Volume 8, Issue-9, September, 2021
International Journal of Academic Research

IJAR-ACHIEVED PULICATION EXCELLECE AWARD FOR OUTSTANDING CONTRIBUTION IN THE FIELD OF INTERDISCIPLINARY RESEARCH

Published by
Likhitha Publications
Kakinada-533005 &
Visakhapatnam – 530 017
Andhra Pradesh – India
website :www.ijar.org.in

Office Address
Dr.T.V.Ramana, (9948440288)
4-105/1, Srinivasa Nagar,
Vakalapudi (P), Kakinada-533005
Andhra Pradesh-India
e-mail: drtvramana@yahoo.co.in

Design by
SS Xerox, Visakhapatnam

Editor-in-Chief, IJAR –Vol.8, issue 9, September, 2021
Typeset and Printed (Sucharitha publications) in India:

IJAR, concentrates on critical and creative research in Multidisciplinary and multiple languages Academic Research. This journal seeks to promote original research and cultivate a fruitful dialogue between old and modern thought. Views expressed in the articles is exclusively of the authors, thus, journal is not responsible of it in any case

Visit: www.ijar.org.in
E mail: drtvramana@yahoo.co.in
September, 2021

CONTENTS

Volume 8 **Issue 9** **September 2021**

S. No	Title	Page No.
1	తెలంగాణ ప్రాంతంలో స్త్రీల విశిష్ట కళారూపాలు : **బురుగు సంజీవ**	1
2	ಕಾಡುಗೊಲ್ಲರ ಬುಡಕಟ್ಟು ಸಮಾಜ ಮತ್ತು ಸಂಸ್ಕೃತಿಯ ಕೆಲವು ಒಳನೋಟಗಳು: **ಡಾ.ಶಿವಕುಮಾರ್.ಎ**	7
3	Educational Status of Dalit's in Higher Education in Telangana State – A Study on Warangal District : **Mathangi Murali**	16
4	An Empirical Study on Social - Economical Conditions of Migrant Workers in Bangalore City : **Madhukumar S & Shivalingappa B.P**.	26
5	Maritime Legislations: are Decisions of the Tribunals Enforceable?: **Rashmi Gupta**	32
6	The Impact of Media on Social and Political Transformation : A Critical Study : **Suresh Vadranam & Jayaprada Sahoo**	40
7	Climate Change & Sustainaibilty: An Overview : **Arti Aneja**	51
8	Global Public Health in the Era of Post Doha Declaration & Covid-19 Pandemic : **Nemi Chand Saini**	64
9	Affirmative Principle: Making, Breaking and Shaking (MBS) Approach of Judiciary : **Priyanka Joshi**	76
10	Trial By Media : **Suman Mawar**	91
11	ಮಹಿಳೆಯರ ಅಭ್ಯುದಯದಲ್ಲಿ ಅಂಬೇಡ್ಕರ್‌ರವರ ಪಾತ್ರ : **ಕೋಮಲ ಬಿ**	101

Editorial ……..

Integrate and harmonize the intellectuals concerning various disciplines is a great task in the dynamic world. Meanwhile, International Journal of Academic Research - A Common Platform of Voice of Intellectuals as Change Agents for better Society' has been taking care towards the stare with the well acknowledged advisory and editorial committee speaks of strong backbone and its conscious action to deliver the best to the society, state, nation and the world by its unique features covering the areas of Social Science, Humanities and Technology. To add to this thought and idea, with the contributors from various university Professors and institutions of national and international importance, IJAR establish its credibility with the continuous effort to deliver the qualitative aspect of International repute.

IJAR enriches the world by adding the committed dynamic researchers and wish to utmost cooperation from the readers and intellectuals of institutions, universities, colleges etc. in improve the journal. IJAR believes that the present Issue enriches the aim of the journal. IJAR is conveying special thanks and congratulations to the participants with their valuable writings.

This volume is the glimpses of voice of authors that are enthusiastically associated with various issues. The present issue is really useful to reference for multi-dimensional aspects. I am grateful to the paper writers for their valuable contributions on different dimensions of disciples.

Editor-in-Chief

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

తెలంగాణ ప్రాంతంలో స్త్రీల విశిష్ట కళారూపాలు

బురుగు సంజీవ, (M.Phil),
జానపద కళల శాఖ

భారతదేశంలో లో తెలంగాణ ప్రాంతపు ఆట- పాటలకు, నృత్యాలకు, కళారూపాలకు విశిష్టమైన గుర్తింపు ఉంది. అందులో స్త్రీల కళారూపాలకు నాటి నుండి నేటి వరకు ప్రత్యేక స్థానం కలదు. స్త్రీల కళారూపాలు సంస్కృతి, సాంప్రదాయాలకు ప్రతీకగా నిలుస్తున్నాయి. నాటి కన్నా నేడు స్త్రీ కళారూపాలు ఎక్కువగా ప్రాచుర్యం లోకి రావడం జరుగుతుంది. తెలంగాణ రాష్ట్రం ఏర్పడిన తర్వాత బతుకమ్మ, కోలాటం వంటి స్త్రీల కళారూపాలు మరింతగా ప్రత్యేకతను చాటుతున్నాయి.

తెలంగాణలోని స్త్రీల కళారూపాలు పండుగలు, జాతర్ల, వేడుకలు, ఊరేగింపులు, ఉత్సవాలు వంటి మొదలగు సందర్భాలలో సందర్భానుసారంగా కళారూపాలను స్త్రీలు ప్రదర్శించడం జరుగుతుంది బతుకమ్మ అ కోలాటం అంటే కళారూపాలు తెలంగాణ ఉద్యమంలో కీలకంగా ఉపయోగించబడ్డాయి. ఉద్యమాన్ని బలోపేతం చేసే అంటే ఈ ఎంతగా ప్రదర్శించబడుతున్నయో తెలుసుకోవచ్చు. ఈ కళారూపాలు వివిధ పద్ధతులను, వాయిద్యాలను, వస్త్రాలంకరణ తో సమయాన్ని అనుసరించి, ఆకర్షణీయంగా ఉంటూ ఆనందాన్ని, వినోదాన్ని కలుగజేస్తాయి. ఈ ప్రదర్శనలను వీక్షించే వారు కూడా ఉత్తేజితుల అవుతారు.

తెలంగాణ స్త్రీల కళా రూపాలు:

తెలంగాణ ప్రాంతంలోని అని స్త్రీ ల కళారూపాలను ముఖ్యంగా కనిపించే వాటిలో 1. బతుకమ్మ, 2. ఎదురుకోళ్ళు,3. చప్పట్ల నృత్యం,4. స్త్రీల కోలాటం, 5.చుట్టు కాముడాట,6. కొండరెడ్ల స్త్రీల నృత్యం, 7. కోయ స్త్రీల రేల నృత్యం, 8. గోండు స్త్రీల డెంసా నృత్యం,9.ఎరుకల సోది 10. లంబాడ స్త్రీల నృత్యం. మొదలైనవి ప్రాచుర్యం లో ఉన్నవి.

1. బతుకమ్మ: తెలంగాణలో లో అతి ముఖ్యంగా చెప్పుకోదగిన కళారూపం బతుకమ్మ. ఈ బతుకమ్మను బతుకమ్మ పండుగ సందర్భంగా మహిళలు ఆడుకుంటారు. ఈ కళారూపం ఈ పండుగ సందర్భంలోఎక్కువగా కనిపిస్తుంది. మహిళలు అధిక ప్రాధాన్యతనిస్తూ ఆడుకునే ఆట ఇది. తెలంగాణ లోనే కాకుండా యావత్తు

ప్రపంచ వ్యాప్తంగా ఉన్న తెలంగాణ మహిళలు, ఆడపడుచులు ఆడుకుంటున్నారు అంటే ఈ బతుకమ్మ కళారూపానికి ఎంత ప్రాధాన్యత ఉందో తెలుస్తుంది. తెలంగాణ సంస్కృతికి నిలువుటద్దం పడుతుంది బతుకమ్మ కళారూపం.

ఈ యొక్క బతుకమ్మను పేర్చడానికి ముఖ్యంగా తంగేడు, గునుగు, బంతి, చేమంతి, రుద్రాక్ష, కట్ల, గోరింట, గన్నేరు, మందార, మల్లెలు మొదలగు పూలతో తాంబాలం లో లేదా పళ్లెంలో గుమ్మడి ఆకులు పరిచి వృత్తాకారంలో వివిధ రకాల పూలతో అందంగా పేరుస్తారు. బతుకమ్మ పై భాగంలో పసుపుతో చేసిన గౌరమ్మను అందులో ఉంచుతారు. పెద్ద బతుకమ్మ తో పాటు బిడ్డ బతుకమ్మను కూడా రంగు రంగుల పూలతో పేరుస్తారు. చిన్న, పెద్ద తేడా లేకుండా బాలికలు, యువతులు, మహిళలు, వృద్ధ స్త్రీలు అందరూ కలిసి ఆనందంగా ఎంగిలిపూల బతుకమ్మతో మొదలుకొని సద్దుల బతుకమ్మ వరకు తొమ్మిది రోజులు లంగా వోణీలు, పట్టు చీరలు వంటి మొదలగు వస్త్రాలు ధరించి సాంప్రదాయబద్ధంగా ముస్తాబయ్యి సాయంత్రం మొదలుకొని రాత్రివేళల వరకు వంతలు పాడుతూ, చప్పట్లు కొడుతూ, వృత్తాకారంలో తిరుగుతూ ఆడుతుంటారు.

ఈ కళారూపంలో పాడే టువంటి పాటలు ముఖ్యంగా ఉయ్యాల, బతుకుదెరువు, భక్తి, చారిత్రాత్మక, వీరగాధల కు సంబంధించినవై వుంటాయి.

ఉదాహరణకు:

1. చిత్తూ చిత్తూల బొమ్మ శివుని ముద్దుల గుమ్మ... బంగారు బొమ్మ దొరికెనమ్మ ఈ వాడ లోన...
2. ఇద్దరక్క చెల్లెలు ఉయ్యాలో ఒక్కూరికిచ్చిరి ఉయ్యాలో..... ఒక్కడే

మాయన్న ఉయ్యాలో ఒచ్చన్నపొడాయే ఉయ్యాలో.....

వంటి మొదలగు పాటలు పాడతారు.

2.ఎదురుకోళ్లు: బతుకమ్మ కళారూపంలో లో ఇది ఒక భాగంగా చెప్పవచ్చు. బతుకమ్మ జరుపుకునే ఎనిమిదవ రోజు కొన్ని ప్రాంతాలలో గ్రామంలోని కుమ్మరి, కమ్మరి, వడ్ల, బలిజ, వైశ్య కులాల వాళ్ళు పెళ్లి కొడుకు వారి తరుపున అన్నట్టుగా..... గౌడ్లు, రెడ్లు, వెలమ, యాదవులు, కాపులు లు లు కూతురు తరపున స్త్రీలు వ్యవహరించి ఊర్లో ఉన్న దేవాలయం వద్ద డప్పు వాయిద్యాలతో, మేళతాళాలతో బతుకమ్మలు తీసుకొచ్చి ఒకరికి ఒకరు ఆకు వక్కలు, పసుపు కుంకుమ, గంధము, పూలు ఒకరికొకరు మర్యాదగా

మాట్లాడుకుంటూ, వాయినాలు ఇచ్చుకుంటారు బతుకమ్మలను ఆడి చివరగా పప్పు, బెల్లం, చక్కెర, పుట్నాలు వంటి ఇ తినుబండారాలు ప్రసాదంగా తీసుకొని ఆనందిస్తారు.

3. చప్పట్ల నృత్యం: ఈ నృత్యాన్ని ప్రదర్శించడానికి ప్రత్యేక సందర్భ అంటూ ఏమీ లేదు. సాధారణంగా సాయంత్రం వేళలో, పున్నమి రాత్రులలో, ఆనంద ఉత్సవాలల్లో, ఆడుతారు. ఈ నృత్యం చేసేటప్పుడు ప్రత్యేకమైన నా దుస్తులు ఆహారం అలంకరణ గాని, ఆభరణాల అలంకరణ గాని ప్రత్యేకంగ ధరించారు సాధారణంగా ఉండే విధంగానేవుంటు నృత్యం చేస్తుంటారు. సాధారణంగా ఇందులో కళా సభ్యులు నాలుగు నుండి మొదలుకొని 22 వరకు సరి సంఖ్యలో ఉంటారు. దీనిని ప్రదర్శించేటప్పుడు ఒకరి చుట్టూ ఒకరు తిరుగుతూ, అందరూ వలయాకారంలో తిరుగుతూ ఒకరి చేతుల తో మరొకటి చేతులను నృత్యం చేస్తారు. ఇందులో లో శ్రామిక, భక్తి, వీరగాథల, బావ మరదల్ల వంటి మొదలగు పాటలు ఆనందంగా పాడుతూ, అందరూ కలిసి చిన్న, పెద్ద తేడా లేకుండా సమిష్టిగా నృత్యం చేస్తారు.

4. స్త్రీల కోలాటాలు: దసరా,దీపావళి వంటి పండుగల, ఉత్సవాలల్లో,జాతరలల్లో,ప్రదర్శించే కళారూపాలు ఇవి కోలాట కళారూపాల్లోలోచాలా రకాలు ఉంటాయి. వీటిని దంచుడు కొప్పు, ఎదురెదురుకోప్పు, చెరుగుడు కోప్పు,జడకోప్పు మొదలైనవి ఉంటాయి

ఈ కోలాటాలను ప్రదర్శించేటప్పుడు రెండు చేతులలో రెండు కోలలు (చిన్న కర్రలు) పట్టుకొని వాయిస్తు ఆడుతారు. బాలికలు, మహిళలు, వృద్ధులు అందరూ కలిసి ఎలాంటి వయో భేదాలు లేకుండా, అవసరాల రీత్యా కళా సభ్యులు గ్రూపులుగా ఏర్పడి కోలాటాలు వంత పాడుతూ ఆడుతుంటారు. సాధారణంగా కోపులని బట్టి నాలుగు నుండి మొదలుకొని ఇరవై రెండు వందల ఇరవై రెండు వరకు కళా సభ్యులు ఉంటారు

కళా ప్రదర్శకులు రంగు రంగుల వస్త్రాలు మరియు నగలు ధరించి సిగలో పూలు పెట్టుకొని,చెంపలకు ఇరువైపుల గంధం పూసుకుని సాంప్రదాయబద్ధంగా ముస్తాబయ్యి, కొలను వాయిస్తూ లయబద్ధంగా వంత పాడుతూ, ఆడుతూ ఉంటారు. కోపుల ను బట్టి అవసరాల కు అనుకూలంగా వృత్తాకారంలో ఇరు పక్కలకు వెళుతూ... అదే స్థలంలోకి వస్తూ.... ఎదురెదురుగా ఉంటూ... ముందుకు వెళుతూ, మళ్ళీ వెనక్కు వస్తూ.... విధాలుగా కోపు ను బట్టి

ఆడుతుంటారు. ఇందులో జడకోపు, చక్రపు కోపులలో డప్పు వాయిద్యాల ను ఉపయోగిస్తుంటారు. తిరుగుడు కోపు కోలల తో కాకుండా చేతి చప్పట్లు ఒకరికి ఒకరు కొట్టుకుంటూ ఆడతారు. ఈ కోలాటాలు వీధుల్లో అనుకూలమైన స్థలంలో ఆడుతారు

ఇందులో పాడే పాటలు:

1. కోలమ్మ కోలో కోలు... కోలు కోలంటు ఆడలమ్మ కోలో..

2. పున్నమి పూసిందే వలలో....
పున్నమి కాసిందే వలలో....

3. జమేదరి కోయిలో.. జమేదారి కోయిలో..
ఆనంగ పోయేటి ఆల్లు ఎవరమ్మో..
జమేదారి కోయిలో..

5.చుట్టూ కాముడాట: ఈ ఆటను నల్లగొండ జిల్లాలో, నల్లగొండ జిల్లా పరివాహక ప్రాంతాల్లో లో ఎక్కువగా ఆడతారు. ఇది బతుకమ్మ కళారూపం ని పోలి ఉంటుంది. కానీ బతుకమ్మలు పర్చరు. నిజాంలకు,జాజకారులకు వ్యతిరేకంగా పోరాడి అమరులైన వారి, వీరయోదుల, తిరుగుబాటులను.... పాటల రూపంలో పాడుతూ ఆడుతుంటారు , దుఖంతో స్మరించుకుంటారు.

6. కొండరెడ్ల స్త్రీల నృత్య కళారూపం: కొండరెడ్లు ఖమ్మ జిల్లాలోని అడవుల్లో గోదావరి ఇ పరివాహక ప్రాంతాల్లో నివసిస్తుంటారు. వీరు ఈ నృత్యాన్ని కొండరెడ్ల రాజుల, పండుగలల్లో, గంగాలమ్మ, గూడెమ్మ,దేవతల పండుగల సందర్భాల్లో జన్మదిన వేడుకలలో వివిధ ఉత్సవాల సందర్భాలలో ఆకర్షణీయంగా ఈ కళారూపాలను ప్రదర్శిస్తారు. వీరు ముక్కుకు ముక్కెర, చెవులకు పోగులు, మెడలో పూసల దండలు, ఆకుపచ్చని రంగు చీరలు ధరిస్తారు. ఈ కళాకారులు తప్పట్లు, ఎండు కాయల శబ్దాలు చేస్తుండగా ఎడమ చేతులను వీపు పైన చెట్టాపట్టాలు వేసుకుని, ముందుకు వెనుకకు అడుగులు వేసుకుంటూ, చేతులు ఊపుకుంటూ నృతం్య చేస్తారు

ఈ కళా రూపం లోని పాటలు:

1. లే లే లే లేలెమ్మో రో.... ఓ రేల...
   లే లే లే లేలెమ్మోరో....ఓ రేల...

2. గైరికి పిట్ట కనులదానా కోడల....
కొంజె ముక్కు దానా కోడలా కోడలమ్మో....
అంటూ వివిధ రకాల పాటలు పాడుతూ ఆకర్షణీయంగా నృత్యాన్ని చేస్తారు.

7. కోయ స్త్రీల రేలా నృతం్య: పండుగలలల్లో, ఉత్సవాలల్లో, జాతరలల్లో ముఖ్యంగా రేలా నృత్యాన్ని ప్రదర్శిస్తుంటారు. వీళ్లు నృతం్య చేస్తున్నప్పుడు ముఖానికి ఎలాంటి రంగులు వేసుకోరు. చేతులల్లో ఎలాంటి వస్తువులు పట్టుకోరు. పచ్చని చీరలను

మహిళలు కట్టుకుంటారు, బాలికలు మరియు యువతులు లంగా జాకెట్లు దుస్తులను ధరిస్తారు. గూడాల మధ్యలో లేదా మంచి స్థలం ఉన్న ఇంటి వాకిళ్ళలో ఈ నృత్యాన్ని ప్రదర్శిస్తారు.

: పాటలు:

1.రే రేలా యే....రే రెలా..రే రేలా..రే రేలా.....

కంది కర్రా నడుమ వంగసెల్లో వంగ.....

2.రే రేలా యే రే రేలా....రేలా రేలా... రేలా.....

నా చెతు రుమ్మలో... తిమ్మలో లాగి వొత్తోండ్

8.గోం డు స్త్రీడెంసా నృతం్య: వీరు కళారూపాలను ప్రదర్శిస్తున్న ఇప్పుడు సందర్భానుసారంగా, నృత్యాలు, ఆహారం్య, అలంకరణ, వాయిద్యాలతో వేర్వేరు వాయిద్యాలు వేరువేరుగా ఉంటాయి.

1. దివీడి డెంసా: ఇందులోని కళాకారులు సాధారణంగా 8 నుండి 30 వరకు ఉంటారు. గూడెం పటేల్ ఇంటి ముందు, హవల్దార్, కటోడ, గ్రామ పెద్దలు ఒకపక్క కూర్చుంటే, ప్రేక్షకులు మరొక పక్కన కూర్చొని వీక్షిస్తారు.

వీరు కళారూపాలను ప్రదర్శించేటప్పుడు మెడలో వెండి గొలుసులు, నడుముకు వడ్డాణం, కాళ్ళకు కడియాలును, ముంజేతికి కడియాలను, సిగలో పూలు పెట్టుకొని రంగు రంగుల చీరలు ధరిస్తారు.

డెంసా నృత్యాలల్లో ముఖం్యగా పెన్ డెంసా,పర్సన్ పూజ,గౌర డెంసా, సాన డెంసా,సత్తిక్ డెంసా వంటివి మొదలగునవి వివిధ సందర్భాలలో వివిధ రకాలుగా ప్రదర్శిస్తుంటారు.

9.ఎరుకల సోది: ఎరుకల కులానికి సంబంధించిన స్త్రీలు చేతిలో తంబూర, మరో చేతిలో వివిధ చెట్ల కొమ్మల కట్టలను పట్టుకొని, నుదుటన పెద్ద బొట్టు పెట్టుకుని, మెడలో పూసల దండలు, చెవులకు పెద్ద రింగులు, చేతినిండా గాజులు, ముక్కుకు ముక్కెర, పెద్ద జడ కొప్పు వేసుకొని వీధుల్లోకనిపిస్తుంటారు. వీరు....

సోది చెపుతానమ్మ సోది...

జరగబోయేది చెబుతా.....

జరిగింది చెపుతా.....

ఉన్నది ఉన్నట్టుగా చెబుతా.....

సోది చెపుతానమ్మ సోది..... అంటూ ఆసక్తి ఉన్నవారికి సోది చెబుతుంటారు ఇది ఎరుకల సోది కళారూపం అంటాము

10.లంబాడి స్త్రీల నృతం్య: జాతరలల్లో, ఉత్సవాలల్లో, పెళ్ళీలల్లో, పండుగలల్లో నృతం్య చేస్తుంటారు వీరు లంబాడి దుస్తులను ధరిస్తారు. వీరు ఎరుపు రంగులో నీలి పట్టీలు ఉన్న పెద్ద లంగాలను, నాణేలతో, అందాలతో

కూడిన జాకెట్లు వేసుకొని, మెడలో చెవులకు వెండి ఆభరణాలు, చేతులకు కాళ్లకు కడియాలు పూర్తిగా లంబాడి సాంప్రదాయబద్ధంగా అవుతారు. వీరు అనేక రకాలుగా సమిష్టిగా , వంతలుగా పాటలు లయబద్ధంగా పాడుతూ నృత్యం చేస్తారు

మీరు వివిధ సందర్భాలలో వివిధ రకాలుగా నృత్యం చేస్తారు అనేకరకాల పాటలు పాడుతారు మీరు నృత్యం చేసేటప్పుడు వృత్తాకారంలో, వరుసలో, ఎదురెదురుగా ఉంటూ సమిష్టిగా చిన్నలు పెద్దలు అందరూ కలిసి ఆనందంగా నృత్యం చేస్తుంటారు. నృత్యం చేసేటప్పుడు దప్పుడియా, కాన్సెరి, తాలి, నగార అంటి మొదలగు వాయిద్యాలు వాయిస్తూ ఉండగా వీళ్ళు నృత్యం చేస్తుంటారు.

తెలంగాణ రాష్ట్రంలో స్త్రీల కళా రూపాలు అనేక విశిష్టతలు కలిగి ఉన్నాయి అనేక పేరు ప్రఖ్యాతలు పొందిన వని చెప్పవచ్చును.

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

"ಕಾಡುಗೊಲ್ಲರ ಬುಡಕಟ್ಟು ಸಮಾಜ ಮತ್ತು ಸಂಸ್ಕೃತಿಯ ಕೆಲವು ಒಳನೋಟಗಳು"

ಡಾ.ಶಿವಕುಮಾರ್.ಎ
ಸಹಾಯಕ ಪ್ರಾಧ್ಯಾಪಕರು,
ಇತಿಹಾಸ ವಿಭಾಗ,
ಕುವೆಂಪು ಪ್ರಥಮ ದರ್ಜೆ ಕಾಲೇಜು,
ಬೆಂಗಳೂರು

ಕಾಡುಗೊಲ್ಲ ಜನಾಂಗವು ಕರ್ನಾಟಕದಲ್ಲಿ ತನ್ನದೇ ಆದ ಸ್ಥಾನವನ್ನು ಪಡೆದುಕೊಂಡಿದೆ. ಈ ಜನಾಂಗವು ತನ್ನದೇ ಆದ ಆಚರಣೆಗಳನ್ನು ರೂಢಿಸಿಕೊಂಡಿದೆ. ಇಂತಹ ಆಚರಣೆಗಳಿಂದ ಈ ಜನಾಂಗವು ಊರಿನ ಹೊರಗೆ ಹಟ್ಟಿಗಳಲ್ಲಿ (ಗೊಲ್ಲರಹಟ್ಟಿ) ವಾಸಿಸುವ ಸಂಸ್ಕೃತಿಯನ್ನು ರೂಢಿಸಿಕೊಂಡಿವೆ. ಈ ಜನಾಂಗವು ರಾಜ್ಯದ ತುಮಕೂರು, ಚಿತ್ರದುರ್ಗ, ಹಾಸನ, ರಾಮನಗರ, ಬೆಂಗಳೂರು ಗ್ರಾಮಾಂತರ, ಬೆಂಗಳೂರು ನಗರ, ಬಳ್ಳಾರಿ ಮತ್ತು ರಾಯಚೂರು ಇನ್ನೂ ಮುಂತಾದ ಜಿಲ್ಲೆಗಳಲ್ಲಿ ವ್ಯಾಪಕವಾಗಿ ವಾಸಿಸಿರುವ ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟು ಅಪಾರ ಜನಪದ ಜ್ಞಾನವನ್ನು ಹೊಂದಿರುವುದು ವಿಶೇಷವಾದ ಸಂಗತಿಯಾಗಿದೆ.

ಆಧುನಿಕ ಪರಿಸರದಲ್ಲಿಯೂ ಬುಡಕಟ್ಟು ಲಕ್ಷಣಗಳನ್ನು ಅಚ್ಚುಕಟ್ಟಾಗಿ ಕಾಪಾಡಿಕೊಂಡು ಬಂದವರು, ಮಡಿ–ಮೈಲಿಗೆಯಲ್ಲಿ ಅತ್ಯಂತ ಕಟ್ಟುನಿಟ್ಟು, ಎದೆಗೆ ಕುಪ್ಪಸ ತೊಡದ ಕೆಲ ಗೊಲ್ಲ ಮಹಿಳೆಯರು ನಿರಂತರ ಮುತ್ತೈದೆಯರು, ಗಂಡ ಸತ್ತ ಹೆಣ್ಣಿಗೆ ಸಾಮಾಜಿಕ ವಿಧಿಯ ಕ್ರೂರ ಹಿಂಸೆಗಳಿಲ್ಲ. ಪತಿಯ ಪ್ರತಿರೂಪ ಎಂದು ಭಾವಿಸುವ ಮುಂಗೈಯ ಗೊಲ್ಲ ಕಡಗವನ್ನೇ ತನ್ನ ಪತಿ ಎಂದು ಭಾವಿಸಲಾಗಿರುವ ಈ ಜನರಲ್ಲಿ ಹೆಣ್ಣು ಋತುಮತಿಯಾದಾಗ, ಮುಟ್ಟಾದಾಗ, ಹೆರಿಗೆಯಾದಾಗ, ಸೂತಕದ ಹೆಸರಲ್ಲಿ ಹಟ್ಟಿಯಿಂದ ಒಂದು ಫರ್ಲಾಂಗ್ ದೂರ ಕಳುಹಿಸುವ ಕ್ರೌರ್ಯದ ವರ್ತನೆ ಇಂದಿಗೂ ನಿಂತಿಲ್ಲ. ಇಂತಹ ಕೆಲವು ಭಾವುಕ ನೆಲೆಯ ಸಾಮಾಜಿಕ ಸಂಗತಿಗಳನ್ನು ಜನಪದೀಯ ನೆಲೆಯಲ್ಲಿ ಮತ್ತು ಸಮಾಜಶಾಸ್ತ್ರದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಅಧ್ಯಯನ ಮಾಡುವ ಉದ್ದೇಶ ಈ ಸಂಶೋಧನ ಅಧ್ಯಯನಕ್ಕಿದೆ.

ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟಿನಲ್ಲಿ ಅಪಾರವಾದ ಸಾಹಿತ್ಯ ಸಂಪತ್ತಿದೆ. ಜಗತ್ತಿನ ಮಹಾಕಾವ್ಯಗಳ ಸಾಲಿನಲ್ಲಿರುವ ಜುಂಜಪ್ಪ, ಎತ್ತಪ್ಪನವರ ಮಹಾಕಾವ್ಯಗಳು ಈ ಬುಡಕಟ್ಟಿನ ಸಾಂಸ್ಕೃತಿಕ ಮತ್ತು ಸಾಹಿತ್ಯಕವಾದ ಅನನ್ಯತೆ ಸಾರುವಲ್ಲಿ ಹೆಗ್ಗಳಿಕೆಯಾಗಿದೆ. ಅಲ್ಲದೆ ಚಿತ್ತಯ್ಯ, ಕಾಟಯ್ಯ, ಕ್ಯಾತಲಿಂಗೇಶ್ವರ ದೇವರಿಗೆ ಸಂಬಂಧಿಸಿದ ಪುರಾಣಗಳು ಮತ್ತು ಅಪಾರ ಸಂಖ್ಯೆಯ ಈರಗಾರರು, ಈರಗಾರ್ತಿಯರನ್ನು ಕುರಿತ ಸಾಹಿತ್ಯವು ನೂರಾರು ಪುಟಗಳಲ್ಲಿ ಸಾವಿರಾರು ತ್ರಿಪದಿಯ ರೂಪದಲ್ಲಿ ದೊರೆಯುತ್ತದೆ.

ಬುಡಕಟ್ಟು ಅಧ್ಯಯನವು ಸಂಸ್ಕೃತಿ ಅಧ್ಯಯನದಲ್ಲಿ ಬಹುಮುಖ್ಯವಾದ ಪಾತ್ರವನ್ನು

ವಹಿಸುವುದರಿಂದ ಪ್ರಸ್ತುತ ಸಮಾಜದ ಅಧ್ಯಯನದಲ್ಲಿ ಬುಡಕಟ್ಟು ಮತ್ತು ಸಂಸ್ಕೃತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಕೆಲವು ಮುಖ್ಯವಾದ ವಿಚಾರಗಳನ್ನು ಗುರುತಿಸಿಕೊಳ್ಳಬಹುದು. ಅಂದರೆ "ಸಮಾಜದ ಒಬ್ಬ ಜೀವಿಯಾಗಿ ಮಾನವ ಪರಂಪರಾಗತವಾಗಿ ರೂಢಿಸಿಕೊಂಡು ಬಂದಿರುವ, ವರ್ಗಾಯಿಸುವ, ಹಂಚಿಕೊಳ್ಳುವ ಮತ್ತು ಗೌರವಿಸುವ ಕ್ರಿಯೆಗಳ, ಆಲೋಚನೆಗಳ, ಮೌಲ್ಯಗಳ ಮತ್ತು ನಿರ್ಮಾಣ ಮಾಡುವ ವಸ್ತುಗಳ ಮೊತ್ತವನ್ನು ಸಂಸ್ಕೃತಿ ಎಂದು ಕರೆಯಬಹುದು.[1]

ಕಾಡುಗೊಲ್ಲರನ್ನು ಬುಡಕಟ್ಟು ಎಂದು ಪರಿಗಣಿಸುವುದರಿಂದ ಬುಡಕಟ್ಟುಗಳ ಸ್ವರೂಪ ತಿಳಿಯುವುದು ಸಮಂಜಸ ಎನಿಸುತ್ತದೆ. ತೀ.ನಂ.ಶಂಕರನಾರಾಯಣರವರು 'ಜಗತ್ತಿನಾದ್ಯಂತ ಪಟ್ಟಣಗಳಲ್ಲಿ, ಹಳ್ಳಿಗಳಲ್ಲಿ ಜನಗಳು ವಾಸ ಮಾಡುತ್ತಾರೆ. ಇವರ ಸಂಸ್ಕೃತಿಯನ್ನು ಕ್ರಮವಾಗಿ ನಗರ ಸಂಸ್ಕರತಿ, ಗ್ರಾಮೀಣ ಸಂಸ್ಕರತಿ ಎಂದು ಕರೆಯಬಹುದು. ಈ ಎರಡನ್ನು ಹೊರೆತುಪಡಿಸಿದರೆ ಇನ್ನೊಂದು ಸಾಂಸ್ಕೃತಿಕ ವರ್ಗದ ಸಂಸ್ಕೃತಿಯನ್ನು ಗುರುತಿಸಬಹುದು. ಅದನ್ನೇ 'ಬುಡಕಟ್ಟು ಸಂಸ್ಕೃತಿ' ಎಮದು ಕರೆಯುತ್ತಾರೆ. ಈ ಸಂಸ್ಕೃತಿಯ ಜನರು ಅನೇಕ ಶತಮಾನಗಳಿಂದಲೂ ಬೆಟ್ಟ–ಗುಡ್ಡಗಳ ಪ್ರದೇಶದಲ್ಲಿ ಮರಳು ಕಾಡುಗಳಲ್ಲಿ, ಹಿಮ ಪ್ರದೇಶಗಳಲ್ಲಿ, ದ್ವೀಪಗಳಲ್ಲಿ ವಾಸವಾಗಿರುವ ಸಾಮಾಜಿಕ ವರ್ಗಗಳು, ಇವುಗಳು ನಗರ ಮತ್ತು ಗ್ರಾಮೀಣ ಸಂಸ್ಕರತಿಗಳ ಪ್ರಭಾವಕ್ಕೆ ಸಿಗದೆ, ತಮ್ಮ ಸಂಸ್ಕೃತಿಯನ್ನು ಪ್ರತ್ಯೇಕವಾಗಿಯೇ ಉಳಿಸಿಕೊಂಡು ಬಂದಿರುತ್ತವೆ.'

ಈ ವರ್ಗಗಳಲ್ಲಿ ರಕ್ತಸಂಬಂಧ ಬಹುಮುಖ್ಯವಾದ ಅಂಶವಾಗಿದೆ. ಪ್ರತಿಯೊಬ್ಬ ವ್ಯಕ್ತಿಯೂ ತನ್ನ ಸಾಮಾಜಿಕ ವರ್ಗದ ಪ್ರತಿಯೊಬ್ಬನನ್ನು ತಿಳಿದುಕೊಂಡಿರುತ್ತಾನೆ. ಇವರ ಸಾಮಾಜಿಕ ಮತ್ತು ಸಾಂಸ್ಕೃತಿಕ ವ್ಯವಸ್ಥೆ ರಕ್ತ ಸಂಬಂಧದ ಮೇಲೆ ಅವಲಂಬಿತವಾಗಿರುತ್ತದೆ. ಇಂತಹ ಸಾಮಾಜಿಕ ವರ್ಗಗಳು ತುಂಬಾ ಕಠಿಣ ನಿಯಮಗಳನ್ನು ಹೊಂದಿರುತ್ತವೆ. ಈ ಸಾಮಾಜಿಕ ವರ್ಗಗಳ ಸಂಸ್ಕೃತಿ ನಗರ ಮತ್ತು ಗ್ರಾಮೀಣ ಸಂಸ್ಕೃತಿಗಿಂತ ಭಿನ್ನವಾಗಿರುತ್ತದೆ.

ಈ ಸಮುದಾಯ ತಮ್ಮದೇ ಪ್ರತ್ಯೇಕವಾದ ಆಚಾರ, ಆಚರಣೆ, ವ್ಯವಹಾರ, ಸಾಹಿತ್ಯ ಮೊದಲಾದವುಗಳನ್ನು ಹೊಂದಿರುತ್ತಾರೆ. ಇಂತಹ ಸಾಮಾಜಿಕ ವರ್ಗಗಳನ್ನು ಸಾಂಸ್ಕೃತಿಕ ಮಾನವ ವಿಜ್ಞಾನದಲ್ಲಿ ಬುಡಕಟ್ಟುಗಳು ಎಂದು ಕರೆಯಲಾಗುತ್ತದೆ.[2] ಜಗತ್ತಿನಲ್ಲಿ ಇಂತಹ ಸಹಸ್ರಾರು ಬುಡಕಟ್ಟುಗಳನ್ನು ನೋಡಬಹುದು. ಅವುಗಳಲ್ಲಿ ಪೆಸಿಪಿಕ್ ಸಾಗರದ ಮಲೇಷಿಯಾ, ಮೈಕ್ರೋನೇಷಿಯಾ, ಪಾಲೀನೋಷಿಯಾ ಮುಂತಾದ ದ್ವೀಪ ಸಮೂಹಗಳ ಬುಡಕಟ್ಟುಗಳನ್ನು ಆಫ್ರಿಕಾದ ಕಾಡುಗಳಲ್ಲಿ ಮತ್ತು ಮರಳುಗಾಡುಗಳಲ್ಲಿ ಇರುವ ಬುಡಕಟ್ಟುಗಳನ್ನು ನಿದರ್ಶನವನ್ನಾಗಿ ನೋಡಬಹುದು.

[1] ಶಂಕರನಾರಾಯಣ; ತೀ.ನಂ.ಕಾಡುಗೊಲ್ಲರ ಸಂಪ್ರದಾಯ ಮತ್ತು ನಂಬಿಕೆಗಳು, 1982, ಪು.1

[2] ಅಡಿಟಿಪ್ಪಣಿ–1, ಪು.3

ಮೇಲೆ ಹೇಳಿದಂತೆ ಬುಡಕಟ್ಟುಗಳ ಸ್ವರೂಪ ಭಾರತದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸ್ವಲ್ಪ ವ್ಯತ್ಯಾಸವಾಗಿ ಕಂಡುಬರುತ್ತದೆ. ಪ್ರತ್ಯೇಕ ಭಾಷೆ ಇರುವ ಬುಡಕಟ್ಟುಗಳಿರುವಂತೆ ಪ್ರತ್ಯೇಕ ಭಾಷೆಗಳಿಲ್ಲದೆ ಇರುವ ಬುಡಕಟ್ಟುಗಳನ್ನು ಭಾರತದಲ್ಲಿ ಕಾಣಬಹುದು. ಹಾಗೂ ಬುಡಕಟ್ಟಿನಲ್ಲಿ ಜನಸಂಖ್ಯೆ ಎಷ್ಟಿರಬೇಕೆಂಬ ನಿಯಮದಲ್ಲೂ ಭಾರತದ ಸನ್ನಿವೇಶದಲ್ಲಿ ಅನ್ವಯಿಸುವುದಿಲ್ಲ ಎಂದಿರುವ ವಿದ್ವಾಂಸರು ಬುಡಕಟ್ಟುಗಳನ್ನು ಎರಡು ಉದ್ದೇಶಗಳಿಗಾಗಿ ಅಧ್ಯಯನ ಮಾಡಿದ್ದಾರೆ.

- ಪ್ರತಿಯೊಂದು ಬುಡಕಟ್ಟಿನ ಸಂಸ್ಕೃತಿಯನ್ನು ತಿಳಿಯುವುದಕ್ಕಾಗಿಯೇ ಅಧ್ಯಯನ ಮಾಡುವುದು.
- ಮಾನವ ಸಂಸ್ಕೃತಿಯ ಸ್ವರೂಪವೇನು ಎಂಬುದನ್ನು ತಿಳಿಯುವ ಉದ್ದೇಶದಿಮದ ಅಧ್ಯಯನ ಮಾಡಲಾಯಿತು.

ಸಾಮಾಜಿಕ ಮಾನವ ವಿಜ್ಞಾನ ಹಾಗೂ ಮಾನವ ಕುಲ ವಿಜ್ಞಾನ ಈ ಎರಡು ಕ್ಷೇತ್ರಗಳಲ್ಲಿಯೂ ಆದಿವಾಸಿ ಬುಡಕಟ್ಟುಗಳ ಸಾಂಸ್ಕೃತಿಕ ಅಧ್ಯಯನ ಪ್ರಮುಖವೆನಿಸಿದೆ. ರ್ಯಾಡ್ ಕ್ಲಿಪ್ ಬ್ರೌನ್, ರಿವರ್ಸ್, ಸೆಲಿಗ್‌ಮನ್, ಪ್ರಾಜ್ ಬೋ ಅಸ್, ಯಲಿನೋವಸ್ಕಿ ಏವಾನ್ಸ್, ಪ್ರಿಚರ್ಡ್ ಮುಂತಾದ ಹಲವಾರು ಜನ ಮಾನವ ವಿಜ್ಞಾನಿಗಳು ಆದಿವಾಸಿ ಬುಡಕಟ್ಟುಗಳ ಸಾಂಸ್ಕೃತಿಕ ಅಧ್ಯಯನದ ಶ್ರೇಷ್ಠ ಮಾದರಿಯನ್ನು ಒದಗಿಸಿದ್ದಾರೆ.

ಭಾರತದಲ್ಲಿ ಮಾನವ ವಿಜ್ಞಾನಿಗಳು ವಿವಿಧ ಬುಡಕಟ್ಟುಗಳ ಬಗ್ಗೆ ನಡೆಸಿರುವ ಅಧ್ಯಯನದಿಂದ ಸಂಪ್ರದಾಯ ನಂಬಿಕೆಗಳ ಕ್ಷೇತ್ರಕ್ಕೆ ತುಂಬಾ ಪ್ರಯೋಜನವಾಗಿದೆ. ಭಾರತದಲ್ಲಿ ಬುಡಕಟ್ಟುಗಳ ಅಧ್ಯಯನ ಆರಂಭವಾಗಿದ್ದು ಮೂಲತಃ ಆಡಳಿತದ ಕಾರಣಗಳಿಗಾಗಿ, ಬ್ರಿಟೀಷರು ಭಾರತದಲ್ಲಿ ಆಳ್ವಿಕೆಯನ್ನು ಆರಂಭಿಸಿದೊಡನೆ ಈ ದೇಶದ ಸಂಸ್ಕೃತಿಯ ಪರಿಚಯ ಮಾಡಿಕೊಳ್ಳುವುದು ಅಗತ್ಯವಾಯಿತು. ಶಿಷ್ಟ ಸಾಮಾಜಿಕ ವರ್ಗಗಳ ಸಂಸ್ಕೃತಿಯನ್ನು ವೇದಗಳ, ಉಪನಿಷತ್ತುಗಳ, ಪುರಾಣಗಳ, ರಾಮಾಯಣ, ಮಹಾಭಾರತ ಹಾಗೂ ಶಾಸ್ತ್ರ ಗ್ರಂಥಗಳ ಮೂಲಕ ತಿಳಿಯಲು ಸಾಧ್ಯವಾಯಿತು. ಆದರೆ ಬುಡಕಟ್ಟುಗಳ ಸಂಸ್ಕೃತಿಯನ್ನು ತಿಳಿಯಲು ಅಚ್ಚಾದ ಬರಹಗಳಿರಲಿಲ್ಲ. ಆಗ ಅಲ್ಲಿನ ಮೌಖಿಕ ಸಾಹಿತ್ಯವನ್ನು ತಿಳಿಯುವುದು ಅಗತ್ಯವಾಯಿತು.

ಕರ್ನಾಟಕದಲ್ಲಿ ಜನಗಣತಿ ಮೂಲಕ ಗುರುತಿಸಿದ ಕೆಲವು ಬುಡಕಟ್ಟುಗಳು, ಆದಿವಾಸಿಗಳು, ಜಾತಿಗಳು ಪರಿಚಯಾತ್ಮಕ ಅಧ್ಯಯನಗಳಾಗಿ ಹೊರಬಂದವು. ನಂತರ ಅವು ಸಮಾಜಶಾಸ್ತ್ರದ, ಮಾನವಶಾಸ್ತ್ರದ ಅಧ್ಯಯನಗಳೂ, ಕುಲಶಾಸ್ತ್ರೀಯ ಅಧ್ಯಯನಗಳೂ ಆದವು. ಅಂತಹ ಸಮಯದಲ್ಲಿ ಕಾಡುಗೊಲ್ಲ ಸಮುದಾಯವನ್ನು ಬುಡಕಟ್ಟಿನ ಪಟ್ಟಿಯಲ್ಲಿ ಸೇರಿಸಲಾಗಿದೆ. ಎಚ್.ವಿ.ನಂಜುಂಡಯ್ಯ ಮತ್ತು ಹೆಚ್.ಕೆ.ಅನಂತಕೃಷ್ಣ ಅಯ್ಯರ್ ಅವರ ನಾಲ್ಕು ಸಂಪುಟಗಳ 'The Mysore tribes and Castes' ಎಂಬ ಕೃತಿಯಲ್ಲಿ ದಾಖಲಾದ

ಪ್ರತಿಯೊಂದು ಬುಡಕಟ್ಟಿನ ಅಥವಾ ಜಾತಿಯ ಜನಗಳು ವಾಸಿಸುವ ಪ್ರದೇಶ, ಅದರ ಸಾಂಪ್ರದಾಯಿಕ ಇತಿಹಾಸ, ಅದರ ಆಂತರಿಕ ಸಮಾಜ ರಚನೆ, ಕಸುಬು, ಸಾಮಾಜಿಕ ಸ್ಥಾನಮಾನಗಳು, ಹುಟ್ಟು, ಮದುವೆ, ಸಾವು ಮೊದಲಾದ ಸಂದರ್ಭಗಳಲ್ಲಿ ಆಚರಿಸುವ ಸಂಪ್ರದಾಯಗಳು ಆಹಾರ ಪದ್ಧತಿಗಳ ಬಗ್ಗೆ ವಿವರಗಳನ್ನು ನೋಡಬಹುದು. ಕರ್ನಾಟಕದ ಬುಡಕಟ್ಟುಗಳು ಮತ್ತು ಅವುಗಳ ನೆಲೆಗಳು ಮುಖ್ಯವಾಗಿ ಸರ್ಕಾರದ ಪಟ್ಟಿಯಲ್ಲಿರುವ 63 ಬುಡಕಟ್ಟುಗಳಲ್ಲಿ ಪಶುಸಂಗೋಪನಾ ನೆಲೆಗಳಲ್ಲಿ ಕಾಡುಗೊಲ್ಲರನ್ನು ಗುರುತಿಸಲಾಗಿದೆ. ಬುಡಕಟ್ಟಿನ ಎಲ್ಲಾ ಲಕ್ಷಣಗಳನ್ನು ಹೊಂದಿರುವ ಕಾಡುಗೊಲ್ಲ ಸಮುದಾಯವನ್ನು ಬುಡಕಟ್ಟು ಎಂದೇ ಗುರುತಿಸಲಾಗಿದೆ. ಆದರೆ ಪರಿಶಿಷ್ಟ ಪಂಗಡದ ಪಟ್ಟಿಯಲ್ಲಿ ಇವರನ್ನು ಸೇರಿಸದಿರುವುದೇ ವಿಪರ್ಯಾಸದ ಸಂಗತಿ.

ಇಂದು ಇಂತಹ ಅಲೆಮಾರಿ ಬುಡಕಟ್ಟು ಸಮುದಾಯಗಳು ಆಧುನಿಕತೆಯ ಪ್ರಭಾವಕ್ಕೆ ಸಿಲುಕಿ ಅವರು ಸರ್ಕಾರದ ಯಾವ ಸೌಲಭ್ಯವನ್ನು ಪಡೆಯಲಾಗದೆ ಮತ್ತು ತಮ್ಮ ಮೂಲ ಸಂಸ್ಕೃತಿಯನ್ನು ಉಳಿಸಿಕೊಂಡು ನೆಮ್ಮದಿಯಿಂದ ಬದುಕಲಾಗದೆ ಒದ್ದಾಡುತ್ತಿದ್ದಾರೆ. ಈ ಸಂದರ್ಭದಲ್ಲಿ ಬುಡಕಟ್ಟುಗಳ ಸ್ವರೂಪಗಳು ಬದಲಾಗುತ್ತಿವೆ. ಅವುಗಳನ್ನು ಅಧ್ಯಯನ ಮಾಡಲು ಹೊರಟ ಅಧ್ಯಯನಕಾರರು ಕೇವಲ ಸಂಗ್ರಾಹಕರಾಗಿ, ಸುಧಾರಕರಾಗಿ ಹೋಗದೆ ಸಹಭಾಗಿತ್ವದ ಕಾರಣಕ್ಕಾಗಿ ಹೋಗಿ ಅಧ್ಯಯನ ಮಾಡಬೇಕಿದೆ. ಬುಡಕಟ್ಟು ಆದಿವಾಸಿ ಸಮುದಾಯಗಳನ್ನು ಇಂದು ಶೈಕ್ಷಣಿಕ, ಆರ್ಥಿಕ, ಸಾಮಾಜಿಕ, ರಾಜಕೀಯ ಕ್ಷೇತ್ರಗಳಲ್ಲಿ ಮುಖ್ಯವಾಹಿನಿಗೆ ತರಬೇಕಾಗಿದೆ.

ಕರ್ನಾಟಕದ ಪ್ರಾಚೀನ ಬುಡಕಟ್ಟುಗಳಲ್ಲಿ ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟು ಸಹ ಒಂದಾಗಿದೆ. "ಕೌಟಿಲ್ಯನ ಅರ್ಥಶಾಸ್ತ್ರ ಗೊಲ್ಲನಿಗೆ 'ವೇತನಪಗ್ರಾಹ'ನೆಂದು ಕರೆದಿರುವುದು, ಗುಣಭದ್ರಾಚಾರ್ಯನ, ಮಹಾಪುರಾಣದಲ್ಲಿ ಗೊಲ್ಲ, ಗೊಲ್ಲತಿಯರ ವರ್ಣನೆ, ವಡ್ಡಾರಾಧನೆ ಗೊಲ್ಲನ ಚಿತ್ರಣ, ಪಂಪನ ವಿಕ್ರಮಾರ್ಜುನ ವಿಜಯಂದಲ್ಲಿ ಗೋವಳ ಶಬ್ದ ಪ್ರಯೋಗ, ಪೊನ್ನನ ಶಾಂತಿಪುರಾಣದ ಗೊಲ್ಲಣಿಗೆ ಶಬ್ದ ಇತ್ಯಾದಿ ಕೃತಿ ಇದಕ್ಕೆ ಪುಷ್ಠಿ ಒದಗಿಸುತ್ತೆ.[3]

ಸಾಹಿತ್ಯ ಸಂಸ್ಕೃತಿ ದೃಷ್ಟಿಯಿಂದ ಹಲವು ಹತ್ತು ವೈಶಿಷ್ಟ್ಯಗಳನ್ನು ಒಳಗೊಂಡಿರುವ ಕಾಡುಗೊಲ್ಲರ ವಿಶಿಷ್ಟ ಬದುಕಿನಂತೆಯೇ ವೈವಿಧ್ಯಮಯವಾದ ಅಪಾರ ಜನಪದ ಸಾಹಿತ್ಯ ಭಂಡಾರವೇ ಇದರಲ್ಲಿದೆ. ಇವರ ಬದುಕೇ ಸಾಹಿತ್ಯವಾಗಿ ಪ್ರತಿಬಿಂಬಿತವಾಗಿದೆ. ನಾಗರಿಕ ಸಮಾಜದ ಲಕ್ಷಣಗಳನ್ನು ಮೈಗೂಡಿಸಿಕೊಳ್ಳಲು ತವಕಿಸುತ್ತಲೇ ತನ್ನ ಪಾರಂಪರಿಕ ಸಂಪ್ರದಾಯ ನಡಾವಳಿಗಳನ್ನು ಕಾಯ್ದಿಟ್ಟುಕೊಳ್ಳಲು ಹೆಣಗುತ್ತಿರುವ, ಸೆಣೆಯುತ್ತಿರುವ ಸಮುದಾಯ ಇದಾಗಿದೆ. ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟಿನಲ್ಲಿ ಕಟ್ಟುಪಾಡುಗಳು ವಿಧಿ–ವಿಧಾನಗಳು ತುಂಬಾ ಜಠಿಲವಾಗಿರುವುದು. ಆಧುನಿಕ ಬದುಕಿನ

[3] ಮಲ್ಲಿಕಾರ್ಜುನ ಕಲಮರಳ್ಳಿ, ಕಾಡುಗೊಲ್ಲರ ಜನಪದ ಕಾವ್ಯಗಳಲ್ಲಿ ಸಾಂಸ್ಕೃತಿಕ ಸಂಘರ್ಷ, 2007, ಪು.46–48

ಸ್ಥಿತ್ಯಂತರದ ಹೊಸ್ತಿಲಲ್ಲಿ ನಿಂತಿರುವ ಈ ಸಮುದಾಯದಲ್ಲಿ ಸಹಜವಾಗಿಯೇ ತವಕ ತಲ್ಲಣಗಳು ಎದುರಾಗುತ್ತಿರುತ್ತವೆ. ಇಂತಹ ವೇಳೆಯಲ್ಲಿ ಅಂತರ್ಗತವಾಗಿದ್ದು ಹಲವು ಬಗೆಯ ಸಂಘರ್ಷಗಳಿಗೆ ಎಡೆ ಮಾಡಿಕೊಡುತ್ತದೆ.

ಕಾಡುಗೊಲ್ಲರನ್ನು ಅಡವಿಗೊಲ್ಲರು, ಹಟ್ಟಿಗೊಲ್ಲರು, ಗೋವಳರು ಎಂಬ ಹೆಸರುಗಳಿಂದ ಗುರುತಿಸಲಾಗಿದೆ. 'ಗೊಲ್ಲ' ಪದದ ನಿಷ್ಪತ್ತಿಗಳೇನೇ ಇದ್ದರೂ ಸಹ ಇವರು ಅಡವಿ, ಹಟ್ಟಿ, ಕಾಡು ಎಂಬ ವಿಭಿನ್ನ ಹೆಸರಿನ ಒಂದೇ ಮೂಲದವರಾಗಿದ್ದಾರೆ. ಮೂಲತಃ ಇವರು ಪಶುಪಾಲಕರಾಗಿದ್ದರಿಂದ ಇವರನ್ನು ಗೋಪಾಲಕರೆಂದು ಕರೆಯಲಾಗಿದೆ. ಗೊಲ್ಲರಲ್ಲಿ ಕಾಡುಗೊಲ್ಲ–ಊರುಗೊಲ್ಲರೆಂಬ ಎರಡು ಕುಲಗಳಿದ್ದು ಈ ಎರಡು ಸಮುದಾಯಗಳು ಬೇರೆ ಬೇರೆಯದೇ ಆದ ಆಚಾರ–ವಿಚಾರಗಳನ್ನು ಹೊಂದಿದ್ದು, ಈ ಇಬ್ಬರ ನಡುವೆ ಯಾವುದೇ ರೀತಿಯಲ್ಲೂ ಹೆಣ್ಣು ಕೊಡುವುದು–ಹೆಣ್ಣು ತರುವ ಪದ್ಧತಿಗಳು ನಡೆಯುವುದಿಲ್ಲ. ಕಾಡುಗೊಲ್ಲರು ಅಪ್ಪಟ ಬುಡಕಟ್ಟಿನವರಾದರೆ, ಊರುಗೊಲ್ಲರು ಜಾತಿಯಾಗಿ ಕಂಡುಬರುತ್ತಾರೆ. ಕಾಡುಗೊಲ್ಲರ ಮನೆ ಮಾತು ಕನ್ನಡವಾದರೆ, ಊರುಗೊಲ್ಲರ ಮನೆ ಮಾತು ತೆಲುಗು ಕನ್ನಡವಾಗಿದೆ. ಊರುಗೊಲ್ಲರು ಕೃಷ್ಣನನ್ನು ಆರಾಧಿಸುತ್ತಾ, ಅವನ ಅವತಾರದಲ್ಲಿಯೇ ಜುಂಜಪ್ಪ, ಎತ್ತಪ್ಪ, ಚಿತ್ರಲಿಂಗ, ಕಾಟಮಲಿಂಗ, ಪಾತೇಲಿಂಗ, ಕ್ಯಾತೇಲಿಂಗ, ಬೇವಿನಹಳ್ಳಿ ಕರಿಯಮ್ಮ, ಹುಣಿಗೆರೆ ಅಮ್ಮ ಮುಂತಾದ ಬುಡಕಟ್ಟು ದೇವರುಗಳನ್ನು ಆರಾಧಿಸುವುದನ್ನು ಕಾಣುತ್ತೇವೆ. ಮೂಲತಃವಾಗಿ ಶೈವಪರಂಪರೆಗೆ ಸೇರಿದ ಕಾಡುಗೊಲ್ಲರಲ್ಲಿ ಶೈವ–ವೈಷ್ಣವ ಸಂಸ್ಕೃತಿಗಳ ದಿವ್ಯ ಸಂಗಮವನ್ನು ಕಾಣುತ್ತೇವೆ.

ಕಾಡುಗೊಲ್ಲರನ್ನು ಸಾಮಾಜಿಕವಾಗಿ ಗುರ್ತಿಸುವುದಾದರೆ, ಕಾಡುಗೊಲ್ಲರು, ಹುಲ್ಲುಗಾವಲು ಹಾಗೂ ಬೇಸಾಯದ ಭೂಮಿ ಇರುವ ಕಡೆ ವಾಸ ಮಾಡಲು ನೆಲೆ ನಿಂತರು. ನಂತರ ಹಟ್ಟಿಗಳನ್ನು ಕಟ್ಟಿಕೊಂಡರು. ಇವರು ತಮ್ಮದೇ ಆದ ಸಾಮಾಜಿ ರಚನೆಯನ್ನು ಮಾಡಿಕೊಂಡು ಹೆರಿಗೆ, ಮಾಸಿಕ ಮುಟ್ಟು, ಮದುವೆ, ಸಾವು ಇಂತಹ ಸಂದರ್ಭಗಳಲ್ಲಿ ತುಂಬಾ ಪ್ರತ್ಯೇಕವಾದ ಸಂಪ್ರದಾಯವನ್ನು ಹೊಂದಿದವರು. ಇವರಂತೆಯೇ ಇವರ ದೇವರುಗಳೂ ಸಹ ಹಟ್ಟಿಯ ನಡುವೆ ಗುಬ್ಬದಲ್ಲಿ ನೆಲೆಸಿರುವುವು. ಹಟ್ಟಿಯ ಸುತ್ತ ಕಳ್ಳೇ (ಪಾರೇ ಬೇಲಿ) ಹಾಕಿಕೊಂಡಂತೆ ದೇವರ ಗುಬ್ಬದ ಸುತ್ತಲೂ ಪೌಳಿಯನ್ನು ನಿರ್ಮಿಸಿರುತ್ತಾರೆ. ಇವರ ಹಟ್ಟಿಗಳಿಗೆ ತಮ್ಮ ಸಾಂಸ್ಕೃತಿಕ ಮುಖಂಡರ ಹೆಸರಿನಿಂದಲೇ ಹಟ್ಟಿಯ ಹೆಸರನ್ನು ಕರೆಯುತ್ತಾರೆ. ಹಲವು ಸಂಶೋಧನೆಗಳಿಂದ ಕಾಡುಗೊಲ್ಲರಲ್ಲಿ 73 ಬೆಡಗುಗಳಿವೆ ಎಂದು ತಿಳಿದುಬರುತ್ತದೆ. ಅದರಲ್ಲಿ ಬಹುಮುಖ್ಯವಾಗಿ ಕರಡಿಗೊಲ್ಲರು, ಮಾರನವರ ಗೊಲ್ಲರು, ಮೆರೆನವರು, ಅಜ್ಜಿಯವರು, ಅಶಿನೋರು, ಸೋಮನೋರು, ಸನ್ನೂರು, ಕಂಬೇರು, ಪೋಲಿನವರು ಇನ್ನೂ ಮುಂತಾದ ಬೆಡಗುಗಳನ್ನು ಕಾಣುತ್ತೇವೆ. ಇವರಲ್ಲಿ ಒಂದೇ ಬೆಡಗಿನವರು ಮದುವೆ ಮಾಡಿಕೊಳ್ಳುವಂತಿಲ್ಲ. ಇಂತಹ ಅಂತರ್ ಬೆಡಗಿನ ವಿವಾಹವನ್ನು ನಿಷೇಧಿಸಲಾಗಿದೆ. ಇವರಲ್ಲಿ ಸಂಪ್ರದಾಯದ

ಪ್ರಕಾರ ಸಹೋದರತ್ವದ ಭಾವನೆ ಇದೆ. ಆದ್ದರಿಂದ ಈ ರೀತಿ ವಿವಾಹಗಳು ನಿಷಿದ್ಧವಾಗಿರುತ್ತವೆ.

ಇವರಲ್ಲಿ ಸೋದರತ್ತೆ, ಸೋದರ ಮಾವನ ಮತ್ತು ಅಕ್ಕನ ಮಗಳನ್ನು ಮದುವೆ ಆಗುವ ಪದ್ಧತಿ ಇದೆ. ಹಿಂದೆ ಹೆಣ್ಣಿಗೆ ತೆರ ಕೊಡುವ ಪದ್ಧತಿ ಇವರಲ್ಲಿತ್ತು. ಆದರೆ ಇಂದು ಅದು ಬದಲಾಗಿ ವರದಕ್ಷಣೆ ರೂಪ ಪಡೆದಿದೆ ಎಂಬುದು ತಿಳಿದುಬರುತ್ತದೆ. ಇವರಿಗೆ ಕಣಿ, ಶಾಸ್ತ್ರ, ಕೆಟ್ಟಕಣ್ಣು, ಮಾಟ, ಶಕುನ ಇವುಗಳಲ್ಲಿ ಅಪಾರ ನಂಬಿಕೆ ಇದೆ. ಕಾಡುಗೊಲ್ಲರ ಮದುವೆಗಳಲ್ಲಿ ಪುರೋಹಿತರಿಗೆ ಅವಕಾಶವಿಲ್ಲ. ಕುಲದ ಮುಖಂಡರ, ತಂದೆ–ತಾಯಿಯರ, ಗುರು–ಹಿರಿಯರ ಸಮ್ಮುಖದಲ್ಲಿ 'ಧಾರೆ' ಎರೆಯುವ ಪದ್ಧತಿ ಇವರಲ್ಲಿದೆ. ಮದುವೆಯನ್ನು ಅಶುಚಿ ಸೂತಕ ಎಂದೇ ಭಾವಿಸುವ ಇವರು ಹಟ್ಟಿಯಿಂದ ಹೊರಗೆ ಧಾರೆ ಎರೆಯುತ್ತಿದ್ದು ಇಂದು ಚಪ್ಪರದವರೆಗೂ ಬಂದಿದೆ. ಆದರೆ ಮದುವೆಯಾದ ನಂತರ ಸ್ನಾನ ಮಾಡಿ ಶುಚಿಯಾದ ಮೇಲೆಯೇ ಮಧುಮಕ್ಕಳಿಗೆ ಮನೆ ಪ್ರವೇಶ, ಇವರಲ್ಲಿ ವೈದವ್ಯಾಚರಣೆ ಬಗ್ಗೆ ಸಡಿಲತೆ ಇದೆ. ವಿಧವೆಯರಿಗೆ ಪುನರ್ ವಿವಾಹವಿಲ್ಲ. ವ್ಯಭಿಚಾರವನ್ನು ಹೀನ ಕೃತ್ಯವೆಂದೇ ಭಾವಿಸಿ ದಂಡ ವಿಧಿಸುತ್ತಾರೆ. ಹೆಣ್ಣು ಮಕ್ಕಳಿಗೆ ಜಾತಿಯಿಂದಲೇ ಹೊರಗಿಡುವ ಪದ್ಧತಿ ಇವರಲ್ಲಿದೆ.

ಈ ಸಮುದಾಯದಲ್ಲಿ ತಮ್ಮದೇ ಆದ ನ್ಯಾಯ ಪಂಚಾಯಿತಿ ಇದೆ. ಹಟ್ಟಿಯ ಯಜಮಾನನೇ ಪ್ರಮುಖನಾಗುತ್ತಾನೆ. ಕಟ್ಟೆಮನೆ ಇವರಿಗೆ ಹೈಕೋರ್ಟಿನಂತೆ ಇಲ್ಲಿ ಕುಲದ ನ್ಯಾಯ ಪದ್ಧತಿಗಳೆಲ್ಲ ಕಟ್ಟೆ ಮನೆಯಲ್ಲಿಯೇ ಇತ್ಯರ್ಥವಾಗುತ್ತವೆ. ಕರಿಓಬನಹಳ್ಳಿ, ತಾಳವಟ್ಟಿ ಮತ್ತು ರಾಮನಹಳ್ಳಿ. ಈ ಮೂರು ಕಾಡುಗೊಲ್ಲರ ಕಟ್ಟೆಮನೆಗಳೆಂದು ನಿಗಧಿಪಡಿಸಲಾಗಿದೆ. ಆದರೆ ಇಂತಹ ತಮ್ಮದೇ ಆದ ಆಚರಣೆಗಳನ್ನು ಒಳಗೊಂಡಿರುವ ಕಾಡುಗೊಲ್ಲರು ರಾಜಕಾರಣದ ಪ್ರಭಾವಕ್ಕೊಳಗಾಗಿ
ಯಾದವೀಕರಣಗೊಳ್ಳುತ್ತಿರುವುದು ವಿಪರ್ಯಾಸ ಸಂಗತಿಯಾಗಿದೆ.

ಕಾಡುಗೊಲ್ಲರ ಆಹಾರ ಪದ್ಧತಿಯಲ್ಲಿ ಸಸ್ಯಾಹಾರ ಮತ್ತು ಮಾಂಸಾಹಾರ ಎರಡೂ ಪದ್ಧತಿಯನ್ನು ಕಾಣಬಹುದಾಗಿದೆ. ಇವರುಗಳು ಸರಳ ಉಡುಪುಗಳನ್ನು ಧರಿಸುತ್ತಾ ಸರಳ ಜೀವಿಗಳು ಆಗಿದ್ದಾರೆ. ಈ ಬುಡಕಟ್ಟಿನಲ್ಲಿ ಅಕ್ಷರಸ್ಥರು ಕಡಿಮೆಯಿದ್ದು, ಇವರ ಹಟ್ಟಿಗಳು ಪಕ್ಕದ ಗ್ರಾಮಗಳ/ಊರುಗಳ ಹೆಸರಿನಿಂದ ಗುರುತಿಸಿಕೊಂಡಿರುವ ಕಾರಣದಿಂದ ನೇರ ಕಂದಾಯ ಗ್ರಾಮಗಳಾಗಿಲ್ಲ. ಹಾಗಾಗಿ ಕಾಡುಗೊಲ್ಲರ ಹಟ್ಟಿಗಳಿಗೆ ಸರ್ಕಾರದ ಅನೇಕ ಸೌಲಭ್ಯಗಳು ತಲುಪದೇ ಇರುವುದರಿಂದ ಇವರಲ್ಲಿ ಮೂಲಭೂತ ಸೌಕರ್ಯಗಳ ಕೊರತೆ ಇರುವುದು ಇಂದಿಗೂ ಅಕ್ಷರಶಃ ಸತ್ಯವಾಗಿದೆ.

ಕಾಡುಗೊಲ್ಲರಲ್ಲಿ ಅಪಾರ ಜನಪದ ಸಾಹಿತ್ಯ ಸಂಪತ್ತಿದೆ. ಒಂದೊಂದು ಹಟ್ಟಿಗಳಲ್ಲಿಯೂ ಹತ್ತು ಹಲವು ಜನಪದ ಕಲಾವಿದರನ್ನು ಕಾಣಬಹುದಾಗಿದೆ. ಪುರುಷರು ಕೋಲಾಟದಲ್ಲಿ, ದೇವರನ್ನು ಕಟ್ಟಿ ಕುಣಿಸುವುದರಲ್ಲಿ ನಿಷ್ಣಾತರು. ಜೊತೆಗೆ ಕೋಲಾಟದ ಪದಗಳನ್ನು ಕಗ್ಗದ ಪದಗಳನ್ನು, ಗಣೆನಾದದೊಂದಿಗೆ ದೇವರ ಕಾವ್ಯಗಳನ್ನು,

ಪುರಾಣಗಳನ್ನು, ಕಥೆಗಳನ್ನು ಹೇಳುತ್ತಾರೆ. ಹಾಗೆಯೇ ಸ್ತ್ರೀಯರಲ್ಲೂ ಕೂಡ ಅಪಾರ ಸಂಖ್ಯೆಯ ಕಲಾವಿದರನ್ನು ಕಾಣಬಹುದಾಗಿದೆ. ಸ್ತ್ರೀಯರು ದೇವರ ಪುರಾಣ, ಖಂಡ ಕಾವ್ಯಗಳು, ಸೋಬಾನೆ ಪದ, ಜೋಗುಳದ ಪದ, ಬೀಸುವ–ಕುಟ್ಟುವ ಪದಗಳನ್ನು ಹಾಡುತ್ತಾರೆ. ಹಾಗೆಯೇ ರಂಗೋಲಿ, ಹಸೆ ಚಿತ್ತಾರದಂತಹ ಕಲೆಗಳಲ್ಲಿ ಪರಿಣಿತರು. ಒಂದೊಂದು ಹಟ್ಟಿಯಲ್ಲಿಯೂ ಒಂದೊಂದು ಅನರ್ಘ್ಯ ಸಾಹಿತ್ಯ ರತ್ನಗಳನ್ನು ಕಾಣಬಹುದು. ಸಾವಿರದ ಸಿರಿ ಬೆಳಗಿಸಿ ಅನೇಕ ಪ್ರಶಸ್ತಿಗಳನ್ನು ಮಡಿಲಿಗೆ ಹಾಕಿಸಿಕೊಂಡ ಸಿರಿಯಜ್ಜಿಯಂತಹ ಮಹಾನ್ ಕಲಾವಿದೆಯನ್ನು ಕೊಟ್ಟ ಹಿರಿಮ ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟಿನದ್ದಾಗಿದೆ.

ಹೀಗೆ ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟು ಕರ್ನಾಟಕದಲ್ಲಿ ಅತೀ ಹಿಂದುಳಿದ ಮತ್ತು ಸಮಾಜದ ಮುಖ್ಯವಾಹಿನಿಗೆ ಬರದೆ, ತನ್ನದೇ ಆದಂತಹ ಕೆಲವು ಬುಡಕಟ್ಟು ಆಚರಣೆಗಳನ್ನು ಅನುಸರಿಸಿಕೊಂಡು ಜೀವನ ನಿರ್ವಹಿಸುತ್ತಿದೆ. ಈ ಸಮುದಾಯವು ಪ್ರಸ್ತುತ ಸಮಾಜದಲ್ಲಿ ಇತ್ತ ನಗರ ಜೀವನಕ್ಕೂ ಹೊಂದಿಕೊಳ್ಳದೇ, ಅತ್ತ ಗ್ರಾಮೀಣ ಜೀವನಕ್ಕೂ ಹೊಂದಿಕೊಳ್ಳದೇ, ತನ್ನದೇ ಆದ ಕೆಲವು ಹೀನ ಆಚರಣೆಗಳನ್ನು ಅನುಸರಿಸಿಕೊಂಡು ಬಂದಿದೆ. ಈ ಸಮಾಜದಲ್ಲಿ ಹೆಣ್ಣುಮಕ್ಕಳ ಸ್ಥಿತಿ ಶೋಚನೀಯವಾಗಿದೆ. ಏಕೆಂದರೆ ಈ ಬುಡಕಟ್ಟಿನಲ್ಲಿ ಅನುಸರಿಸುವ ಕಂದಾಚಾರ ಪದ್ಧತಿಯಿಂದ ಇಂದು ಈ ಹೆಣ್ಣು ಮಕ್ಕಳ ಶಿಕ್ಷಣ ಬಹಳ ದುಸ್ಥರವಾಗಿದೆ. ಹಾಗಾಗಿ ಸರ್ಕಾರ ಇದರ ಬಗ್ಗೆ ಗಮನಹರಿಸಿ ಈ ಸಮುದಾಯದ ಜನರಿಗೆ ಸರ್ಕಾರಿ ನೌಕರಿಗೆ ಮತ್ತು ಶಿಕ್ಷಣಕ್ಕೆ ಮೀಸಲಾತಿಯನ್ನು ಕಲ್ಪಿಸಿ, ಸಮುದಾಯದ ಮಕ್ಕಳಿಗೆ ಶಿಕ್ಷಣ ಸಿಗುವಂತಾಗಬೇಕು. ಎಲ್ಲರೂ ಶಿಕ್ಷಿತರಾದರೆ ಸಮಾಜದಲ್ಲಿ ಕಾಡುಗೊಲ್ಲರು ಕಂದಾಚಾರವನ್ನು ತ್ಯಜಿಸಿ ನಾಗರೀಕ ಬದುಕನ್ನು ಕಟ್ಟಿಕೊಳ್ಳಲು ಸಾಧ್ಯವಾಗುತ್ತದೆ. ಗೊಲ್ಲರಹಟ್ಟಿಗಳನ್ನು ಕಂದಾಯ ಗ್ರಾಮಗಳನ್ನಾಗಿ ಮಾಡಿ ಮೂ;ಲ ಸೌಲಭ್ಯಗಳನ್ನು ಒದಗಿಸಿಕೊಟ್ಟಿದ್ದೇ ಆದರೆ ಮತ್ತು ಕಂದಾಚಾರದ ವಿರುದ್ಧ ಕಾನೂನುಗಳನ್ನು ಜಾರಿಗೊಳಿಸುವುದರಿಂದ ಈ ಸಮಾಜವನ್ನು ಮುಖ್ಯವಾಹಿನಿಗೆ ತರಬಹುದಾಗಿದೆ. ಈ ರೀತಿ ಕಾರ್ಯಾಚರಣೆಯನ್ನು ಕಾಡುಗೊಲ್ಲ ಸಮುದಾಯದ ಇಂದಿನ ವಿದ್ಯಾವಂತ ಮಕ್ಕಳು ಎದುರು ನೋಡುತ್ತಿದ್ದಾರೆ. ಇದರ ಬಗ್ಗೆ ಸರ್ಕಾರ ಶೀಘ್ರ ಕಾರ್ಯ ಪ್ರವೃತ್ತವಾಗಬೇಕಾಗಿದೆ.

ಉಪಸಂಹಾರ

ಕಾಡುಗೊಲ್ಲರು ಶಿಕ್ಷಣ ವಂಚಿತರು, ಅಲೆಮಾರಿಗಳು, ಇವರು ಪಶುಸಂಗೋಪನೆ, ಕುರಿ ಸಾಕುವುದು, ಕೃಷಿ ಮಾಡುವುದೇ ತಮ್ಮ ಮೂಲವೃತ್ತಿ ಎಂದು ಭಾವಿಸಿ ತನ್ನ ಮಕ್ಕಳನ್ನು ತನ್ನಂತೆಯೇ ಈ ವೃತ್ತಿಗಳಲ್ಲಿ ಮುಂದುವರೆಸುತ್ತಾರೆ. ಇಂದೂ ಸಹ ಎಷ್ಟೋ ಮಕ್ಕಳು ಶಾಲೆ ಬಾಗಿಲನ್ನು ತುಳಿಯುವುದಿಲ್ಲ. ಹಾಗಾಗಿ ಶಿಕ್ಷಣದಿಂದ ವಂಚಿತರಾಗಿ ಸರ್ಕಾರಿ ಸೌಲಭ್ಯಗಳ ಪರಿಜ್ಞಾನವೇ ಇವರಿಗೆ ಇರುವುದಿಲ್ಲ. ಹೀಗಾಗಿ ಕಾಡುಗೊಲ್ಲರಿಗೆ ಮೊದಲು ಸರ್ಕಾರ ಮೀಸಲಾತಿಯನ್ನು ಕಲ್ಪಿಸುವ ಮೂಲಕ ಶಿಕ್ಷಣವನ್ನು ಕೊಡಬೇಕಾಗಿದೆ. ಕನಾಟಕದಲ್ಲಿ ಎಷ್ಟು ಕಾಡುಗೊಲ್ಲರಹಟ್ಟಿ (ಗೊಲ್ಲರಹಟ್ಟಿ)ಗಳಿವೆಯೋ ಎಲ್ಲಾ ಹಟ್ಟಿಗಳಲ್ಲಿಯೂ ಸರ್ಕಾರ ಶಾಲೆಗಳನ್ನು

ತೆರೆಯಬೇಕು. ಆ ಗ್ರಾಮಗಳನ್ನು 'ಕಂದಾಯ ಗ್ರಾಮಗಳು' ಎಂದು ಘೋಷಿಸಿ ಮೂಲ ಸೌಲಭ್ಯವನ್ನು ಒದಗಿಸಿ ಅಭಿವೃದ್ಧಿಗೊಳಿಸಬೇಕು. ಪ್ರತಿ ಹಟ್ಟಿಗಳಲ್ಲಿ ದೇವಾಲಯಗಳನ್ನು ಕಾಣುತ್ತೇವೆ. ಆದರೆ ಶಾಲೆಗಳು ಇರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಸರ್ಕಾರ ಈ ಕಾರ್ಯವನ್ನು ಮಾಡಿದ್ದೇ ಆದರೆ ಎಲ್ಲರೂ ಶಿಕ್ಷಿತರಾಗಿ ತಮ್ಮ ಹಕ್ಕುಗಳನ್ನು ತಾವು ಬಳಸಿಕೊಳ್ಳುವಂತಾಗುತ್ತಾರೆ. ಜೊತೆಗೆ ಶಿಕ್ಷಿತರಾದರೆ ಅನಾಗರಿಕ ಪದ್ಧತಿಯ ತಮ್ಮ ಮೂಲ ಸಂಪ್ರದಾಯಗಳನ್ನು ತೊರೆದು ನಾಗರಿಕ ಸುಶಿಕ್ಷಿತ ಬದುಕನ್ನು ಕಟ್ಟಿಕೊಳ್ಳುತ್ತಾರೆ. ಹೀಗೆ ಶಿಕ್ಷಣದಿಂದ ಇವರನ್ನು ಬದಲಾಯಿಸಬಹುದೇ ಹೊರೆತು ಬೇರೆ ಯಾವ ಮಾರ್ಗದಿಂದಲೂ ಕಾಡುಗೊಲ್ಲರ ಸಂಪ್ರದಾಯ, ಮೂಢನಂಬಿಕೆ ಇನ್ನೂ ಮುಂತಾದ ಆಚರಣೆಗಳನ್ನು ಬದಲಾಯಿಸಲು ಕಷ್ಟ ಸಾಧ್ಯವೆಂದು ಹೇಳಬಹುದಾಗಿದೆ.

ಪರಾಮರ್ಶನ ಗ್ರಂಥಗಳು

ಎ. ಸಂದರ್ಶನ

1. ಚನ್ನಜ್ಜಪ್ಪ, ಚಿಕ್ಕಗೊಲ್ಲರಹಟ್ಟಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು
2. ಕುರಿಕೆಂಚಯ್ಯ; ಚಿಕ್ಕಗೊಲ್ಲರಹಟ್ಟಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು
3. ಭಾಲಯ; ದೊಡ್ಡಗೊಲ್ಲರಹಟ್ಟಿ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು
4. ಬೈಲಪ್ಪ; ಬೆಟ್ಟಹಳ್ಳಿ, ಗೊಲ್ಲರಹಟ್ಟಿ, ಮಾಗಡಿ ತಾಲ್ಲೂಕು
5. ಚನ್ನಮ್ಮ; ಬೆಟ್ಟಹಳ್ಳಿ, ಗೊಲ್ಲರಹಟ್ಟಿ, ಮಾಗಡಿ ತಾಲ್ಲೂಕು
6. ಮಣಸಯ್ಯ; ಕಾಗಿಮಡು ಗೊಲ್ಲರಹಟ್ಟಿ, ಮಾಗಡಿ ತಾಲ್ಲೂಕು
7. ಮೋಟಯ್ಯ; ಕಾಗಿಮಡು ಗೊಲ್ಲರಹಟ್ಟಿ, ಮಾಗಡಿ ತಾಲ್ಲೂಕು
8. ಸರೋಜಮ್ಮ; ಮತ್ತೀಕೆರೆ ಗೊಲ್ಲರಹಟ್ಟಿ, ಮಾಗಡಿ ತಾಲ್ಲೂಕು
9. ಚಿತ್ತಮ್ಮ; ಶ್ರೀಗಿರಿಪುರ ಗೊಲ್ಲರಹಟ್ಟಿ, ಮಾಗಡಿ ತಾಲ್ಲೂಕು
10. ಜಯಮ್ಮ; ಪೋಲೋಹಳ್ಳಿ ಗೊಲ್ಲರಹಟ್ಟಿ, ಮಾಗಡಿ ತಾಲ್ಲೂಕು

ಬಿ. ಅನುಷಂಗಿಕ ಆಕರಗಳು

1. ಗುರುಲಿಂಗಯ್ಯ.ಎಂ; ಕಾಡುಗೊಲ್ಲರು, ಕನ್ನಡ ಪುಸ್ತಕ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು, 2008
2. ಗುರುಲಿಂಗಯ್ಯ.ಎಂ; ಕರ್ನಾಟಕದ ಗೊಲ್ಲ ಸಮುದಾಯ, ಶಕ್ತಿ ಪಬ್ಲಿಕೇಷನ್ಸ್, ಬೆಂಗಳೂರು, 2005
3. ಪರಮಶಿವಯ್ಯ.ಜೀ.ಶಂ; ಜನಪದ ಖಂಡ ಕಾವ್ಯಗಳು, ಚೇತನ ಬುಕ್ ಹೌಸ್, ಮೈಸೂರು, 1966
4. ಚೆಲುವರಾಜು; ಜುಂಜಪ್ಪ, ಪ್ರಸಾರಾಂಗ, ಕನ್ನಡ ವಿಶ್ವವಿದ್ಯಾಲಯ, ಹಂಪಿ, 1997.
5. ಅಂಬಳಿಕೆ ಹಿರಿಯಣ್ಣ; ಕಾಡುಗೊಲ್ಲರ ಜನಪದ ಗೀತೆಗಳು, ಕನ್ನಡ ಅಧ್ಯಯನ

ಸಂಸ್ಥೆ, ಮೈಸೂರು ವಿಶ್ವವಿದ್ಯಾಲಯ, ಮೈಸೂರು, 1978

6. ಮೀರಾಸಾಬಿಹಳ್ಳಿ ಶಿವಣ್ಣ; ಗೊಲ್ಲ ಕಡಗ, ಸಿ.ವಿ.ಜೆ ಪಬ್ಲಿಕೇಷನ್ಸ್, ಬೆಂಗಳೂರು, 1999

7. ಮೀರಾಸಾಬಿಹಳ್ಳಿ ಶಿವಣ್ಣ; ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟು ವೀರರು, ಸಿ.ವಿ.ಜಿ. ಪಬ್ಲಿಕೇಷನ್ಸ್, ಬೆಂಗಳೂರು, 2005

8. ಶಂಕರ ನಾರಾಯಣ.ತೀ.ನಂ; ಕಾಡುಗೊಲ್ಲ ಬುಡಕಟ್ಟು ಸಂಪ್ರದಾಯ ಮತ್ತು ನಂಬಿಕೆಗಳು, ಪ್ರಸಾರಾಂಗ, ಮೈಸೂರು ವಿಶ್ವವಿದ್ಯಾಲಯ, ಮೈಸೂರು, 1982

9. ಮೇತ್ರಿ.ಕೆ.ಎಂ; ಕೃಷ್ಣಗೊಲ್ಲರ ಕಥನ ಕಾವ್ಯಗಳು, ಪ್ರಸಾರಾಂಗ, ಕನ್ನಡ ವಿಶ್ವವಿದ್ಯಾಲಯ, ಹಂಪಿ, 2000

10. ಚಿಕ್ಕಣ್ಣ ಎಣ್ಣೆಕಟ್ಟೆ; ಚಿತ್ರದೇವರ ಕಾವ್ಯ, ಗಡಿನಾಡು ಜಾನಪದ ಸಂಪರ್ಕ ಕೇಂದ್ರ, ಸಿರಾ, 2002

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

EDUCATIONAL STATUS OF DALIT'S IN HIGHER EDUCATION IN TELANGANA STATE – A STUDY ON WARANGAL DISTRICT

Mathangi Murali
Research Scholar,
Department of Political Science, Kakatiya University, Warangal

Abstract: *Education is at the core of all development efforts in advancing the economic and social well-being of the people. The educational system ought to produce individuals vested with the right skills and knowledge to be able to operate effectively. Despite unprecedented growth in world economies and unparalleled improvements in global standards of living over the past few years, poverty and hunger are still ground realities in several countries of the world. Ensuring access to education for the Dalits of India has been the greatest challenge for the Indian government in diminishing the social effects of the caste system, which still remain entrenched in Indian society. There have been many different reasons proposed as to why the Dalits suffer from low rates of literacy and primary education enrolment, but the most realistic one describes history and unequal access as the causes. The ancient caste system of India, which has resulted in the social and economic oppression of the Dalits, continues to play a dominant role in India. The Dalits, also known as the scheduled caste or untouchables, have experienced consistent denial to access to education since the 1850s. This decade coincided with Britain's established control over India, which meant many of the improvements to Dalit's education were coming from outside influences, rather than from the national government. Globalization has virtually made the reservation policy irrelevant as a matter of fact the new economic policy in 1991 cults the very roots of the reservation policy. The native impact of the globalization is already visible through unemployment and poverty. The education is supposed to be the important factor for enhancing one's status in society. As started welfare oriented policies of the government have certainly helped the Dalits to climb the education ladder. Historically formal education, be it literacy or higher education, was never accessible to all the sections of the Indian society. It remained a privilege and prerogative of the propertied and socially influential. Access to quality education is a fundamental right in India. The State Government of Telangana has made considerable headway in providing educational opportunities for students from all ages with particular care taken to support females and SC, ST, BC, and minority communities. Today, approximately 70% of schools in Telangana are run by government catering to approximately 27 lakh students. They are administered by different government and semi government bodies, in particular, the model schools and various residential schools that serve communities from disadvantaged backgrounds. Owing to good educational outcomes and admissions into elite educational institutions like the IITs, they have gained considerable popularity given their holistic curricular offerings and innovative programming, all of which holds promise for strengthening the learning levels of the students across all segments of society.*

Keywords: Dalits, Higher Education.

Introduction

Education is at the core of all development efforts in advancing the economic and social well-being of the people. 1.4 billion People living in extreme poverty 1 billion (around 70 percent) live in rural areas. One of the major inequalities affecting the rural

poor is their access to quality education, which is very important for social and economic development.

Before beginning to examine methods of improving enrolment in primary education and literacy rates, it is important to know why education is such an important topic in development studies. The past century has been characterized by a global expansion of education. Alongside this growth in education has also been an increase in the gap between different social strata. Education can be a way to increase the incomes of impoverished people. Education helps to ensure that benefits of growth are experienced by all. Economic perspectives see education as a means to make individuals more productive in the workplace and at home. It can also be seen as a means of empowering socially and economically deprived groups into seeking political reform. By using any of these reasons as motivation to pursue educational development, governments are attempting to generate some form of social or economic equality for the population.

Dr. B. R Ambedkar saw the Indian caste system as a serious obstacle in the path of democracy, equality and justice. The Caste system is an especially Indian expression of institutionalized inequality and indignity, with elevation for some and degradation for others and untouchability is a curse of the caste structure. The abolition of untouchability was a key Constitutional provision for securing human dignity for Dalits and a significant step towards equality and social justice. The Indian Constitution, as set out in the Preamble, which contains its basic philosophy could hardly be more eloquent. The pursuit of social justice is its primary objective. It is a testament to secure to all its citizens, JUSTICE, social, economic, and political; LIBERTY, of thought, expression, belief, faith and worship; EQUALITY, of status and opportunity; fraternity assuring the dignity of the individual. Some of these objectives are guaranteed as Fundamental Rights. It was during the freedom movement, the aspirations of the oppressed people rose up and Dr. B. R Ambedkar symbolized and stimulated these growing aspirations. Given the balance of the social forces at the time of drafting of the Indian Constitution, providing education had come to be accepted as an obligation of the state. If only the democratic forces were far stronger, education, perhaps, would have been a fundamental right and got incorporated in part-III of the Constitution.

The experience of the last 50 years has shown that placing a high priority on education in policy statements does not necessarily ensure adequate resources, nor does it ensure that national programmes cover the marginalized groups. “Literacy rates are much lower among Scheduled Castes (SCs) and Scheduled Tribes (STs) than among other castes. Wage laborers have lower literacy levels than other occupational groups. There is also a marked rural urban differential. The

problems of literacy are therefore neither evenly distributed across the country, nor across social groups. Lower educational achievements can be expected among Scheduled Castes or Tribes or from a family of wage laborers and in parts of the country, where general literacy levels are very low." Education is the cornerstone of sociopolitical and cultural advancement and it is regarded as a principal means of improving the welfare of the individuals. The Encyclopedia of Britannica defines education as the transmission of the values and accumulated knowledge of society. Dalits, who have been long deprived from this accumulated knowledge of Dalits, still have a long way to go.

Policy Perspectives on Higher Education

The education in 50s and 60s, was in the social sector fully supported by the state. The private educational institutions were run either by philanthropist or Christian missionaries without any profit motive. It was in 1963 for the first time in Andhra Pradesh there was the move to encourage private education, by introducing technical education through private sectors but it was stoutly opposed by the national commissions. The mood of the Nation at that point was captured by Kothari Commission (1966-68). This Commission report is one of the most democratic advancements in post-independent India. Its overall direction was inspired by egalitarian concerns as the Commission emphasized equality of opportunity in higher education and common school in school education. By 1980s balance of democratic forces got upset with the rise of a neo rich class coupled with the other class forces. These classes got better organized. In contrast the poor got fragmented and their elite remained less articulate and less assertive.

The propertied and privileged classes succeeded in tilting the approach in favor of dualism in education giving rise to 1985 New Education Policy which brought in the elite schools within the state and active encouragement of private sector which degenerated into commercialization of education. In the decade of 1990s, with the onslaught of globalization, the larger social concerns like the question of equity and equality in education-withered away. The more tragic development was that education has come to be treated as a commodity. The products of this profit hunting education in all walks of life have become more self-centered and started approaching the resources of the society leaving the vulnerable people to their own fate. The knowledge commission headed by Sam Petroda is an attempt to institutionalize and legitimize the inequalities. From Radhakrishna Commission to Sam Pertoda's undemocratic approach is no advancement in the sixty years of democratic journey of the Country. It is a journey back to an iniquitous, unfair and unjust society.

The crucial decade of 1990s in order to probe the developments within

the education of Dalits is a problem. It seeks interventions of the state government in order to assess their impact on the field of education especially in its relation to different sections of the population that aspires for education. Government allocation of funds for the education sector as a whole is decreasing. While funded programmes in the form of loans, especially for school education, is increasing but Dalits are not in a position get those kinds of facilities. Larger sections of the people are from daily wage agricultural background. At this juncture, basic education is still far away for Dalit communities The Department of Higher Education in Andhra Pradesh in its official web portal gives the description of various levels of higher education i.e., college education, technical education and universities. Objectives of the department are development of Undergraduate and Post graduate education, Increasing Access to Higher Education, encouraging private participation in the expansion of Collegiate Education, development of infrastructure in Government Colleges, ensuring maintenance of high standards of education in colleges.

Scheduled Castes in India

Many other nations are characterized by social inequality but nowhere else in the world inequality been as extremely constructed by the institution of caste as in the India. It is a known fact that education is closely linked to development. Historical evidences in this regard indicate that Dalit community has been excluded from the whole process of education since centuries. After the formation of the Constitution of India, education was supposed to be made "accessible to all". Caste has long existed in India, but in the modern period it has been severely criticized by both Indian and foreign observers. Although some educated Indians tell non- Indians that caste has been abolished or that no one pays attention to caste anymore; such statements do not reflect reality. Caste has undergone significant change since independence, but it still involves hundreds of millions of people in its preamble, India‟s constitution forbids negative public discrimination on the basis of caste. However, caste ranking and caste-based interaction have occurred for centuries and will continue to do so well into the foreseeable future, more in the countryside than in urban settings and more in the realms of kinship and marriage than in less personal interactions (Chauhan 2008).The SC Population numbering 138 million (1991) in India accounts for 16.48per cent of the total population of the country now increased to 166 million (2001) accounts for 16.63 per cent of total population of the country which shows that there has been increase a share of SC population in the last decade. The states with higher concentration of SC population are Uttar Pradesh, Bihar, West Bengal, Andhra Pradesh and Tamil Nadu,

Daliths in Education

On the education front, interestingly, the Bhopal declaration has taken note of the importance of reforming the educational provisions for dalits as it is the foundation upon which the edifice of social status and dignity is built. In this connection,two important terms used by the agenda are 'new' and hence worth noting – diversity in admissions and the diversity in workforce. The conference called for implementation of diversity in admissions in the educational institutions across the country irrespective of the type of management or the stream of education. Particularly, it raises the issue of providing'market-oriented vocational and technical education' to the scheduled castes and the scheduled tribes and also that the issue of reservations should be applied to all institutions – public as well as private – from primary to professional levels. Another demand put forward isthat the English medium schools must also implement the policy of diversity in admissions.

At the primary education level, though enrolment reflects the diversity in the composition of student population, it does not provide any comparability between the dalits and non-dalits. There are disparities among dalits in all respects whether in terms of gender or in terms of urban and rural or regional backgrounds. It is quite heartening to note that, even today, dalit men and women are at the bottom of the educational pyramid, despite the repeated claims and counter claims of the government and the political establishment on their efforts to uplift this disadvantaged group.

In higher education, there is no doubt; a considerable improvement has been made in terms of promoting diversity in admissions after the introduction of reservation policy. However, this is not adequate in view of the proportion of SC/ST populations till outside the fold of higher education. For instance, the percentage of share of scheduled caste students in higher education is only 7.77 per cent and that of scheduled tribes is 2.33 per cent of the total enrolment in [MHRD].This is negligible in terms of the expected levels of enrolment of dalits in higher educational institutions. Further, there has been a far lesser participation of dalits in prestigious subjects/courses of study which are in demand for high salaried jobs. Majority of dalit students are enrolled in the arts subjects (56.5 per cent among SCs and 77.7 per cent among STs), followed by science (13.3 per cent among SCs and 8.7 per cent among STs) and commerce (13.2 per cent among SCs and 9.4 per cent among STs) at the undergraduate level. The enrolments at the post graduate level also show similar signs. The proportion of dalits in the professional stream is very low – 7.9 per cent among SCs and 2.1 per cent among STs are in professional courses like engineering and medicine taken together.

Objectives of the Study:

1. To understand the current status of Dalit students in higher education in India.

2. To assess the higher education on dalit students as viewed by Ambedkar Perspective.

Methodology:

The present data will be collected from primary and secondary data included the reports of ministry of social justice and MHRD and The department of Higher education Government of Telangana. The primary data are collected directly from the respondents by administering a pre designed questionnaire/ schedules. The present study is confined to higher education and implications for the Dalit students of Warangal district of Telangana.

State Economy and Higher Education Scenario: The Gross State Domestic Products of Telangana for 2017-18 was estimated to be Rs.7,68,546 crore with a projected increase of 12.59% increase over the Rs. 6,83,233 crore GSDP estimated for the financial year 2016-17 against GSDP Growth Rate of 11.61% for the financial year 2016-17. At the beginning of the first quarter of the financial year, the government of Andhra Pradesh estimated Rs.7,93,138 GSDP and continued with the same estimate till the beginning of the fourth quarter. (Service Sector- 46%, Agriculture-31.77% and Manufacturing 22.3%) One of the major objectives of education in the post independence era, specifically since in 1950 was to cater to the educational developmental needs and promotion of Scheduled Castes and Scheduled Tribes children who have remained outside from the ambit of educational for ages. It was only after independence that the initiated systematic efforts to raise the educational standard to Dalits. Because of different constraints the result has not been satisfactory in terms of its implementation and outcome. Notwithstanding the failure, education was an attempt to promote integration of Dalits with the rest of the society, as they continue to remain out of mainstream of life. It is only during the last three decades that there has been some reorientation and acceptance.

The Commissionerate of Collegiate Education focuses on creating educational opportunities for those located in backward and rural areas, and strengthening women's education in undergraduate and postgraduate levels. In fulfilling its objectives of access, equity, and quality, it has undertaken some important initiatives. For example, the introduction of the Degree Online Services, Telangana (DOST) online admission system has made it easier for prospective students to apply. This year, over 2 lakh students enrolled through the system. In addition, a committee chaired by the Commissionerate reorganized courses to better aligns with student aspirations and job market requirements. It also proposed offering English Medium courses in urban and semi-urban areas. In addition, a "T-SAT Nipuna Channel" has been installed in 105 Government Degree Colleges to broadcast educational programmes for students to access critical information to strengthen

educational performance and develop awareness of career prospects. Furthermore, the Commissionerate has introduced Telangana Skills and Knowledge Centre (TSKC). A refinement of similar institutions forged in 2005 in Andhra Pradesh, such knowledge centres are designed to hone young graduates' transferrable skills, such as in communications and ICT, in order to strengthen their potential for employment. The Commissionerate has also worked hard to improve quality measures to access strategic infrastructure grants available via the centrally sponsored, outcome-based scheme, Rashtriya Uchchatar Shiksha Abhiyan (RUSA). Today, out of 132 Government Degree Colleges, eight Colleges are conferred with autonomous status. 64 Government Degree Colleges (GDCs) have valid accreditation and 21 Colleges are preparing for fresh accreditation.

Table 1.1: Age wise distribution of Higher Education among Dalits

Sl No	Age Group	Number of Respondents	Percentage
1	18-20	15	30
2	21-23	12	24
3	24-26	10	20
4	27-29	8	16
5	Above 30	5	10
	Total (%)	50	100

Source: Primary Data

Regarding the Age in years the distribution shows that 30% of the respondents are in the age group of 18-20 Years, 24% of the respondents are in the age group of 21-23 Years, 20% are in the age group of 24-26 Years, 16% are in the age group of 27-29 Years and 10% are in the age group of above 30 Years. It was found that a majority of the population taken in the study enroll in colleges as they were interested in education.

Table 1.2: Distribution of Respondents by the category of admission

Sl No	Age Group	Number of Respondents	Percentage
1	Reservation Category	12	24
2	Open Category	38	76
	Total (%)	50	100

Source: Primary Data

Above table shows that category of admission of higher education on Dalits, majority of respondents open category 76.00 of the respondents are reservation category of admission to various courses and 24 percent

respondents are reservation category of admission to various courses. These seats are in the premier Institutions of higher learning offering professional education. Hailing predominantly from disadvantaged families from rural and semi urban areas, these students could scale higher levels of professional education with higher academic consistency and exhibiting positive value orientation.

Table 1.3: Distribution of Respondents by the different courses

Sl No	Courses	Number of Respondents	Percentage
1	Degree	16	32
2	B.Tech	14	28
3	Post Graduate	13	26
4	Ph.D.	7	14
	Total (%)	50	100

Source: Primary Data

In the Warangal District out of 50 respondents the highest number 16 (32.00%) respondents are studied Degree, followed by the B.Tech 14 (28.00%) respondents, 13 (26.00%) respondents are Post Graduation, 7 (14.00%) respondents are studied Ph.D respondents from category under the study.

Table 1.4: Growth of student enrolment in various sectors

Sl No	Courses	Number of Respondents	Percentage
1	Arts	13	26
2	Science	9	18
3	Commerce	11	22
4	Law	8	16
5	Agriculture	5	10
6	Medicine	4	8
	Total (%)	50	100

Source: Primary Data

In the Warangal District out of 50 respondents growth of student enrolment in various sectors the highest number 13 (26.00%) respondents are Arts, followed by the Commerce 11 (22.00%) respondents, 9 (18.00%) respondents are Science, 8 (16.00%) respondents are Law, 5 (10.00%) respondents are Agriculture and 4 (8.00%) respondents are Medicine.

Conclusion

The increasing share of Scheduled Caste and Scheduled Tribe enrolments in higher educational institutions is the result of India's reservation policy in the admissions. It is very difficult to estimate just how much difference this policy has made. But, this policy always not plays positive role in

the educational and social mobility, because caste is the base of this policy and this base has generated controversies, conflict and violence during last few decades in the society in general and in education in particular. According to critics, this policy lowers the academic standard and providing benefits to undeserving section of the society. So, this policy has become a subject to hatred of the public. In reality, in the private financing as well as public financing institutions reservation policy has not followed properly. Even government department, schools, universities and colleges has not considered caste quota in some states after 2000. Thus positive discrimination policy itself had led to negative discrimination. After new economic policy adopted by government, educational institutions are emerging like mushrooms. There are self financed institutions established at various educational levels mainly offering the professional courses like medical, nursing, engineering, MBA, MCA, teachers training etc. These institutions did not consider caste parameters during the process of enrolment of education. Government has to interfere for the caste quota. The privatization has also increased cost of education. Professional education become more expensive for Scheduled Caste, thus they cannot enroll for these courses due to high fee structure. Thus, in the A-class business management institution the Scheduled Caste participation is low or is near quota and not higher than their population proportion.

References:

1. Desai, Sonalde, and Veena Kulkarni. "Changing Educational Inequalities in India in the Context of Affirmative Action." 45.2 (2008): 245-270.
2. Abbasayalu, Y.B. Scheduled Caste Elite: A Study of Scheduled Castes Elite in Andhra Pradesh. Hyderabad: Osmania University, 1978.
3. Anil. The Emergence of Indian Nationalism. Cambridge: CUP, 1968.
4. Brown, Judith. Modern India: The Origins of Asian Democracy. Delhi: 1984.
5. Dharmapal. The Beautiful Tree:Indigenous Indian Education in the Eighteenth Century. New Delhi: Biblia Impex, 1983.
6. Visakhapatnam: International Journal of Multidisciplinary Advanced Research Trends, Volume II, Issue IV, (May 2015): 109-122.
7. Frykenberg, E. R. Modern Education in south India, 1784-1854: Its Roots and Its Role as a Vehicle of Integration under Company Raj. The American Historical Review, 1986.
8. Ghosh, S.C. History of Education in India, Jaipur, Rawat Publications, (2007).
9. Omvedt, Gail. Dalits and the Democratic Revolution: Dr. Ambedkar and the Dalit Movement in Colonial India, New Delhi, Sage Publication, (1994).

10. Para, Ramesh Babu. "Technology and its Impact on Dalits Education: An Empirical Analysis", Research Journal of Educational Sciences, Vol. 2.1, (April 2014): 13-18.

11. Behera, S. (2015) .A status report of scheduled castes in higher education, International Journal in Management and Social Science. Vol.03 Issue-06.

12. Bhagavatheeswaran, L. et al. (2015) the barriers and enablers to education among scheduled caste and scheduled tribe adolescent girls in northern Karnataka, South India: A qualitative study. International Journal of Educational Development. Volume 49, No. 262

13. Kumar, R. (2015), "A study of impact of social environment on attitude of highly educated scheduled caste families towards social change", Journal of International Academic Research & Management Communication. Volume 5, Issue4.

14. Kumar R. (2015) "A study of impact of higher education on attitude of scheduled caste families towards social change. International Research Journal of Human Resources and Social Sciences Volume-2, Issue-5

15. Tilak G. (2015) How Inclusive Is Higher Education in India? Social Change Sage Publications 45(2) 185–223.

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

An Empirical Study on Social-Economical Conditions of Migrant Workers in Bangalore City

Madhukumar S
Research Scholar
Department of Studies in Social Work,
Davangere University, Davangere

Dr Shivalingappa B.P.
Associate Professor
Department of Studies in Social Work,
Davangere University, Davangere

Abstract : *The construction industry forms an essential part of the Indian economy and a waterway for a extensive part of its development investment, is balanced for growth on account of industrialization, urbanization, economic development. The sector is labour-intensive and, including indirect jobs, provides employment to millions of people. The construction sector is also the second largest employer in the country following agriculture. The industry comprises of highly specified tasks, and for each task and stage, a different contractor is engaged and under each contractor different labourers are working. All construction labourers are causal workers. Unskilled labour is unaware of his principal employer as there is a chain of contractors between principal employer and unskilled labourers. In-migration with its significant impact on various spheres of life is relatively new experience in the long history of Bangalore which was otherwise considered as a region dominating in out-migration Majority of these in-migrant workers in Bangalore are employed in the construction sector. The construction work is hard physical labour often under difficult conditions like adverse weather, low pay and poor living conditions with lack of basic amenities and separation from family. It is in this context the present study analyzed these issues in details. Socio-economic conditions and living standards of are very discouraging in India, as per the available literature. Being in the unorganised sector, vast majority of them are devoid of minimum formal social security protection also. This situation prevails even if there are many statutory provisions for their welfare as per the Central and State level enactments. Though more and more employment is being generated, such employment is char-acterized by poor working conditions and lack of effective social protection. In the above context, this paper makes an empirical study of the socio-economic conditions of unorganised sector migrant labourers in Bangalore City of Karnataka and suggests strategies for improving the working and living conditions of the migrant labour-ers.*
Key words: *Construction worker, migrant, workers socio-economic problems.*

Introduction

Human migration is one of the most important aspects of social science. It has maintained a close relation with mankind from its earlier stage. Although migration phenomena have been studied by social scientists, thinkers, reformers, and others from the very beginning of human civilization, the theoretical and empirical knowledge of migration has not developed to a considerable extent. Even today this study needs migration theories, laws and

models, concerning its spatial and temporal variations. The migration laws, however, cannot be made rigid like physical laws. Social scientists and scholars have mainly developed hypotheses, formulated only a few theories and laws, and suggested migration models.

Unorganised labour refers to those workers who have not been able to organise themselves in pursuit of their com-mon interests due to certain constraints like casual nature of employment, ignorance and illiteracy, small and scat-tered size of establishments, etc. Such workers account for about 93 per cent of the total workforce and there has been a steady growth in their population in India over the years. Though India had a long tradition of informal social security and social assistance system directed particularly towards the more vulnerable sections of the society, the same underwent steady and inevitable erosion over the years. Various initiatives by the Central and State Govern-ments in India and various NGOs in India have been inad-equate to support the ever growing needs of such . This underscores the need scaling up the efforts many times and that too in a manner targeting the more deserving sections among such workers. As per the NSSO statistics (2000)[1] the total employment in both organized and un-organised sector in the country was of the order of 39.7 crore. Of this, about 2.8 crore were in the organized sector and the balance 36.9 crore in the unorganised sector. Out of 36.9 crore workers in the unorganised sector 23.7 crore workers were employed in agriculture sector, 1.7 crore in construction, 4.1 in manufacturing activities and 3.7 crore each in trade and transport, communication & services. The construction activity is included in the secondary sector. Within the secondary sector, construction maintained a reasonably high growth rate. In Kerala, with the spectacular development of service sector, the demand for construction activities, both residential as well as commercial, have gone up in the recent years. The relatively faster pace of urbanization in the State also contributes to this. As per 2011 census, the decadal percentage of urban population has increased from 29.96 in 2001 to 47.72 in 2011 which is higher than the national average of 31.16.

REVIEW OF LITERATURE

OBJECTIVES OF THE STUDY

1. To study the socio-economic background of the in-migrant workers.
2. To analyze the living conditions and working conditions of the in-migrant workers.

Research Methodology

Research Design:

This research is based on the descriptive approach. It based on a survey of 120 migrant workers that use the social networks study through using structured questionnaires to study, as well Secondary data through websites, newspaper, journal and books has been also used.

Universe and Unit of the Study: Migrant worker selected from following selected areas: Bommasandra, Electronic city, Bidadi Industrial area, Bannerugatta

Sampling: The study uses the Simple Random Sampling Method. In this type of Sampling, the respondents are selected without making any particular criteria. The samples were collected from the boys and girls of selected classes. The sample size of the study is 120 respondents.

Tools and Sources of the Study: A structured questionnaire has been used and the data has been collected through primary and secondary sources.

Table: 1 Source of information regarding in-migration

Source of information	No. of In-migrants	Percent
Middle men's/ contractors	18	15
Friends	66	55
Relatives	28	23.33
Others	8	6.67
Total	120	100

Source: Primary data

The study revealed that 55% of the in-migrants got the information about the employment opportunities in Bangalore through their friends who already migrated to Bangalore, 23% from relatives and only 15 % from contractors and middlemen's.

Table: 2 Educational level of sample migrant

Schooling level	No. of In-migrants	Percent
No schooling (illiterate)	34	28.33
Primary schooling	58	48.33
High school	25	20.84
Higher Secondary education	3	2.5
Total	120	100

Source: Primary data

The study revealed a shocking fact that 28 Percent of the migrant workers are illiterate. 48 percent of the workers have only primary education. 21 percent of the migrant workers have high school education and no one have educational qualification above higher secondary level

Table-3 Motivational factors of In-migration

Respondent were asked to identify for the reason for migration, the order of preference were better employment opportunities (53%), repayment of debt (28%), financing household expenditure (15%) and for the construction of house/purchase of land (6%).

Table:3 Motivational factors of In-migration

Reasons	No. of In-migrants	Percent
Employment	63	52.5
Repayment of debt	33	27.5
Construction of house/purchase of land	7	5.83
Financing household expenditure	17	14.16
Total	120	100

Source: Primary data

The study shows that most of the respondents engaged in various occupations in their native States before migrating to Bangalore City. Among them 31 percent of workers engaged in agricultural activities and around 18 percent of workers did casual work. Around 27 percent of the workers had no employment in their native place. Others include students, petty trader etc.

Table: 4 Working days per week

Working days	No. of In-migrants	Percent
Upto 4 days	7	5.83
5 days	18	15
6 days	71	59.17
7 days	24	20
Total	120	100

Source: Primary data

The study shows that around 47 percent of the migrant workers works for 8 to 10 hours in a day. 30 percent of the respondents work for 10 to 12 hours. 16 percent of the workers work for 8 hours. It is also worth to note that 7.5 percent of the respondents workers for more than

Majority 58 percent of the respondent working under extreme condition

Table:5 Working hours per day

Working Hours	No. of In-migrants	Percent
8 hours	19	15.83
8-10 hours	56	46.67
10 to 12 hours	36	30
Above 12 hours	09	7.5
Total	120	100

Source: Primary data

The study revealed that the majority of construction helper's gets an average daily wages ranging from 400 to 500 (73%). In the case of construction mason

the majority of them are in the range between 600 rupees to 700 (76.5%). None of the construction helper gets more than 600 rupees and none of the mason gets more than 800 rupees.

Table: 6 working conditions of the respondents

Category	No. of In-migrants (out of total 120 samples)	Percent
Respondents Working Under extreme condition	101	84.17
Getting safety precautions	53	44.17
Respondents getting first aid	43	35.83
Respondents getting fresh drinking water	58	48.33
Respondents facing discrimination from local workers and local people	79	65.83

Source: Primary data

The study found that about 58 percent of in-migrants are living with 6 to 15 workers in a room, 10% are sharing a room with more than 15 workers. In most of the cases there is no provision of hygienic sanitation and safe drinking water. The shocking point is that around 53% of the respondents argued that their residence is of poor quality. Only 15% argued that there is living in good quality residence.

Table: 8.2 Nature of accommodation

Category	No. of In-migrants	Percent
Rented house	61	50.83
Work site and Temporary sheds	51	42.5
Lodges and hotels	8	6.67
Total	120	100

Source: Primary data

The study revealed that about 43 percent of the respondents reside at the working sites, 56 percent reside in poor rented houses with single room shared by many. Around 61 percent of the migrant workers use common toilet. Only 16 percent of the workers use attached toilet. Others includes open defecation, public toilets etc and it contributes 9 percent of the total In-migrant workers are working under extreme conditions.

MAJOR FINDINGS

- The Majority 55% of the in-migrants got the information about

the employment opportunities in Bangalore through their friends who already migrated to Bangalore

- The Majority 48 percent of the workers have only primary education
- The Majority 31 percent of workers engaged in agricultural activities
- The Majority 47 percent of the migrant workers works for 8 to 10 hours in a day
- Majority construction mason the majority of them are in the range between 600 rupees to 700 (76.5%)
- The Majority 56 percent reside in poor rented houses with single room shared by many

Suggestions

- BBMP should provide some housing facilities for migrant workers.
- Construction management should formulate various programmes for upliftment of migrant worker
- Some NGOs should provide informal education and create awareness about health, hygiene, education ect.
- Construction employer prove some welfare programmes for migrant workers

CONCLUSION

Construction activities are associated with every phase of development of an economy. The construction work is a perennial industry and a very crucial one, providing substantial employment opportunities to unskilled labourers. A high proportion of socially and economically weaker sections of the society are engaged in the unorganized economic activities in India and Bangalore. Majority of the in-migrant workers are employed in the informal construction sector in the Bangalore. They often work long hours in poor working conditions, devoid of social security and legal protection Since in-migrants are unaware of laws and policies, they are exploited in the construction sector of the State. There is a need to ensure that all migrants and their families have access to services and entitlements as enshrined in policies and law, while ensuring urban settlements become inclusive spaces as they expand in size and diversity.

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

MARITIME LEGISLATIONS: ARE DECISIONS OF THE TRIBUNALS ENFORCEABLE?

- *Rashmi Gupta*
Research Scholar (Law),
Maharaja Ganga Singh University,
Bikaner, Rajasthan

Abstract: *The 1982 Convention contains detailed and complex provisions stating the different forums available for the resolution of the sea disputes. The creation of the ITLOS was always considered to be controversial because it was notion that the ICJ has more expertise as well as experience in deciding matters related to the sea cases. This paper discusses about the decisions made by the tribunals become binding due to the obligatory nature of jurisdiction. Convention provisions disallow techniques that disputing parties historically have used to avoid the arbitrations. Failure to appear before an arbitral tribunal will not will not nullify the jurisdiction of the tribunal. Non-appearance of a party before an international court or tribunal is not uncommon. In this case, China being the defendant party rejected to participate in the proceedings of the arbitration.*

As seen clearly in the South China Sea case, the arbitral award could not be enforced by Philippines. Enforcement mechanisms become important to maintain the sanctity of the UNCLOS.

Keywords: *International, Tribunal, UNCLOS, Convention, Party*

INTRODUCTION

There is very famous maxim called *ubi jus, ibi remedium,* which means where there is a right, there is a remedy. Whenever any right is infringed, or there is a dispute between the parties, the concerned parties may prefer a forum to solve the disputes or to get the required remedies for the damages it has suffered. Similarly, the 1982 Convention contains detailed and complex provisions stating the different forums available for the resolution of the sea disputes. The Convention states that whenever the disputes arise, the parties are to proceed immediately to an exchange of views regarding its settlement by negations or other peaceful means. And when the parties are unable to settle the disputes between them then the compulsory procedures laid down in Part XV Section 2 will become operative. According to Article 287 of the UNCLOS III the state may choose one of the following means of third-party dispute settlement system; The International Tribunal for the Law of the Sea (ITLOS) under Annex VI, the International Court of Justice (ICJ), an arbitral tribunal under Annex VII or a special arbitral tribunal under Annex VIII for specific disputes. Due to this flexibility, the states were unable to agree on a single third party forum where they

can approach when informal mechanisms failed to resolve a dispute.

The creation of the ITLOS was always considered to be controversial because it was notion that the ICJ has more expertise as well as experience in deciding matters related to the sea cases. The main object or the primary responsibility of the International tribunal is to interpret and apply one treat which is the 1982 Law of the Sea Convention. But along with the interpretation of the convention, the issues it may address and the ole it may fulfill vary tremendously. At the end the paper will also focus on the legal binding nature of the decisions delivered by the arbitral tribunal and the ITLOS and the effect when the parties fail to comply with the decisions of these tribunals.

International Tribunal for the Law of the Sea (ITLOS)

A. Origin of the (ITLOS) due to the negotiation of the Law of the Sea Convention and the Dispute Settlement provisions

The ITLOS is considered to be the latest judicial institution which was established after the entry into force of the United Nations Convention on Law of the Sea in the year November 1994. The creation of the ITLOS was considered to be very controversial as states preferred informal way of negotiations for solving the disputes and did not want any third party dispute settlement system to interfere with their sovereignty. Also the question arose that why the states will mutually consent to the jurisdiction of the international tribunal before arising of a particular dispute. The possible answer for the question may the recent technological development which has increased the capacity to explore living and non- living ocean resources which may ultimately lead to create tensions over maritime boundaries. Moreover, agreeing to the third party dispute settlement will counterbalance political, economic, and military pressures from powerful states and will also help in maintaining the integrity of the Convention's package deal.

Hence, the Convention's provisions establishing the ITLOS and defining its jurisdiction were the product of difficult negotiations and political compromises. Hence it can be concluded that the negotiations at the UNCLOS III had led to the ITLOS.

B. Features or Characteristics of ITLOS

As Article 287 offers State Parties to choose among several third party tribunals, they state have an option to choose any of the third party tribunals. Some states favor ICJ because according to them it had successfully dealt with several laws of the sea cases and according to them a proliferation of tribunal might undercut the development of a uniform jurisprudence on law of the sea issues while other may prefer arbitration or any other form of dispute settlements options available.

Now due to such wide options available, some features of the ITLOS must be highlighted in order to set it apart from the other dispute settlements options which as a result will enable or rather attracts the State to prefer the newly created ITLOS over other dispute settlement options of the Convention.

Some important Features of the ITLOS are as follows-

1. **Judges of the Tribunal** -The tribunal is composed of 21 independent members have an expertise on the subject and are elected by the State Parties to the Convention. Also there is a President and Vice President of the Tribunal who are elected by a secret ballot by a majority of the member of the Tribunal.

2. **Chamber of the Tribunal**–There are specialized chambers available in case of these tribunals which might prove attractive to some states. Moreover, these chambers are composed of expert judges. There are two standing special chambers to address problems that require specific expertise. Also, ITLOS has established a Chamber of Summary Procedure, which at the request of parties to a dispute can deal on any matter. Availability of these tribunals allows parties to choose a forum for either its efficiencies or its particular expertise.

3. **Annex VI of the Convention –** The related provisions related to the tribunal and its jurisdiction suggested that ITLOS may receive more use than the ICJ or other tribunals in several cases like the cases under Article 292 which deals with prompt release cases, cases involving provisional measures, cases in which advisory opinions are sought, and Part XI sea-bed mining cases in which Convention provide the ITLOS a particularly significant role.

   Moreover, Article 292 as well as cases involving provisional measures grants residual compulsory jurisdiction to the ITLOS, rather than an arbitral tribunal, when parties are unable to agree on a tribunal. The reason is that the time taken in constituting an arbitral tribunal might frustrate the quick time frame allotted for prompt release cases.

4. **Access and Jurisdiction of the ITLOS –** States who are not the parties to the Convention may also obtain access to the ITLOS if they have so agreed in any other treaty or agreement and hence, the ITLOS will have jurisdiction over the disputes specified in that treaty or agreement. Also unlike ICJ, not only states but also other entities like the natural and juridical persons may become parties.

5. **Risk of Inconsistent Jurisprudence –** Also the risk of inconsistent decisions is minimal when the ITLOS has exclusive or

residuary compulsory jurisdiction. Cases under Article 292, provisional measures cases etc. are some of its examples.

C. Functions of the ITLOS

The ITLOS is a recent addition to the number of the available specialized international tribunals. And in order to understand the relationships with different entities, the functions of the ITLOS has to be taken into consideration for which it is designed to serve. And in order to gain legitimacy, ITLOS ability to develop its decision making techniques according to different suitable situations has to be taken into consideration.

When a coastal state detains a flag state's vessel and crew, the flag state may ask the ITLOS to order their prompt release under Article 292 of the Law of the Convention as it was done in the 1st case in front of the ITLOS which was ***The M/V Saiga case***[1]**.** Article 292[2] allows applications "by or on behalf of' the flag state of a vessel, when the detaining state allegedly "has not complied with the provisions of the Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security. Moreover, in interpreting and construing Article 292, the ITLOS must balance the rights and interest of the entities as this article place the ITLOS in a web of relationships involving individuals, states, and national courts.

It can be said that ITLOS though being a recent addition, is an institution within the field of law of the sea, exercises positive norm-reinforcing, legislative, equitable, and constitutional functions. Along with the State parties, the ITLOS also different audiences such as political branches of two states, sometimes multiple states, individuals, national courts and other international institutions.

Arbitral Tribunal

Like ITLOS, Arbitral Tribunal is one of the third party dispute settlement mechanism provided under the Convention. This Arbitral Tribunal is specified under the Annex VII of the UNCLOS III. This Tribunal is used for the settlement of disputes between parties that have not made a declaration of choosing procedure or for parties where one parties choose a different forum whereas the other disputed parties chooses another forum. A dispute may be brought before the Arbitral tribunal by written notification addressed to the other party. The notification should be accompanied by a statement of the claim and the ground on which it is based[3].

Composition of the Arbitral Tribunal

The Arbitration is composed of five members preferably chosen from the list of arbitrators. A list of arbitrators shall be drawn up and maintained by the Secretary General of the United Nations[4].

[1](1998) 37 ILM 360.
[2]United Nations Convention of the Law of the Sea.
[3]Annex VII, Article 1 of the UNCLOS III.
[4]Annex VII, Article 2 of the UNCLOS III.

Every State Party shall be entitled to nominate four arbitrators to constitute the list[5]. The arbitrators, which the parties have nominated, shall have similar qualification to those nominated for member of the Tribunal. When the case is brought before the Arbitration, the party instituting the proceedings shall appoints one member to be chosen preferably from the list of arbitrators, who may be its national[6]. The other party against which the case is made, within 30 days of receipt of the notification addressed by the party that brings the case, also appoints one member among its nationals in the list. The other three members shall be appointed by agreement between the parties and they shall be chosen preferably from the list and shall be nationals of the third States unless the parties otherwise agree. The parties will choose one among the three members as a President.

All decisions of the arbitral tribunal demand a majority vote of its members. In case there is an equality of vote the President will have a casting vote. The award mentions the subject matter of the dispute and states the reasons on which it is based, and the name of the members who have participated. The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. The decisions made by the tribunal will be binding upon the parties.

Legal Enforceability of the Decisions of the above mentioned Tribunals

This sectionwill deal with the legal enforceability of the decisions delivered by the ITLOS and the arbitral tribunal which has residual compulsory jurisdiction in the case. It will specially focus on the award given in the South China Sea case and other cases.

The decisions made by the tribunals become binding due to the obligatory nature of jurisdiction. Moreover, the Convention provisions disallow techniques that disputing parties historically have used to avoid the arbitrations. Also, a state's failure to appear before an arbitral tribunal will not will not nullify the jurisdiction of the tribunal.

The country which has accepted or rather ratified the UNCLOS III document cannot claim that the decisions of the tribunal are not binding on them as they haven't given consent for the interference of the third party dispute settlement mechanism. The reason is that according to the consent theory principle, if a State has agreed to a Convention, it means that they have agreed and rendered their consent to all the provisions mentioned in the Convention unless a reservation has been accepted. But the obligatory dispute settlements provisions are found either in the main body of the Convention or in

[5]Annex VII, Article 2 of the UNCLOS III.
[6]Annex VII, Article 3 of the UNCLOS III. The case is brought does not do so within that period or the parties are not able to reach an agreement on the appointment, the President of the International Tribunal for Law of the Sea, upon request and in consultation with the parties, shall make the necessary appointment.

the Annexures that form an integral part of the Convention. And hence, States cannot avoid them by making reservations[7].

But talking about the ITLOS, not many cases have come before to this tribunal due to the availability of different choices in deciding the third party dispute settlement forum. Talking about the cases, only 25 cases till date have been brought before the International tribunal of the law of the sea and all the decisions made by it were positively respected by the parties involved in the disputes.

But talking about the Arbitral tribunal made under Annex VII, which has the residual compulsory jurisdiction, there are many cases which have been entertained by this tribunal. The decisions made by the tribunal is also binding, but looking at the previous instances, there are many instances in which parties have refused to follow or respect the decisions of the court.

One such famous case which has attracted worldwide attention is ***South China Sea dispute case***.

South China Sea: Philippines v. China

In this case, China being the defendant party rejected to participate in the proceedings of the arbitration. The non-appearance of a party before an international court or tribunal is not uncommon. In this particular case, Article 9 of Annex VII UNCLOS, Default of appearance, and Article 25 of the Rule of Procedure of the Arbitral Tribunal envision a situation in which one of the parties fails to appear before the tribunal. However, both of these articles state that the non-appearance of one party will not constitute a bar to the proceedings and at the same time require the tribunal to "satisfy itself that it has jurisdiction and that claim is well founded in fact and in law."

The use of the argument by the China that the arbitral tribunal does not have any jurisdiction as they have not participated in the proceedings is baseless and because of their absence from the proceedings will not negate their consent which they have given to the compulsory jurisdiction of the arbitral tribunal while ratifying and becoming a party to the UNCLOS III. The China inspite of its absence will continue to remain a party to the dispute unless and until the Tribunal finds that there is no jurisdiction to deal with the matter. The same contention was also rejected by the tribunal in the case of ***Artic Sunrise case*** which was against Russia.

Consequences of China's non appearance

When a party does not appear in the proceedings of the Tribunal, according to Article 9 Annex VII and rule 25, the non-appearing party will still be considered a party and the decision of the court will

[7]The Law of the Sea Convention only refers to reservations in Article 309, the Article that provides reservations are generally prohibited. Article 298 of the Convention, however, authorizes States Parties to make limited exceptions to the applicability of the provisions for obligatory third-party dispute settlement.

remain binding on the party even if it does not agrees.

In the present case, the tribunal has awarded decision in favour of the Philippines and this was rejected by China stating that the tribunal does not have the jurisdiction also they haven't agreed to the third party dispute settlement mechanism and also did not participated in the proceedings. Hence, the China did not accept the decisions made by the tribunal. And therefore, it can be very well established that although China refuse to comply with the decisions of the court, there cant be any legal sanctions against such non-compliance.

Need of an Enforcement Mechanism

The provisions of the dispute settlement mechanism states that the decisions made by these tribunals are binding but unfortunately, when the parties fail to comply with the decisions or refuse to comply with the same, there is no enforcement mechanism available as compared as that of the ICJ with the Security Council, at least in theory. When at the end, the decisions of the arbitration are not complied with,and then does that means that the whole arbitration process is futile. The point of initiating the whole long procedure which is both costly as well as time consuming becomes useless when the eventual award is destined to be ignored. Various enforcement mechanisms must be introduced in order to make the parties comply with the decisions of the tribunals.

Taking into consideration the China case, The Philippines in this case has stated that it regards the case not as the end to the South China Sea disputes, but as the beginning. This shows that the Philippine is fully aware of the extent to which the arbitral award may resolve all of the disputes. What the Philippines seem to be seeking is for China to have to clarify its claims and bring them into conformity with international law. This in itself is only the first step in untangling the South China Sea disputes and enabling the parties to settle the disputes on a fairer and equal footing. In dealing with a neighboring country that is stronger in all aspects, the arbitration is also a way to draw public attention to China's claims and actions and to create international pressure on China to reconsider its position.In short, China's non-appearance before the Annex VII arbitral tribunal has in practice not stopped the arbitration from moving forward. China's official position of rejecting arbitration does, however, seem rather rhetorical. The various other means by which China has advanced its arguments concerning the case have in effect created more of a quasi-appearance. Even if international law and precedence do not prohibit such a move, it does show a serious lack of good faith in efforts to achieve a peaceful resolution to highly complex disputes. This inconsistent stance has undoubtedly also made the arbitral proceedings more difficult than they already are.

Hence, in order to avoid this situations, various enforcement mechanism must be

initiated so that such practice may be decreased and the parties due to the enforcement mechanism available, starts complying to the decisions made by the court which are legally binding on them.

Conclusion

When coming to the disputes among states of a nation, and the decisions made by the apex court are binding as enforcement mechanism is available and no question can be raised against it. But, in the case of international law, where the parties are nations having contesting claims, the present dispute resolution mechanisms often lack teeth. Such is the case in the maritime matters, where the legal decisions of the ITLOS and other arbitral tribunals lack enforcement mechanisms. The decisions are said to be binding in nature, but the laws lack enforcement mechanisms. As seen clearly in the South China Sea case, the arbitral award could not be enforced by Philippines.

With the rise in maritime and territorial disputes in the political scenarios, it becomes imperative that the nation's party to the UNCLOS mutually devise an enforcement mechanism for the decisions of the tribunals. A judgment or award is of no use unless it can be enforced at the world forum. As is evident from South China Sea case which related to territorial dispute, an important treaty like that of UNCLOS is lacking enforcement mechanisms. But the process of amendment in the treaties is a tedious one and not all nations may support it. Enforcement mechanisms become important to maintain the sanctity of the UNCLOS. Many treaties provide enforcement mechanisms and some even involve UN. But, there have been instance like in the case of Nicaragua vs. United States of America where the decision was against USA and could not be enforced because of USA being a permanent member of the United Nations Security Council. It is necessary that enforcement mechanism so developed remain independent of the stature of the parties involved. Equality among the member of the UN needs to be maintained and the powerful states cannot be allowed to coerce the smaller and less powerful ones

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

The Impact of Media on Social and Political Transformation: A Critical Study

Dr Suresh Vadranam
Assistant Professor
Department of Political Science (DDE), Pondicherry University, Puducherry-605014, India, Email; drsureshvadranam@gmail.com

Jayaprada Sahoo
Research Scholar
Department of Sociology, Ravenshaw University-753003 Cuttack, Odisha, India, E-mail:1995jsahoo@gmail.com

Abstract: *Media is playing role of the fourth column larger part run the show government. The role of the media is significant in creating an impartial method that intensifies past the legislative program and gets to be fixed inside the open mindfulness total time. Media is giving the legislative full information of voter's base on their choices. There recognize issues which happing in our society and helping as a medium for considering. They in addition service watch pooches which we depend on the without covering botch and incorrect working by those who have control. Media is a significant of making a lion's share run the show way of the culture that extended past the legislative framework and gets to be fixed inside of the open mindfulness total time. The portion Medias in a vote based framework is as critical of the legislator same as got to never to be a small thought. The study main aim is to understand the relationship between media and democracy, multi-dimensional views on media's role in democracy and to find out the impact of media on social and political spheres on transformation of society*

Key Words: *Culture, Government, Legislative, Media, Society, Thought*

Introduction

In the epoch of modernization its stands hard to discuss luminously about democracy without observing the position taken advantage of the print and electronic media in transmitting information on socio-economic and political to the stakeholders. Media means mode of expression which means media passes certain information through various ways (TV, news papers, all social networking sites) for the people. Print and electronic media plays a crucial role in democracy as a watch dog for the just (fair) society what John Ralws suggested in theory of justice. In the notion of democracy and protecting the occurring values in the democracy and it entertain by way of films, drama, music, dance etc.

not only media useful society but also for business marketing (like promoting their goods and services through the media) and ultimately it giving raise to economic growth to the nation. Before going to know interlink between the media and democracy we must know about the historical background of the media. The evolution of media started in Europe with the discovery of printing press in the year 1455. After the discovery of printing press in Western countries the people were fully mobilized through this type of innovative discoveries. Especially in the early fifteenth century renaissance (intellectual rebirth) was started in Europe because of the printing press. Thus we need to understand how the media creates more intellectual impact on human minds. During this period arts of painting, sculpture, architecture, literature and other aspects caught up with high level that are not overstepped in any other age (Arikan, N, 2011, Balcytiene, A, 2012, Briggs, A., & Burke, P, 2009)

Normally, media consider as a fourth pillar of democracy. The role of the media acts as a bridge to transforming information to the vast public sphere. Print and electronic media supplying political information to the voters what the government has been doing. They observe political troubles in Indian society serve as an intermediate intended for deliberation. Media houses shaping the public opinion in democracy and also working as a watch dog in social sphere. To appreciate the relative between media and democracy it is an essential to pass on gain a complete following knowledge and in the era of democratization process the politicians make the policies during at that particular time familiarized with the media. We observes Sometimes politicians will afraid about media why because if they will retrial politicians fraud in front of people's eyes that is the major reason behind that but off screen politicians says that we are not afraid to anyone we are doing our duty for the welfare of the people. So, no need to give explanation to media regarding this matter all wrongdoing politicians told us like this only. Media makes us aware of various social, political, economical and environmental activities happening around the world (Barnett, B. and Reynolds, A, 2009)

Statement of the Research Problem:

What the researcher going to examine through this study in this dissertation is entitled on "critically analyzing the connection between media and democracy with special reference to Andhra Pradesh" this topic in the original experimenter will try to explain in a short way what is the reason for choosing it. I would like to convey the statement to readers through this study have been done by many research scholars even before now but while the research I have done is no deeper than the other research scholars but the different and unique aspects that research scholars have never covered in their study so, accordingly, now the researcher going to evaluate so analytically, in many perspectives,

designed to be easily understood by all. This is because the topic researcher chooses is very large and delicate in details, with many circumstances but still I think I have systematically transformed this dissertation thesis in to an image of a statue, as a sculptor would do. Similarly, I am going to fill that research gap through this study. I knew the readers having several quarries on media and democracy in their minds but anyway I will try my level best to explain all the doubts to the readers as much I can with the help what I am going to sole the research questions in this dissertation. For instance readers will understand why is the media? How the media works as a dominating factor in a democratic system? And how to work? Without any discrimination of caste, creed, religion, gender, occupation etc. how the relationship between democracy to media in a changing scenario of a democratic system? What kind relationship among the media and democracy would be can a healthy democracy to survive? As well as the current media landscape at the international, national and state level. Most importantly, how this media system is able to bring change in the people of the society with an effective perspective. I hope that after reading all these things readers will find it easier to understand yourself. But I make sure that as the readers read, the interesting research questions I have are making you think. I believe that the original academic research is the only way a researcher can make readers think and find solutions. That is, how media support is there for the bringing change in society? Is there and really? If the answer is yes how much is there? How much better for? So, through the media how should democracy be healthy? Readers will understand many things like this through this observation.

Everett Eugene Dennis, Robert W. Snyder (1995), Transaction Distributors, Social Science, while there's about an all-inclusive understanding that the media play a crucial and characterizing part in popular government all over it exists, unexpectedly they are frequently disagreeable. In any case, the media in a law-based framework must be solid and dependable for fear that they lose their impact and specialist. It is more often than not recognized that vote based system nearly never prospers without compelling, free media. Davis, Aeron (2002), **"**Public Relations Democracy: Public Relations, Politics and the Mass Media in Britain**".** Aeron Davis is the primary to offer a common diagram of the rise and affect of proficient open relations in Britain, venturing past the status quo of 'spin doctors' and decisions by too investigating the open relations exercises of the corporate segment, the City, weight bunches, and the exchange union development. Davis investigates the address: to what degree are writers and decision-makers being influenced and who stands to advantage most within the unused period of open relations majority rule government? The impact of media on political support has been considered broadly within the Joined together States

(Media and political engagement citizens, Peter Dahlgren, 2009). The part of the media in deciding political cooperation has been examined from three fundamental points of view the part of the media as a source of biased in order Robbert Synder, 1995 and john street the part of the media as a motivation setter (Media and majority rule government Robert Synder Mass media legislative issues and vote based system john road 2011) and the part of Media as a stage for political hold up (Snare, 2011, Krueger, 2002). The writing on political information centers on a wide variety of issues just like the relationship between dependence on distinctive shapes of communication assets and the comparing level of political information (Berkowitz & Pritchard, 1989) the relative significance of print and broadcast media within the setting of political information Media presentation and its effect on political assessment (Weaver, 1996). In this writing, the most pushed has been to analyze if media presentation includes a positive effect on the political information of the masses. In examining this issue researchers have opposed this idea on the relative qualities of the diverse shapes of media. While Berkowitz and Prichard (1989) found the print media to be a really solid marker of political information improvement Chaffe and Kahnihan (1996) concluded that the TV can be a more enlightening source than the print media beneath certain circumstances. Be that as it may in another consider Chaffe and Straight to the point (1996) displayed a more nuanced clarification of the parts played by daily paper and tv with respect to 4 political learning. They found that whereas daily papers constitute the essential data source for those effectively looking for data TV may be a more grounded instrument of political learning for those who need political data. The motivation setting writing on the other hand thinks about how the media impacts the public's discernment with respect to the striking nature of a specific issue. Mc Comb and Shaw (1972) in their seminal consider the motivation setting part of the media found that the political world is duplicated incompletely by person news media. However, the proof in this considers that voters tend to share the media's composite definition of what is critical emphatically sing work of propose a plan sett mass media. More lately considers the plan setting part of the media may be found within the works of Golan and Wanta (2001) and Tedesco (2001). Golan and Wanta (2001) centered on the concept of moment level motivation set. The most distinction between Mc Comb and Shaw's (1972) thought of motivation setting and Golan and Wanta's (2001) concept of moment level plan setting is that whereas the previous centers on how the media impacts the sum of significance that the open connection to a specific political issue the last-mentioned considers in case the qualities connected to a specific political pioneer by the media is exchanged to the open.

Objectives of the Study:

(1) To understand the relationship between media and democracy; (2) To study a multi-dimensional view on media's role in democracy and (3) To find out the media impact on social and political spheres.

Methodology:

The present study is mainly depends upon the secondary data. The secondary sources include books, articles, journals, and reports, published and unpublished thesis. The study has been conducted in the state of Andhra Pradesh. It is because of the one and only state who owning the media houses in government both ruling and opposition political parties when compare to other states. It is unique character of this state this very uniqueness have attracted to pursue further research. However, the study intended to know the correlation between the media and democracy. Moreover, in the age of globalization the study also gives a clear picture on how the media working in the present situation.

The Affect of Media Concealment on the Nation and its People:

Media as the guard dog plays an awfully critical role in each majority rule government, so within the world's biggest vote based system its part gets to be more imperative. In case we unfurl the history of India, Indian media has continuously been known for its belief commendable and persuasive effect within the social, temperate, and political climate of the country. But within the later years, the practice of paid news and development in TRP has smashed the belief over media drastically, as a result of this; the greatest casualty here turns out to be the Indian popular government. Within the later a long time the hone of taking cash and favors from the corporate houses, lawmakers, government, and from an enormous organization, so that media may appear ideal news around them has ended up a common hone in news coverage and is wrecking the morals of a journalist. As a result the truth approximately the bets and business of the government and the political party isn't appeared due to which the individuals of the nation are likely to endure the foremost. So indeed in the event that a few of the media houses or journalists need to supply genuine data to the open, they are continuously being closed by the danger calls or terrorizing, or essentially fair being censored by the specialists. As said sometime recently, in today's world the hone of the taking favors and cash from the government and authorities has made the media predisposition towards them, and they regularly don't spread genuine data or something which is against them in order to depict great open picture and to set up a government purposeful publicity within the minds of the citizens.

Government has continuously been a Concealment Body to Indian Media:

Government since ages is stifling media for educating and teaching open, the foremost important illustration that

comes to my intellect is the censorship the press amid the 1975 crisis when the proprietors media houses and numerous writers were put into the imprison by the specialists for distributing the truth almost the government, an extraordinary division was shaped to censor the news, and it is exceptionally self-evident that why the government was into smothering the press since it didn't need the truth around the crisis to come out. Back at that point in 1975, former Prime Minister Indira Gandhi stifled the media for distributing truth, and presently our display prime serve is additionally suppressing the media to set up him as a guardian angel of the country. If we conversation about today's circumstance when the full world is stuck within the tidal wave of the corona virus when the individuals over the world are passing on in numbers and each conceivable arrangement or expected inoculation has been fizzled to remedy the plague. Most the nations are in complete lockdown since the spread of the COVID-19 is unstoppable, in such a circumstance the individuals of the biggest majority rule government that's India encompasses a full legit right to urge data almost this worldwide issue since the nation is in a total lockdown from past 26 days and in such a circumstance the citizens see up to the media to induce genuine and total data around what is happening around the globe.

Why does the Government Suppress the Media?

As specified some time recently, media is the fourth column of the popular government and the part of media is to teach and making individuals careful almost the social, temperate and, political viewpoints of the nation, and a country's government continuously have an issue in individuals getting to be taught and educated because it does not need its genuine colors to be appeared of, and after individuals being more mindful and taught approximately the actualities and the off -base plans of the government, they tend to inquire questions and begin making conclusions, and the government gets to be responsible to them. That way the government continuously smothers the control of the media by forcing certain confinements and censorship. So that a positive picture of the leader can be built up within the minds of the individuals to the nation. In this way, the difficult truth is that since to the concealment by the specialists an expansive area Indian media has gotten to be one-sided and a "lap pooch of the government rather than a guard dog to the society.

Media and Society:

The media play role a positive portion of the majority rule government because it was in case there's an engaging environment that grunts them to do so. They require the basic capacities for the kind in-depth declaring that an unused lion's share rule government requires. There have to be as well being rebellious to ensure they are held dependable to the pen which ethical and pricing rules are

kept up Media flexibility is guaranteed in case media functioning system are monetarily viable free from intercession media proprietors and the state and work in fast growing environment. The media came to as well be open to a wide a portion society conceivable. Endeavors to help the media need to be facilitated towards the security press rights, updating media obligation, building media capacity and democratizing media get Constructing not depend media in making countries requires more than adaptability talk, killed journalist, or strong commerce organization capacities. Engaging not depended media to perform the significant parts being a watch canine over the government and instructing people around the problems which impact of lives as well wanted to supporting welfare departments that is trade union and proficient affiliation for journalists, und an open instructed around these parts and commitments media and their work in an evenhanded and open society.

Media and Constitutional Framework:

Subsequently, isn't outright, and even during typical time, sensible limitations may be imposed by the state on the opportunity of the media. Beneath article 352 as originally enacted, emergency may well be announced on grounds of war or outside animosity or internal disturbance. Under article 358 as initially sanctioned, there was automatic suspension of the basic rights given beneath article 19 when a crisis was broadcasted. A determined endeavor to check the Press flexibility, however, really started as it was after 1969, Indira Gandhi felt that the Press was as well basic of her ways and Mrs. Gandhi looked for to change its approach. Different dangers were held out by Government and steps proposed to check that area the Press, which was thought to be the foremost autonomous. In any occasion, after 19 months of national crisis and the control of the mass media, Indira Gandhi got to be so confident of her proceeded victory that Mrs. Gandhi called for a parliamentary decision in Walk 1977. At the same time, Mrs. Gandhi moreover expelled press censorship. The comes about the national decision, be that as it may, turned out to be disappointing for Indira Gandhi, her child, as well as for a few of her closest advisers. An overpowering open objection against the atrocities of Indira Gandhi's administration brought approximately a coalition government of a few little political parties. With the imposition of 'the Emergency', the Indian Press was gagged, it may have been enticing to respect this as a minor but not wholly unforeseen misfortune to freedom: India had only fallen into line with most third World Nations, in this way affirming the suspicious those who continuously had a few questions approximately the genuineness of 'the world's biggest democracy'. In fact, democracy is based on the inverse conviction: those human beings are not as it were competent of being capable for them, but want to be so (Luthra H R, 1986).

Press Flexibility in India and Democracy:

Opportunity of the press is at the heart of all freedom. Where there is no free trade of data and thought, no other liberty is secure. Flexibility of the press is one of the columns of a free society and implies of amplifying the wildernesses of liberty. In a popular government, a free press has a basic right to an adversary part. It ought to be free to criticize specialist at all levels within the general public intrigued, and to operate as guard dog over the government's dealing with in the issues of the people and the nation. A free press can be choked through economic weights. For occurrence, the government has no right to settle promotion rates for person daily papers or to use government promoting as a frame of support or to canalize newsprint supplies through a state monopoly (Fortunato, J. A, 2008, Gecer, E, 2017)

Globalization and Mass Media:

Globalization may be caught on as the method through which financial and social wonders that had previously been primarily national in scope gotten to be increasingly internationalized. This prepare has quickened in recent decades beneath the aegis of multinational enterprises based in the Joined together States and radical centers. At an ideological level, corporate globalization is supported by neo-liberal arguments approximately the merits of 'free trade'. Worldwide Village frequently goes to the idea globalization in which the genuine facilitators are the data and communication advances whose visual confront is the mass media. Be that as it may, evaluates of globalization never disregard in talking almost the development of the inclinations of the cultural homogenization as a modern framework of the hegemony-cultural imperialism (Parthasarathy R, 2001)

Conclusion:

This research is pointed to recognize, to understand the relation between media agencies and democracy. The researcher clearly indicated to readers in this study that what the present and past governments is maintained money centric or business oriented relations with the governments. Why because most of the political parties are having special bonding with multinational corporations and fortune 500 companies in the country. Mostly private companies and governments are looting democracy together. Especially in a democratic countries the media should be perform very crucial role to give accuracy information to the citizens but in reality it is different. So, the researcher argument is that the governments are directly giving money to the media agencies to pressing their mouths because failures of the governments are out. As most importantly in the state of Andhra Pradesh there are no news papers, and channels are providing factual information to the people. It is another fact that deaths are inevitable if the media informs the public about the frauds committed by the governments. So, the governments and media outlets

are accomplishing Inter dependency relations with each other. By analyzing the study the relation should be among the media houses and the democratic governments are without distinction of cast, creed, religion, gender, culture, civilization, must be able to provide free, fair and accurate information to the people.

References:

Anant Vi Kirusna (2010), *India Since Independence: Making Sense of Indian Politics,* Pearson: Education India

Arikan, N. (2011), *28 Subat Surecinde Medya* (Media in 28 February Process). Istanbul: Okur Kitapligi

Balcytiene, A. (2012), *Culture as a Guide in Theoretical Explorations of Baltic Media*, in Hallin, D. C. and Mancini, P. (eds), Comparing Media Systems Beyond the Western World, pp. 51-71. Cambridge: Cambridge University Press.

Baran, S. J. and Davis, K. D. (2010). *Mass Communication Theory: Foundations, Ferment, and*

Barnett, B. and Reynolds, A (2009). *Terrorism and the Press: An Uneasy Relationship*. New

Behrouzi, M. (2006), *Democracy as the Political Empowerment the People: The Betrayal of an Idea,* Lanham: Lexington Books.

Bhambhri CP. Democracy in India. New Delhi: National Book Trust, 2009.

Bourrie, M. (2012), *The Fog of War: Censorship of Canada's Media in World War Two,* Vancouver: Douglas & Mclntyre.

Briggs, A., & Burke, P. (2009), *A Social History the Media: From Gutenberg to the Internet. Malden: Polity.*

Census of India (2011), Report, "*The Registrar General and Census,* Commissioner, India, New Delhi: Ministry of Home Affairs, Government of India".

Comstock, G. A., & Scharrer, E. (2008), *The Psychology Media and Politics. Paris*: *Elsevier*. Cook, F. L., Tom, R. T., Edward G. G., Margaret, T. G., Protess, D., Donna, R. L., and Harvey,

Curran James, Gurevitch Michael (2005), *Mass Media and Society,* USA: Bloomsbury

Curran, and Seaton, J. (2010), *Power without Responsibility*: *The Press*, Broadcasting and the Internet in Britain. London: Routledge

Curran, J., Aaalberg, T. and Aelst, P. (2010), "Media Systems and the Political Information Environment: A Cross-National Comparison", *the International Journal Press/Politics*, 15.3: pp. 255-272

Drieberg Trevor, Jag Mohan, Sarla (1975), *Emergency in India,* New Delhi: Manas Publications

Estrada, G. and McCombs, M. E. (1997), "The News Media and the Pictures in

Our Heads", in Iyengar, S. and Reeves, R. (eds), *Do the Media Govern? Politicians, Voters and Reporters in America*, p. 237-247. London: Sage.

Ewoh, A. I. E. (2004). "The Role of Non-Governmental Organisations in Public Policy in Africa", in Kalu, K. A. (eds), *Agenda Setting and Public Policy in Africa*, pp. 229-238. Burlington: Ashgate.

Farnsworth, M. S. and Lichter, S. R. (2008), "Media Coverage of US Elections: Persistence Tradition", in Strömbäck, J. and Kaid, L. L. (eds), *The Handbook of Election News Coverage Around the World,* pp. 21-40. New York: Routledge.

Fortunato, J. A. (2008), *Making Media Content: The Influence of Constituency Groups on Mass Media,* New Jersey: Lawrence Publishers.

Foulger, M.(2013), *Social media's role in the 2012 US election: Obama breaks Twitter records*, Posted in the News & Events parent Category on November 7, 2012, available at: http://blog.hootsuite.com/election-tracker-results/ (accessed 26 July 2013). *Future*, Boston: Wadsworth.

Gecer, E. (2017), *Citizen Journalism and Democracy: The 15th July Coup Attempt in Turkey, International Scientific Journal Media, Communication, Journalism and Public Relations*, 43-64.

Hare, I. and Weinstein, J. (2009), *Extreme Speech and Democracy,* Oxford: Oxford University Press.

Hewitt, Vernon (2008), *Political Mobilization and Democracy in India: State Emergency*, New York: Routledge

Himelboim, I. and Limor, Y. (2008), "Media Perception Freedom the Press: A Comparative International Analysis of 242 Codes on Ethics", *Journalism*, 9.3: pp. 235-265.

History of Freedom of the Press Freedom in India Retrieved from Shodhganga on 28th May 2019

India Mobile Association of India (2013) Research Report "Internet in India 2013" available at: www.iamai.in (accessed 11 August 2013).

J. and Kaid, L. L. (2008), *the Handbook Election News Coverage around the World*, New York: Routledge

Jayal, Nirja G, Mehta, Pratap B. (2010) (Ed.), *the Oxford Companion to Politics in India*, New Delhi: Oxford University Press

Kaid, L. L. (2004), *Handbook of Political Communication Research,* New York: Rutledge

Kaplan, A. M. and Haenlein M. (2010), "Users of the World, United the Challenges and Opportunities of Social Media", *Business Horizons* Vol. 53 No. 1, p. 61.

Keane, J. (1991), *Media and Democracy*, Cambridge: Polity Press

Kim Ann Zimmermann & Jesse Emspak (2017) **"**Internet History Timeline: ARPANET to the World Wide Web.**"** *Live Science*, June 27

L. Molotch (1983). "Media and agenda setting: Effects on the public, interest group leaders, policy makers and policy", *Opinion Quarterly*, 47.1: pp. 16-35.

Luthra H R (1986), Indian Broadcasting, New Delhi: Publication Division, Government of India

Mehta D S (1978), *Mass Communication and Journalism in India*. New Delhi: Allied Publishers Limited

Mishra, Kaveri (2013), *Impact of Social Media in Karnataka Assembly Elections a Myth* available at: www.socialsamosa.com (accessed12 August 2013).

Mitra A. Television and Popular Culture in India: A study of the Mahabharat. New Delhi: Sage Publication, 1993/.

Mooij, Jos E (2005), *the Politics Economic Reforms in India*, New Delhi: SAGE

Nirja Jayal G, Pratap Mehta B. (Ed.). The Oxford Companion to Politics in India, New Delhi: Oxford University Press, 2010. https://owlcation.com/humanities/A-Short-History- -Media

Parthasarathy R (2001), *Journalism in India from the Earliest Times to the Present,* New Delhi: Starling Publishers, Pvt. Ltd

Tharoor S (1997), *India: From Midnight to the Millennium,* New Delhi: Penguin Books

Vargas.J. N, (2012), Review of book, *the power of the People is Greater than the People in Power: A Memoir,* by Weal Ghonim published by Houghton Mifflin Harcourt, available at: www.nytimes.com (accessed 12 August 2013), York: Peter Lang Publishing.

https://thewire.in/communalism/india-press-freedom-gauri-lankesh

https://thewire.in/media/andhra-pradesh-media-freedom-jaganmohan-reddy

https://thewire.in/media/world-press-freedom-day-triumphs-travails-regional-media

https://thewire.in/media/media-freedom-crimes-against-journalists

https://www.ushistory.org/gov/5d.asp

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

CLIMATE CHANGE & SUSTAINAIBILTY: AN OVERVIEW

Dr. Arti Aneja
Assistant professor,
Campus Law Centre, Faculty of law, University of Delhi, Delhi, India

Welfare of each element of our eco-system is the welfare of each member of the community and ultimately, survival of each of us and of the earth is dependent upon it. – W.H.O

Abstract: *As we all remember the smog that enveloped New Delhi last year in 2020, even at one point so severe that the planes had also been diverted, which in many ways described as Toxic, deadly. Apocalyptic[1]. But the most apt description, one that applies to the air pollution affecting cities and the entire world is "Self-Inflicted".*

Humanity is to be blamed for a global crisis that, according to the WHO, causes 7 million premature deaths each year. The threat is damaging our economies, our food security and our climate. According to the IPCC, the extent of climate change effects on individual regions will vary over time and with the ability of different societal and environmental systems to mitigate or adapt to change.

Due to this self-inflicted harm continuing since centuries humanity at this time have come to a standstill with a lot of effects taking place and a lot more taking its position for the future course. The author in this paper has mentioned all the relative causes, effects as well as many sustainable methods in order for the global climatic recession to stop and if not to limit its outcome. The author has systematically mentioned many sustainable options which the governments of the particular countries can take into account, with the only requirement at this time for these efforts being "PERSISTENT & FAST".

Keywords: Air, Air Pollution, Climate, Eco-system, Food security.

CLIMATE: DEFINITION

It is the form of variations in atmospheric pressure, temperature, humidity, wind, precipitation, and other meteorological variables in long periods at a given place at a given time. The climate of a region is generated by its climate system, which has total of five components: atmosphere, hydrosphere, cryosphere, lithosphere and biosphere. The Latitude, terrain, and altitude as well as nearby water bodies and their currents also plays a major role in affecting the climate of a location.

[1] Describing or prophesying the complete destruction of the world or catastrophic.

What is Climate Change?

The variation in global and regional climate patterns over time which also reflects the variations in the inconsistent state of the atmosphere over time scales ranging from a few to millions of years is what we come to know as climate change. The climate of our planet is dynamic and ever changing through a natural cycle. What the world is more worried about is the vicissitudes that are occurring now have been in full high proportion. They are also caused by some changes frequently by natural processes, for example: - continental rift, volcanoes, ocean currents, the earth's tilt, and comets and meteorites, and also those based on human activities or creation of humans. It is also now a well-documented fact that in global warming happening today, human activities contribute maximum to its causes.

The Change in the climate grants to the society as a whole a wide range of threats, and a very insignificant range of opportunity, on the social, economic and political level. It also poses questions and challenges for the law which comes into existence in in fact every manner. These legal questions and challenges are pertinent not just to the lawyers or the law-making authority but it also affects all members of a society, whether as policy makers, business people, or individual normal citizens.

It is also an unquestionable phenomenon which is now a proven documented problem to the world which is similar to a disease, but the only difference being that the brunt of this disease has to be taken care by the new generation without the fault of their own perse.

The author here wants to put a clear emphasis from the very beginning that we must do everything in our capacity to improve our climate in turn our foster ideas to protect., develop and take care of our environment. It is a solemn undertaking which each one of us, the children of the mother earth have undertaken the moment we came out of our mother's womb. In this sense, we favour the initiatives aimed at the reduction, in as much as possible, or the total elimination of greenhouse gas emissions (GHGs), particularly of CO2, which are known to raise the average temperature of the Earth, as well as the complete elimination of other gases such as Cluro Fluro Carbons (CFC's), which damage the ozone layer and are also fully replaceable by other non-harmful Natural phenomenon. The call for the conservation of fauna and flora species, as well as all the biodiversity of our planet, particularly the attention for the oceans and the seas, which also suffer the consequences of global warming with high increases in temperatures, and also with elevation of the sea level, acidification of the environment.

The concepts of sustainability:

Sustainability stands for the 'the ability to sustain' or to stay, or to endure. It is the attribute by which an element, system or process, remains active and is able to do its duty without any external difficulties hampering it's working. In the

words of an economist, this worth would be given by profitability, by the capacity to obtain benefits. Sustainability, in very simple yet profound meaning, refers to "the satisfaction of our current needs without compromising the possibility of future generations to satisfy their needs", which means, making responsible use of resources in hand without compromising the needs of the future generation without any fault of their own.

Sustainable development: the example of the forest:

This forest guard illustrated the concept of sustainability through an example that was close and well known to him: the example of using a forest as a source of natural resources. If we cut down a bit of wood from a forest, it alone regenerates and continues to produce more wood every year, but if we cut all the trees in the forest, it disappears and it will never produce wood again[2].

In September, 2019, the Climate Action Summit was held at the United nations against a background of worsening concerns regarding the escalating impact of global warming and climate change. On that occasion, one third of UN member states—some sixty-five countries—announced policies aimed at reducing greenhouse gas emissions to net zero by 2050. It is serious that such efforts be expanded to a global level. Climate change is more than just an environmental issue, it characterizes a threat to all people living on Earth, both now and also in the future generations. It is, like nuclear weapons, a fundamental challenge on which the fate of humankind hinges, the sooner we get rid of it the better it is for the true joy of humanity to come out and shine and living life to the fullest with creating utmost value with purpose in doing things.

Indian Environmental laws and its governing policies:

The real and a genuine incentive for bringing a well-developed framework came in our country only after the United Nations Conference on the Human Environment which was held in Stockholm, 1972. Due to the impact of this declaration, the National Council for Environmental Policy and Planning within the Department of Science and Technology was set up in 1972. This Council afterwards advanced into the Ministry of Environment and Forests (MoEF) in 1985 which today is the apex administrative body in the country for ensuring and regulating environmental protection.

In 1976, the constitutional approval was given to environment concerns of India by passing the 42nd Amendment act in the constitution, which incorporated them into the Directive Principles of State Policy and Fundamental Duties.

It is also pertinent to note that even before independence India had several systems of legislations in place taking care of environmental goals but to the large extent nothing happened as there was no formal statutory body taking the

[2] Climate change, ethics and responsibilities.

assigned warnings seriously and no action took place. Thereafter after the independence Indian government laid various legislations and also passed many acts in accordance with treaties and pacts it had signed internationally.

India has several substantive laws already in place for regulation and proper protection of any activity that may cause any climatic change, some of which includes: -

1. National Environment Policy, 2006
2. Water (Prevention and Control of Pollution) Act, 1974
3. Water (Prevention and Control of Pollution) Cess Act, 1977
4. Air (Prevention and Control of Pollution) Act, 1981
5. Atomic Energy Act of 1982
6. Motor Vehicles Act ,1988
7. The Wildlife (Protection) Act, 1972
8. The Forest (Conservation) Act, 1980
9. Environment (Protection) Act, 1986 (EPA)
10. The National Environment Appellate Authority Act, 1997
11. Public Liability Insurance Act (PLIA), 1991
12. National Environment Tribunal Act, 1995
13. Environment Impact Assessment (EIA) Notifications.

Also, The Eight Missions listed below are expected to advance India's development and define its approach to climate mitigation and adaption while sustaining the principles of the National Action Plan on Climate Change:

I. National Solar Mission (started in 2010);

II. National Mission for Enhanced Energy Efficiency (approved in 2009);

III. National Mission on Sustainable Habitat (approved in 2011);

IV. National Water Mission;

V. National Mission for Sustaining the Himalayan Ecosystem (approved in 2014);

VI. National Mission for a Green India (approved in 2014);

VII. National Mission for Sustainable Agriculture (approved in 2010); and

VIII. National Mission on Strategic Knowledge for Climate Change.

Environment protection laws in India and its current status:

Environmental laws in the Indian Constitution-

The Indian Constitution is among very less constitutions in the world which incorporates definite provisions on the environment. The Fundamental rights, Directive Principles of State Policy and the Fundamental Duties chapters clearly portray the national commitment to improve and protect the environment.

These are the following 3 constitutional provisions that hits directly upon the

environmental concerns.

Firstly, **Article 21** which states: "No person shall be deprived of his life or personal liberty except according to procedure established by law." In Subhash Kumar v. State of Bihar[3], the Supreme Court recognized several liberties that are implied by Article 21, including the right to a healthy environment. The State High courts have followed the Supreme Court's order, now recognize an environmental dimension to Article 21.

Second, **Article 48A** under the directive principles requires that "the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country."

Third**, Article 51A** under Fundamental duties in the constitution establishes that "it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wild life and to have compassion for living creatures.[4]"

Status Quo: Global climatic assertion

As declared by the data by the United Nations Environmental programme, the Earth's average temperature has increased about 2 degrees Fahrenheit during the 20th century. Two degrees may sound like a small amount, but it's an unusual event in our planet's recent history. Earth's climate record, preserved in tree rings, ice cores, and coral reefs, shows that the global average temperature is stable over long periods of time. Additionally, small changes in temperature corresponds to enormous changes in the environment.

For example, at the end of the last ice age, when the Northeast United States was covered by more than 3,000 feet of ice, average temperatures were only 5 to 9 degrees cooler than today.

[5]

Global climate change has already had observable effects on the environment. Glaciers have shrunk, ice on rivers and lakes is breaking up earlier, plant and animal ranges have shifted and trees are flowering sooner.

Effects that scientists had predicted in the past would result from global climate change are now occurring: loss of sea ice, accelerated sea level rise and longer, more intense heat waves.

Scientists have high confidence that global temperatures will continue to rise for decades to come, largely due to greenhouse gases produced by human activities. The Intergovernmental Panel on Climate Change (IPCC), which

[3] A.I.R 1991 SC 420, and Virendra Gaur v. State of Haryana, (1995) 2 SCC 577.

[4] The Indian Constitution.

[5] https://climate.nasa.gov/system/content_pages/main_images/1320_effects-image.jpg

includes more than 1,300 scientists from the United States and other countries, forecasts a temperature rise of 2.5 to 10 degrees Fahrenheit over the next century.

The IPCC predicts that increases in global mean temperature of less than 1.8 to 5.4 degrees Fahrenheit (1 to 3 degrees Celsius) above 1990 levels will produce beneficial impacts in some regions and harmful ones in others. Net annual costs will increase over time as global temperatures increase.

"Taken as a whole," the IPCC states, "the range of published evidence indicates that the net damage costs of climate change are likely to be significant and to increase over time." [6]

Future Effects: Global Climate Change

Some of the long-term future effects of global climate change in the World is as follows:

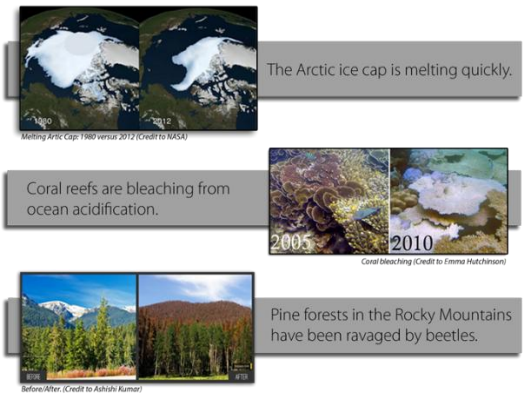
1. **Change Will Continue Through This Century and Beyond**
   Global climate is projected to still amendment over this century and on the far side. The magnitude of global climate change on the far side ensuing few decades depends totally on the number of heat-trapping gases emitted globally, and the way sensitive the Earth's climate is to those emissions.
2. **Changes in Precipitation Patterns**
   Forecasts of future climate over the U.S. counsel that the recent trend towards enlarged significant precipitation events can continue. This trend is projected to occur even in regions wherever total precipitation is predicted to decrease, like the Southwest.
3. **Droughts and Heat More Waves**
   Summer temperatures are projected to continue mounting, and a decrease of soil wetness, that aggravates heat waves, is projected for a lot of of the western and central U.S. in summer. By the top of this century, what are once-in-20-year extreme heat days (one-day events) are projected to occur each 2 or 3 years over most of the state.
4. **Sea Level Will Rise 1-8 feet by 2100**
   Global water level has up by regarding eight inches since reliable record keeping began in 1880. it's projected to rise another one to eight feet by 2100. this is often the results of additional water from melting land ice and also the growth of H2O because it warms
   In the next many decades, storm surges and high tides might mix with water level rise and land subsidence to more increase flooding in several regions. water level rise can continue past 2100 as a result of the oceans take a awfully while to reply to hotter conditions at the Earth's surface.
   Ocean waters can so still heat and water level can still rise for several centuries at rates adequate or over those of this century.
5. **Arctic Likely to Become Ice-Free**
   The Arctic Ocean is anticipated to become primarily ice free in summer before mid-century. associate indicator of changes within the Arctic ocean ice minimum over time. Arctic ocean ice extent each affects and is suffering

[6] IPCC 2007, Summary for Policymakers, in *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,* Cambridge University Press, Cambridge, UK, p. 17.

from world global climate change. associate interactive exploration of however heating has effects on ocean ice, glaciers and continental ice sheets worldwide.

There are super hurricanes and tornados including, Hurricane Katrina (2005), Hurricane Sandy (2012), Oklahoma Tornado (2013), Hurricane Nepartak (2016) some of which leading to massive floods and storm surges that made it compulsory for emergency clearings, which took many lives and destroyed properties, and the worst part is that because of continuous global climatic change these are recurring in many cities around the globe:

Numerous places are in grief from the condition of long droughts. The rising temperatures are posing serious threats to agriculture and crop production.



7

What do the world leaders have to say upon this:

- *'The shift to a cleaner energy economy won't happen overnight……But the debate is settled climate change is in fact a fact'.* – US President Barack Obama, 2014 state of union.

President Obama and Chinese Premier Xi Jinping announced an unprecedent agreement to limit carbon emissions in an attempt to fight climate change in 2014.

- *'In the face of the emergencies in the human induced climate change, social exclusion and extreme poverty we join together to declare that human induced climate change is a scientific reality and its decisive mitigation is a moral and religious imperative for the whole humanity'.* – excerpt from vatical climate change final declaration workshop.

In 2015 Pope Francis and other world religious leaders gathered at the Vatican climate change workshop and together encouraged their followers to support UN actions to curb climate change impacts.

Supreme court decisions covering the ambit of environmental law in India.

The supreme court order and directions covers a wide range of mandates ranging from water, air and land. The list is endless. The Supreme Court has passed orders for closure of polluting industries and environmentally harmful aqua-farms, mandated cleaner fuel for vehicles, etc

Some of the judgments whereby numerous principles about surroundings law were judicially recognised area unit price mentioning:

1. In **MC Mehta v. UOI,** WP (C) 13029/1985, the Hon'ble Supreme

[7] https://www.iaia.org/uploads/ice-cap-and-coral.png

Court in its order dated 24-10-2018, decided that no motor vehicle conforming to the emission standard BS-IV shall be sold or registered in the entire country with effect from 01.04.2020, and the same shall be substituted by BS-VI compliant vehicles. Orders were also passed, therein with respect to imposing ban on Diesel vehicles of a particular limit to control the air pollution in the country.

2. In **MC Mehta v. UOI**[8] ***(Oleum Gas Leak case)***, in this case the Supreme Court formulated an original jurisprudence of **Absolute Liability** in compensating the victims of pollution caused by hazardous and inherently dangerous industries.

3. In **M.C. Mehta vs. Union of India**[9], wherein the issue of pollution of the Ganga river by the hazardous industries located on its banks was highlighted, the Hon'ble Supreme Court ordered the closure of a number of polluting tanneries near Kanpur.

4. In **TN Godavarman Thirumulpad vs. Union of India and Ors.**, W.P.(C) No. 202 of 1995, the supreme court dealt with the issue of livelihood of forest dwellers in the Nilgiris region of Tamil Nadu which got affected by the destruction of forests, the apex court passed a series of directions and orders for the same to reciprocate.

5. **Ganesh Wood Products v. State of Himachal Pradesh**[10],– this judgment expanded the definition of forest to its ordinary dictionary meaning, and imposed a ban on all non-forest activities on forest land without prior approval of the Central Government and directions were given to constitute Expert Committee in each State to identify forests and for movement and disposal of timber, and for constitution of a High-Power Committee to deal with forest.

6. **MI Builders Pvt. Ltd. V. Radhey Shyam Sahu**[11], herein the Supreme Court applied **Public Trust Doctrine** and asked a city development authority to dismantle an underground market built beneath a garden of historical importance.

7. In **Vellore Citizens Welfare Forum v. UOI**[12], the Supreme Court adopted the **Precautionary Principle** to check pollution of underground water caused by the leather industries in Tamil Nadu. The apex body also lectured the defensive principles and the **Polluter Pays Principle** are part of the environmental law of the country.

8. In **Indian council for Enviro-**

[8] *AIR 1987 SC 1086*
[9] AIR 1988 SCR (2) 538
[10] AIR 1996 SC 149
[11] AIR 1996 SC 2468
[12] AIR 1996 SC 2718

Legal Action v. UOI[13], the Supreme Court reiterated and applied the principle to restore the environment of a village whose ecology had been destroyed by the sludge left out by the trial run of the industries permitted to produce the 'H' acid.

9. In **Indian Council for Enviro-Legal Action v. Union of India (CRZ Notification case)**[14], the apex court noted that the **Principle of Sustainable Development** would be violated if there were a substantial adverse ecological effect caused by industry.

10. In **M.C. Mehta v. Union of India (Taj Trapezium case)**[15], The Supreme Court of India recognised The **Principle of Sustainable Development** in this case.

The above cases have been verified and substantiated from the journals and articles directly from the Supreme Court Cases[16].

How states can lead the charge on climate change.

In a study conducted by American Scientific Research Organization, Climate Central, by 2050 – large portions of Mumbai may be under water due to the sea level rise, if emissions are not kept in check. The key reason behind the sea level rise is the thermal expansion of sea water and melting of glaciers due to rise in global temperatures. The main effects of sea level rises will include coastal flooding, higher storm surges and displacement of population.

It is pertinent to note from the study conducted above that Indian cities, irrespective of where they are located, need to plan and invest more in climate resilience for their survival, and also because disruptions will have a domino effect in other cities too in form of migration.

So, what can one do in order to stop this, through this Paper I'll try to answer these questions: -

First, cities must reduce their carbon footprints in a large volume.

Secondly, must strengthen one's natural resources which includes mangroves and wetlands, which mostly are destroyed at a rapid pace in order to construct buildings, malls and other industries, etc.

Third, invest in right kind of infrastructure, taking into account that these systems must be good enough not only to withstand extreme weather conditions, but also to come back into operation quickly once the natural disaster occurs.

Given the scale of such a task, urban adaptation will likely need to draw on innovative sources of financing. The central and the state governments must ensure that there is equity in this adaptation process so that the poor are not left out.

[13] AIR 1996 SC 1446
[14] (1996) 5 SCC 281
[15] AIR 1997 SC 734
[16] https://www.scconline.com

Commitment towards Climate Resilience

All the administrative and social attention currently is focused on the current large-scale outbreak of 2nd disastrous wave of coved 19 pandemic, also on its vaccine delivery and on the country's economic recovery. But it is very much likely that the next economic crises could be set off by a series of climate shocks. Between 1999 and 2019, the world faced at least 12000 extreme weather events, resulting in losses of 3.55 trillion USD[17].

Our planet is not in as good shape as it used to be. The atmospheric concentrations of carbon dioxide are as high as they were 4 million years ago, with temperatures being 2–4-degree Celsius warmer and sea levels being 10-25 meters higher. In the worst-case scenario, by 2100, CO2 concentrations could reach levels last seen more than 50 million years ago. This rate of change does not give time for many organisms to adapt to a warmer climate. Human civilization has never experienced warming of this kind. Despite the marginal and temporary fall in emissions due to the pandemic, 2020 was the warmest year ever recorded.

Now, many summit and climate change activists plan to introduce an adaptation action agenda, allowing actors from different regions and sectors to propose adaptation initiatives. Episodic and myopic approaches to disaster management will fall short unless buttressed by efforts to investigate extreme events in detail. We need to analyze their causes, there shifting frequency, the impact of climate crisis on there possible recurrence and the vulnerability of specific regions. This is why a climate risk atlas is important, connecting past trends to future scenarios by overlaying data on extreme events with climate modelling.

HOW AND WHAT INDIA COULD DO TO LAY THE FOUNDATION FOR CLIMATE PROTECTION:

India can demonstrate how a detailed assessment of localized climate risks can lay the foundation for informed climate plans at national, state and city levels, preparing beforehand for extreme events, and accordingly recognize the gaps in administrative capacity which it has to administer.

Second, climate risks need to be communicated to the households and the communities. Information on climate risks must be salient and easily understood by the households. Advance warnings giving real time information as disasters unfold, connecting people and business for post disaster recovery are ways in which communities can become-participants in a unified emergency response framework.

Third, India must be at the vanguard of investing in Cost Effective Resilient Infrastructure. Developing countries do not have the luxury of spending billions of additional dollars on climate proof infrastructure.

[17] www.climatechange.org

Important and Sustainable steps Government can take in this period of climate crisis-

With concentrated efforts and an effective planning air quality index can improve, as has happened in many other countries, for eg. Beijing, China.

The political leadership should have to take the first step, recognize the gravity of the situation, and then fearlessly declare a war on the pollution. It must then provide for a financial outlay of whatever it takes to restore blue skies.

There must be clear goals, like setting a target of an average annual PM 2.5 level of 60 or less by 2025 and 30 or less by 2030 from the current levels of 120, in Delhi/NCR and in other cities.

But in order to achieve this goal, it is important to appoint a clear functioning authority, led by an individual respected across the political spectrum with also a proven track record of delivering on goals such as leaders in their personal fields like E Sreedhran sir. This authority should then be vested with a mandate of improving air quality, provided adequate resources, and given the power to operate among states, multiple levels of government, departments, businesses and the agricultural and scientific communities at large. It should also be able to work with public especially youth and encourage them to change their lifestyles.

There are many steps which then this authority or the people responsible towards the same can pursue to tackle this issue sustainably: -

1. Reducing industrial emissions by reducing the use of coal and converting to gas where feasible. There should be a particular focus on industries like bricks, steel, cement among others. Companies must have a goal of becoming carbon-neutral.
2. Improve indoor air quality in schools, colleges, hospitals, homes, offices and public places.
3. Reduce coal consumption by increasing the current cess of 400rs per ton by 10% every year, and ensure financial incentives to coal based power plants to bring down there emissions as per legal standards or convert to gas or fuel.
4. Taxing coal based thermal power by 2rs per unit and provides these funds as subsidies to wind and solar power plants. ensuring that these renewable plants get priority off take and payment over thermal plants.
5. Engage with public, particularly children and the youth to promote change in lifestyle for instance using bicycle or walking and using electric consumption.
6. And finally increasing the monitoring of air quality by state governments by installing the network of monitors and satellite measurements.

Youth-led climate action

The important commitment which UN secretary general proposes: Regard

efforts to make the next ten years a decade of climate action by young people as an integral element of the recently launched UN Decade of Action to deliver the SDGs by 2030[18]

The UN Youth Climate Summit that took place ahead of the Climate Action Summit last September can be seen as the emergence of a new kind of United Nations. I say this because it displayed the following characteristics:

1. The young people from more than 140 countries and territories participated not as representatives of their respective states but as representatives of their entire generation;
2. The various discussions at the summit were moderated by the youth and not by UN officials; and
3. Rather than the standard speaker-by-speaker format of UN meetings, there was an emphasis on promoting lively discussion.

More than anything, however, was the fact that UN Secretary-General Guterres served as "keynote listener" [19] at the opening session, intently focusing on each of the statements by the youth representatives.

CONCLUSION:

Building resilience in both prevention and cure. By 2030, the world has to achieve the sustainable development goals, fulfill promises made in the Paris agreement, and adhere to the Sendai Framework for Disaster and Risk Reduction. A common thread for resilience could tie their agendas together. India's vulnerability to climate risks, growing experience with handling disasters, and new initiatives to strengthen infrastructure and position it at the forefront for an adaptation action agenda.

One very important point I wanted to reiterate is that in pursuit of achieving the goal of climate sustainability, good air quality index, clean water bodies, less global warming, etc , we as humans must not stop caring for the lives of the other humans. For what purpose are we living, what purpose are we making an effort to sustain the livelihood is a fact I want to underline. If the ultimate desire of Human salvation is not fulfilled then there is no point of anything in the world. There is this thick line of interdependence of all and if we stop putting an effort to reconcile that line, time and again then it could be worse than ever.

Hence forth I am of the opinion that the world and as well as our country India has all the amounts of resources and requirements present in the present day to take care of the situation at hand and effectively make a sustainable comeback for the generations to enjoy. The only condition is which I also mentioned in the paper as well is the attitude of persistence and consistency in dealing

[18] Secretary general A. Gutress remarks in UN.
[19] UN News Centre, "At UN, Youth Activists Press for Bold Action."

with such a major crisis. Mitigation and adaptation techniques to be followed for a must permanent basis for the years and decades to follow and that too from the very onset of it. No time must be spared just in the glimpse of a worldly miracle. Another important point is to not leave anyone behind at this time of disturbance, each and every life in the planet must be respected and treasured. And that is in the end what I personally feel that the mother Earth also intends from all its children.

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

GLOBAL PUBLIC HEALTH IN THE ERA OF POST DOHA DECLARATION & COVID-19 PANDEMIC

Nemi Chand Saini
Senior Research Fellow
Department of Law, University of Rajasthan, Jaipur
Email ID ncsainilaw@gmail.com

Abstract: *The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is one of the principle annexes to the Marrakesh Agreement that set up the World Trade Organization (WTO). Issues connected with TRIPS authorization started showing nearly when the agreement went into power and reappeared in the midst of wellbeing emergencies.*[1]

The COVID-19 pandemic re-established conversations on the agreement, even as the WTO is going through an emergency of legitimacy[2][3]*. The sheer scale and effect of COVID-19 have provoked legislatures to proactively look for the progression of general wellbeing related labor and products yet temporarily. Pandemic-actuated lockdowns prompted extreme deferrals and production network clog. This prompted a disturbance in the stockpile of medications and other fundamental products and services*[4]*. Mode 2 administrations exchange, comprising of administrations consumed abroad (as characterized by the General Agreement on Trade in Services), was stopped altogether. Worldwide arrangements are accordingly being tried to facilitate any obstructions to exchange that interfere with the treatment and anticipation of COVID-19. The TRIPS Agreement and its obstructions in administrative notice rules are only one arrangement being talked about. Others remember the decrease of taxes for medical goods.*[5]

In October 2020, India and South Africa co-supported a proposition before the WTO individuals to forgo explicit arrangements of the TRIPS Agreement for technologies required for the treatment and avoidance of COVID-19. Agricultural nations are making a recharged push for change on the grounds of reasonableness and access to public products like prescriptions and antibodies. In any case, created nations keep on contending against the waiver, referring to the supposed "innovation goal" and innovative work costs. The waiver will be one of the principle issues up for conversation at the twelfth WTO Ministerial Conference (MC12).

While the TRIPS Agreement covers the whole range of intellectual property (IP) manages, this brief spotlights on licenses and their connection to general wellbeing. It

[1] "UNSG, Report of the United Nation's Secretary-General High-Level Panel On Access To Medicines, September 2016, New York, United Nations, 2016."
[2] "Aarshi Tirkey and Shiny Pradeep, The WTO Crisis: Exploring Interim Solutions for India's Trade Disputes, *ORF Occasional Paper*, Issue number: 274, September 22, 2020."
[3] "Mohan Kumar, An Indian Perspective on Reviving the World Trade Organisation, *ORF Expert Speak, April 28, 2021."*
[4] "Garth Friesen, No End in Sight For The COVID-Led Global Supply Chain Disruption, *Forbes*, September 3, 2021"
[5] "Organisation for Economic Co-operation and Development, COVID-19 and international trade: Issues and actions,OECD."

clarifies the force for the change settled on to the agreement in 2017 and the India-South Africa waiver proposition. It sees contentions encompassing innovation and the current licenses system to understand the reason why a waiver is required regardless of the revision settled on to the agreement. It contends for a more meaningful discussion on the issue that will assist the world with planning for future possibilities, rather than the current one that is just a response to the continuous pandemic. It additionally presents strategy ideas as long as possible.

Keywords: *TRIPS Agreement, WTO, Public Health, DOHA Declaration, COVID-19 Pandemic.*

THE DOHA DECLARATION

The 2001 ministerial conference of the World Trade Organization (WTO) adopted a declaration concerning the question of access to medicines in the context of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This constitutes a response to widespread debates concerning the impacts of the TRIPS Agreement on access to drugs in developing countries.

The Declaration on the TRIPS Agreement and Public Health (Doha Declaration) provides responses to some specific concerns concerning the implementation of intellectual property rights in the field of health.[6] However, it only constitutes a partial answer to the question of access to drugs since it does not address the relevance and impacts of the introduction of product patents in the health sector.

The multiple controversies concerning access to drugs, in particular in the context of the HIV/AIDS epidemics put increasing pressure on the WTO to address the issue even before considering the possibility of an amendment or revision of the TRIPS agreement. This eventually led the 2001 Ministerial conference to specifically address the question of the place of health in the TRIPS agreement. The result of the WTO deliberations is a ministerial declaration adopted at the end of the Doha meeting. This Declaration does not constitute an amendment of TRIPS and only seeks to shed light on acceptable interpretations of the treaty. It constitutes a first step towards the recognition that intellectual property rights issues cannot be discussed in isolation from health concerns.

The Declaration's main importance stems from its recognition that the existence of patent rights in the health sector does not stop states from taking measures to protect public health. More specifically, it affirms that TRIPS should be 'interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all'.[7] The Declaration is important for developing countries insofar as it strengthens the position of countries that want to take advantage of the existing flexibility within TRIPS. The Declaration does not open new avenues within TRIPS but confirms the legitimacy of measures seeking to use to the largest extent possible the in-built flexibility found in

[6] WTO, Declaration on the TRIPS Agreement and Public Health, Ministerial Conference – Fourth Session, WTO Doc. WT/MIN(01)/DEC/2 (2001) [Doha Declaration]. Also available at: http://www.wto.org.

[7] Supra Note 6.

TRIPS. In other words, it constitutes a confirmation of the position of countries like South Africa and Brazil which sought to go beyond a narrow interpretation of TRIPS in their search for ways to tackle their rampant HIV/AIDS crisis. Further, it provides a basis for arguments in case of a dispute at the level of the WTO dispute settlement mechanism.[8] Finally, it grants least developed countries a further ten years to implement their patent obligations with regard to medicines.

TRIPS WAIVER: THE LEGAL BASIS

Article IX.3 of the Marrakesh Agreement establishing the WTO (or the WTO Agreement) provides that in "exceptional circumstances", the Ministerial Conference may waive an obligation imposed on a WTO member country by the WTO Agreement or any other multilateral trade agreement.[9] The same article provides that such a waiver be supported by three-quarters of the members.[10] Article IX.3 (b) says that if the request for a waiver concerns the multilateral trade agreements given in Annexes 1A, 1B, or 1C, then the request should be first submitted to Council for Trade in Goods, Council for Trade in Services, and Council for TRIPS, respectively. In the current scenario, since the waiver request pertains to the TRIPS Agreement, the TRIPS Council has jurisdiction over it. Furthermore, Article IX.4 of the WTO Agreement states that the Ministerial Conference, while granting the waiver shall state the "exceptional circumstances" justifying the decision and the terms and conditions that shall govern the working of the waiver. The waiver should also have an end date and be reviewed annually by the Ministerial Conference if granted for more than a year.

The term "exceptional circumstances" given in Articles IX.3 and IX.4 has not been defined in the WTO Agreement. However, the words "exceptional circumstances" indicate that the power to waive certain obligations intends to legalise those measures adopted by a country in concrete situations of urgency that would otherwise violate the WTO law.[11] In other words, the waiver power enshrined in Articles IX.3 and IX.4 recognises that there may be certain exigent situations causing hardship to a member country, when compliance with the WTO norms may not be feasible. In such a situation, the WTO, as an institution, for a temporary period—i.e. till the exigent situation last, should legalise non-compliant measures. However, the waiver power should be exercised with caution and interpreted with great care[12] so that it does not become an easy escape route for a country aiming to circumvent its WTO obligations.

WAIVERS AND COVID-19

[8] Cf. Paul Vandoren, 'Médicaments sans Frontières? Clarification of the Relationship between TRIPS and Public Health Resulting from the WTO Doha Ministerial Declaration', 5 Journal World Intellectual Property Rights 4 (2002).

[9] For a detailed discussion on WTO's Waiver power, See Isabel Feichtner, "The Waiver Power of the WTO: Opening the WTO for Political Debate on the Reconciliation of Competing Interests", European Journal of International Law, 20, no. 3, (August 2009): 615-645.

[10] On 15 November 1995, the General Council of the WTO decided that although support of three-fourths is needed to adopt a waiver, it would first try to decide by consensus. If consensus cannot be reached, then the matter shall be decided by the three-quarters majority – WTO, Decision Making Procedures under Article IX and XII of the WTO Agreement, WT/L/93.

[11] Feichtner, "The Waiver Power of the WTO: Opening the WTO for Political Debate on the Reconciliation of Competing Interests", 620.

[12] Appellate Body Report, EC – Bananas III, WT/DS27/AB/R (WTO, 2008), para. 185

Today the debate takes centre stage, as the world grapples with Covid-19. The vaccines and other treatments that have been developed to combat Covid-19 — providing an unmistakeable silver lining to the crisis — are subject to patent protection under the TRIPS agreement. The patent holders have the exclusive right to manufacture, sell, and use the vaccine or the drug for the entire term of patent protection of 20 years from the date of the filing of the patent.[13] Such protection could impede wider accessibility of vaccines and prolong the pandemic. The entire vaccination exercise, and not the vaccines themselves, will end the pandemic, and the challenge is to ensure that it is universalised. The task is profound due to the increasing concerns of vaccine nationalism, whereby richer countries are procuring vaccines for their population ahead of others which, in turn, could derail the goal of delivering two billion vaccine doses to poorer and middle-income countries.[14]

It is in this context that the joint proposal of India and South Africa at the WTO asking for a temporary waiver of the IP rights on Covid-19 vaccines and drugs[15] needs to be understood. The proposal argues that IP rights could hinder the supply of vaccines and drugs at affordable prices.[16] Therefore, India and South Africa, at a time when production of vaccines needs to be scaled up to meet demand, have proposed that the WTO's TRIPS Council recommend to the General Council "a waiver from the implementation, application, and enforcement of" certain provisions of the TRIPS Agreement (waiving IP rights like patents, copyright, and trademarks) for prevention, containment or treatment of Covid-19.[17] If the waiver is granted, WTO member countries will not be under an obligation, for a temporary period, to either grant or enforce patents and other IP-related rights to Covid-19 drugs, vaccines, and other treatments. This will immunise the measures adopted by countries to vaccinate their populations from claims of illegality under WTO law.

Since then, the proposal has been co-sponsored by other developing countries.[18] In the last five months, the TRIPS Council has discussed this issue both formally and informally.[19] A consensus is not in the horizon, as many developed countries have reservations about waiving IP rights.[20] They argue that protecting IP rights boosts research and innovation, and that suspending these rights will not lead to a surge in the manufacturing of the Covid-19 vaccines. To be sure, the TRIPS Agreement itself contains flexibilities that allow for a balancing of the rights of the patent holder with the people's right to health.[21]

ADVANCEMENT OF TRIPS

[13] See Article 33 of the TRIPS Agreement.
[14] Chris Kay and Haslinda Amin, "Vaccine Nationalism Threatens WHO's 2021 Goal of 2 Billion Doses", Bloomberg Quint, March 17, 2021.
[15] Waiver From Certain Provisions of the TRIPS Agreement For the Prevention, Containment and Treatment of Covid-19, Communication from India and South Africa, IP/C/W/669, 2 October 2020 (hereinafter "TRIPS Waiver Proposal").
[16] TRIPS Waiver Proposal, paras 9 and 10.
[17] TRIPS Waiver Proposal, para 12.
[18] "Members discuss TRIPS waiver request, exchange views on IP role amid a pandemic", World Trade Organisation, February 23, 2021.
[19] "Members discuss TRIPS waiver request, exchange views on IP role amid a pandemic".
[20] "Rich, developing nations wrangle over COVID vaccine patents", Reuters, March 10, 2021.
[21] See James Bacchus (2020), "An Unncessary Proposal: A WTO Waiver of Intellectual Property Rights for Covid-19 Vaccines", CATO Institute, Free Trade Bulletin, 78 (February 2021); Bryan Mercurio, "WTO Waiver from Intellectual Property Protection for COVID-19 Vaccines and Treatments: A Critical Review", SSRN Working Paper, (2021).

The TRIPS Agreement isn't the primary cycle of multilateral principles on intellectual property privileges (IPR). The first General Agreement on Trade and Tariffs 1947 (GATT 1947) had a few references to IP. The Uruguay Round of exchanges from 1986 to 1994, which finished in the Marrakesh Agreement and the foundation of the WTO, incorporated an arranging bunch on exchange related parts of IPR. Their mandate covered the whole array of IP rules, in addition to the 'exchange related perspectives'. Multiple definite proposition were advanced by key arranging nations, like the US, Japan, and 14 non-industrial nations, including India. A composite text was at long last taken on as Annex 1C of the Marrakesh Agreement after thorough arrangements on viewpoints, for example, the extent of obligatory licensing and debate settlement[22]. The TRIPS Agreement was taken on as a solitary endeavour, least standard agreement. According to the WTO organizational construction, the Council on TRIPS is one of simply three that reports straightforwardly to the General Council and a few advisory groups and working gatherings. This features the focal place that IP rules possess in the exchange body.

DRIVING FORCE FOR AMENDMENT

A few factors obstruct the access to medications, for example, duty levels, creation limit, and home grown guideline. In any case, IP rules stay a significant hindrance to simple access, given the construction of the worldwide IP system.

A key strain arose between the finish of the Uruguay Round and the start of the Doha Round (1994 to 2001). Agricultural nations battled to import conventional medications after the authorization of the TRIPS Agreement when the HIV/AIDS plague was seething. The market cost for antiretroviral drugs was somewhere in the range of US$15,000 and US$20,000 per patient per year.[23] The South African government instituted the Medicines and Related Substances Act of 1997 to carry out arranged TRIPS adaptabilities for necessary permitting, however this experienced harsh criticism from drug lobbies. [24] South Africa's endeavour to import the medications at lower rates was named as TRIPS rebelliousness by the US, and the US Trade Representative took steps to force international embargoes, which South Africa couldn't manage.

There are four conditions under which authorizing by a right holder happens-intentional permitting; necessary authorizing on the off chance that a willful permit exchange isn't fruitful; mandatory authorizing for public non-business use; and obligatory permitting for nations that need fabricating capacity.[25] A critical issue was that while the TRIPS Agreement took into account mandatory licenses to be utilized in the event of crises, it was generally for homegrown creation and use. Trading less expensive variants of the antiretroviral medications to nations that didn't have fabricating limit was as yet

[22] "Antony Taubman et al., eds. *A Handbook on the WTO TRIPS Agreement* (Cambridge: Cambridge University Press, 2012)"

[23] Srividhya Ragavan, "World Trade Organization: A Barrier to Global Public Health?" in *Intellectual Property Law and Access to Medicines TRIPS Agreement, Health, and Pharmaceuticals*, ed. Amaka Vanni and Srividhya Ragavan (Routledge, 2021).

[24] Ragavan, "World Trade Organization: A Barrier to Global Public Health?"

[25] Hans Morten Haugen, "Does TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) prevent COVID-19 vaccines as a global public good?" *The Journal of World Intellectual Property* 24 (2001), 3-4.

unrealistic. All things considered, the patent holder's freedoms are secured under Article 31(h) of the TRIPS Agreement, which determines that "satisfactory compensation" should be accommodated the apparent financial misfortune from implemented permitting.

It was in this scenery that the Doha Round of arrangements started in 2001, with the Doha Declaration on the TRIPS Agreement and Public Health embraced soon after [26] . The Doha Declaration tended to the pressure between IPs for innovation versus IPs for access to medications or the improvement of new prescriptions versus the effect of IP assurance on drug prices.[27] The primary change presented by the Doha Declaration became known as the Paragraph 6 system, [28] or the unique mandatory permit framework. The change was at last embraced by a 2003 choice on a waiver [29] to permit nations that don't have producing limit with regards to drugs to utilize obligatory licenses to import conventional prescriptions from somewhere else.

This in the end fit the main change to a WTO agreement. The progressions were supported in 2005 yet just acknowledged and carried out in 2017, with the 2003 waiver in power in the meantime. The change embedded Article 31bis to the TRIPS Agreement, permitting the commodity of items produced under a necessary permit under three conditions.

To begin with, nations would need to correct their homegrown laws to utilize these adaptabilities to permit obligatory authorizing and imports of authorized generics by nations that don't make. Second, a nation needing to import a medication fabricated under an obligatory permit would need to make an accommodation to the TRIPS Council expressing the specific amount required and the crisis it tended to. Third, the estimation of satisfactory pay for utilizing a mandatory permit would be done in a way that there would be no twofold pay from the bringing in and sending out country.

Notwithstanding, the change has not been the panacea it was believed to be, given the complex administrative prerequisites for utilizing this flexibility.[14] This intricacy is the reason for the restored push for a TRIPS waiver by India and South Africa.

TRIPS WAIVER FOR COVID-19

The accommodation made by India and South Africa in October 2020 explicitly requests a waiver from Sections 1, 4, 5, and 7 of Part II of the TRIPS Agreement for "wellbeing items and technologies" for the treatment, control, or avoidance of COVID-19. [30] Part II of the TRIPS Agreement alludes to 'Standards Concerning the Availability, Scope and Use of Intellectual Property Rights'. The areas allude to securities connected with

[26] World Trade Organization, "Declaration on the TRIPS agreement and public health," WTO.
[27] Taubman et al., *A Handbook on the WTO TRIPS Agreement*
[28] World Trade Organization, "Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health," WTO, 2003.
[29] World Trade Organization, "Decision removes final patent obstacle to cheap drug imports," WTO, 2003. [14] Biswajit Dhar and K.M. Gopakumar, "Towards more affordable medicine: A proposal to waive certain obligations from the Agreement on TRIPS*"* (Working Paper, Asia-Pacific Research and Training Network on Trade, 2020*)*

[30] Council for Trade-Related Aspects of Intellectual Property Rights, "Waiver From Certain Provisions Of The TRIPS Agreement For The Prevention And Containment Of Covid-19", World Trade Organization.

copyrights (Section 1), modern plan (Section 4), patents (Section 5), and assurance of undisclosed data (Section 7).[31] The October 2020 accommodation was re-examined in May 2021 to incorporate a three-year timetable from the date of reception of the waiver to its expiry. It additionally explains that the waiver won't have any significant bearing to the insurances of entertainers and telecasters as well as being without bias to the privileges of least evolved nations. This infers that it would not affect the IP privileges of patent holders outside of those required for the treatment and anticipation of COVID-19. It additionally implies that the course of events for least created nations to satisfy TRIPS responsibilities stays 2033.

The proposition likewise incorporates an arrangement to survey the waiver one year after its endorsement. Furthermore, a 'harmony condition' has been added as a protection that expresses that WTO individuals won't challenge measures taken by another part in congruity with the waiver. This was prodded by previous experience where any mandatory permit applied has been tested either at the WTO or singularly by created nations.

The waiver proposition originates from three worries that IPRs are a danger to the accessibility and access to reasonable drugs; that IP insurance will have a stoppage impact on innovation (which varies from the contention made by pharma organizations that the absence of IPRs stunts innovation); and that the instrument inside the TRIPS Agreement is too unwieldy.[32] Notably, the 2016 report of the United Nations Secretary-General's High-Level Panel on Access to Medicines explicitly makes reference to the Paragraph 6 choice. The report suggests that WTO individuals "embrace a waiver" and consider an "extremely durable update of the TRIPS Agreement to empower reform".[33] The 2017 change was taken on in light of the 2003 WTO choice though the UN proposal was to revise elements of that choice and, therefore, the alteration took on.

The waiver proposition has tracked down help from different non-industrial nations, like those in Africa, and the most un-created nations. While the US has not upheld the current proposition at the WTO, it said something supporting a waiver explicitly for COVID-19 vaccines.[34]

The European Union (EU) stays a disagreeing voice. As per the EU's accommodation to the TRIPS Council in June 2021, the gathering would lean toward an explanation of the current adaptabilities over deferring any rights.[35] The EU recognized that the necessity for "earlier dealings for sufficient pay" prior to giving a necessary permit might be discarded as the

COVID-19 crisis satisfies the meaning of a public crisis. It likewise planned to improve on warning and application

[31] World Trade Organization, "Part II — Standards concerning the availability, scope and use of Intellectual Property Rights", WTO.
[32] Dhar and Gopakumar, "Towards more affordable medicine."
[33] NSG, "Report of the United Nation's Secretary-General High-Level Panel On Access To Medicines."
[34] Office of the United States Trade Representative, "Statement from Ambassador Katherine Tai on the Covid-19 Trips Waiver," Executive Office of the President of the United States, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/may/statementambassador-katherine-tai-covid-19-trips-waiver.
[35] Council for Trade-Related Aspects of Intellectual Property Rights, @Urgent Trade Policy Responses To The Covid-19 Crisis: Intellectual Property," World Trade Organization.

processes for this particular crisis by proposing a solitary notice to handle the procedural issues with Article 31bis for the COVID-19 pandemic.

As nations scramble to fix their homegrown laws connected with the execution and utilization of necessary licenses, the requirement for the waiver is distinctly felt. Canada, France and Germany, all advocates of solid IP rules, have ordered crisis laws engaging their legislatures to force obligatory licenses during COVID-19. [36] Meanwhile, it is essential to take note of that the reception of the waiver will simply make it lawful for nations to forgo IP security of COVID-19-related technologies, and it will be dependent upon every country to embrace the guidelines into their homegrown laws, which in itself is an awkward interaction. Ensuing advances should be taken to empower the exchange of innovation to emerging nations with creation limit. Furthermore, interests in limit building are expected to empower least created nations to fabricate these fundamental items.

The multiple waves of the COVID-19 pandemic have shown the significance of boundless inoculation programs and the requirement for nonstop innovation. The speed at which the Covid has transformed into more destructive structures makes it hard to anticipate the finish of the pandemic. Innovation is hustling against the infection's next variation. Stopping for market goals like sovereignties and satisfactory pay should be offset with checking the spread of the infection so that non-industrial nations are not abandoned.

Immunization imbalance and reasonable treatment, the principle trigger behind the current waiver proposition (yet fixed to COVID-19), are longstanding issues. While the destiny of the waiver proposition is not settled as of yet, it will simply be a stopgap until the following pandemic and a reusing of similar contentions, basically the improvement of new prescriptions (innovation) versus the effect of IP security on drug costs (access).

Patents have an inborn antitrust component by plan since they empower inventors to acquire sovereignties from their innovations. Defenders of solid patent guidelines contend that the restraining infrastructure period empowers innovation. For example, "Individuals won't contribute the billions needed to make another medication or antibody and to make the follow on technologies and the business creation and dissemination ties important to appropriate this medication in the medical care market to patients-on the off chance that the products of their useful works are not gotten to them."[37]

Studies by researchers inclining toward severe patent standards have viewed that as "the presence of IPRs is neither vital nor adequate for the send-off of drug innovations at the country level." [38] Meanwhile, the imposing business model has permitted enormous drug organizations to set restrictive costs for life-saving medications.

The contention has ruled the two sides of

[36] Dhar and Gopakumar, "Towards more affordable medicine"

[37] "Adam Mossoff, *The COVID-19 Intellectual Property Waiver: Threats to U.S. Innovation, Economic Growth, and National Security*, Washington DC, The Heritage Foundation Legal Memorandum, 2021."

[38] "Margaret Kyle and Yi Qian,Intellectual Property Right and Access to Innovation: Evidence from TRIPS. (Working Paper, National Bureau of Economic Research, 2014)"

the discussion to such an extent has turned into a lose-lose situation among innovation and access. In any case, this isn't correct. First and foremost, the TRIPS Agreement was never implied as a way to expand innovation yet to improve and uphold IP standards. Innovation as an idea is referenced just a single time in the TRIPS Agreement (in Article 7)[39]. The article, which spreads out the "destinations" of the agreement, states:

"The assurance and authorization of intellectual property freedoms ought to add to the advancement of mechanical innovation and to the exchange and scattering of innovation, to the shared benefit of makers and clients of innovative information and in a way helpful for social and financial government assistance, and to an equilibrium of privileges and obligations".[40]

Related to the capacity of a patent, Article 7 uncovers how the innovation angle has been erroneously conflated with the imposing business model perspective. As multiple researchers have noticed, genuine innovation comes from the patent being effectively utilized and the "divulgence" prerequisite. Since a patented innovation will be the most recent innovation in the field, other inventors will actually want to expand on that innovation to make new and more proficient systems[26] importantly, they may have the option to utilize this innovation assuming they have an authorizing agreement with the patent holder. Subsequently, the IP system will genuinely uphold innovation by empowering the "follow-on innovations" that occur on the revelation of a patent. The 20-year restraining infrastructure will guarantee that the holder gets eminences for that period.

The issues of evaluating, reasonableness and access are inadvertent blow-back to the possibility that innovation is driven by the lock-in time of the patent. Endeavours at utilizing obligatory licenses are likewise met with opposition, with international restrictions being the go-to component to keep away from such adaptabilities. Take, for example, American biotechnology firm Gilead Sciences' test of the Russian government's issuance of a mandatory permit for the creation of remdesivir, a broadly involved medication in the treatment of COVID-19. Gilead has marked non-select intentional authorizing agreements for creation in Egypt, India and Pakistan for appropriation in 127 countries[41]. It has additionally renounced sovereignties until the WHO reports the finish of the pandemic. In the US, the current expense of the Gileadcreated remdesivir (Veklury) is US$390 per vial for patients on government protection and US$520 per vial for patients on private insurance.[42] In India, the cost of the least expensive nonexclusive adaptation of the medication is INR 2,800 for every vial

[39] "Bryan Mercurio TRIPs, Patents, and Innovation: A Necessary Reappraisal?(Working Paper, International Centre for Trade and Sustainable Development, 2014)."

[40] "World Trade Organization, Part I — General Provisions and Basic Principles, WTO, https://www.wto.org/english/docs_e/legal_e/31bis_trips_03_e.html."

[41] "Srividhya Ragavan et al., Frand v. Compulsory Licensing: The Lesser of the Two Evils, *Duke Law & Technology Review* 14, no.1 (2015), https://scholarship.law.duke.edu/dltr/vol14/iss1/5/"

[42] Sydney Lupkin, "Remdesivir Priced At More Than $3,100 For A Course Of Treatment," *NPR*, June 29, 2020, https://www.npr.org/sections/health-shots/2020/06/29/884648842/remdesivir-priced-atmore-than-3-100-for-a-course-of-treatment

(about US$37).[43]

The Gilead model shows exactly how much control patent holders have in the current IP system. In an outrageous situation, on the off chance that Gilead so wished, it could renounce consenting to any permitting arrangements or even clutch the innovation as a "proprietary advantage". In these circumstances, there would be no decision except for to import the medication at the set cost. To this, the expenses of levies, time taken for endorsement by drug regulators, and storage offices will likewise should be added. What's more, the capacity of one organization to deliver at scale in relation to the demand should be thought of. This chance additionally represents the degree covered by the waiver proposition, which incorporates a waiver from Part II Section 7 of the TRIPS Agreement ("Protection of undisclosed data"), as of now postponed by India and South Africa.

SPACE FOR COMPROMISE: RECOMMENDATIONS

The issues encompassing the current IP system are not effortlessly accommodated, and they likewise concern human rights [44] and 'worldwide public good' [45] matters. Common society developments have likewise called for TRIPS Agreement related issues to be tended to; the COVID-19 Technology Access Pool (C-TAP) is a case in point.[46] A World Health Organization (WHO) drive, C-TAP intends to pool freedoms to "technologies that are helpful for the discovery, counteraction, control, and treatment of COVID-19". This suggests that cross-cutting and multiple licenses would be gathered for use. This depends on a deliberate framework. The test, as recognized by C-TAP defenders, is making a model that is alluring to privileges holders. [47] Of the 192 WHO individuals, just 40 or so have supported the 'Fortitude Call for Action' that empowers C-TAP. [48] Unsurprisingly, the vast majority of these are nonindustrial nations, however India isn't one of them.

These drives, while excellent, are present moment and will just address explicit cases. Under the current framework, such drives and waivers will be required each time another pandemic arises. Specialists have prescribed a few trade off to stay away from this-from altogether getting rid of patents in drugs, to the more tempered idea to look for explanation of rules and corrections to the system. Strikingly, these thoughts have arisen throughout the most recent ten years, not similarly as a response to the COVID-19 pandemic.

Financial specialists Dean Baker, Arjun Jayadev and Joseph Stiglitz suggest creating "information lodge" and restricting the patentability of key innovations by making them subject to non-selective licenses. [49] They likewise contend that openly subsidized

[43] Sohini Das, "Remdesivir prices may rise after Gilead gets full authorisation from USFDA," *Business Standard*, September 4, 2020.
[44] Vinod Surana, "IP Waiver In The Pandemic: A Human Rights V. IPR Debate," *LiveLaw*, June 3, 2021.
[45] Marianne Meijer et al., "COVID-19 vaccines a global public good? Moving past the rhetoric and making work of sharing intellectual property rights, know-how and technology," *European Journal of Public Health* 31, no. 5 (2021).
[46] World Health Organization. "WHO Covid-19 Technology Access Pool," WHO.
[47] Dhar and Gopakumar, "Towards more affordable medicine."
[48] World Health Organization. "Endorsements of the Solidarity Call for Action," WHO.
[49] Dean Baker, Arjun Jayadev and Joseph Stiglitz, *Innovation, Intellectual Property, and Development: A Better Set of Approaches for the 21st Century*, Washington DC, Centre for Economic Policy Research, 2017.

innovations ought to stay in the public area. Assuming that such innovations are to be authorized, these should be non-restrictive. As of late, conversations thusly have zeroed in on the AstraZeneca[50] and Moderna[51] COVID-19 immunizations, which were either to some extent or completely freely subsidized.

Another intriguing recommendation is presented by lawful researchers Srividhya Ragavan, Brendan Murphy and Raj Davé, who suggest the utilization of a half breed of standard fundamental patents[b] (SEP) and obligatory licensing.[52] This will be valuable to the degree that any new innovation with promising and boundless public applications can be announced an industry standard, and will urge most organizations to utilize the innovation to keep up with these standards. To save their sovereignties, the patent holder should pronounce their current patent as a SEP to the standard-setting organization. They propose that the "Fair, Reasonable and Non-Discriminatory" (or FRAND) terms of the SEP additionally be standardized so all potential licensees are given a similar rate. These would be unique in relation to SEPs in the innovation sector as there will be less need to pool patents, making the framework clearer. For drugs, the International Organization for Standardization and the WHO's Expert Committee on Specification for Pharmaceutical Preparations are suitable to be assigned as standard setters. Along these lines, any patent holder will have a first-mover benefit and SEPs will consider more boundless utilization of that innovation, making it appealing for organizations.

One contention against SEPs in drugs is the logical effect on public standard-setting. Notwithstanding, the presence of a worldwide standard doesn't really imply that public standards can't be set past them to further improve human security. Blended standards will likewise ease non-tax obstructions to exchange fundamental general wellbeing related sectors. Also, it will positively affect other regulatory worries, for example, the non-acknowledgment of antibodies disturbing development and, therefore, an enormous part of administrations exchange, which expects individuals to cross boundaries.

CONCLUSION

The conversations on the TRIPS waiver proposition in this brief are just essential for a bigger and longer talk on WTO change. There has been developing discontent over the WTO's absence of responsiveness to the requirements of agricultural nations. Significantly, conversations on the advancement of and changes to the TRIPS Agreement reflects congruity in the issues raised by contradicting voices, for example, during the South Africa-HIV/AIDS antiretroviral drugs case. A perplexing and regulatory framework isn't simply bulky yet in addition goes about as a hindrance to exchange. Add to this the bigger difficulties presented by the ever greening of patents and 'TRIPS-in addition to responsibilities (arrangements that go further than the TRIPS Agreement) that are advancing into international alliances and provincial exchange settlements.

[50] Michael Safi, "Oxford/AstraZeneca Covid vaccine research 'was 97% publicly funded'," *The Guardian*, April 15, 2021.
[51] Judy Stone, "The People's Vaccine—Moderna's Coronavirus Vaccine Was Largely Funded By Taxpayer Dollars", *Forbes*, December 3, 2020.
[52] Ragavan et al., "Frand v. Compulsory Licensing: The Lesser of the Two Evils"

One general decision is the requirement for a more nuanced understanding of how the patent framework empowers innovation. Boosting patent holders to permit their developments is vital to both innovation and more prominent access. Also, making SEPs, or non-restrictive licenses, the business standard will go far towards addressing the 'patents as an obstacle to access' issue. A fascinating component of the updated India-South Africa proposition is that individuals won't challenge steps taken under the waiver. This component ought to without a doubt advance into any correction to the TRIPS Agreement that might be attempted later on. Parts of the EU proposition, like the single warning, can be taken on for longer-term purposes. A composite arrangement is conceivable assuming that all part nations haggle with a will to have considerable change.

A 'third way', as supported by the WTO director-general, is for private elements to furnish deliberate licenses to nations with assembling limit, for example, likewise with the OxfordAstraZeneca COVID-19 vaccine[53]. Importantly, this is definitely not a new or improved position yet is a focal place that advances great corporate practices.

Having a diplomatic centre ground position has permitted disparity in access to general wellbeing merchandise to rot for more than 25 years. The MC12 should be viewed as a chance for significant change and making multilateralism work for most of its individuals, who are emerging nations. While the destiny of the India-South Africa waiver proposition will be chosen at MC12, what is sure is that a seriously suffering arrangement is expected to the TRIPS issue. In its present structure, the TRIPS Agreement isn't simply an obstruction to exchange yet additionally to the more noteworthy public great.

[53] Jonathan Josephs, "New WTO boss warns against vaccine nationalism," *BBC*, February 16, 2021.

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

AFFIRMATIVE PRINCIPLE: MAKING, BREAKING AND SHAKING (MBS) APPROACH OF JUDICIARY

- **Dr.Priyanka Joshi**
Guests Faculty,
University of Rajasthan, Jaipur, Raj.

Abstract: *The affirmative Principle (AP) is the substratum for a just society. In the backdrop of its immense importance, countries across the globe have inculcated and sustained with AP by providing constitutional as well as legislative status. Judiciary as the roadmap of AP is crystal clear from the decisions of the various Courts. However, it is evident from the judicial verdicts that instability in the judicial approach resulted in fluctuation of the sense of social justice in India. This paper conceptualizes those approaches under Making Approach (MA), Breaking Approach (BA), and Shaking Approach (SA). This threefold approach symbolizes the fact that on the one hand many of the cases decided by the Supreme Court of India (SCI) provoked way for AP by adopting MA and an equal number of the instances wherein SCI has scaled down the sanctity of the AP by invoking BA and SA. This changing nature of the judicial approach heightened the sense of insecurity amongst marginalized sections of the society. A substantial number of the decisions including the decision given Supreme Court of India on 25th August 2020 emphasizing the need for inner reservations, structurize the concept of social justice. There are an equal number of cases including the decision rendered by the Supreme Court of India on 22nd April 2020 invalidating 100% reservation provided for Scheduled Tribes in Scheduled Area in the State of Andhra Pradesh is an added crisis to AP. The purpose of the present paper is to analyse the land marking decisions rendered by the Supreme Court of India wherein social justice is interpreted in a sustained and intermittent manner. The researcher, based on the recent decisions of the Supreme Court, of the firm opinion, that understanding and interpreting AP in its loose sense would seriously dilute the sacred goals encapsulated under the Constitution. The purpose of the paper is to trace out the rationale of assessment of AP by the judiciary and to counter such rationale in the backdrop of the veracity of the AP.*

KEYWORDS *Affirmative Principle, Constitution, Judiciary, and Social Justice*

INTRODUCTION

Justice is a trained habit[1] and perfect virtue.[2]It is a human construction.[3] It ensures the inviolability of the individual by liberating the individual[4] and conceptualizes social contract

[1] Aristotle, The Nicomachean Ethics, London,124, (George Routledge and Sons Ltd, 1910), (translated to english by Rev. D.P.Chase).

[2] Aristotle, The Nicomachean Ethics, London, 259 (Harward University Press, 1926), (translated to english by H.Rackham).

[3] Michael Walzer, Spheres of justice : a defense of pluralism and equality,5, (New York: New York : Basic Books Inc, Publishers, 1983).

[4] John Rawls, A Theory of Justice, 3, (Harvard University Press: Cambridge, Massachusetts, 1971).

theories.[5] It symbolizes equal treatment and requires respect for the inalienable rights of the individual.[6]It is also a process of human construction encompassing a wide range of distributions.[7] Reduction of injustices and promotion of justice was the major concerns of the State since the earliest period.[8] These are the tunes of the welfare State.[9] Accordingly, the principal end of the State always will be justice. The thrust for arguments for the elevation of the just society is unequivocal in ancient religious accounts. Integrating justice with age-old practices and long-standing conditions is a challenging task for the States. Longstanding practices and historical exploitations mutilated the basic premises of justice. In a country like India, such injustices were meted out on a higher scale. The ugly facet of the Indians is rightly stated as follows: *"Caste-ridden social setting was not only full of social inequality and injustice but also against the spirit of fraternity and human dignity. Under the Hindu social order, the 'untouchables' or Dalits, belonging to the lowest stratum of the social hierarchy, were treated as 'inferior' human beings and therefore considered 'unworthy' of any individual rights and privileges. Owing to their inferior social status, they were believed to be the recipients only of the severe social disabilities; slavery, and indignity*."[10] Though in the backdrop of westernization, the concept of AP is criticized in India, we should understand the inherent nature of the country to properly understand the rationality of AP in India. In this context, it is stated that *"the major differences between India and any other country in the world, lies in the diversity of Indian life. Centuries of conquest and infiltration from without have made Indian society a complex of races, languages, creeds, and customs more variegated than that of Europe, and the domestic history of India has been till very recent times a record of constant conflict between rival races and rulers."* The foundation of discrimination is the stereotyped attitude of the human being. Self-interests and identification with a group is the stepping stone of the stereotype attitude of the human being. It is scientifically proved that every human being subject to such kind of motive to defend and justify his personal and collective interest of a given group. This kind of attitude of the human being and society is

[5] J.W.Gough, The Social Contract, Oxford, (Clarendon Press, 1957).
[6] David Miller & Michael Walzer, Pluralism, Justice and Equality,3, (Oxford University : Oxford University Press, 1995).
[7] Michael Walzer, Spheres of Justice : A Defense of Pluralism and Equality, (USA: Basic Books Inc, 1983).
[8] Michael Goodhart, Injustice - Politcal Theory for the Real World, (Oxford University Press, Oxford, 2018), Miranda Fricker, Epistemic Injustice - Power and the Ethics of Knowing, (Oxford , Oxford University Press, 2007), Barrington Moore Jr. Injustice - the Social Bases of Obedience and Revolt, (Macmillan Press, London, 1978).
9 Huntington Cairns, Legal Philosophy From Plato to Hegel. Baltimore, 118, (Johns Hopkins Press, 1949).
10 Vibhute, K.I., Right to Live With Human Dignity Of Scheduled Castes & Tribes: Legislative Spirit And Social Response - Some Reflections, 44(4) JILI, 469-503, (Oct-Dec 2002).

characterized as System Justification Theory.[11] Such a kind of implicit bias, negative attitudes, and prejudicial mindset of the society demonstrates great hurdles to create an inclusive society. The stereotype attitudes accelerate the hierarchical system,[12] impede humanity,[13] dilute efficiency of a person,[14] interfere with the simplest rationality of a person,[15] and intrinsic weakness of the society.[16] The domination of the powerful people over overweight people resulted in a meritocratic attitude to exclude the powerless from the mainstream of society. As evident in the succeeding part, AP based social justice is a challenging task. It requires a free and unbiased judicial system. It is stated that "*No government can live and flourish without having as part of its system of administration of civil affairs some permanent human force, invested with acknowledged and supreme authority, and always in a position to Exercise it promptly and efficiently, in case of need on any proper call."*[17]

Accordingly, the judicial approach and social justice-based jurisprudence adopted by the Indian judiciary has infused new insight to the AP. The vast recognition of social justice through the series of cases while interpreting and applying constitutional provisions constitutes a significant development of AP. By Making-Breaking-Shaking (MBS) approach the author is of the perception that the application and interpretation of AP in concretizing, cracking, and distressing rationale of AP is unstable and incoherent. In the context of a series of judgments delivered by the Supreme Court. The purpose of the article is to critically analyse the basis of the MBS approach of the Supreme Court of India.

AFFIRMATIVE PRINCIPLE – JURISPRUDENTIAL BACKGROUND

The concept of social justice is complicated and historical. Affirmative principle as the guiding force of social justice is extensively practiced across the globe. Most developed country like the United State of America is not immune from the application of AP.[18] The sketch of affirmative actions under jurisprudence is visible under the renowned work of naturalists.[19] The

[11] T.Jost, Gary Blasi et.al., System Justification Theory and Research: Implications for Law, Legal Advocacy and Social Justice, 94(4), 1119-1168, 1129, (California Law Review, July 2006).
[12] Walter G.Stephan, A Cognitive Approach to Stereotyping, in Daniel Bar-Tal at.al.,(edit) Stereotyping and Prejudice - Changing Conceptions, 37-58, (New York, Springer Science , 1989).
[13] Ryan Preston-Roedder, Three Varietes of Faith, 46(1), 173-199, 176.
[14] Ryan Preston-Roedder, Faith in Humanity, 87(3), 664-687, 680, (Philosophy and Phenomenological Research, November 2013)
[15] Gordon W Allport, The Nature of the Prejudice, 190, (London: Addison-Wesley Publishing Company, 1954).
[16] John Dewey, Freedom and Culture, 128, (New York: G.P.Putnam's Sons, 1939).
[17] Simeon E.Baldwin, The American Judiciary, 3, (New York: The Century Co, 1905).
[18] Philip S Rubio, A History of Affirmative Action 1619-2000, (Mississipi, University Press of Mississipi , 2001), (explains the context of affirmative action in USA in the background of slavery and racialism).
[19] Robert P.Kraynak, The Origins of Social Justice in the Natural Law Philosophy of Antonio Rosmini, 40, 3-29 -For example, Aristotle distributive justice and Kant's moral philosophy, Hobbes Natural Rights are the classic natural law philosophy relating to social justice. For the brief

concept of AP is closely connected with the concept of the distributive justice of Aristotle. In his renowned work *'Nicomachean Ethics,'* he has provided detailed accounts of justice.[20] The sociological school of law has infused new blood into AP. Similarly, AP is the proclaimed claim of American realism. The strength and stamina of the positivism is strongly connected with AP. The classic works of John Rawls[21] and Amartya Sen substantially moulded the shape of AP. In the background of its paramount importance, AP has been given unique importance under the international legal regime. The regional mechanisms devised in line with the international legal regime have also accommodated AP as the foundation of their developmental goal. Extensive scope human right approach is the added advantage for AP.[22] The innumerable cases decided by the Supreme Court and High Courts have accelerated the growth rate of inclusive society and protection of human rights of marginalized sections. The role of the Constitution in reconstructing the social life of the particular nation is unequivocal. Constitution symbolizes its societal structure. As part of their sacred goals, Constitutions across the globe have mirrored social justice and AP in the text of the Constitution. AP principle rooted with Constitution can only invigorate social justice in its true sense. As part of its constitutional commitment and promise of justice, the framers of the Constitution have sprinkled AP with golden ink under the Constitution. The speed of social justice is further accelerated with the Constitutional amendment.

MBS APPROACH

The inconsistent attitude of the judiciary compelled the author to analyse affirmative principle with the MBS approach. A decisive and unflattering way of articulation of social justice is crucial to perpetuating the aspirations of the Constitution. Judicial role is conclusive in this process of realization of ends of the Constitution. It is rightly observed that "*The judicial process is there in microcosm. We -go forward with our logic, with our analogies, with our philosophies, till we reach a certain point. At first, we have no trouble with the paths; they follow the same lines. Then they begin to diverge, and we must choose between them. History or custom or social utility or some compelling sentiment of justice or sometimes perhaps a semi-intuitive apprehension of the pervading spirit of our law, must come to the rescue of the*

account of nexus between natural law and social justice, The Review of Politics(No.00, 2018).

[20] Supra note 1, 2.

[21] Supra note 4.

[22] The International Convention on the Elimination of All Forms of Racial Discrimination, 1965,660 UNTS 195 (March 1966), The Convention on the Elimination of All Forms of Discrimination against Women, 1979,G.A. Res.34/180, U.N.Doc.A/34/180 (September 1981), The Convention on the Rights of the Child, 1989, 1577 UNTS 3, G.A. Res.44/25, U.N.Doc. A/44/736 (1989), The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990, 2220 UNTS 3, A/RES/45/158; The Convention on the Rights of Persons with Disabilities, 2006, 2515 UNTS 3, A/RES/61/106.

anxious judge, and tell him where to go."[23] Accordingly, a persistent role has been played by the judiciary to organize AP symmetrically in the background of constitutional mandates. Nevertheless, the desultory approach adopted by the judiciary in synchronizing spheres of social justice has germinated serious concerns for social justice and AP. The purpose of this part of the paper is to present a cyclical approach of the judiciary in applying and interpreting AP to sustain social justice.

MAKING APPROACH (MA)

The contribution made by the State of Karnataka in moulding and shaping the affirmative actions of the nation is remarkable. The leading cases rooted in the State of Karnataka significantly transformed constitutional jurisprudence.[24] There have been judges committed deeply to affirmative actions as well as social justice through at a critical moment in our history their commitment to political democracy wavered and dithered. The clear-sighted case for MB is ***M.R.Balaji and Others* v. *State of Mysore***. The fundamental question which came up before the Supreme Court of India in this instant case was relating to the validity of 68% reservation provided for reservation pool and sub-division of backward classes and most backward classes for reservation. The references taken by Justice *P.B. Gajendragadkar* to format AP for egalitarian society is outstanding. He authoritatively asserted the need for AP to banish social situations and longstanding privileges that stood for an elite class. Despite his concerns for professional ability and social competence of the meritorious candidates, how AP was reasoned by Justice *P.B. Gajendragadkar* is an appealing approach for social justice in India. *K.C. Vasanth Kumar & Another* v. *State of Karnataka*[25]proclaimed *an* instance for MB approach for AP in India. Justice *Chinnappa Reddy* a stern loyalist to the constitutional ideology and heralder of social justice postulated AP sensibly and logically. Articulation of social justice in the backdrop of the meritarian principle is a momentous milestone for the development of AP in India. Pragmatic interpretation of AP paved the way to bring radical social change and to uproot stereotypic attitudes against marginalized sections of the society. The sphere of social justice is immensely benefited by the MA of the Supreme Court of India in subsequent cases. The *Indra Sawhney*[26] invigorated AP by rationalizing the reservation policy of the State. After intensive consideration of the material and collateral issues of AP, the court laid down sustained principles such as creamy layer, 50 %, and the importance of means test. *M. Nagaraju* reiterated Indra Sawhney and upheld

[23] Benjamin Cardozo, Nature of Judicial Process , 43, (New Haven : Yale University Press, 1946).
[24] S.A. Partha And Ors. v. The State of Mysore And Ors. AIR 1961 Kant 220, AIR 1961.
[25] K.C.Vasanth Kumar & Another v. State of Karnataka 1985 AIR 1495, 1985 SCR Supl. (1) 352.
[26] Indra Sawhney v. Union of India, (1992) Supp. (3) SCC 217 [2].

reservation in promotion by backing 77th, 81st, 82nd, and 85th of the Constitutional amendments. *B.K. Pavitra and Ors v. Union of India and Ors (Pavitra II)*[27] is a provocative verdict in invigoration of social justice and AP in India. The objections raised in these batches of the cases filed before the Supreme Court of India were relating to the constitutional validity of the Karnataka Extension of Consequential Seniority to Government Servants Promoted based on Reservation (to the posts in the Civil Services of the State) Act, 2018. The consequential seniority of the employees belonging to SC/ST were safeguarded through this enactment. The Act was enacted by the State of Karnataka in compliance with the dictum of the Supreme Court in *B.K.Pavitra I* case. The State of Karnataka meticulously complied with three fold-tests contemplated by the Supreme Court in *M.Nagaraj*[28] case accordingly complied with the dictum of *B.K.Pavitra* bypassing this reservation Act. The Reservation Act, 2018 intended to survive the constitutional validity of the Reservation Act, 2002. The major criticism against the application of AP in public employment introduced to the Indian Constitution through the constitutional amendment is efficiency in administration. Article 335 of the Constitution mandates for equivalence of AP with efficiency of administration.[29] The toughest argument against AP and, still shaking the confidence of the employees belonging to SC/ST serving for the government sector in the country is the efficiency principle. The rational and inspirational judgment delivered by Justice *D.Y. Chandrachud* would certainly drip down efficiency ground leveled by conventionalists against AP. Speaking for the bench Justice *D.Y Chandrachud* observed that "*The Constitution does not define what the framers meant by the phrase "efficiency of administration". Article 335 cannot be construed based on a stereotypical assumption that roster point promotes drawn from the SCs and STs are not efficient or that efficiency is reduced by appointing them. This is stereotypical because it masks deep-rooted social prejudice. The benchmark for the efficiency of administration is not some disembodied, abstract ideal measured by the performance of a qualified open category candidate*." The configurational analysis of the phrase 'efficiency in administration' is expressed by the justice under a two-fold test. Firstly, the Inclusive Principle, and secondly, Equal Citizenship Principle. The extract of IP principle as contemplated by Justice

[27] B.K. Pavitra and Ors v. Union of India and Ors (Pavitra II) (2019) 16 SCC 129. [xxxviii] B.K.Pavitra I (2017) 4 SCC 620.
[28] Supra note 3.

[29] Art.335 runs as follows: The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

D.Y. Chandrachud is as follows; "*Efficiency of administration in the affairs of the Union or a State must be defined in an inclusive sense, where diverse segments of society find representation as a true aspiration of governance by and for the people. If, as we hold, the Constitution mandates the realization of substantive equality in the engagement of the fundamental rights with the directive principles, inclusion together with the recognition of the plurality and diversity of the nation constitutes a valid constitutional basis for defining efficiency. Our benchmarks will define our outcomes. If this benchmark of efficiency is grounded in exclusion, it will produce a pattern of governance that is skewed against the marginalized. If this benchmark of efficiency is grounded in equal access, our outcomes will reflect the commitment of the Constitution to produce a just social order. Otherwise, our past will haunt the inability of our society to move away from being deeply unequal to one which is founded on liberty and fraternity*." To ameliorate AP in the context of the widely debated and extensively contested efficiency principle, Justice *D.Y. Chandrachud* has incorporated ECP. The celebrated observation of the ECP is expressed by Justice *D.Y. Chandrachud* in the following words: "*Establishing the position of the SCs and STs as worthy participants in affairs of governance is intrinsic to equal citizenship. Equal citizenship recognizes governance that is inclusive but also ensures that those segments of our society which have suffered a history of prejudice, discrimination, and oppression have a real voice in governance. Since inclusion is inseparable from a well-governed society, there is, in our view, no antithesis between maintaining the efficiency of administration and considering the claims of the SCs and STs to appointments to services and posts in connection with the affairs of the Union or a State*." *Prathvi Raj Chauhan v. Union of India & Ors*[30] is another instance of the MB approach. The MB of the Supreme Court of India is evident from the recent judgment delivered by the apex court of the country on 10 February 2020 in the above case. The AP was considered in the above case in the backdrop of insertion of Section 18A to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Parliament of India.[31] "*It is important to reiterate and emphasize that unless provisions of the Act are enforced in their true letter and spirit, with utmost earnestness and dispatch,*

[30] Prathvi Raj Chauhan v. Union of India & Ors -Writ Petition (C) No.1016 of 2018, decided on 10 February 2020.

[31] Dr. Subhash Kashinath Mahajan v. The State of Maharashtra (2018) 6 SCC 454 -Sec.18A. (1) For the purposes of this Act, - (a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or (b) the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed an offence under this Act has been made, and no procedure other than that provided under this Act or the Code shall apply, (2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.

the dream and ideal of a casteless society will remain only a dream, a mirage. The marginalization of scheduled caste and scheduled tribe communities is an enduring exclusion and is based almost solely on caste identities. It is to address problems of a segmented society, that express provisions of the Constitution which give effect to the idea of fraternity, or bandhutva (बनधधतव) referred to in the Preamble, and statutes like the Act, have been framed. These underline the social – rather collective resolve – of ensuring that all humans are treated as humans, that their innate genius is allowed outlets through equal opportunities and each of them is fearless in the pursuit of her or his dreams. The question which each of us has to address, in everyday life, is can the prevailing situation of exclusion based on caste identity be allowed to persist in a democracy that is committed to equality and the rule of law? If so, till when? And, most importantly, what each one of us can do to foster this feeling of fraternity amongst all sections of the community without reducing the concept (of the fraternity) to a ritualistic formality, a tacit acknowledgment, of the "otherness" of each one's identity." The decision of the two judges' bench of SCI in *Pravakar Mallick & Anr v. The State of Orissa & Ors*[32] dismissing the appeal against the decision of the High Court of Orissa reiterated the need for adequate procedural compliance of the State in ensuring reservation in promotion. The court rejected the argument of the State of Orissa considering a resolution passed by the State government to promote SC/ST candidates in line with consequential seniority rule. The court validated the promotion of SC/ST against other categories but cautioned the State to comply with the mandate of the court. The apex court of the country hammered legislative delay in acting upon the AP and warranted the government to do the needful in the backdrop of the judicial verdicts. The legislative branch being a representative and responsible branch of the State has an important role in framing laws. It is a clear case to showcase the lethargic attitude of the legislature in fulfilling their constitutional obligation. The legislative process is sanctified under the constitution by stipulating timebound framing of laws. Exercise of legislative power within the framework of the Constitution is the essence of rule of law.[33] To address emergencies, the executive head of the State is authorized to exercise legislative power in terms of ordinance making power. Democratic process shall not be subverted by the taking resort to administrative legislation. Legislatures consisting of representatives of the people of the State should understand

32 Pravakar Mallick & Anr v. The State of Orissa & Ors - Writ Petition (C) No. 1015 of 2018, decided on 7 April 2020.

33 Dr. D.C. Wadhwa & Ors v. State of Bihar &Ors, 1987 AIR 579, 1987 SCR (1) 798.

the sense of their duty towards people by enacting the laws in line with changing conditions and expectations. An unsubstantial and feeble argument put forward by the State to defend consequential seniority rule-based on a resolution of the government indicates irresponsibility on the part of the government in protecting the interest of the Scheduled Caste/Scheduled Tribes. It is a clear fraudulent scheme of the legislature in subverting constitutional goals and protecting the interest of the weaker sections. It is shame on the part of the legislature to waiting for a calling bell from the judiciary to act upon their constitutional obligations and discharge their duty in line with the order of the Court. The accelerated nature of the law-making process,[34] when the interest of the marginalized section involved is evident from the State of Karnataka and such an augmented process was a ground for attack to challenge very integrity of AP in B.K Pavitra II case. *The State of Panjab & Ors* v. *Davinder Singh & Ors.* [35]dealt with a rational basis of the preferential treatment to be given for sub-categories out of reserved categories to ensure adequate representation of such categories in public services. Reiterating the verdict of *E.V. Chinnaiah* v. *State of Punjab and Ors,* SCI held that "*by allotting a specific percentage out of reserved seats and to provide preferential treatment to a particular class, cannot be said to be violative of the list under Articles 341, 342, and 342A as no enlisted caste is denied the benefit of reservation.*" The argument that the legislative authority shall not bifurcate castes listed by the presidential list and State shall not deprive one class of the benefits of a reserved category by such bifurcation was strike down by the Court in this instant case. The case clear indication of the MB for the reason that a particular group within the reserved category shall not be cornered the benefits of the reservation due to command of the dominated group in a reserved category. The need for such a structural approach required in a social life is rightly pointed out in the following terms; "*Sociology seeks to discover the principles of cohesion and order within the social structure, how it roots and grows within an environment, the moving equilibrium of changing structure and changing environment, the main trends of this*

[34] The decision of the Court invalidating reservation act 2000 was delivered on 19 February 2017. Immediately after the decision on 22 march 2017 Ratna Prabha Committee was constituted by the government of Karnataka to carry out the mandates of Pavitra I and report was submitted on 5 May 2017. On 26 July 2017 cabinet approved the report and constituted a sub-committee to draft a Bill in line with verdict of the Court. The Cabinet Sub-committee submitted report on 4 August 2017 and on 7 August 2017 report was accepted by the Cabinet. The Bill was passed by both legislative assembly and legislative council respectively on 14 November 2017 and 17 November 2017. The Bill was reserved by the Governor for consideration and it was cleared by the Minister of Home Affairs after getting clarification from the State government. Finally, Bill assented by President on 14 June 2018 and published in the official gazette on 23 June 2018. Though the Bill took more than 1 year 4 months to get converted to statutory status, the speed and zeal with which government of Karnataka acted upon the decision of the Court signifies the commitment of the legislature to uphold social justice and strengthen AP.

[35] The State of Panjab & Ors v. Davinder Singh & Ors Civil Appeal No.2317.

incessant change and the forces which determine its direction at any time, the harmonies and conflict the adjustment and maladjustments within the structure as they are revealed in the light of human desires, and thus the practical application of means to ends in the creative activities of social man. In doing so it demands the insight of the interpreter. He must endeavor to express what seems to him most significant and illuminating in the vast complex of social relationships. He must continually adjudge and select the more relevant from the less relevant aspects and thus he is brought face to face with a problem of valuation which vastly different from any presented by the physical science, as we shall show in due course. He must treat relationships which both in themselves and their conditions cannot be reduced to formulate but which are infinitely variable and subtle. He must deal with statistics the interpretation of which involves a fine perception of the complex pater of human behavior." [36]

BREAKING APPROACH (BA)

Social justice is the immense importance of the Constitution of India.[37] It does not emanate from the fanciful notions of any particular adjudicator but must be founded on a more solid foundation.[38] Nevertheless, there are noticeable constraints to achieve a fair and equitable society. Literacy, ignorance, lack of political will, poverty, corruption, etc., are created barricades for non-discriminatory society. Widespread poverty[39] and vast literacy restricted the ability of the State to achieve constitutional goals in a calculated manner. However, it is equally important to note that the judiciary itself created a block for meaningful implementation of the AP. The clouded attitude of the judiciary in limelight social justice in line with constitutional goals resulted in blockade for an egalitarian society. The initial phase of BA of SCI is *State of Madras* v. *Champakam Dorairajan* which led to constitutional amendment and insertion of Article 15 (4) of the Constitution. While adjudicating constitutional controversy arising out of reservation in promotion, the AP was mutilated by the judiciary in *Union of India* v. *Virpal Singh Chauhan* and *Ajit Singh Januja* v. *State of Punjab*[40] cases by introducing Catch Up Rule. This is the clear indication of the SCI to break up AP and gear up the meritarian principle. The question for decision in *Dr. Subhash Kashinath Mahajan v. The State of Maharashtra & Anr.* was on imposing criminal liability on offender punishable under Scheduled Castes and Scheduled Tribes

[36] R.M.MacIVER, Society - Its Struture and Changes, Toronto : The Macmillan Company Ltd, 1931.
[37] Krishnan P.S. Social Exclusion and Justice in India, 11 (New York: Routledge , 2018).
[38] Muir Mills Co., Ltd v. Suti Mills Mazdoor Union, 1955 AIR 170, 1955 SCR (1) 991.
[39] Nick Robinson, Expanding Judiciaries: India and the Rise of the Good Governace Court, 8(1), WUGSLR, 1-70, 9, (2009).
[40] Ajit Singh Januja v. State of Punjab (1996) 2 SCC 715.

(Prevention of Atrocities) Act, 1989[41] and Indian Penal Code, 1860. The appellant relied upon the National Crime Records Bureau report on Crime in India 2016- Statistics relating to Police Disposal of Crime/Atrocities against SCs Cases and Police Disposal of Crime/Atrocities against STs Cases. The appellants also emphasized the verdicts of *Gurbaksh Sing Sibbia & Ors* v. *State of Punjab* and *Nikesh Tarachand Sha* v. *UO I*to seek a favorable decision. It was contended by the appellants that in the absence of tangible support and evidence, the accused should not be arrested under the provision of the Atrocities Act. Justice *Adrash Kumar Goel* and Justice *Uday Umesh Lalit* reviewed the earlier decisions on the view of acknowledged abuse of law of arrest in cases under the Atrocities Act, held that there is no absolute bar against grant of anticipatory bail in cases under the Atrocities Act. *Chebrolu Leela Prasad Rao & Ors v. State of A.P. & Ors*[42] marked a further reiteration of BA adopted by the SCI. This case from Andra Pradesh generated another instance of BA of judicial process towards AP in the State of Andra Pradesh. Constitutionality of an order[43] of Andra Pradesh reserving 100% teaching post for Scheduled Area was challenged before SCI alleging that the notification of the government is against dictum laid down by Supreme Court of India in *Indra Sawhney*. The very rationale of the decision of the Court was as follows; "*No law mandates that only tribal teachers can teach in the scheduled areas; thus, the action defies the logic. It is not the case that incumbents of other categories are not available in the areas. When a district is a unit for employment, the ground of phenomenal absenteeism is irrelevant and could not have formed the basis for providing 100 percent reservation. The problem of absenteeism could have taken care of by providing better facilities and other incentives.*" The central element of the above case is absenteeism. The SCI misconstrued material fact of absenteeism of non-tribal teachers in tribal areas. The phenomenal absenteeism manifested the need for tribal teachers for the tribal areas and streamline the system in line with practicality. The perception of the judiciary to provide incentives for the teachers and accordingly instruct them to work for the Scheduled Area is unfeasible. Commitment of the teacher is a prerequisite for the success of the teaching. Teaching requires a good heart,[44] love[45], and passion[46] of the teacher. According to Fried R.L "*To be a passionate teacher is to be someone in love with a field of knowledge,*

[41] Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Sec.3 (1) (ix), 3(2) (vi) and 3(2) (vii)
[42] Chebrolu Leela Prasad Rao & Ors v. State of A.P. &Ors Civil Appeal No.3609 of 2002, decided on April 22, 2020.
[43] G.O. Ms. No.3 of 2000.

[44] Hansen, D.T. Exploring the Moral Heart of Teacher, 164,(New York: Teacher College Press, 2001).
[45] Garriston, J. & Liston, D. Teaching, Learning and Loving, 32 (New York: Teacher College Press, 2001).
[46] Fried, R.L., The Passionate Teacher: A Practical Guide, 1, (Boston, Beacon Press, 2001).

deeply stirred by issues and ideas that challenges our world, drawn to the dilemmas and potentials of the young people who come into class each day-captivated by all of these."[47] He further says "*passion is not just a personality trait that some people have and others lack, but rather something discoverable, teachable and reproducible, even when the regularities of school life gang up against it*."[48] Teaching is a gift and way of honouring way of our life.[49] Spontaneity, humour, and great seriousness often required for teaching[50] cannot to inbuilt amongst these teachers by incentivizing them. These defects could be compensated by reserving those seats for the community of their own. Barring a few cases, there is a great possibility that the teacher from their community could understand the intensity, vulnerability, and immediate risk associated with the learning capacity of the student of the scheduled tribes as he too went through such experiences. The essential elements of passionate teaching such as[51] making the class interesting, teaching and be willing to help students, teach everyone fairly, have an open mind, be understanding hearing point of view, be human and personable, be polite, etc., is possible only through the teachers from the scheduled tribes. Mere incentives or other forms of monetary benefits wouldn't generate such a sense of duty towards the scheduled tribes rather accepting the job for incentives. Recruitment based on incentives would not create the social intelligence of the teacher.[52] Much importantly, the current reluctant trend of the teachers to attend duties would not improve merely because of incentives.

SHAKING APPROACH (SA)

The SA as proposed by the author here overlaps with the BA. It substantially mirrors BA. Only the line of difference to provide caption is to the ability of judgment resulted in public agitation and protest against decisions of the supreme court. Accordingly, the author would employ this approach based on public sensibility on AP and its possible consequences. All the judgments cracking AP may not trigger the same degree of the sensitization of the society about the AP. But certain decisions resulted in shaking the confidence of the people of the marginalized sections of the country. ***Dr. Subhash Kashinath Mahajan v. The State of Maharashtra & Anr***[53] This is the instance wherein very sanctity of atrocity law was diluted by the Court by framing guidelines to be followed by the Courts and investigating agency in adjudicating

[47] Ibid.
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.

[52] Tony Buzan, Social Intelligence- 10 Ways to tap into your Social Genius, Poole, 6, (UK, Buzan Centers Ltd, 2002), -It is a combination quality of listening to people and having a positive attitude towards others, dealing with awkward or embarrassing situations graceful and building good rapport with people.
[53] Supra note 59.

and investigating atrocity cases. Absolute bar against grant of anticipatory bail in atrocity cases was removed and prior approval of appointing authority for the arrest of a public servant for offenses under the Atrocity Act was a mad condition precedent for prosecution. The Court further held that to detect false cases there shall be a preliminary inquiry by the Deputy Superintend of Police and violation of all these above guidelines of the Court amount to Contempt of Court. This is a clear case of judicial activism. The Court encroached upon the legislative domain and damaged the very sanctity of the Atrocity Act. The Court paved way for miscarriage of justice in deserving cases and shook the very objective of the mechanism built to prevent the offenses of atrocities. While a substantial part of the SC/ST community still struggling for equality and protection of their civil rights, the three judges' bench of *Arun Mishra, MR Shah,* and *BR Gavai* dented the inherent deterrence mechanism enshrined under the Atrocity Act. The very basic flaws of the Atrocity Act such as non-registration of cases, procedural delays in investigation, arrest and detention, filing of charge sheets, delay in trial, and low conviction rates, further aggravated by the decision of the Court.

B.K. PAVITRA AND ORS V. UNION OF INDIA AND ORS (PAVITRA I)[54]

The case intensively dealt with post-*M. Nagaraj* condition. The service jurisprudence erected through this landmark judgment was that reservation in promotion should be based on inadequacy of representation of SC/ST in public service and compelling requirement for such reservation. The State of Karnataka had failed to ascertain such conditions as to the inadequacy of the representation and need of requirement for reservation in promotion. The Court came out with ten principles relating to validity of reservation in promotion and consequential seniority. The categorical imperatives of *M. Nagaraj's* case were upheld and Court insisted on compliance with those imperatives as conditional precedent for reservation in promotion. The apex Court insisted on the review of the employees promoted under consequential seniority within six months from the date of judgment. It is undeniable fact that the decision of the Court demonstrated that the State shall make up its mind in terms of adequacy of the employees and need for representation of the marginalized community. The controversy accelerated by the present case and the sense of insecurity planted by this judicial verdict is unforgettable. Because of the Court decision, the government started to revert the employees promoted based on consequential seniority rule and made them go through the disgusting and hurting attitude of the subordinates

[54] Supra note 43

after their reversion. The government at the helm of the affairs of the State might have materialized the Court verdict and delayed in protecting the interest of employees promoted based on consequential seniority rule. However, the then Congress government expedited the process and complied with rulings of the Court, and accordingly protected the interest of the SC/ST employees. Though the prospective damage immediately blocked by the legislature by enacting suitable law on the topic, how judgment shook the conscience of the employees belonging to SC/ST during these intermittent days is remarkable.

CONCLUSION

Merit is not eloquence of language. Intemperance of the system figuring out some negligible number well-settled cases and comparing them with rest of population to question the rationality of the AP. Indeed, it is the frustrated belief that the employee appointed based on the merit principle can only boost the quality of the institution. The author himself has witnessed and experienced such a notion. The ideological and strategic attempt of the head of the institution to watering such a kind of merit crystal clear despite its ability to cope up with contemporary issues. It is highly derogatory to say that affirmative action would rob the qualified and enhance. The author himself has personally figured and measured so-called meritarian ideologies and functionalities. The author would like to equally subscribe to the fact that despite the opportunity availed by AP, failing to cope up with so-called meritarian principles or at least endeavoring towards such meritocratic standards is highly condemnable. It defrauds the very concept of AP and demoralize the basis of affirmative actions. De-penalisation of human dignity since the earliest period produced an official type of affirmative action. Depreciation of the life of the human being due to the delusion of scholars and rulers mutilated just society and shaded egalitarian principles. It blocked all the ways available for the marginalized section to inculcate and develop meritocratic principles par with elite society. Constitution has congested scope for injustice and discrimination. By and large social justice as a constitutional promise of the framers of the Constitution has been respected, if not fulfilled, by all concerned. Discrimination is the deeper manifestation of status and opportunity. The inevitable consequences of negative labeling and stereotyping requires a strong, consistent, and independent judiciary. In rationalizing AP in the backdrop of individual, structural, and internalized stigmatization, the judicial power would be the elementary source. The indispensable role of the judiciary in stitching equality and rule of law principle with judicial scrutiny is heralded by the Supreme Court of India

in the following words. "*There can be no rule of law if there is no equality before the law; and rule of law and equality before the law would be empty words if their violation was not a matter of judicial scrutiny or judicial review and judicial relief and all these features would lose their significance if judicial, executive and legislative functions were united in only one authority, whose dictates had the force of law. The rule of law and equality before the law are designed to secure among other things, justice both social and economic*."[55] Though the AP is thus well settled its application is a matter of considerable difficulty and in assessing the validity of an impugned provision of law to find out its rationality, the Court must carefully guard the deliberative objectives of the laws and practical realities. Despite its inherent and manipulated constraints, the judiciary has performed its leading role in structuring affirmative action's fairly and squarely. The constitutional adjudication of AP as part of the social justice, the court must also carefully guard itself against questioning the wisdom of the legislative provision. The views of Jefferson would be relevant to emphasize the concept of justice. He says "*Man was created for social intercourse, but social intercourse cannot be maintained without a sense of justice; then man must have been created with a sense of justice*."[56] The fundamental laws of this country are rooted with AP aspire sense of protection and dense of constitutional faith. Any scratch and stitch of these laws accelerate the impulse of these communities. Despite, innumerable schemes and programs designed as part of the AP, these communities are leading their livelihood in highly objectionable and unpleasant conditions. Any sort of inconsistency and irrationality in assessing the genesis and generousness of AP by the judiciary may shake the very confidence in the constitutional system and governance. Wherefore, there is a need for a sensitive judicial approach in adjudicating cases relating to AP.

[55] Supra note 33

[56] John Dewey, Freedom and Culture , (New York, G.P.Putnam's Sons, 1939).

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

TRIAL BY MEDIA

- **Dr. Suman Mawar**
Assistant Professor,
Government Law college,
Ajmer, Rajasthan

Abstract: *A free and fair media is indispensable for the successful and smooth functioning of a democracy like India and is regarded as the fourth estate. The freedom of press stems from the freedom of speech and expression guaranteed under article 19(1)(a) of the Constitution of India. But this freedom is not absolute and is subject to reasonable restrictions under Article 19(2) which includes contempt of court. The problem erupts where media interferes with the administration of justice by conducting the trial of the accused in it's so called "Jan Adalat" and delivers the verdict even before trial begins or the verdict is delivered by the court. This trend is known as media trial. The focus of this research is to study the consequences and problem where the media encroaches upon the functions of the judiciary and the necessity of stringent laws to prevent this unhealthy trend of media trial even by suggesting an amendment to the Contempt of Court Act, 1971 by giving an extended meaning to the word "pending" in Section 3 of the Act to prevent unwarranted media excess from the time the arrest of the accused is made and this protection should continue throughout the stage of investigation, trial to the time until the final verdict is delivered by the court.*

Keywords: *Media, Trial, Constitution, Right, Judiciary, Jan-Adalat, Contempt of court, Subjudice.*

INTRODUCTION

"Trial by media" has become one of the most debated and burning issues of the modern world which is not limited to any particular nation and has its impact on all nations of the world. The concept of "Trial by media" became a very popular issue in the late 20th century to describe the influence of media in its various manifestations like television and newspapers coverage on a person's reputation by creating an impression of guilt or innocence without having any regard and respect for any verdict in a court of law.

The trend of media trial is often justified under the shadow of the freedom of speech and expression. In India also freedom of press evolved from the fundamental right- Freedom of speech and expression guaranteed under Article 19(1)(a)of the Indian Constitution. Ramesh Thapper v. State of Madras[1] was a very important case regarding the freedom of press in which the Hon'ble Supreme Court held that freedom of speech and expression include freedom of propagation of ideas which is ensured by the freedom of circulation.[2]

[1] AIR 1950 SC 124
[2] Krishnan Dr.S., (2018), TRIAL BY MEDIA: CONCEPT AND PHENOMENON, *International Journal of Advance*

In a Democratic set up like India, the press or the media is regarded as the 'Fourth Estate.' It is one of the strong pillars of Democracy- a system of Government which survives upon the awareness, vigilance and responsible conduct of its citizens and in this system the media is endowed with wide ranging and responsible roles in the society to keep the public informed about various aspects of national life. Media keeps the public informed about the various new developments, and contemporary burning issues in the society and hence plays the most important role in educating and moulding public opinion. Today, the media has become such a powerful institution that it is capable of diverting the whole trend of public opinion by interpreting the issues and information in a particular way through which the public forms their viewpoint. Thus, media has such tremendous power which may be regarded as the "Brahmastra" for creating and destroying a person's reputation i.e. the power of moulding public opinion either in his favour or against him. Thus, the power of the media can be both constructive as well as destructive.

In India which is the largest democracy in the world, it is needless to admit that an unbiased and free press is key to its smooth and successful functioning. In a democratic set up which is characterised by the active participation of the public in all affairs of the state and community, it is the right of the people to be kept informed and updated of the current status of the social, economic, political and cultural life of the nation as well as the global affairs so as to enable them to form a correct view of the ways in which the nation is being administered by the Government and also to form healthy criticism for better administrative management. It is here that the media plays a very powerful role. The level of freedom and respect accorded to the media in India can be understood from the views expressed by our first Prime Minister, Pt. Jawaharlal Nehru, *"I would rather have a completely free press with all the dangers involved in the wrong use of the freedom than a suppressed or regulated press"*[3] But at the same time it cannot be denied that freedom of the press is not unlimited or absolute and an unregulated press would possible become an unruly horse and pose danger to the very existence of democracy.

At the same time, the positive role played by the media cannot be undermined in any way. The media by providing wide coverage has done a commendable job in some of the famous criminal cases whereby the criminals would have gone unpunished due to the involvement of powerful political tycoons in such cases. Some such cases are Piyadarshini Matoo case[4], Jessica Lal case[5], Nitish Katara case[6], etc. It also did a commendable job in highlighting the Nirbhaya gang rape case and thereby uniting the nation for prevention of crimes against women and ultimately the accused persons were hanged to death.

But inspite of its entire positive role, it must be admitted that the trend of 'media trial' or 'trial by media' has severe consequences and drawbacks. Today the

Research (IJAR), 6(3), p.898

[3] Pandit Jawaharlal Nehru's Speech at the Newspaper Editor's Conference. 3/12/1950
[4] Santosh Kumar Singh v. State through CBI, (2010) 9 SCC 747
[5] Sidhant Vashisht @ Manu Sharma v. State (NCT of Delhi), AIR 2010 6 SCC1.
[6] Vikas Yadav v. State of U.P AIR 2016 SCC 1088

media has established itself into a sort of 'parallel Judiciary' or a 'Jan Adalat', bringing the court proceedings into the living room of the people while a case is still pending in a court of law, which undoubtedly jeopardizes the judiciary. It is a very unhealthy trend for our democratic set up. This trend of unhealthy media excess interfering with the court process known as media trial has invited severe criticism from all walks of national life. One of such instance was the reporting of the murder case of Arushi Talwar[7] where the media gave wide coverage and publicity and also pre-empted both the court and the public by reporting that her parents were her murderers. At that time the case was still pending in the court. There are various instances in the past where allegation have been labelled against the media of conducting trial of the accused person in its so called "jan adalat or janta ka darbar" and passing the judgement even before the court delivers its verdict. It may be mentioned here that trial is essentially a function to be carried out by the court. So, trial by media is undoubtedly an intolerable interference in the process of administration of justice.

The media has now transformed itself into a so called "Jan Adalat" or a "public court"[8] and conducts the trial of the accused completely ignoring vital difference between an accused and a convict. This type of trial by media completely overlooks the eternal principles of criminal law "presumption of innocence until proved guilty" and "guilt beyond reasonable doubt".[9] The media conducts a separate parallel investigation, builds up public opinion against the accused, characterizing him as the culprit who has actually committed the crime even before the police starts investigation or the court delivers the verdict after a fair trial. Such irresponsible conduct on the part of the media prejudices the judicial system as well as the public and casts a subconscious effect on the judges. As a result the accused that should be presumed innocent until proved guilty is looked upon as a criminal and thereby violates his fundamental right to a fair trial. Such undue excesses and irresponsible conduct on the part of the media personnels calls for contempt proceedings against the media. But the rules designed to regulate journalistic conduct are inadequate to prevent the encroachment of judicial process and free trial. The Law Commission in its 200th report has expressed concern over this issue and made several recommendations.

The sensational case of Kerala allegedly involving the Popular Malayalam Cine star Dileep in the abduction and molestation of a film actress is yet another incidence of media access on a matter which unduly interfered with the fair trial of the actor. In this case, the media conducted a parallel investigation while the case was still being investigated by the State Police, conducted a trial in its so called 'Jan Adalat' and branded him as the criminal behind the abduction and molestation. The case is still pending in the court. It may be mentioned here that all this undoubtedly tarnished his

[7] Rajesh Talwar v. State of Uttar Pradesh and Ors Crl. Appeal No. 294/2014

[8] Tripathi Devesh, Trial by Media: Prejudicing the Sub Judice, *RMLNLU*

[9] Tripathi Devesh, Trial by Media: Prejudicing the Sub Judice, *RMLNLU Journal*, Lucknow, 2015, p.1.

public reputation and adversely effected his fair trial. It was being propagated by the media that if the film star is granted bail, he being an influential person would destroy the evidence and threaten the witnesses. There was a public uproar against the actor. Many women organization staged demonstration against the actor based on media reports. No doubt all this public uproar subconsciously affected the judiciary and the actor was denied bail until the 85Th day.

IMPACT OF MEDIA TRIAL ON THE ACCUSED AND FAIR TRIAL

The tussle engulfing the judiciary and media is regarding two important aspects- firstly media has no right to conduct the trial of an accused person and secondly, neither the press nor anybody else has the right to prejudge the case and deliver the verdict. In our judicial set up the police are assigned the responsibility to conduct investigation and the judiciary has the responsibility to try the accused and deliver the justice while the media is cast with the responsibility to honestly keep the masses updated and informed about various matter. Thus, none of them can be permitted to interfere or take over the function of the other. The basic principle of justice demands that every person should be tried by the judiciary and not by the media. Every person has a right to a fair and impartial trial within the territory of India by virtue of Articles 14[10], 20[11], 21[12] and 22[13]. The invaluable

[10] Article 14, "The State shall not deny to any person equality before law or the equal protection of the laws within the territory of India."

[11] Article 20, "(1)No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence
(2)No person shall be prosecuted and punished for the same offence more than once
(3) No person accused of any offence shall be compelled to be a witness against himself

[12] of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence
(2)No person shall be prosecuted and punished for the same offence more than once
(3) No person accused of any offence shall be compelled to be a witness against himself

[13] Protection against arrest and detention in certain cases
(1).No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice
(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate
3 Nothing in clauses (1) and (2) shall apply (a) to any person who for the time being is an enemy alien; or (b) to any person who is arrested or detained under any law providing for preventive detention
(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless (a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:
(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order
(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose
(7) Parliament may by law prescribe
(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub clause (a) of clause (4);
(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and
(c) the procedure to be followed by an Advisory Board in

rights guaranteed by these articles are absolute rights on which the very foundation of our criminal justice system rests. The protection given by these articles must be read with article 21 of the Indian Constitution. Fair trial is one of the facets of fundamental rights guaranteed under Article 21 of the Indian Constitution. The Supreme Court in the matter of Zahira Habibullah Case[14] held that fair trial means trial before an impartial judge or prosecutor and such a trial are unbiased. In India parties have a fundamental right to fair trial, which means trial by and unbiased, impartial judiciary, uninfluenced by media publication. Democracy is based on fair play and transparency of which fair trial is an important part and if it is denied on flimsy and arbitrary grounds, the very existence of democracy would be at stake. Fair trial of an accused can be effected in various ways such as encroachment with the functions of the court in the administration of justice, pre-trial publication which moulds public opinion against the accused by giving verdict against the accused even before the trial of the accused begins in a court of law, or such pre-trial publication which poisons the mind of the judge subconsciously against the accused etc. It may be mentioned here that the right to freedom and expression under the shadow of which freedom of press takes its shelter is not an absolute right but is subject to the reasonable under Article 19(2) of the Indian Constitution as well as the Contempt of Court Act, 1971. This amply proves that right to a fair trial is far more superior than the right to freedom of speech and expression. Media should also acknowledge and respect this.

In Sheena Bora Murder Case, the sharp eye of media pierced through every aspect of the personal life of the prime accused Indrani Mukherjee which even had no relevance with regard to the case. It is in such matters that the ethics of journalism comes under the shadow of doubt and confusion.

There is no doubt regarding the positive impact of media in a democratic set up but focus also needs to be given on negative impact of such media excesses on the trial, on the witnesses, on the accused as well as the judiciary whereby the principle of fair trial is adversely affected. This leads to the violation of fundamental rights of an accused person who instead of being presumed innocent until proved guilty is branded as a criminal even before his trial is conducted and a verdict is delivered by the judiciary.

Media nowadays completely ignores the vital and basic gap between the accused and convict. The principle of "presumption of innocence until proved guilty" and "guilt beyond reasonable doubt" seems to have no place in modern media ethics. Media no doubt has a positive role to keep the public informed about various issues facing the nation to ensure public participation in all walks of national life. But it must not cross the limit and pass judgements or assume the role of Judiciary. Media through its unwanted and ultra vires excesses must not prejudice the administration of justice.

As soon as a person is arrested for any offence, he is branded as and criminal and not as an accused. The media by giving undue publicity and branding the

an inquiry under sub clause (a) of clause (4) Right against Exploitation

[14] Zahira Habibullah Sheikh v. State of Gujrat,[(2004) 4SCC 158]

accused as the criminal even before his trial begins undoubtedly influences his fair trial which is one of the facets of Right to Life[15] guaranteed under article 21 of the Indian Constitution. It leads to such a situation that even if that accused person is acquitted by the court, he may not be able to rebuild his reputation in the society and the society may continue to ostracize him and his family.

Fair trial is not purely private benefit for an accused- Public's confidence in the integrity of the judicial system is crucial.[16] Media also tries to put pressure upon the lawyers and tries to prevent them from representing the case of the accused persons. One such example can be given in the case of Jessica Lal murder case. The accused Manu Sharma was victimized by the media. Even Mr. Ram Jethmalani who represented the accused as bullied and ostracized by the media and had to face objections from the society. Kamini Jaiswal, who was the lawyer for Geelani, the prime accused in the Parliament Attack case, 2001 was labelled as an "anti-nationalist" by the media. Not only this Mr. Prashant Bhushan who represented Yakub Memon, the prime accused in the 1993 Mumbai Bomb blast case, also faced severe objections.

Such kind of media excesses which be seen throughout the judicial process, starting from time of the arrest of an accused, making its unwarranted entry to the courtroom proceedings and extends to exerting pressure on the lawyers to prevent them from representing the accused persons. This undoubtedly breaks the sanctity of the courtroom proceedings as well as leads to the gross violation of the principles of natural justice on which the very foundation of our criminal justice system rests.

The media must remember that the right to be defended by a lawyer of one's choice is a fundamental right of the citizens guaranteed under the Constitution of India.

IMPACT OF MEDIA TRIAL ON WITNESS AND VICTIMS

It is a well-known fact that the general public prefers to stay away from the complex and lengthy judicial procedure. In such a scenario the position of the people who are witnesses to a case becomes very difficult. In case their name or identity is published there is every possibility that they or their family may get threatening from the accused as well as their associates. So, many of the witness retract or become hostile. In this way also the undue media excesses prejudices the administration of justice.

Sometimes, if in a rape case the name or identity of the victim gets published, the victim and her family instead of getting support and assistance, becomes ostracized by the society. Thus, many of the victims prefer to suffer silently accepting the gross injustice penetrated to them as their lot.

IMPACT OF MEDIAL TRIAL ON JUDICIARY AND THE PUBLIC

Administration of justice is done by judges who are not machines but human beings and unfortunately, they are not immune from public criticism both in their judicial as well as personal capacity. It must be accepted that baseless public criticism based on unwarranted media reports may lessen public faith in

[15] Supra note 12
[16] Gisborne Herald Co. Ltd. v. Solicitor General,1995 (3) NZLR 563 (CA)

Judiciary which may prove to be fatal for the existence democratic set up because an independent and impartial judiciary is indispensable to protect the rights of the citizens.

In many cases including the ones mentioned above where the media gave verdict through their so called "jan adalats" and where the honourable judiciary gave a different verdict from the one presented before the public by the Jan adalat of the media, led the public misinformed by the media to doubt the integrity of the judiciary and call it biased.

Even the tussle between the then Chief Justice of India Deepak Kumar and the four senior judges of the Supreme Court in 2018 was also given wide publicity by the media and presented their own version. It led to lowering public faith in judiciary and the judges.

Sushant Rajput Case and Media Trial: The most sensational case involving the eath of the young actor Sushant Singh Rajput in June 2020 was another case which was given wide publicity by the media. Different media presented different versions regarding the death of the actor. Some portrayed it as a clear-cut case of murder alleging the involvement of politicians, Bollywood actors and underworld criminals while others propagated the depression theory of the actor. Continuous media trial was conducted casting doubt in the minds of the public on the actions of the Mumbai police. A section of the electronic media also created a more or less firm belief in the minds of the public that the actor was murdered due to nepotism in Bollywood which also tarnished the image of several big Bollywood stars and the consequence was that their films which were released during that period was rejected by the public resulting in huge losses. The Bombay High Court ultimately held that a media trial by the electronic media interferes with the administration of Justice as well as obstructs fair investigation and this amounts to criminal contempt. The matter is currently being investigated by the Central Bureau of Investigation (CBI)

Similarly the matters like the CAA agitation at Shaheenbagh, New Delhi and the Kisan Aandolan was also given wide publicity by the media. Different electronic media conducted media trial and propagated their own views. Some spoke in favour of the farmers or the CAA activists while others justified the Government actions. All efforts were made to increase their TRP but very little honest initiative was made to spread awareness among the masses.

REVIEW OF LEGAL AND CONSTITUTIONAL MANDATE ON MEDIA TRIAL

Freedom of press is implicit in the freedom of speech and expression under Article 19(1) (a) of the Indian Constitution. But freedom of speech and expression is not absolute and is subject to the reasonable restrictions mentioned under clause (2) of Article 19. In a democratic country like India, the media has a very responsible job to play in keeping the people vigilant about the various issues facing the nation. Nowadays, due to the expansion of science and technology, the effect of media via television, newspaper, cable T.V., various journals, radio and internet etc. is unprecedented. It is therefore, very essential that media must maintain its professional ethics and perform its functions in a very transparent way.

Media should never be allowed to interfere with the administration of justice by publishing matters which are "sub judice." The Latin expression "sub judice" means under a judge. The case is said to be sub judice until the matter has been finally disposed of by the court. The Contempt of Court Act deals concept of contempt under two heads i.e. civil contempt under section 2(b) and criminal contempt under section 2(c).

But section 2(c) although very wide is subject to the provisions of section 3 which protects pre-trial publications which obstructs or tends to obstruct the course of justice relating to any civil or criminal matter which is actually pending in the court of law. The word "pending" in case of a Criminal Procedure Code, 1973 or any other law for the time being in force means where it relates to the commission of any offence, when the charge sheet or challans is filed by the police or summons/ warrant is issued against the accused by a court of law. There is no denying the fact that pre-trial publication can affect the right to fair trial of an accused person. Such publication may refer to the personal life, any previous conviction, or any alleged bad character of the accused which may have nothing to do with the present case. But such publication may poison the minds of the witness, judges and public which may cause irreparable damage to the accused by jeopardizing his trial.

In the matter of Sahara India Real Estate Corpn. Ltd[17]., the Supreme Court held that, "The media has a right to know what is happening in courts and to disseminate the information to the public which enhances the public confidence in the transparency of court proceedings. As stated above, sometimes, fair and accurate reporting of the trial (say a murder trial) would nevertheless give rise to substantial risk of prejudice not in the pending trial but in the latter or connected trials. The postponement order not only safeguards fairness of the later or connected trials, it prevents possible contempt by the media"

LAW COMMISSION'S 200TH REPORT ON MEDIA TRIAL

The Law Commission of India broadly deals with several aspects of rights of the people like right to freedom of speech, freedom of press and right to a fair trial in its 200th Report[18] published in August, 2006. This topic was taken up by the Commission suo moto to deal with fact of extensive prejudicial publication of crime and information about the suspects and accused both by the print and electronic media. The Law Commission has recommended restraining media from reporting anything prejudicial to the right of the accused in criminal cases from the time the accused is arrested and this restriction should continue throughout the investigation and trial. It has suggested an amendment to the Contempt of Court Act and recommended that contempt should be invoked from the time of arrest of the accused by giving an extended meaning to the word "pending." This has been elaborated by the Commission in its 200th Report. The Commission also recommended that the High Court be given powers to direct the media to postpone the reporting or telecast in criminal matters. Under the present law contempt proceeding could be

[17] Sahara Indian Real Estate Corporation Ltd. v. Securities and Exchange Board of India AIR (2012) 10 SCC 603

[18] Trial by Media: Free Speech vs. Fair Trial Under Criminal Procedure (Amendment to the Contempt of Court Act, 1971) Law Commission 200th Report.

initiated only if a charge sheet has been filed in a criminal case. The Commission suggested that a matter should be considered as within the purview of contempt proceeding under section 3(2) of the Contempt of Court Act, 1971 from the time the arrest of the accused is made.

CONCLUSION

India is the largest democracy in the world. The success of democratic traditions depends on the vigilance and awareness of the citizens. Our nation has a remarkable history in according a high level of respect and freedom to the press and media. Major scams which tormented the nation were busted and brought to light by the media. The fearless and hardworking journalists conducted various sting operations and elicited various new information which our great investigation agencies failed to achieve. Thus, the role of media can never be underestimated. The accused in several criminal cases would have gone unpunished if media had not played a vigilant and responsible role.

At the same time it must be mentioned that independent and impartial judiciary is indispensable to protect the sanctity and integration of the constitution as well as to provide justice to the people. There is no denying the fact that a media crippled by government regulations and control is extremely unhealthy but at the same time any unregulated freedom or liberty is surely to become an unruly horse.

The concept of media trial undoubtedly interferes with the administration of justice and media has no right to encroach upon the functions of the court. The media nowadays in order to increase their Television Rating Point (TRP) tries to distort facts and create sensation among the public. They conduct Jan Adalats and give verdict on matters even before the court delivers the verdict and convinces the public in a particular way. In case the judicial verdict is a different one than that was proclaimed by the media, the public influenced by the media starts doubting the integrity of the judges who delivered the judgement. It leads to the gross violation of the principle "justice must not only be done but it should also seem to be done." Thus, the media must not be allowed freedom of speech and expression to such an extent to prejudice the administration of justice and fair trial.

Media no doubt plays a good role while highlighting corruption in Government and other fields but the conflicts arise when media crosses the limits of its domain and try to interfere with the power of judiciary by making judgemental comments on trials which are pending in a court of law.[19]

It has become an absolute and unavoidable necessity to strike a strong balance between the rights of the people to know and the right of the accused to be presumed innocent till proved guilty by a competent court but the deadly competition regarding the news coverage as well as publication among various media tycoons having a tendency to interfere with administration of justice has become matter of grave concern for legislature as well as judiciary.[20]

[19] Krishnan Dr.S., (2018), TRIAL BY MEDIA: CONCEPT AND PHENOMENON, *International Journal of Advance Research (IJAR)*, 6(3), p.895
[20] The Blanket, *Journal of Protest and Dissent*, November 2000.

The trend of media trial adversely affects the reputation of a person accused of an offence by its pre-trial publications. It leads to the gross violation of his right to a fair trial, adversely affects the witnesses and also subconsciously affects the judges and lawyers. Neither a vigilant press can take the place of independent and impartial judiciary nor judiciary can take the place of free and impartial press. Both are indispensable for the smooth functioning of our democratic tradition and the press should in no way be llowed to jeopardize the functions of the court.

It must without any doubt be accepted that the media while jealously guarding its space and freedom must not forget the social responsibility thrust upon it by respecting the powers of the judiciary as well as the rights and dignity of the people in the larger interest of democracy. It must not unduly interfere with the functions of the court, inviting contempt proceedings against the press and media. The media must perform the responsibility of restoring and maintaining the faith of the people in the honourable judiciary by restraining itself from unwarranted prejudicial publication which interferes with the fair trial of the accused and the administration of justice.

International Journal of Academic Research
ISSN: 2348-7666; Vol.8, Issue-9, September, 2021
Impact Factor: 6.023; Email: drtvramana@yahoo.co.in

ಮಹಿಳೆಯರ ಅಭ್ಯುದಯದಲ್ಲಿ ಅಂಬೇಡ್ಕರ್‌ರವರ ಪಾತ್ರ

ಕೋಮಲ ಬಿ
ಸಹಾಯಕ ಪ್ರಾಧ್ಯಾಪಕರು,ರಾಜ್ಯಶಾಸ್ತ್ರ ವಿಭಾಗ
ಸರ್ಕಾರಿ ಮಹಿಳಾ ಕಾಲೇಜು, ಮಂಡ್ಯ.

1. ಪೀಠಿಕೆ

ಜಗತ್ತಿನ ಮಾನವ ಹಕ್ಕುಗಳ ಮಹಾನ್ ಪ್ರತಿಪಾದಕ, ಜ್ಯಾತ್ಯಾತೀತ ನವಭಾರತದ ನಿರ್ಮಾತೃ, ಸಮಸಮಾಜ ಸ್ಥಾಪಕ, ಮಾನವೀಯ ಮೌಲ್ಯಗಳ ಪಿತಾಮಹ, ಜ್ಞಾನಸೂರ್ಯ, ಮಹಾಮಾನವತಾವಾದಿ, ಘನ ವಿದ್ವಾಂಸ ಇಷ್ಟು ಅರ್ಥಪೂರ್ಣ ಪದಗಳಿಗೆ ಒಂದು ಪೂರಕವಾದ ಅನುರೂಪವಾದ ಹೆಸರು ಸೂಚಿಸಿ ಎಂದು ಹೇಳಿದರೆ ಬಹುಶಃ ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ಹೆಸರು ಹೇಳಲು ಮಾತ್ರ ಸಾಧ್ಯವೆಂದೆನಿಸುತ್ತದೆ. ಭಾರತೀಯರೆಲ್ಲರೂ ಸಮಾನರು ಭಾರತೀಯರೆಲ್ಲರಿಗೂ ಒಂದೇ ಕಾನೂನು, ಭಾರತದ ಪ್ರಜೆಗಳೆಲ್ಲಾ ಸಮಾನರು ಎಂದು ತಮ್ಮ ಜೀವನ ಪರ್ಯಂತ ಹೋರಾಟ ನಡೆಸಿದ ಕೆಲವೆ ಕೆಲವು ಭಾರತೀಯರಲ್ಲಿ ಅಂಬೇಡ್ಕರ್ ಅಗ್ರಗಣ್ಯರು.

ಪ್ರಾಚೀನ ಭಾರತದಲ್ಲಿ ಮಹಿಳೆಯರು ಉತ್ತಮ ಸ್ಥಾನಮಾನವನ್ನು ಹೊಂದಿದ್ದರು. ಕಾಲ ಕ್ರಮೇಣ ಮಹಿಳೆಯರ ಸ್ಥಾನಮಾನದಲ್ಲಿ ಬದಲಾವಣೆಯಾಗತೊಡಗಿತು. ಅಂದರೆ ಮಹಿಳೆಯರನ್ನು ಅವಶ್ಯಕತೆಗಳಿಗೆ ತಕ್ಕಂತೆ ಬಳಸಿಕೊಳ್ಳುವ, ಕೇವಲ ವಸ್ತುವಿನಂತೆ ಕಾಣುವ ಪರಿಸ್ಥಿತಿ ಉಂಟಾಯಿತು. ಇಂತಹ ಸಂದರ್ಭದಲ್ಲಿ ಮಹಿಳಾಪರ ಧ್ವನಿ ಎತ್ತಿ ಹೋರಾಡಿದವರು ಬುದ್ಧ, ಬಸವಣ್ಣ, ಮಹಾತ್ಮ ಜ್ಯೋತಿ ಬಾಪುಲೆ, ಸಾವಿತ್ರಿ ಬಾಪುಲೆ, ರಾಜಾರಾಂ ಮೋಹನ್‌ರಾಯ್, ಮಹಾತ್ಮ ಗಾಂಧೀಜಿ ಇನ್ನಿತರರು. ಇವರುಗಳ ಹೋರಾಟಕ್ಕೆ ರಚನಾತ್ಮಕ ಹಾಗೂ ಸಂವಿಧಾನಾತ್ಮಕ ನೆಲೆ ಕಲ್ಪಿಸಿದವರು ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್‌ರವರು. ಅಂದರೆ ಮಹಿಳೆಯರ ಬಗ್ಗೆ ಹೆಚ್ಚು ವೈಜ್ಞಾನಿಕವಾಗಿ, ವೈಚಾರಿಕವಾಗಿ ಹಾಗೂ ವಾಸ್ತವಿಕ ನೆಲೆಗಟ್ಟಿನಲ್ಲಿ ಚಿಂತಿಸಿದವರಲ್ಲಿ ಅಂಬೇಡ್ಕರ್‌ರವರು ವಿಶ್ವದಲ್ಲೇ ಅಗ್ರಗಣ್ಯರು.

ಕೆಳಜಾತಿಯ ಕುಟುಂಬದಲ್ಲಿ ಜನಿಸಿದ ಅಂಬೇಡ್ಕರ್ ಕೆಳವರ್ಗದವರಿಗೆ ಭಾರತದಲ್ಲಿ ಶಿಕ್ಷಣ ನಿರಾಕರಿಸಿದ್ದರಿಂದ ಪಾಶ್ಚಿಮಾತ್ಯ ದೇಶಗಳಿಗೆ ಹೋಗಿ ಹಲವಾರು ಪದವಿಗಳನ್ನು ಪಡೆದು ಅಪರಿಮಿತ ಜ್ಞಾನ ಸಂಪಾದಿಸಿಕೊಂಡು ಬಂದರೂ ಸವರ್ಣೀಯರು ಅವರನ್ನು ಅವಮಾನಿಸುವುದು ನಿಲ್ಲಲಿಲ್ಲ. ಆದರೆ ಈ ಅವಮಾನವೇ ಅವರನ್ನು 40 ವರ್ಷಗಳ ಕಾಲ ಸತತವಾಗಿ ಅತ್ಯಂತ ಪ್ರಬಲವಾಗಿ ವ್ಯವಸ್ಥಿತವಾಗಿ ಹೋರಾಡಲು ಪ್ರೇರೇಪಿಸಿತು ಎನ್ನಬಹುದು. ಅಂದಿನಿಂದಲೇ ಅಂಬೇಡ್ಕರ್ ಅಸಮಾನತೆ, ಶೋಷಣೆಯ ವಿರುದ್ಧ ಹೋರಾಡ ತೊಡಗಿದರು. ಅಸಮಾನತೆಯನ್ನು ತೊಲಗಿಸಿ ಜಾತ್ಯಾತೀತ ಅಖಂಡ ಭಾರತವನ್ನು ನಿರ್ಮಿಸುವುದು ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್‌ರವರ ಗುರಿಯಾಗಿತ್ತು. ಕೆಳವರ್ಗದವರಂತೆ ಶೋಷಣೆಗೆ ಗುರಿಯಾಗಿದ್ದವರಲ್ಲಿ ಮಹಿಳೆಯರ ಸ್ಥಿತಿಯೂ ಶೋಚನೀಯವಾಗಿತ್ತು. ವೇದಗಳ ಕಾಲದವರೆಗೆ ಮಹಿಳೆಯರೂ ಕೂಡ ಪುರುಷರಂತೆ ಸಮಾನ ಸ್ಥಾನ ಮಾನಗಳನ್ನು ಪಡೆದಿದ್ದರು. ಆದರೆ ನಂತರದ ವರ್ಷಗಳಲ್ಲಿ ಮಹಿಳೆಯರ ಸ್ವಾತಂತ್ರ್ಯವನ್ನು ಮೊಟಕುಗೊಳಿಸಿ ಅವರನ್ನು ಶೋಷಣೆಗೆ ಒಳಪಡಿಸಲಾಯಿತು.ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್‌ರವರು

ಮಹಿಳೆಯ ಪರ ಕಾಳಜಿಯುಳ್ಳವರಾಗಿದ್ದು, ಮಹಿಳೆಯರ ಶಕ್ತಿಯನ್ನು ಮನಗಂಡಿದ್ದರು. ಯಾವುದೇ ದೇಶ ಆರ್ಥಿಕವಾಗಿ ಸಾಮಾಜಿಕವಾಗಿ ಅಭಿವೃದ್ಧಿ ಹೊಂದಬೇಕಾದರೆ ಅಲ್ಲಿನ ಜನರಿಗೆ ಸಂಪೂರ್ಣ ಸ್ವಾತಂತ್ರ್ಯ, ಸಮಾನತೆ ಅಗತ್ಯವೆಂದು ನಂಬಿದ್ದರು ಅದಕ್ಕಾಗಿ ಸತತ ಹೋರಾಟಗಳನ್ನು ಮಾಡಿದ್ದರು.

ಭಾರತದ ಸಮಾಜ ಸುಧಾರಕರಿಗೂ ಹಾಗೂ ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್‌ರವರಿಗೂ ಇರುವ ಮೂಲ ವ್ಯತ್ಯಾಸವೆಂದರೆ, ಮಹಿಳಾ ಚಿಂತಕರುಗಳಾದ ರಾಜಾರಾಂ ಮೋಹನ್‌ರಾಯ್, ದಯಾನಂದ ಸರಸ್ವತಿ, ಜ್ಯೋತಿ ಬಾಫುಲೆ, ಮುಂತಾದವರು ಮಹಿಳೆಯರನ್ನು ಸಾಮಾಜಿಕ ಪಿಡುಗುಗಳಿಂದ ಮುಕ್ತಗೊಳಿಸಿ ಅವರಿಗೆ ವಸತಿ, ಶಿಕ್ಷಣ, ವಿಧವಾ ಪುನರ್ ವಿವಾಹ ಮುಂತಾದವುಗಳ ಮೂಲಕ ಸ್ವಾತಂತ್ರ್ಯರಕ್ಷಣೆಯನ್ನು ಒದಗಿಸಿದರೆ, ಅಂಬೇಡ್ಕರ್‌ರವರು ಮಹಿಳೆಯರ ಹಕ್ಕು, ಸ್ವಾತಂತ್ರ್ಯ ಮತ್ತು ಸಮಾನತೆಗಳಿಗೆ ಸಂವಿಧಾನಾತ್ಮಕ ಭದ್ರತೆಯನ್ನು ಒದಗಿಸಿದ್ದಾರೆ. ಈ ನಿಟ್ಟಿನಲ್ಲಿ ಅಂಬೇಡ್ಕರ್‌ರವರು ಮಹಿಳೆಯರ ಸ್ಥಾನಮಾನಗಳನ್ನು ಉತ್ತಮಗೊಳಿಸಲು ಮಹತ್ವದ ಪಾತ್ರವನ್ನು ನಿರ್ವಹಿಸಿದರು.

2. ಮಹಿಳೆಯರ ಅಭ್ಯುದಯಕ್ಕಾಗಿ ಅಂಬೇಡ್ಕರ್‌ರವರ ಕೊಡುಗೆಗಳು

(i) ಮನು ಧರ್ಮಶಾಸ್ತ್ರದ ವಿರುದ್ಧ ಹೋರಾಟ

ಪುರೋಹಿತರು ಮತ್ತು ಮೇಲ್ವರ್ಗದವರು ರಚಿಸಿದ, ಮಹಿಳೆಯರನ್ನು ಕೀಳಾಗಿ ಕಾಣುವ ಹಾಗೂ ಕಠೋರವಾಗಿ ನಿಂದಿಸುವ ''ಮನುಶಾಸ್ತ್ರದ ಗ್ರಂಥ''ವನ್ನು ಬಹಿರಂಗವಾಗಿ 1927ರ ಡಿಸೆಂಬರ್ 25ರಂದು ಶವ ಸಂಸ್ಕಾರ ಮಾಡುವಂತೆ ದಹನ ಮಾಡಿದರು. ಇದು ಅವರು ಮಹಿಳೆಯರ ಬಗ್ಗೆ ಹೊಂದಿದ ಗೌರವಭಾವನೆಯನ್ನು ಸೂಚಿಸುತ್ತದೆ. ಮಹಿಳೆಯ ವ್ಯಕ್ತಿತ್ವ ಹಾಗೂ ಶೋಷಣೆಗಳನ್ನು ವಿವಿಧ ಆಯಾಮಗಳಲ್ಲಿ ಆಳವಾಗಿ ಚಿಂತಿಸಿ, ಧಾರ್ಮಿಕ, ಸಾಮಾಜಿಕ, ರಾಜಕೀಯ ಹಕ್ಕುಗಳನ್ನು ಸಂವಿಧಾನದತ್ತವಾಗಿ ನೀಡಲು ಶ್ರಮಿಸಿದ ಮೊದಲ ವ್ಯಕ್ತಿ ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ಹಾಗಾಗಿ ಇಂದಿನ ಮಹಿಳೆಯರ ಹೋರಾಟಗಳಿಗೆ ತಳಹದಿ ಹಾಕಿರುವುದು ಅಂಬೇಡ್ಕರ್‌ರವರ ಚಿಂತನೆಗಳೆಂದರೆ ತಪ್ಪಾಗಲಾರದು. ಅಧಿಕಾರ ನೆಲೆಯಾದ ರಾಜಕೀಯದಲ್ಲಿ ಅಧಿಕಾರ ಸಿಗದೆ ಮಹಿಳೆಯರ ಸ್ಥಾನ ಬದಲಾಗುವುದಿಲ್ಲವೆಂದರಿತ ಅಂಬೇಡ್ಕರ್ ಶಾಸನ ಸಭೆಗಳಲ್ಲಿ ಶೋಷಿತ ಪುರುಷರಿಗಷ್ಟೇ ಅಲ್ಲದೇ ಮಹಿಳೆಯರಿಗೂ ಮೀಸಲು ಸ್ಥಾನ ಕೊಡಬೇಕೆಂದು ಪ್ರತಿಪಾದಿಸಿದರು.

(ii) ಮಹಿಳೆಯರ ಮತ್ತು ಸಮಾಜದ ಅಭ್ಯುದಯಕ್ಕಾಗಿ ಪತ್ರಿಕೆಗಳ ಆರಂಭ

ಅಂಬೇಡ್ಕರ್ ಮಹಿಳೆಯರ ಸಮಸ್ಯೆಗಳ ಬಹಳ ಗಂಭೀರವಾಗಿ ಹತ್ತಿರದಿಂದ ನೋಡಿ ಅರ್ಥ ಮಾಡಿಕೊಂಡಿದ್ದರು. ಇದರಿಂದ ಲಿಂಗಭೇದವನ್ನು ತಡೆಗಟ್ಟಲು ಚಳುವಳಿ ಆರಂಭಿಸಿದ್ದರು. ಇದರ ಪರಿಣಾಮವಾಗಿ 1928ರಲ್ಲಿ ಹಿಂದುಳಿದ ಮಹಿಳೆಯರ ಸಂಘಟನೆ ಆರಂಭವಾಯಿತು. ಮಹಿಳಾ ಸಮಸ್ಯೆಯನ್ನು ಮುಖ್ಯವಾಗಿ ಚರ್ಚಿಸುವ ಸಲುವಾಗಿ 'ಮೂಕನಾಯಕ' ಹಾಗೂ 'ಬಹಿಷ್ಕೃತ ಭಾರತ' ಎಂಬ ಪತ್ರಿಕೆಗಳನ್ನು ಹೊರತಂದರು. ಮಹಿಳೆಯರು ಸಮಾಜದಲ್ಲಿ ಮೂಲೆ ಗುಂಪಾಗಲು ಕಾರಣ ಶಿಕ್ಷಣದಿಂದ ವಂಚಿತರಾಗಿರುವುದು. ''ಶಿಕ್ಷಣ ಸಾಮಾಜಿಕ ಗುಲಾಮಗಿರಿಯನ್ನು ತಡೆಗಟ್ಟಲು ಮತ್ತು ಸಮಾಜದಲ್ಲಿ ಮಹಿಳೆಯರ ಸ್ಥಾನವನ್ನು ಉನ್ನತ ಮಟ್ಟಕ್ಕೆ ಕರೆದೊಯ್ಯಲು ಉತ್ತಮ ಆಯುಧವಾಗಿದೆ ಎಂಬುದು ಅಂಬೇಡ್ಕರ್‌ರವರ ಅಭಿಪ್ರಾಯವಾಗಿತ್ತು. ಹಾಗಾಗಿ ಹೆಣ್ಣು ಮಕ್ಕಳನ್ನು ಶಾಲೆಗೆ ಕಳುಹಿಸಿ, ನಿಮ್ಮ ಮಕ್ಕಳನ್ನು ಆತ್ಮಗೌರವವುಳ್ಳ ಪ್ರಜೆಗಳನ್ನಾಗಿ ಮಾಡಲು ಒಳ್ಳೆಯ ವಿದ್ಯಾಭ್ಯಾಸ ಕೊಡಿಸಿ ಅದಕ್ಕಾಗಿ ನಾನು ಸರ್ಕಾರದ ಮಟ್ಟದಲ್ಲಿ ಹೋರಾಡುತ್ತೇನೆ ಎಂದು ಮಹಿಳೆಯರನ್ನು ಹುರಿದುಂಬಿಸಿದರು. ''ಕಲಿತ ಮಹಿಳೆ ಮುಂದುವರೆಯುತ್ತಾಳೆ, ಅವಳಂತೆ ಮಕ್ಕಳು ತಯಾರಾಗುತ್ತಾರೆ ಅನ್ನುವುದು ಅವರ

ಅಭಿಮತ".1942ರ ಪೆಬ್ರವರಿ 5 ರಂದು ನಾಗಪುರದಲ್ಲಿ ನಡೆದ ಅಖಿಲ ಭಾರತ ಹಿಂದುಳಿದ ಮಹಿಳೆಯರ ಸಮ್ಮೇಳನದಲ್ಲಿ ಮಾತನಾಡುತ್ತಾ ಮಹಿಳೆಯರು ಶಿಕ್ಷಣವನ್ನು ಪಡೆಯಬೇಕು ಮತ್ತು ತಮ್ಮ ಮಕ್ಕಳನ್ನು ಶಿಕ್ಷಿತರನ್ನಾಗಿಸಿ, ಗಂಡಂದಿರನ್ನು ದುಶ್ಚಟಗಳಿಂದ ದೂರವಿರಿಸಿ, ಮೂಢನಂಬಿಕೆಗಳನ್ನು ದಿಕ್ಕರಿಸಿ ಗಂಡಂದಿರ ಗುಲಾಮಳಾಗಿ ಬದುಕದೆ ಸಂಗಾತಿಯಾಗಿ ಜೀವನ ನಡೆಸುವಂತೆ ಕರೆ ನೀಡಿದರು. ಹಾಗೆಯೇ ಮುಂಬೈನಲ್ಲಿ ನಡೆದ ದೇವದಾಸಿಯರ ಸಮ್ಮೇಳನದಲ್ಲಿ ಭಾಗವಹಿಸಿ ಪುರೋಹಿತ ಶಾಹಿ ಮತ್ತು ಪುರುಷ ಪ್ರಧಾನ ರಾಷ್ಟ್ರ ನಿರ್ಮಿಸಿದ ಈ ಅನಿಷ್ಟ ಪದ್ಧತಿಯನ್ನು ನಿಲ್ಲಿಸಿ ಕುಟುಂಬ ಜೀವನ ನಡೆಸಬೇಕೆಂದು ಮಾರ್ಗದರ್ಶನವಿತ್ತರು.

(iii) ಕುಟುಂಬ ಯೋಜನಾ ಕ್ರಮಗಳು ಮತ್ತು ಕಾರ್ಮಿಕರ ಹಕ್ಕುಗಳ ಪ್ರತಿಪಾದನೆ

1938ರಷ್ಟು ಹಿಂದೆಯೇ ಕುಟುಂಬ ಯೋಜನೆ ಪದ್ಧತಿಯನ್ನು ಸರ್ಕಾರ ಜನಪ್ರಿಯಗೊಳಿಸಬೇಕೆಂದು ಅಂಬೇಡ್ಕರ್ ಮುಂಬಾಯಿಯ ಶಾಸನ ಸಭೆಯಲ್ಲಿ ವಾದಿಸಿದ್ದರು. ಮಹಿಳೆಯರ ಶಕ್ತಿ ಸಾಮಾರ್ಥ್ಯವನ್ನು ಸಮಾಜ ಉಪಯೋಗಿಸಿ ಕೊಳ್ಳಬೇಕೆಂದರೆ ಕುಟುಂಬ ಯೋಜನೆ ಅವಶ್ಯವೆಂದೂ ಪ್ರತಿಪಾದಿಸಿದರು. ಅಲ್ಲದೆ 1942ರಲ್ಲಿ ದೆಹಲಿ ಸರ್ಕಾರದಲ್ಲಿ (ವೈಸರಾಯ್ ಸಮಿತಿ) ಕಾರ್ಮಿಕ ಸಚಿವರಾಗಿದ್ದಾಗ ಮೊಟ್ಟ ಮೊದಲ ಬಾರಿಗೆ ಹೆರಿಗೆ ಭತ್ಯೆ ನಿಡುವ ಬಗ್ಗೆ ಪ್ರಸ್ತಾಪಿಸಿದುದು. ಪುರುಷ ಮತ್ತು ಮಹಿಳೆಯರಿಗೆ ಸಮಾನ ವೇತನ, ಹೆರಿಗೆ ರಜಾ, ಕೆಲಸದ ಅವಧಿಯನ್ನು 12 ಗಂಟೆಗಳಿಂದ 8 ಗಂಟೆಗಳಿಗೆ ಇಳಿಸುವುದು ಮುಂತಾದ ಮಾನವೀಯ ಶಾಸನಗಳನ್ನು ಜಾರಿಗೊಳಿಸಿರುವುದು ಶ್ಲಾಘನೀಯ.

(iv) ಮಹಿಳೆಯರಿಗಾಗಿ ಸಂವಿಧಾನಾತ್ಮಕ ಕ್ರಮಗಳು

ಭಾರತ ಸಂವಿಧಾನದ ಪೀಠಿಕೆಯಲ್ಲಿಯೇ ಸ್ವಾತಂತ್ರ್ಯ ಹಾಗೂ ಸಮಾನ ಅವಕಾಶಗಳನ್ನು ಪ್ರಸ್ತಾಪಿಸಲಾಗಿದೆ. ಸಂವಿಧಾನದ ಮೂರನೆ ಭಾಗದಲ್ಲಿ ಅಳವಡಿಸಲಾಗಿರುವ ಮೂಲಭೂತ ಹಕ್ಕುಗಳು ಎಲ್ಲ ಭಾರತೀಯ ಪೌರರಿಗೂ ದೊರಕಬೇಕೆಂಬುದು ಸಂವಿಧಾನದ ಬಹುಮುಖ್ಯ ಆಶಯ.

ಭಾರತದಲ್ಲಿ ಸ್ವಾಭಾವಿಕವಾಗಿ ಸ್ತ್ರೀಯನ್ನು ಪುರುಷನ ಚರಾಸ್ತಿಯನ್ನಾಗಿ, ಭೋಗವಸ್ತುವನ್ನಾಗಿ ಪರಿಗಣಿಸಿದ ಸಂಗತಿಗಳು ಭಾರತ ಸ್ವಾತಂತ್ರ್ಯದ ನಂತರ ಅದೂ ಸಂವಿಧಾನ ರೂಪುಗೊಂಡ ನಂತರ ಮಹತ್ತರವಾದ ವಿಮೋಚನೆಗೆ ಹಾದಿ ಮಾಡಿಕೊಟ್ಟಿತು. ಪುರುಷ ಪ್ರಧಾನವಾದ ಆಲೋಚನೆಗಳು ಸಂವಿಧಾನದಲ್ಲಿದ್ದರೂ ಮಹಿಳಾ ಪ್ರಧಾನವಾದ ಮತ್ತು ಮಹಿಳೆಗೆ ಮಹತ್ವವನ್ನು ನೀಡುವ ಕೆಲವು ಅನುಚ್ಛೇದಗಳು ಮಹಿಳಾ ಪ್ರಾತಿನಿಧ್ಯವನ್ನು ಎತ್ತಿಹಿಡಿಯುವಲ್ಲಿ ನೆರವಾದವು ಎಂಬುದು ಗಮನಾರ್ಹ ಅಂಶ. ಸಂವಿಧಾನದಲ್ಲಿನ 3–6, 10, 20, 21, 22, 23, 24, 25, 29(1)(2), 39(ಎ), 42, 44, 45, 51 ಮೊದಲಾದ ಅನುಚ್ಛೇದಗಳು ಬಹುಮುಖ್ಯವಾಗಿ ಮಹಿಳೆಯು ಅನೇಕ ನಾಗರಿಕ ಹಕ್ಕುಗಳನ್ನು ಅನುಭವಿಸಲು ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟಿದೆ. ಸ್ತ್ರೀ ಪುರುಷರ ಸಾಮಾಜಿಕ ಸಮಾನತೆಯ ನೆಲೆಗಳನ್ನು ಸಂವಿಧಾನದಲ್ಲಿ ಅಂತರ್ಗತಗೊಳಿಸುವ ಮೂಲಕ ಮಹಿಳೆಯರಿಗೆ ಒಂದು ಹೊಸ ದಿಗಂತವನ್ನು ತೆರೆದಿಡಲಾಯಿತು. ಜೊತೆಗೆ ಸಂವಿಧಾನವು 5 ಮುಖ್ಯ ತೀರ್ಮಾನಗಳನ್ನು ಕೈಗೊಂಡಿತು:

(1) ಲಿಂಗಾಧಾರಿತವಾದ ತಾರತಮ್ಯತೆಗಳ ನಿಷೇಧ.

(2) ಮಹಿಳೆಯರ ದೈಹಿಕ, ಮಾನಸಿಕ ಹಾಗೂ ಸಾಮಾಜಿಕ ಪರಿಸ್ಥಿತಿಯನ್ನು ಅನುಲಕ್ಷಿಸಿ ಅವರಿಗೆ ರಾಜ್ಯವು ವಿಶೇಷ ಕಾಳಜಿಯನ್ನು ವಹಿಸುವಂತಹ ಉಪಬಂಧಗಳನ್ನು ರಚಿಸಲು ಅಧಿಕಾರ ನೀಡುವುದು.

(3) ಮಹಿಳೆಯರಿಗಾಗಿಯೇ ನಿರ್ದಿಷ್ಟ ನಿರ್ದೇಶನಗಳನ್ನು ನೀಡುವ ನಿರ್ದೇಶಕ ತತ್ವಗಳನ್ನು ಸಂರಕ್ಷಿಸುವುದು.

(4) ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳ ಸಂರಕ್ಷಣೆಗಾಗಿ ಮಹಿಳಾ ಆಯೋಗಗಳನ್ನು ರಚಿಸುವುದು.

(5) ಮಹಿಳೆಯ ದೌರ್ಜನ್ಯ ತಡೆಗೆ ವಿಶೇಷ ತನಿಖಾ ಸಮಿತಿಗಳನ್ನು ರಚಿಸಲು ಅವಕಾಶ ನೀಡುವುದು.

ವಿಶೇಷವಾಗಿ ಮಹಿಳೆಯರಿಗೆ ಭಾರತೀಯ ಸಂವಿಧಾನವು ನೀಡಿದ ಕೊಡುಗೆ ವಿಶಿಷ್ಟವಾದುದು. ಭಾರತ ಸಂವಿಧಾನವು ಮಹಿಳೆಯರಿಗೆ ಸಮಾನತೆಯನ್ನು ನೀಡಿ ಗೌರವಿಸಿದೆ. ಸಂವಿಧಾನದ ಕೆಳಕಂಡ ನಿಯಮಗಳು ಪುರುಷರು ಹಾಗೂ ಮಹಿಳೆಯರ ನಡುವಿನ ಸಮಾನತೆಯನ್ನು ಎತ್ತಿ ಹಿಡಿಯುತ್ತದೆ:

1. ಸಂವಿಧಾನದ 14ನೇ ವಿಧಿ ಅನ್ವಯ ಕಾನೂನಿನ ಮುಂದೆ ಎಲ್ಲರೂ ಸಮಾನರು.
2. 15(1) ವಿಧಿ ಪ್ರಕಾರ ಲಿಂಗ ಆಧಾರದ ಮೇಲೆ ರಾಜ್ಯವು ತಾರತಮ್ಯ ಮಾಡುವಂತಿಲ್ಲ.
3. 16(2)ವಿಧಿಯ ಪ್ರಕಾರ ಸಾರ್ವಜನಿಕ ಸೇವೆಗಳಲ್ಲಿ ಸಮಾನ ಅವಕಾಶ, 23 ಮತ್ತು 24ನೇ ವಿಧಿಗಳ ಪ್ರಕಾರ ಶೋಷಣೆ ವಿರುದ್ಧದ ಹಕ್ಕುಗಳು.
4. ಅನುಚ್ಛೇದ 39(ಎ)(ಡಿ)ಮತ್ತು (ಇ) ಹಾಗೂ 42ರ ರಾಜ್ಯನಿರ್ದೇಶಕ ತತ್ವಗಳಲ್ಲಿರುವ ಸಮಾನ ಕೆಲಸಕ್ಕೆ ಸಮಾನ ವೇತನ ನೀಡಿಕೆ.
5. 51(ಎ)(ಇ)ರ ಮೂಲಭೂತ ಕರ್ತವ್ಯಗಳಲ್ಲಿ ಮಹಿಳೆಯರಿಗೆ ಕುಂದುಂಟು ಮಾಡುವ ಆಚರಣೆಗಳನ್ನು ಬಿಟ್ಟು ಬಿಡುವುದು ಮತ್ತು ಮಹಿಳೆಯರನ್ನು ಗೌರವಿಸುವುದು.
6. 326ನೇ ವಿಧಿ ಅನ್ವಯ 18 ವರ್ಷ ತುಂಬಿದ ಮಹಿಳೆಯರು ಮತದಾರರಾಗುವುದು.
7. 84ನೇ ವಿಧಿ ಅನ್ವಯ 25 ವರ್ಷ ತುಂಬಿದ ಭಾರತೀಯ ಮಹಿಳೆ ಲೋಕಸಭೆಗೂ ಮತ್ತು 30 ವರ್ಷ ತುಂಬಿದ ಭಾರತೀಯ ಮಹಿಳೆ ರಾಜ್ಯ ಸಭೆಗೂ ಆಯ್ಕೆಯಾಗಲು ಅರ್ಹತೆ .
8. 173ನೇ ವಿಧಿ ಪ್ರಕಾರ 25 ವರ್ಷ ತುಂಬಿದ ಮಹಿಳೆ ರಾಜ್ಯದ ವಿಧಾನ ಸಭೆ ಮತ್ತು 30 ವರ್ಷ ತುಂಬಿದ ಮಹಿಳೆ ವಿಧಾನ ಪರಿಷತ್ ಚುನಾವಣೆಗೆ ಅಭ್ಯರ್ಥಿಯಾಗಿ ನಿಲ್ಲುವಹಕ್ಕು. ಸಂವಿಧಾನದ 243 ಡಿ ವಿಧಿಯ (3ನೇ) ಉಪವಿಧಿ ಅನ್ವಯ1/3 ಸ್ಥಾನಗಳು ಪ್ರತಿಯೊಂದು ಹಂತದ ಪಂಚಾಯತ್ ಸಂಸ್ಥೆಯಲ್ಲಿ ಮೀಸಲಿಡಬೇಕು.
9. 243 ಟಿ ವಿಧಿಯ(3)ನೇ ಉಪವಿಧಿಯ ಅನ್ವಯ 1/3ರಷ್ಟು ಸ್ಥಾನಗಳು ಪ್ರತಿಯೊಂದು ಪುರಸಭೆಯಲ್ಲಿ ಮೀಸಲಿಡಬೇಕು. (4ನೇ) ಉಪವಿಧಿ ಪ್ರಕಾರ ಪ್ರತಿಯೊಂದು ಅಧ್ಯಕ್ಷೀಯ ಸ್ಥಾನಗಳನ್ನು ಮಹಿಳೆಯರಿಗೆ ಮೀಸಲಿಡಬೇಕು.

ಹೀಗೆ ಮಹಿಳೆಗೆ ಸಮಾನತೆಯನ್ನು ನೀಡುವ ಹಕ್ಕುಗಳೊಂದಿಗೆ ಅವುಗಳ ದುರುಪಯೋಗವಾದಂತೆ ರಕ್ಷಣೆಯನ್ನು ಒದಗಿಸಲಾಗಿದೆ. ಸ್ತ್ರೀ ಎನ್ನುವ ಕಾರಣಕ್ಕೆ ಅವಳನ್ನು ಕೀಳಾಗಿ ಕಾಣದಂತೆ ನಿರ್ಬಂಧಿತ ಅನುಚ್ಛೇದಗಳನ್ನು ಸೇರಿಸಲಾಗಿದೆ. ಅಲ್ಲದೆ ಧರ್ಮ, ಜನ್ಮಸ್ಥಳ, ಜಾತಿ, ಲಿಂಗದ ಆಧಾರದ ನಡೆಯುವ ಅಸಮಾನತೆಗಳನ್ನು

ನಿಷೇಧಿಸಲಾಗಿದೆ. ಭಾರತ ಸಂವಿಧಾನವು ಸ್ತ್ರೀಯರಿಗೆ ನೀಡಿದ ಮೂಲಭೂತ ಹಕ್ಕುಗಳಲ್ಲಿ ಸಮಾನತೆಯ ಹಕ್ಕು ಬಹುಮುಖ್ಯವಾದುದು. ಇದರ ಜೊತೆಗೆ ಮಹಿಳೆಯ ವಿಶೇಷ ರಕ್ಷಣೆಯ ದೃಷ್ಟಿಯಿಂದ ಮಹಿಳೆ ಮತ್ತು ಮಕ್ಕಳಿಗಾಗಿ ನಿರ್ದಿಷ್ಟ ಉಪಬಂಧಗಳನ್ನು ಜಾರಿ ಮಾಡಲು ರಾಜ್ಯಗಳಿಗೆ ಅಧಿಕಾರ ನೀಡಲಾಗಿದೆ. ಇಂತಹ ಜವಾಬ್ದಾರಿಗಳಲ್ಲಿ
ಬಹುಮುಖ್ಯವಾದವುಗಳೆಂದರೆ, ಸ್ತ್ರೀ ಪುರುಷರಿಬ್ಬರಿಗೂ ಸಮಾನ ಜೀವನಾವಶ್ಯಕ ಅನುಕೂಲಗಳು, ಸಮಾನ ಕೆಲಸಕ್ಕೆ ಸಮಾನ ವೇತನ. ಅಲ್ಲದೆ ರಾಜ್ಯದಲ್ಲಿ ಮಹಿಳೆಗೆ ಶೇಕಡ 30ರಷ್ಟು ಉದ್ಯೋಗಗಳಲ್ಲಿ ಮೀಸಲಾತಿ ಕೊಡಲಾಗಿದೆ. ಹಾಗೂ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಯಲ್ಲಿ ಸಮಪಾಲು ನೀಡಲಾಗಿದೆ.

ರಾಜಕಾರಣದಲ್ಲಿ ಭಾಗವಹಿಸಲು ಸಂವಿಧಾನವು ಮಹಿಳೆಯರಿಗೆ ಸಮಾನ ಹಕ್ಕನ್ನು ನೀಡಿದ್ದರೂ ಇದನ್ನು ಅನುಭವಿಸಲು ಮಹಿಳೆಯರಿಗೆ ಸಾಧ್ಯವಾಗಿಲ್ಲ. ಸಮಾಜದ ಎಲ್ಲ ಕ್ಷೇತ್ರಗಳು ಪುರುಷ ಪ್ರಧಾನವಾಗಿರುವಂತೆ ರಾಜಕೀಯ ಕ್ಷೇತ್ರವೂ ಪುರುಷರ ಅಖಾಡವಾಗಿದೆ. ಮಹಿಳೆಯರ ರಾಜಕೀಯ ಪ್ರಾತಿನಿಧ್ಯತೆ ಬಗ್ಗೆ ರಾಜಕೀಯ ಪಕ್ಷಗಳ ನಿರಾಸಕ್ತಿ, ರಾಜಕೀಯ ಕ್ಷೇತ್ರವು ಪುರುಷರಿಗೆ ಮಾತ್ರ ಎಂಬ ಭಾವನೆ ಮಹಿಳೆಯಲ್ಲಿರುವುದು, ಕಲುಷಿತಗೊಂಡಿರುವ ರಾಜಕಾರಣ ಹಾಗೂ ರಾಜಕಾರಣದಲ್ಲಿ ಮಹಿಳೆಯರು ಭಾಗವಹಿಸಲು ಅಶಕ್ತರೆಂದು ಬಹುತೇಕ ಮಹಿಳೆಯರು ಹಾಗೂ ಪುರುಷರಲ್ಲಿರುವ ತಪ್ಪುಗ್ರಹಿಕೆ ಇಂತಹ ರಾಜಕೀಯ ಅಸಮಾನತೆಗೆ ಮುಖ್ಯ ಕಾರಣಗಳಾಗಿವೆ.

(v) ಮಹಿಳೆಯರಿಗಾಗಿ ಹಿಂದೂ ಕೋಡ್ ಬಿಲ್ ರಚನೆ

ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ಸ್ವತಂತ್ರ ಭಾರತದ ನೆಹರು ಸಚಿವ ಸಂಪುಟದಲ್ಲಿ ಕಾನೂನು ಮಂತ್ರಿಯಾಗಿ ನೇಮಕಗೊಂಡಿದ್ದರು. 1951ರ ಫೆಬ್ರವರಿ 5ರಂದು ಪುರುಷ ಪ್ರಧಾನವನ್ನು ಇಲ್ಲವಾಗಿಸುವ 'ಹಿಂದು ಕೋಡ್ ಬಿಲ್ಲ್'ನ್ನು ಸಂಸತ್ತಿನಲ್ಲಿ ಮಂಡಿಸಿದರು. ಇದು ಮಹಿಳೆಯರಿಗೆ ಆಸ್ತಿಯ ಹಕ್ಕು, ದತ್ತು ಸ್ವೀಕಾರದಲ್ಲಿ ಪುರುಷರಿಗಿರುವಂತೆ ಸಮಾನ ಹಕ್ಕು, ತನ್ನ ಅಸಹನೀಯ ಗಂಡನೊಂದಿಗೆ ಜೀವನ ಸಾಗಿಸಲು ಕಷ್ಟವಾದರೆ ವಿಚ್ಛೇದನ ಪಡೆಯುವ ಹಕ್ಕುಗಳನ್ನು ಅಳವಡಿಸಲಾಗಿತ್ತು.

ಹೀಗೆ ಹಿಂದೂ ಕೋಡ್ ಬಿಲ್ ಮಹಿಳಾ ಸಮಾನತೆ ಮತ್ತು ಹಕ್ಕುಗಳನ್ನು ಎತ್ತಿ ಹಿಡಿಯುವಂತಿತ್ತು. ಯಾವುದೇ ಸಾಮಾಜಿಕ ಬದಲಾವಣೆ ಬಯಸುವುದಾದರೂ ಅದಕ್ಕೊಂದು ಸೂಕ್ತ ಕಾನೂನು ಚೌಕಟ್ಟು ಒದಗಿಸುವುದು ಅವಶ್ಯಕ. ಮಹಿಳೆಯರ ಸಾಮಾಜಿಕ, ರಾಜಕೀಯ ಪ್ರಜ್ಞೆ ಚುರುಕುಗೊಳಿಸಲೂ ಸಹ ಸಹಾಯವಾಗುತ್ತದೆ ಎಂಬುದು ಅವರ ಅಭಿಪ್ರಾಯ. ಹೀಗೆ ಹಿಂದು ಕೋಡ್ ಬಿಲ್ ಮೂಲಕ ಪುರುಷ ಪ್ರಧಾನ ಸಮಾಜಕ್ಕೂ, ಸಾಂಪ್ರದಾಯಿಕ ಕುಟುಂಬ ವ್ಯವಸ್ಥೆಗೂ ಬದಲಾವಣೆ ತರಬಯಸಿದ್ದ ಈ ಸಂಹಿತೆಯ ಜಾರಿಗೆ ಸಂಸತ್ತಿನಲ್ಲಿ ವಿರೋಧ ವ್ಯಕ್ತವಾಯಿತು. ಅಂಬೇಡ್ಕರ್‌ರವರು ಹಿಂದು ಸಂಹಿತೆ ಬಗೆಗೆ ಇರಿಸಿಕೊಂಡಿದ್ದ ಆಸೆಗಳು, ಕನಸುಗಳು ಭಗ್ನವಾದವು. ಈ ಸೋಲಿನಿಂದ ಅತೀವವಾಗಿ ನೊಂದ ಅಂಬೇಡ್ಕರ್‌ರವರು ''ಅಳುವವರಿಲ್ಲದೆ, ಶೋಕಿಸುವವರಿಲ್ಲದೆ, ಹಿಂದೂ ಕೋಡ್ ಬಿಲ್ ಕೊಲೆಯಾಯಿತು'' ಎಂದು ಇದಕ್ಕೆ ಪ್ರತಿಕ್ರಿಯಿಸಿ ಕಾನೂನು ಮಂತ್ರಿ ಪದವಿಗೆ ರಾಜೀನಾಮೆ ನೀಡಿ ಮಹಿಳಾಪರ ಕಾಳಜಿವುಳ್ಳ ವ್ಯಕ್ತಿಯಾಗಿ ಹೊರಬಂದರು.

ಹಿಂದೂ ನೀತಿ ಸಂಹಿತೆ (Hindu Code Bill) ಯಲ್ಲಿ ಅಡಕವಾದ ಕಾಯ್ದೆಗಳೆಂದರೆ

1. 1955 ಹಿಂದೂ ವಿವಾಹ ಕಾಯ್ದೆ : ಈ ಕಾಯ್ದೆಯ ಪ್ರಕಾರ

* ಧರ್ಮಬಾಹಿರವಾದ ಮಕ್ಕಳನ್ನು ಧರ್ಮಸಮ್ಮತಗೊಳಿಸುವುದು.

* ಮಕ್ಕಳ ರಕ್ಷಣೆ ತಾಯಿಯ ಹಕ್ಕಾಗಿರುವುದು.

* ಹೆಣ್ಣುಮಕ್ಕಳ ವಿವಾಹದ ವಯಸ್ಸನ್ನು 15ವರ್ಷಕ್ಕೆ ಏರಿಸುವುದು (ಈಗ 18ವರ್ಷಕ್ಕೆ ಏರಿಸಲಾಗಿದೆ).

* ವಿಧವೆ ಮತ್ತು ಕನ್ಯೆಯರ ನಡುವಿನ ವ್ಯತ್ಯಾಸವನ್ನು ನಿರ್ಧರಿಸುವುದರಿಂದ ಅವರು ಅನುಕೂಲತೆಯನ್ನು ಪಡೆಯಲು ಅವಕಾಶವಾಗಿದೆ.

2. 1956 ಹಿಂದೂ ಉತ್ತರಾಧಿಕಾರದ ಕಾಯ್ದೆ : ಈ ಕಾಯ್ದೆಯ ಪ್ರಕಾರ

   * ವಿಧವೆಯರು ಮಗುವನ್ನು ದತ್ತು ಸ್ವೀಕರಿಸಬಹುದು. ಆದರೆ ಹಿಂದಿನ ಹಿಂದೂ ಕಾನೂನು ಇದನ್ನು ವಿರೋಧಿಸುತ್ತಿತ್ತು.

   * ಮಹಿಳೆಯು ತನ್ನ ಆಸ್ತಿಯನ್ನು ತನ್ನ ಇಷ್ಟಾನುಸಾರ ಮಾರಾಟ ಮಾಡಬಹುದು. ಈ ದಿಸೆಯಲ್ಲಿ ಅವಳು ಸಂಪೂರ್ಣ ಸ್ವತಂತ್ರಳು.

3. 1956 ಹಿಂದೂ ದತ್ತು ಸ್ವೀಕಾರ ಮತ್ತು ಜೀವನಾಂಶ ಕಾಯ್ದೆ : ಈ ಕಾಯ್ದೆಯ ಪ್ರಕಾರ

   * ಗಂಡು ಮತ್ತು ಹೆಣ್ಣು ಮಗು ಎಂಬ ಯಾವುದೇ ಬೇಧವಿಲ್ಲದೆ ದತ್ತು ಪಡೆಯಬಹುದು. ಆದರೆ ಹಿಂದಿನ ಶಾಸನದಲ್ಲಿ ಹೆಣ್ಣು ಮಕ್ಕಳನ್ನು ದತ್ತು ಪಡೆಯಲು ಅವಕಾಶವಿರಲಿಲ್ಲ.

   * ಮಹಿಳೆಯರು ತನ್ನ ಇಚ್ಛಾನುಸಾರ ಯಾರ ಅನುಮತಿಯಿಲ್ಲದೆ ದತ್ತು ಸ್ವೀಕರಿಸಬಹುದು.

   * ಪುರುಷರು ತನ್ನ ಪತ್ನಿಯ ಅನುಮತಿ ಇಲ್ಲದೆ ದತ್ತು ಪಡೆಯಲು ಹಾಗೂ ಕೊಡುವುದು ಸಾಧ್ಯವಿಲ್ಲ. ಹಿಂದಿನ ಹಿಂದೂ ಕಾನೂನಿನಲ್ಲಿ ಪತ್ನಿಯ ಅನುಮತಿಯಿಲ್ಲದೆ ದತ್ತು ಪಡೆಯಬಹುದಿತ್ತು.

   * ಈ ಕಾಯ್ದೆಯನ್ವಯ ಪುರುಷನು ತನಗಿಂತ 21 ವರ್ಷದ ಒಳಗಿನ ಹೆಣ್ಣು ಮಗುವನ್ನು ದತ್ತು ಪಡೆಯಬಹುದು.

4. 1956ರ ಅಪ್ರಾಪ್ತ ವಯಸ್ಸಿನ ಮಗುವಿನ ರಕ್ಷಣಾ ಕಾಯ್ದೆ : ಈ ಕಾಯ್ದೆಯ ಪ್ರಕಾರ

   * ಅಪ್ರಾಪ್ತ ವಯಸ್ಕ ಹೆಣ್ಣು ಮಗುವಿನ ತಾಯಿ ಜೀವಂತವಾಗಿದ್ದಾಗಲೇ ತಂದೆಯು ಮಗುವಿಗೆ ರಕ್ಷಕನನ್ನು ನೇಮಿಸುವ ಹಕ್ಕನ್ನು ನಿಷೇಧಿಸಲಾಗಿದೆ. ಇದರಿಂದ ಸ್ತ್ರೀಯರ ಬದುಕು ಮತ್ತಷ್ಟು ಭದ್ರವಾಯಿತು.

ಈ ಮೇಲಿನ ಕಾನೂನುಗಳಿಗೆ ಮುಂದಿನ ನೆಹರೂರವರ ಸರ್ಕಾರವು ಆದ್ಯತೆ ನೀಡಿ ಹಿಂದೂ ವಿವಾಹ ಪದ್ಧತಿ, ವಾರಸುದಾರಿಕೆ, ಅಪ್ರಾಪ್ತ ವಯಸ್ಕ ಹಾಗೂ ಪೋಷಕತ್ವ, ಜೀವನಾಂಶ ಎಂಬ ನಾಲ್ಕು ಬೇರೆ ಬೇರೆ ಮಸೂದೆಗಳನ್ನು ಜಾರಿಗೆ ತಂದರು. ಅಲ್ಲದೆ ಸಂವಿಧಾನದಲ್ಲಿ ಅಡಕವಾಗಿರುವ 24ನೇ ವಿಧಿಯಲ್ಲಿ ವೇಶ್ಯಾ ಪದ್ಧತಿಯಂತಹ ಇನ್ನಿತರ ಅನಿಷ್ಟ ಪದ್ಧತಿಗಳಿಂದ ಮಹಿಳೆ ಮಕ್ಕಳನ್ನು ರಕ್ಷಿಸಲು ಅವಕಾಶ ನೀಡಲಾಗಿದೆ. ಮಹಿಳೆಯರ ಮೇಲೆ ನಡೆಯುವ ಶೋಷಣೆಗಳನ್ನು ವಿಚಾರಣೆ ನಡೆಸಲು ಹಾಗೂ ರಕ್ಷಣೆ ನೀಡಲು ಕೇಂದ್ರ ಮತ್ತು ರಾಜ್ಯಗಳಲ್ಲಿ ಮಹಿಳಾ ಆಯೋಗಗಳನ್ನು ರಚಿಸಲು ಅವಕಾಶ ನೀಡಲಾಗಿದೆ. ಹಾಗೆಯೇ ಮಹಿಳೆಯರ ಮತ್ತು ಮಕ್ಕಳ ಅಭಿವೃದ್ಧಿಗಾಗಿ ಮಹಿಳಾ ಮತ್ತು ಮಕ್ಕಳ ಕಲ್ಯಾಣ ಇಲಾಖೆಯನ್ನು ರಚಿಸಲಾಗಿದೆ. ಹೀಗೆ ಅಂಬೇಡ್ಕರ್‌ರವರು ಸಂವಿಧಾನದಲ್ಲಿ ಸಾಕಷ್ಟು

ಕಾನೂನುಗಳನ್ನು ರಚಿಸಿಕೊಟ್ಟು ಮಹಿಳಾ ಅಭ್ಯುದಯಕ್ಕೆ ತಮ್ಮದೇ ಆದ ಕೊಡುಗೆ ನೀಡಿದ್ದಾರೆ. ಕೇವಲ ಸಂವಿಧಾನತ್ಮಕವಾಗಿ ಸ್ವಾತಂತ್ರ್ಯ ನೀಡುವುದಲ್ಲದೆ ಅವಕಾಶ ಸಿಕ್ಕಿದಾಗಲೆಲ್ಲಾ ಮಹಿಳೆಯರು ಅಭಿವೃದ್ಧಿ ಹೊಂದಲು ಸಂಪೂರ್ಣ ಮಾರ್ಗ ದರ್ಶನ ನೀಡುತ್ತಿದ್ದರು.

3. ಉಪಸಂಹಾರ

ಮಹಿಳೆಯರ ಬಗ್ಗೆ ಅಂಬೇಡ್ಕರ್‌ರವರ ಆಶಯ ಮತ್ತು ಧ್ಯೇಯೋದ್ಧೇಶಗಳನ್ನು ಮನಗಂಡ ಇಂದಿನ ಸರ್ಕಾರಗಳು ಮಹಿಳಾ ಪ್ರಗತಿಗಾಗಿ ಸಾಕಷ್ಟು ಯೋಜನೆಗಳು, ಕಾರ್ಯಕ್ರಮಗಳನ್ನು ಹಮ್ಮಿಕೊಳ್ಳುತ್ತಿವೆ. ಪ್ರಸ್ತುತ ಭಾರತದ ಸಾಕ್ಷರತೆ 74.04% ಅವರಲ್ಲಿ ಮಹಿಳೆಯರ ಸಾಕ್ಷರತೆ ಶೇ.65.46ರಷ್ಟಿದೆ. ನಮ್ಮ ಸರ್ಕಾರಗಳು ಮಹಿಳೆಯರ ಉನ್ನತ ವ್ಯಾಸಂಗಕ್ಕಾಗಿ ವಿದ್ಯಾರ್ಥಿ ವೇತನ, ವಿದ್ಯಾರ್ಥಿನಿಲಯಗಳನ್ನು ಸ್ಥಾಪಿಸಿ ಇವರ ಶಿಕ್ಷಣಕ್ಕೆ ಹೆಚ್ಚಿನ ಅವಕಾಶ ನೀಡುತ್ತಿವೆ. ಅಲ್ಲದೆ, ಸ್ತ್ರೀಶಕ್ತಿ, ಸ್ವಾಧಾರ್, ಸಾಂತ್ವನ, ಮಹಿಳಾ ಅಭಿವೃದ್ಧಿ ಯೋಜನೆ, ಪ್ರಿಯದರ್ಶನಿ, ರಾಷ್ಟ್ರೀಯ ಮಹಿಳಾತೀತ, ಇಂದಿರಾಗಾಂಧಿ ಯೋಜನೆ ಇನ್ನು ಹಲವಾರು ಯೋಜನೆಗಳ ಮೂಲಕ ಮಹಿಳೆಯರನ್ನು ಆರ್ಥಿಕವಾಗಿ, ರಾಜಕೀಯವಾಗಿ, ಸಾಮಾಜಿಕವಾಗಿ, ಅಭಿವೃದ್ಧಿ ಹೊಂದಲು ಸಹಕರಿಸುತ್ತಿವೆ.

ಇಷ್ಟೆಲ್ಲಾ ಕಾರ್ಯಕ್ರಮಗಳು ಜಾರಿಗೆ ಬಂದಿದ್ದರೂ ಸಹ ಮಹಿಳೆಯರ ಮೇಲೆ ನಡೆಯುತ್ತಿರುವ ಅತ್ಯಾಚಾರ, ಲೈಂಗಿಕ ಕಿರುಕುಳ, ಮಾನಸಿಕ ಹಿಂಸೆ, ದೌರ್ಜನ್ಯಗಳು ಕಡಿಮೆಯಾಗಿಲ್ಲ. ಮಹಿಳೆಯರ ಸಾಕ್ಷರತಾ ಪ್ರಮಾಣ ಹೆಚ್ಚುತಿದ್ದರೂ ಇಂತಹ ಘಟನೆಗಳು ಕಡಿಮೆಯಾಗುತ್ತಿಲ್ಲ. ಬಹುಶಃ ಶಿಕ್ಷಣದಲ್ಲಿ ಮೌಲ್ಯಯುತವಾದ ಅಂಶಗಳನ್ನು ಪ್ರಾಥಮಿಕ ಹಂತದಲ್ಲೇ ಅಳವಡಿಸುವುದರಿಂದ ಹಾಗೂ ಸಮಾಜದ ಮನಸ್ಸನ್ನು ಬದಲಾಯಿಸುವ ಮೂಲಕ ಮೇಲಿನ ಘಟನೆಗಳನ್ನು ಕಡಿಮೆ ಮಾಡಬಹುದು. ಒಟ್ಟಿನಲ್ಲಿ ಅಮಾನವತಾವಾದಿ ''ಮನು''ವಿನಿಂದ ಮಹಿಳಾ ವರ್ಗಕ್ಕೆ ವಂಚಿತವಾಗಿದ್ದ ಸ್ವಾತಂತ್ರ್ಯ, ಸಮಾನತೆ, ಸೌಲಭ್ಯಗಳನ್ನು ಸಂವಿಧಾನಬದ್ಧವಾಗಿಯೇ ದೊರಕಿಸಿ ಕೊಟ್ಟು ಸ್ತ್ರೀಕುಲದ ಅಭಿವೃದ್ಧಿಗೆ ಅವಕಾಶ ಮಾಡಿಕೊಟ್ಟ ಹರಿಕಾರರು ಅಂಬೇಡ್ಕರ್‌ರವರು. ಈ ಎಲ್ಲ ಅಂಶಗಳ ಹಿಂದೆ ಅವರಿಗೆ ಮಹಿಳೆಯರ ಪರವಾಗಿ ಇದ್ದ ಬಹುಮುಖಿ ಚಿಂತನೆ, ಮಹಿಳಾಪರ ಕಾಳಜಿ, ಕಳಕಳಿ ಎದ್ದು ಕಾಣುತ್ತದೆ. ಅಂಬೇಡ್ಕರ್‌ರವರು ಎಲ್ಲಿ ಮಹಿಳೆಯ ಸರ್ವತೋಮುಖ ಅಭಿವೃದ್ಧಿಯಾಗುತ್ತದೆಯೋ, ಆದೇಶದ ಅಭಿವೃದ್ಧಿ ತಂತಾನೆ ಆಗುತ್ತದೆ ಎಂಬ ಅಭಿಪ್ರಾಯವನ್ನು ವ್ಯಕ್ತ ಪಡಿಸಿದ್ದಾರೆ. ಮನುವಿನ ''ನಃ ಸ್ತ್ರೀ ಸ್ವಾತಂತ್ರ್ಯ ಅರ್ಹತಂ'' ಎಂಬ ಕ್ರೂರ ಘೋಷಣೆಯನ್ನು ತೊಡೆದು ಹಾಕಿ ''ಸರ್ವಂ ಸ್ವಾತಂತ್ರ್ಯ ಅರ್ಹತಂ'' ಎಂಬ ನಾಣ್ಣುಡಿ ಹುಟ್ಟು ಹಾಕಿದ ಭಾರತದ ಸಂವಿಧಾನದ ಶಿಲ್ಪಿ ಡಾ.ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್‌ರವರು ಮಹಿಳೆಯರ ಅಭ್ಯುದಯದಲ್ಲಿ ಅಗ್ರಮಾನ್ಯರು ಎಂಬ ತೀರ್ಮಾನಕ್ಕೆ ಬರಬಹುದಾಗಿದೆ.

ಗ್ರಂಥಋಣ:

1. ''ಅಂಬೇಡ್ಕರ್‌ರವರ ಸಮಗ್ರ ಚಿಂತನೆ''– ಒಡೆಯರ್.ಡಿ.ಹೆಗಡೆ
2. ''ಅಂಬೇಡ್ಕರ್ ಶೂದ್ರರು ಮತ್ತು ಮಹಿಳೆಯರು'' –ಡಾ.ಮ.ನ.ಜವರಯ್ಯ
3. ಮಹಿಳೆ: ದಲಿತತ್ವ ಮತ್ತು ರಾಜಕೀಯ ಪ್ರಜ್ಞೆ – ಡಾ.ಎಚ್.ಎಸ್. ಅನುಪಮ
4. The Rise and Fall of the Hindu Women- Dr. Ambedkar
5. Social System of India- Jatava.D.R
6. ಡಾ. ಹಾಲತಿ ಸೋಮಶೇಖರ್, ''ಸ್ತ್ರೀಪರ ಕಾನೂನುಗಳು ಮತ್ತು ಸಂಘಟನೆಗಳು'', ವಿಸ್ಮಯ ಪ್ರಕಾಶನ, ಮೈಸೂರು, 2008, ಪುಟ. 4

7. ನಿರೋಜ್‌ಸಿನ್ಹ "ಭಾರತದ ರಾಜಕೀಯದಲ್ಲಿ ಮಹಿಳೆ" ವಿದ್ಯಾನಿಧಿ ಪ್ರಕಾಶನ, ಗದಗ, 1997, ಪುಟ. 83.

8. ಲಾಯಿಖ್ ಫಾತೆಹಳ್ಳಿ "ತೃತೀಯ ಜಗತ್ತಿನಲ್ಲಿ ಮಹಿಳೆಯರು" ದಿವ್ಯಚಂದ್ರ ಪ್ರಕಾಶನ, ಬೆಂಗಳೂರು, 2000, ಪುಟ. 25.

9. ಜೆ.ಸಿ. ಜೋಹಾರಿ, "ಭಾರತ ಸರ್ಕಾರ ಮತ್ತು ರಾಜಕೀಯ' ನವಕರ್ನಾಟಕ ಪಬ್ಲಿಕೇಷನ್ಸ್, ಬೆಂಗಳೂರು, 1992, ಪುಟ. 56.

10. ಎಂ. ಲಾಲ್‌ಫೋಯಲ್, "ಅಭಿವೃದ್ಧಿಶೀಲ ದೇಶ ಭಾರತದಲ್ಲಿ ರಾಜಕೀಯ ಭಾಗವಹಿಸುವಿಕೆ" ಸಹ್ಯಾದ್ರಿ ಪ್ರಕಾಶನ, ಶಿವಮೊಗ್ಗ, 1990, ಪುಟ. 40.