन। यानि वह राज्य या राजा जोकि अरि, विजिगीषु और मध्यम की प्राकृतियों के आतिरिक्त शक्तिशाली, मध्यम राजा से भी वलवान, अरि, विजिगीषु और मध्यम की सन्धि में सन्धि और विग्रह में विग्रह का समर्थक रहे।[6] वी०पी० वर्मा इसकी व्याख्या कुछ यों करते हैं कि उदासीन, मध्यम की भांति दूसरा तरस्थ राज्य है जोकि विजिगीषु,

अरि और मध्यम तीनों से अधिक शक्ति संपन्न हैं तथा इसका प्रदेश तीनों राज्यों से दूर है।[7] यहाँ पर भी तटस्थता की स्थिति भ्रमकारी है। किन्तु यह तो स्पष्ट ही है कि उदासीन निश्चित ही विजिगीषु, अरि और मध्यम से अधिक शक्तिशाली है और आवश्यकता पड़ने पर वह सभी पर नियन्त्रण भी करता है। इसलिए विजिगीषु राज्य या राजा को स्वयं सहित अन्य के साथ उनकी मूल प्रकृति जिनको कौटिल्य द्रव्य प्रकृतियाँ कहते हैं, सहित सम्बधों की स्थापन करना चाहिए।



कौटिल्य मण्डल सिद्धान्त के निरूपण में सहजशत्रु, कृत्रिमशत्रु और सहजमित्र और कृत्रिममित्र को भी सम्मिलित करते हैं। इनमें जो भेद वे करते हैं वह इस प्रकार है कि विजिगीषु राजा की सीमा से लगा हुआ शत्रु और विजिगीषु के वंश में ही पैदा हुआ दायभागी विजिगीषु के सहज शत्रु होगें। इसी प्रकार जो राजा स्वयं से ही विजिगीषु का विरोधी हो जाए या अन्य को भी विरोधी बनाने वाला हो को कृत्रिमशत्रु कहा है। इस प्रकार शत्रुओं के दो प्रकार का निरूपण उनके द्वारा किया गया है।[8]

अब मित्रों के प्रकार पर प्रकाश डालते हैं। उपर्युक्तानुसार मित्र भी दो ही प्रकार के उनके द्वारा बताए गए हैं। 1. सहजमित्र यानि विजिगीषु के राज्य से लगे राज्य की सीमा से लगा हुआ राज्य और विजिगीषु का ममेरा या फुफेरा भाई। धन या जीवन, जीविका के लिए आश्रय लेने वाला कृत्रिममित्र कहलाता है। सरल रूप में समझने के लिए महाभारत में भगवान श्री कृष्ण पाण्डवों के सहजमित्र थे क्योंकि उन दोनों में ममेरे और फुफेरे भाई का संबन्ध था और कर्ण कौरवों का कृत्रिम मित्र था क्योंकि उस मित्रता का मूल हेतु जीविका का आश्रय था।

मण्डल सिद्धान्त के विस्तार के लिए कौटिल्य आगे विस्तार से समझाते हैं कि विजिगीषु, मित्र और मित्र–मित्र ये तीन प्रकृतियाँ और हैं तथा तीनों ही राज्यों की पांच द्रव्य प्रकृतियाँ और हैं यथा अमात्य, जनपद, दुर्ग, कोष, राष्ट्र।[9] इस प्रकार एक राज्य या राजा यथा विजिगीषु (मूल प्रकृति) और उसकी पांच अन्य प्रकृतियाँ, कुल हुई छः। इसी प्रकार मित्र

की भी और मित्र-मित्र की भी छः छः प्रकृतियाँ मिलकर कुल हो गईं 18 ।[10] इस प्रकार 18 प्रकृतियों का मिलकर एक मण्डल बना। यही क्रम अरि राज्यों के मण्डल निर्माण में प्रयुक्त होगा, यही मध्यम और उदासीन के मण्डल निर्माणों में। इस प्रकार से चार मण्डलों का गठन हुआ। एक मण्डल में 18 प्रकृतिगाँ तो चार गण्डलों में 18x4=72 प्रकृतियाँ हुईं।[11]

इसको सारणी के माध्यम से कुछ यों दर्शाया जा सकता है:-

विजिगीषु			अरि			मध्यम			उदासीन		
विजिगीषु । मित्र। मित्र–मित्र			अरि+अरिमित्र +अरिमित्र-मित्र			मध्यम + मित्र+ गिन्न गिन्न			उदासीन+ मित्र+ मित्र–मित्र		
आगात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपत दुर्ग कोष दण्ड	अमात्य जनगत दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड	अमात्य जनपद दुर्ग कोष दण्ड
6 + 6 + 6			6 + 6 + 6			6 + 6 + 6			6 + 6 + 6		
कुल = 18 एक मण्डल			कुल = 18 दूसरा मण्डल			कुल = 18 तीसरा मण्डल			कुल = 18 चतुर्थ मण्डल		

इस प्रकार 12 राजपद्धतियाँ एवं 60 अमात्य आदि द्रव्य प्रकृतियां मिलकर कुल 72 प्रकृतियों का एक बृहद मण्डल बनता है।

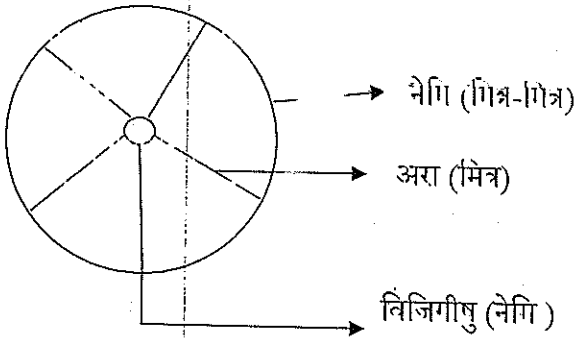
अब विजिगीषु और शत्रु राजाओं के गुणों का विवेचन करते हैं।

वे कहते हैं कि अगर संपन्न राजा (शत्रु को इसमें सम्मिलित नहीं किया गया है क्योंकि शत्रु राजा होने से स्वयं स्वामी प्रकृति की श्रेणी का है।) शेष सात प्रकृतियाँ यानि, स्वामी, अमात्य, जनपद दुर्ग, कोष, दण्ड, और मित्र हैं। इन सभी का व्यवस्थित क्रिया संपन्न होना, राजा का आत्म संपन्न होना, या राजसंपति कही गई है।[12] आत्म संपन्न राजा जोकि स्वयं स्वामी प्रकृति है, वह अपने स्वभाव से गुणहीन प्रकृतियों को भी गुणवान बना लेता है महाभारत के हमारे सम्मुख है। शत्रु राजा जो कि स्वयं स्वामी प्रकृति है, वह अपने स्वभाव से ना केवल स्वयं को हानि पहुँचाता है बल्कि अपने राज्य सहित अपनी समस्त प्रकृतियों को भी नष्ट कर लेता है।[13]

मण्डल सिद्धान्त की परिणति को वे शक्ति (बल) और सिद्धि (सुख) के रूप में प्रकट करते हैं यानि विजिगीषु राजा की शक्ति और सिद्धि का परिणाम बल और सुख के रूप में प्राप्त होता है।[14] वे प्रकारांतर से शक्ति और सुख दोनों के तीन-तीन भेद बताते हैं। यानि शक्ति को वे ज्ञानशक्ति, कोषशक्ति और विक्रमशक्ति में विभाजित करते हैं वहीं सिद्धि को मंत्रसिद्धि, प्रभुसिद्धि और उत्साह सिद्धि के रूप में प्रस्तुत करते हैं।[15] इन हानियों से संपन्न राजा को श्रेष्ठ, रहित को अधम एवं समान शक्ति वाला राजा मध्यम कहलाता है।[16] इसलिए राजा को सदैव ही स्वयं शक्ति और सिद्धि का

विस्तार करते रहना चहिए। यदि राजा यह कार्य स्वयं न कर सके तो उसे ये कार्य स्वयं की अमात्य आदि द्रव्य प्रकृतियों के द्वारा करवाने चाहिए। इस प्रकार विजिगीषु राजा स्वयं की शक्ति विस्तार में न केवल स्वयं सक्रिय रहे बल्कि शत्रु की शक्ति को क्षीण करने के भी समस्त उपाय करता रहे। और इन उपायों के लिए निशेष परिस्थितियों की प्रतीक्षा करे।[17]

कौटिल्य विजिगीषु राजा की और उसके सहयोगियों की तुलना चक्र के रूप में करते हुए उनकी स्थिति की व्याख्या कुछ यों करते हैं। वे कहते हैं कि विजिगीषु चक्र में स्वयं नाभि, मित्र को अरा और मित्र-मित्र को नेमि के रूप में माने।[18] इसको हम निम्न आकृति से सुगमता से समझ सकते हैं।



वे आगे कहते हैं कि जो बलवान शत्रु विजिगीषु और मित्र के मध्य आ जावे वह या तो जीत लिया जाए या सदैव संतप्त रहे।[19] इस प्रकार मण्डल सिद्धान्त के व्यवहारिक क्रियान्वयन से विजिगीषु राजा निश्चित ही यशस्वी होता है।

मण्डल सिद्धान्त में यों तो षाड्गुण्य सिद्धान्त की भी महती भूमिका है किन्तु इसमें सर्वाधिक प्रभावी भूमिका सन्धि और विग्रह की है। उसका विवेचन भी यहाँ पर समीचीन प्रतीत होता है। कौटिल्य इसे स्पष्ट रूप से स्वीकारते हैं कि सात प्रकृतियाँ (स्वामी, अमात्य, जनपद, दुर्ग, कोष, दण्ड (सेना), मित्र) और बारह राज मण्डल (विजिगीषु, अरि, मित्र, अरि मित्र, मित्र-मित्र, अरि-मित्र-मित्र, पार्ष्णिग्राह आक्रन्द, पार्ष्णिग्राह सार, आक्रान्द सार, मध्यम और उदासीन) ही षाड्गुण्य नीति का मुख्य आधार हैं।[20] ये हैं - सन्धि, विग्रह, यान, आसन, संश्रय एवं द्वैधीभाव।[21] यों तो ये छः ही पूर्ण हैं किन्तु कौटिल्य ने मण्डल सिहात के निरूपण में दो (सन्धि एवं विग्रह) पर अधिक बल दिया है,[22] इसलिए इन्हीं का विवेचन यहाँ पर प्रस्तुत करेंगे।

कौटिल्य लिखते हैं कि दो राजाओं के मध्य कुछ शर्तों पर मेल हो जाना सन्धि कहलाता है और शत्रु पर कोई अपकार करना विग्रह कहलाता है।[23] वे आगे सन्धि का आधार बताते हैं कि शत्रु की तुलना में स्वयं को निर्बल समझने पर यह गुण व्यवहृत होता है और यदि स्वयं बलवान हों तो विग्रह का उपयोग करना चाहिए।

कौटिल्य विजिगीषु को निर्देशित करते हैं कि यदि सन्धि और विग्रह की अवस्था में एक समान लाभ की अवस्था हो तो विजिगीषु सन्धि ही करे क्योंकि विग्रह से प्रजा की हानि की संभावना प्रबल हो जाती है।[24] वे आगे यह

भी बताते हैं कि सामर्थ्यानुसार सन्धि विग्रह को व्यवहार में लावे। इसके लिए यह अनिवार्य है कि वह समान या शक्तिशाली के साथ सन्धि तथा कमजोर के साथ विग्रह करके स्वयं के प्रभाव की वृद्धि करे।[25] वे आगे कहते हैं कि यदि शक्ति शाली राजा सन्धि के लिए तत्पर न हो तो विजिगीषु को चाहिए कि वह अपने शत्रु राजा को नानाविध दूतकर्म, मन्त्र युद्ध, सेनापतियों का वध करके राजमण्डल की सहायता ले, शत्रु आदि तथा रसों का गूढ़ प्रयोग, वीवध (धान्य) आसार (मित्र सेना) और प्रसार (घास एवं लकडी) को हानि पहुँचावे।[26] कपट उपायों का प्रयोग करे और दण्ड और आक्रमण को व्यवहार में लावे। इन सबसे या तो बलवान राजा सन्धि के लिए तत्पर हो जावेगा या फिर संघर्षरत रहकर दुर्बलता को प्राप्त होगा। कौटिल्य नानाविध सन्धियों के प्रकारों का उल्लेख करते हैं और विग्रह पर भी विस्तार से प्रकाश डालते हैं। इस प्रकार से वे मण्डल सिद्धान्त को व्यवहारिक रूप से लागू करने में सन्धि की भूमिका को महत्वपूर्ण मानते हैं और यदि निग्रह अपरिहार्य हो तभी उसके उपयोग की बात करते हैं। सारपूर्ण विषय के अध्ययन के बाद यह स्पस्ट होता है कि कौटिल्य राष्ट्रहित के लिए किसी भी व्यवहार को अनुचित नहीं मानते। मात्र राष्ट्रहित को सर्वोपरि मानकर अपनी नीतियों के क्रियान्वयन का पक्ष स्पष्ट करते हैं। बी०पी० बर्मा कौटिल्य के मण्डल सिद्धान्त के व्यवहारिक स्वरूप को दृष्टिगत रखकर ही उन्हें भारतीय राजनीतिक चिन्तकों में यथार्थवादी चिन्तक के रूप में प्रतिष्ठापित करते हैं।[27] क्योंकि जहाँ एक ओर कौटिल्य ने विजिगीषु को संप्रभु साम्राज्य स्थापित करने के लिए उपक्रम प्रस्तुत किए हैं वहीं वे मण्डल के विभिन्न राजाओं के मध्य संतुलन स्थापित करने हेतु विषयों का प्रतिपादन भी करते हैं। सन्धि, विग्रह, आसन, यान, संश्रय एवं द्वैधीभाव ये छः गुण इसी दृष्टिकोण से प्रतिष्ठापित किए गए गुण हैं।

2014 से श्री नरेन्द्र मोदी ने जिन देशों कि यात्राएँ की हैं उन यात्राओं के माध्यम से हम कौटिल्य के मण्डल सिद्धान्त में सम्मिलित चारों मण्डलों (विजिगीषु, अरि, मध्यम, और उदासीन) को समकालीन देशों के साथ रख कर श्री नरेन्द्र मोदी द्वारा व्यवहृत विदेशनीति को मण्डल सिद्धान्त की कसौटी पर कसने का प्रयास करेंगे।

म्यांमार एवं नेपाल यों तो सहज मित्र की श्रेणी के राज्यों में आते हैं किन्तु वैचारिक दृष्टिकोण से यहाँ पर कृत्रिम मित्र की गतिविधियों के संचालन के चलते ये अरि राज्य के अनुसार व्यवहृत होते हैं। यानि कम्यूनिस्ट पार्टी की सरकार के चलते ये अपनी जीविका हेतु चीन पर निर्भर करते हैं। वहीं अफगानिस्तान, भूटान आदि सहज मित्र के रूप में व्यवहृत होते है। सांस्कृतिक भारत का व्याप मध्य एशिया तक जाता है। 2014 के बाद उनमें से भी अधिकांश राज्य या तो सहज मित्र की श्रेणी के अनुसार व्यवहृत हो रहे हैं या कृत्रिम मित्र का आचरण कर हैं। पाकिस्तान अरि की श्रेणी का राज्य है और चीन अरि-मित्र की भूमिका का निर्वहन करता है। तथा इसके साथ वह मध्यम श्रेणी के मण्डल का भी प्रतिनिधि राज्य है। और वह भारत की ओर से विजिगीषु राज्य के रूप में अपना आचरण नहीं करता है। वह सदैव भारत के अरि-मित्र के रूप में ही व्यवहृत होता है। यद्यपि रूस की भुमिका भारत के मित्र की श्रेणी के अनुसार व्यवहृत होती है। योंतो इस प्रकार श्री नरेन्द्र मोदी ने 2014 के बाद जिन देशों की यात्राएँ की हैं उन्हें हम भारत की अधिकारिक वेवसाइट पर उपलब्ध आंकड़ो के अनुसार सुगमता से समझ सकते हैं क्योंकि श्री नरेन्द्र मोदी ने 2014 के बाद से ये सतत प्रयास किए हैं कि भारत के सहज मित्र या कृत्रिम मित्रों की संख्या में वृद्धि हो। भारतीय सेना के विंग कमांडर अभिनन्दन की यथाशीघ्र वापसी इस बात का प्रमाण है की भारत भी विदेश नीति पाश्चात्य प्रभाव या सिद्धान्तों से बाहर

निकल कर राष्ट्रहित के अनुसार आचरण करने लगी है। 2014 से पूर्व की विदेश नीति जिसे जे०एस०मिल नपुंसक के रूप में निरूपित करते हैं।[28] किन्तु ये ध्यातव्य है कि 2014 के बाद की विदेश नीति जिस पर मण्डल सिद्धान्त की छाप स्पष्टत: देखी जा सकती है, ने अपने अतीत की छाया (1947-2014) से बाहर निकलना प्रारंभ कर दिया है। भारत के विषय में पश्चिम की जो धारणा बन गई थी और उस समझ के अनुसार ही भारत का सर्वत्र मूल्यांकन होता था को अब बदला जाने लगा है। क्योंकि पाश्चात्य राजनयों ने भारत के विषय में जो दावे किए थे यथा उनका चरित्र भावुकता के कारण कमजोर हो जाता है जिसमें मूल्यों के प्रति उनकी समझ कभी-कभी नष्ट हो जाती है।[29] अब भारत भावुकता के संरक्षण संवर्धन के साथ-साथ यथार्थ चिन्तन का भी अनुगामी हो गया है। राष्ट्रहित उसके लिए सर्वोपरि है चाहे उसके लिए उसे कोई भी कीमत क्यों न चुकानी पड़े।

2014 के बाद की विदेश नीति की दशा-दिशा ने यह सिद्ध करना प्रारंभ कर दिया है। और इसके परिणाम भी दृष्टिगोचर होने लगे है। द गार्जियन के 19 मई के अंक में छपे स्तंभ की अंतिम पंक्तियाँ कि श्री मोदी को स्वयं को सिद्ध करना होगा। मुझे लगता है कि वह सिद्ध करने कि प्रक्रिया शुरू हो गई है। श्री मोदी उस पर खरे उतरने लगे है। और इस आधार पर न केवल भारत की विदेश नीति में परिवर्तन हो रहा है बल्कि आंतरिक नीति के परिवर्तन के चलते दोनों एक दूसरे के पूरक सिद्ध होकर भारत को प्रतिष्ठापित कर रही है।

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17. तदैव
18. तदैव, पृ० 449

19. तदैव, पृ० 449
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