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Yeola, Dist. Nashik (M.S.) India

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Disadvantaged Group of Women Vis a Vis Criminal Justice

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Introduction

Jawaharlal Nehru had said that 'You will tell the condition of the nation by looking at the status of women.' Gender forms a basis in all societies for the division of the labor and social allocation of rights and responsibilities. Women have a unique position in every society whether developed, developing or underdeveloped. This is particularly due to the various roles they play during various stages of their life. Yet she belongs to a class of the society which is in a disadvantaged position on account of social barriers. Even though self-sacrifice and self-denial are their abilities yet they have been made victims of inequalities, indignities and discrimination from immemorial time. So there is need of protective discriminations for them.

The response of international community

In 1792, the treaties appeared on the ideas of equality between the sexes. British feminist Mary Wollstonecraft in 'Vindication of the Rights of Women' discuss the attitude of the conservative thinkers who advocates the rights of men and denigration of women's capacity. In 1869 John Stuart Mill published a book in which he advocates equal opportunities to women in public life.

The first attempt for women at international level were not to liberate women but to protect daughters, sisters, mothers and wives from sexual harassment. In 1906 an international convention was signed relating to prohibition of night work by women in industrial employment. In 1999 more humanitarian action was the convention concerning the employment of women before and after child birth. In 1921 the Convention relating to trafficking in women recognized at international level.

United Nations carried out the commendable work for the promotion of Women's right i.e. Convention on the Elimination of All Forms of Discrimination against Women adopted by General Assembly on 18 Dec. 1979. The optional Protocol of this convention entered into force in Dec. 2000, the UN Decade for women from 1975 to 1985 highlighted the contents of CEDAW at Mexico City in 1975, Copenhagen in 1980 and Nairobi in 1985. Since the SAARC declaration of 1990 as the year of girl child, many seminar and conferences were held and declaration passed.

Status of Women in India

In ancient India women were respected as mothers, sisters and daughters. As Manu said in the Manusmriti, 'Yatra Naaryastu Poojyanti Ramante Tatra Devatah (where women are respected, divine graces adore that home) but it was the principle of theory only and was hardly in practice. Even Lord Rama rebuked Sita when she was freed from the claws of Ravana after the great war of Ramayana. In the times of Mahabharata Draupadi was divided by the five pandavas for their sexual enjoyment.

The Position of women in modern India is hard to define. On the one hand she is confined to the household where her role is to procreate, bring up children and fulfill the needs of men. On the other hand women have occupied very high position in areas such as politics, administration, science, technology, medicine, education and judiciary. Justice V.R Krishna Iyer in, 'Human without Rights' opines that women in India continue to be degraded and this social depravity and massive manslaughter of human rights of womanhood is a daily reality.

The Indian Constitution and the laws passed and amended have given Indian women only a de jure status that is unique. The laws remain confined to the statute books. The real need today is to educate women about their legal rights and provide them necessary power to enforce them. It seems that women's physical structure is different than men. Due to this reason they cannot fight for their rights directly against the man and society. Owing to this reason they are exploited and harassed by the family members and indoor and outdoor society.

Thus, the disadvantages status of women in Indian society can be seen in the following areas: Inadequate access to education, female infanticide, dowry deaths, rape, sexual assault, sexual harassment at work places, acid attack.

Role of constitution

The Constitution of India contains various provisions which provides for equal rights and opportunities for both men and women.

Art.14 guarantees that the state shall not deny equality before law and equal protection of laws

Art.15 prohibits discrimination against any citizen on the ground of sex

Art.15(3) Empowers the state to make positive discrimination in favor of women and children

In consonance with the provisions of article 15 (3) the national women's commission act was enacted in 1999

Art.16 provides equality of opportunities in matters of public employment

Art.23 prohibits trafficking in human beings and forced labor

Art.39 (a) and (d) enjoins the state to provide equal means of livelihood and equal pay for equal work

Art.42 enjoins the state to make provisions for just a human condition for work and for maternity relief
Reservation for women is provided in election of local bodies. the 73rd and 74th amendment to the Indian Constitution effects in 1992 provided for reservation of seats to the women in election to the panchayat and municipality

Criminal Law and Women

Sec.304 of IPC

This section deals with a person causing dowry death is liable to be punished with minimum imprisonment on 7 years which may extend to imprisonment of life also

Sec.366 of IPC

According to this section kidnapping or abducting any women with the intention or compelling her to marry any person against her will or to force her to implicit intercourse is punishable with maximum imprisonment of 10 years

Sec.326A of IPC

Acid attack - Imprisonment not less than 10 years but which may extend to imprisonment to life with fine which shall be just a reasonable to meet the medical expenses and it shall be paid to victim

Sec.326B of IPC

Attempt to acid attack - Imprisonment not less than 5 years but which may extend to 7 years and shall also be liable to fine

Sec.354A of IPC

Sexual harassment - Rigorous imprisonment up to 5 years or with fine or with both in case of offense described in clauses (i) and (ii) imprisonment of 1 years or with fine or with both in other cases.

Sec.354B of IPC

Act with intent to disrobe a woman. - It gives punishment of imprisonment not less than 3 years but which may extend to 7 years or with fine

Sec.354C of IPC

Voyeurism - It provides punishment in case of first conviction, imprisonment not less than one year but which may extend to 3 years and with fine and on second subsequent conviction imprisonment shall not be less than 3 years but which may extend to 7 years and with fine

Sec.354D of IPC

Stalking - It provides punishment of imprisonment not less than 1 year but which may extend to 3 years with fine

Sec.493 of IPC

If there is co-habitation by any person by deceitful means, then he is punishable with maximum punishment for 10 years

Sec.498(A) of IPC

This section punishes the husband and his relatives who subject a married woman to cruelty. This cruelty includes physical as well as mental harassment

Sec.125 of Criminal Procedure Code

This section recognizes and gives effect to the fundamental duty of man to maintain his wife, children and parents. Wife includes a divorced wife who has not remarried.

Sec.46 of Criminal Procedure Code

This section was amended in 2005 which provides safeguards for women in terms of bar on arrest after sunset and sunrise except in exceptional circumstances.

Sec.437 of Criminal Procedure Code



Under this section, there are certain beneficial provisions of bail of women to be considered in non-bailable offence

Role of Judiciary

The Apex Court of the country and several High Courts of the states have protected women by their judicial decisions.

1. **Ammini vs Union of India** – The Kerala High Court struck down Sec.10 of the Indian Divorce Act holding that discrimination between Christian spouses wherein different grounds of divorce are available to the husband as compared to wife violates Art.14 and 15 of the Constitution.
2. **Vishakha vs State of Rajasthan** – The Supreme Court has laid down exhaustive guideline Which recognizes the right of women to work with human dignity. Sexual harassment of working woman amounts to violation of right to equality, right to life and liberty and right to practice any profession under Art.14,15,19(g) &21 of the Constitution.
3. **Apparel Exports Promotion Council vs A. K.Chopra** – The Supreme Court laid down in Vishakha was applied in above mentioned case. The Supreme Court uphold the dismissal of a superior officer. The Court held that dignity and honor of a female is to be preserved.
4. **Air India vs Nargesh Mirza** – The Supreme Court struck down discriminatory service conditions requiring female employer to obtain government permission before marriage and denying married and pregnant women the right to be employed.
5. **Govt of A.P vs Vijaykumar** – The Supreme Court laid down that Art.15(3) can be read into Art.16 to sustain any special provision favoring women.

Conclusion

After Independence many Acts have been passed for empowering and improving the condition of women but these are remains on the paper. While one organ of the State, the legislature has been over anxious to pass laws, the other organs executives and judiciary did not implement and interpreted respectively. Thus there is a big gap in availability of legal rights of women and their actual enjoyment and implementation. Really there is lacuna on the part of government and also in implementing machinery. The international Conventions and legislative measures are in favor of women, but their success depends on effective implementation. The proper co-ordination of the three branches of state is absolutely essential. Until there is empowerment of women, dissemination of legal awareness amongst them, economic status raised with the family and in the society, law will remain in effect on paper only. I must mention the most striking and relevant verses of a poem at this state
I am the woman also

hold up the sky. The rain-
blow runs through my eyes
The sun makes a path to my
womb. My thoughts are in
the shape of clouds. But
my words are yet to come.

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Indian Bar Review Vol.45(2) 2018
Nyaya deep Vol.VI Issue 2 April 2005
Nyaya deep Vol. VII Issue 3 July 2006
AIR 1995 Ker.252
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1999(1) SCC 759
1981 SCC 335
1995 SC

A Study of Feministic Approach in Shakespeare's Tragedy 'Hamlet'.

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Abstract

This paper is based on the feminist point of views, Shakespeare's tragedy Hamlet. His plays reflect all the issues and perspectives of the contemporary England and the world in general. Ben Jonson's words are that he was for all times. The issues are related to women are as old as human life. Shakespeare's feminist concerns are reflected in his tragedies such as Hamlet, Othello, Macbeth, and King Lear. In Hamlet, Gertrude is portrayed as an adulterous woman and Hamlet generalizes frailty synonymous of woman. This paper also based on the female characters in the play Hamlet and their role and importance in the feminist point of view. This paper also emphasis on the concept of feminism and its types. Feminism also called women's liberation in U.S.A. and started in 1960. The Female characters play an important role for the dramatic run of events in Shakespeare's plays. Feminist criticism appears to be the fastest growing and most wide spread of all recent approaches to Shakespeare.

Keywords: Feminism, Feminist critique, Gynocritique, Female Characters.

Objectives of the Research

1. To study the concept of feminism and its history.
2. To study the types of feminism.
3. To study the female characters in the play Hamlet.
4. To apply the theory of feminism in the play Hamlet.

Research Methodology and Techniques

The researcher has used the primary sources original play and critical books of the play. Secondly sources have used by the researcher such as Journals, Articles, and research papers.

a) Introduction

Feminism has become a dominant force in contemporary literary criticism like deconstruction and new historicism. It has challenged several assumptions of traditional criticism. It has made considerable advancement during a small period of time Virginia Woolf,

Elaine Showalter, Kate Millet; these are the major exponents of feminist criticism. Feminism is a social, cultural, political movement for women and men. In a simple way, **feminism means an attempt to understand woman as a woman.** It begins in U.S.A. and it is also called women's liberation.

According to Elaine Showalter, dividing two types of feminist criticism.

A) Feminist critique. B) Gynocritique.

Feminism is usually defined as the advocacy of women's rights on the grounds of equality of the sexes. Literature always reflects the life, culture and social milieu of the period in which it is created. Shakespeare's greatness lies in the fact that he left no subject untouched.

Shakespeare wrote about love, marriage, and woman in his tragedies and comedies that reflect not only contemporary views but his own. His plays present patriarchal domination and also emerging protest against it. Shakespeare cannot be called a feminist in modern sense but deep down his humanist stance makes him stand for gender equality. During the Elizabethan England, the gender equality of ideal woman was silent, virtuous, devoted, chaste woman. They were brought up to become good housekeepers and child bearers. In Greek literature, women were treated as inferior who depended on men as fathers, husbands and sons. During the time of Shakespeare, Queen Elizabeth ruled over England proving that a woman could manage political and state affairs as skillfully as man. However, patriarchy was an accepted form of belief. There was a great equality between men and women and women were repressed in various ways. Many people acknowledged that there were many women who were superior to their husbands both intellectually and spiritually. Yet women were excluded from social life and political life. They had no right to vote or take active part in politics and social issues. They were only presents their role like nurse, cooks, homemakers etc.

b) Definition of feminism

Feminism means an attempt to understand woman as a woman.

c) Types of feminist criticism

i) Feminist critique

Feminist critique is concerned with women as a reader, with women as the consumer of male Produced literature. This analysis may be called feminist critique. Feminist critique is concerned

with women as a reader and women as is shown as the literature written by male authors. Feminist critique is a male oriented.

ii) Gynocritique

Gynocritique deals with women as a writer. It is concerned with the themes and a genre written by women. Its subject includes study of a particular women writers and the problem of female language. In this type feminist critics free themselves from the dominance of male literary history.

d) The Female Characters in Hamlet

Female characters are the most important roles for the dramatic run of events in Shakespeare's plays. Just as in real life, women of Shakespeare dramas have been found to rules and conventions of the patriarchal Elizabethan era. Therefore, it was very common back in Elizabethan England to compel woman into marriages in order to receive power, legacy, dowry or land in exchange. Even though the Queen herself was an unwed woman, the roles of woman in society were extremely restricted. Single women have been the property of their fathers and handed over to their future husbands through marriage. During the time of Elizabethan period, women were considered as the weaker sex and dangerous, because their sexuality was supposedly mystic and therefore feared by men. Women of that era were supposed to represent virtues like obedience, silence, sexual chastity, piety, humility, constancy and patience. All these virtues of course, have their relationship with men. The role allocation in Elizabethan society was strictly regulated, men were the bread winners and woman had to be obedient house wives and mothers. However, within this derived, tight and organized scope, women have been represented in most diverse ways in Shakespearean dramas. The construction of female characters in Shakespeare plays reflects the Elizabethan image of woman in general. For all that Shakespeare supports the English renaissance stereotypes of genders their role and responsibility in society. Feminist criticism appears to be the fastest-growing and most widespread of all recent approaches to Shakespeare. Further, concerning teaching of Shakespeare's plays are related to feminist criticism is a very easy to follow and interesting point of view for any school level. Feminism reveals and challenges the cultural shaping of gender roles in all social institutions like family, work, politics, and religion and of course in literature and drama. Feminist criticism indicates how female experience is portrayed in kinds of literature like poetry, dramas and novels. Shakespeare's plays relate with resourceful and self-confident women, who create their own image and achieve or represent their spirited freedom.

Shakespeare tragedies and comedies, we find some powerful characters that prove that women were always equal to men. They may not be politically powerful but they were intelligent bold and influenced their male counterparts. Even in male dominated society, men were often influenced by women mother, grandmother, sister, wife or daughter. Shakespeare's powerful women characters display their inner strength, intelligence, rational attitude and pragmatic approach to problems of life.

In this play, there are only two female characters in Hamlet both of these characters are presented from the male and patriarchal perspective.

I) The character of Ophelia

Ophelia is one of the most important characters in Hamlet. Ophelia is the beloved of Hamlet and she is a good daughter of her father and a good sister of her brother. Ophelia absolutely obeys her father and brother even at the cost of her own feelings. Laertes manifests the double standard prevalent in the 16th century for men and women. A man's honors are not at stake for indulging in affairs outside the institution of marriage. But Ophelia is to run her honor from any such confer. She gives Laertes her word that she will keep his dictates in her memory and he himself will keep the key to it. This leaves in no doubt about the superior position of the brother as compared to the sister. Ophelia's father compares her to wood cocks which cannot fern for itself. Polonius makes it year that Hamlet, being a man can walk with a longer tether than can be given to Ophelia. She loves Hamlet but, avoids and abstains herself from Hamlet when forbidden by brother and father. After that, prince Hamlet blamed Ophelia, and through her the whole woman kind of disloyal and betrayal of hypocrisy and falsehood. Ophelia in Hamlet represents young, naïve and innocent girl. She is the daughter of Polonius the lord chamberlain in the court of Claudius. She was raised by her father who taught her to be obedient meek and chaste. She blindly followed her father's dictates. Her brother Laertes always discouraged her to keep away from Hamlet's company. Ophelia obeys her father and brother and keeps away from the obsessive prince of Denmark. Polonius fears that his daughters would be seduced and abused by Hamlet. Ophelia suffers as she is torn between her father and her lover Hamlet. She becomes mad and drowns herself in a stream. She is the victim of patriarchal domination only in death.

II) The Character of Gertrude

Gertrude is one of the most important characters and the wife of Hamlet the king. This character is portrayed as a negative stereotype of a woman. French calls such women as the outlaw aspect of the feminine. Such women are associated with darkness and sexuality. They are

whores and bitches. She remarries Claudius, the brother of king hamlet, within days of the death of her husband. It is her misbehavior that has pushed the prince Hamlet to the thought of committing suicide. She wept like Niobe at the funeral of her husband but within days enters into a new wedlock. She is portrayed as a faithless and disloyal woman. She recollects her past memories of her loving husband and with indecent haste and speed marries Claudius, in violation of social and religious laws and sanctions. Shocked her conduct, her son prince Hamlet utters his judgments against her mother, "frailty the name is woman". Even the prince Hamlet assumed her mother as the property of his father. He behaves as the property of his father. He behaves like a typical male, reinforcing the dictates of patriarchy. He comes up with a sweeping and general judgment against women. Gertrude's right to remarry is not accepted. The Prince Hamlet calls her mother the most pernicious woman, a damned smiling villain. Nowhere else such titles and labels are given to a man for remarriage after the death of his wife. This is nothing but the double standards patriarchy upholds and reinforces. The Prince Hamlet the remarriage of his mother is the violation of modesty and grace. He finds it as the disgrace of virtue and love itself. He finds it as the disgrace of virtue and love itself. He inquires the right of a mature woman to decide about her life. He does not respect the choice of her mother and want her mother to view things from his perspective. Hamlet declares it as shameful and a gross trespassing.

Conclusion

We can say that Shakespeare did not claim to be a feminist in modern sense but his concerns about women display his dispassionate observation of women's roles in the world. Shakespeare was quite aware of the virtues and strength of women. He was also aware of the fact that they suffered they don't fight openly against these vices; they voice their sufferings and protest against them. In Shakespeare's play, ((Hamlet) the female characters are calm, quiet, silent and subordinate to the men. Women don't occupy equal positions with men in society, socially, politically and economically. The women are portrayed as creatures of passion and irrationally. The women are not capable to handle serious issues and challenges and because of this lack cannot be true leaders. The women in this play do not have the genuine freedom and liberty and all major decisions about their lives are taken by men without them being ever consulted. The word connected to feminism is idea. Feminism is just an idea we have developed, just because the world itself did not exist during Shakespeare's time doesn't mean there were not strong women before, or that Shakespeare didn't have a thought that maybe women were both more than what his society allowed. He thinks that women were just as strong, capable, and intelligent as men were. Gender roles play such a major theme in almost all of Shakespeare

works; it is possible to think that he believed in an idea to modern day feminism. Instead of coming out and saying something about a woman's role in society he used gender roles in his plays to show the audience that woman is capable of conquering a man's role.

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13. Equal Pay for Equal Work as A Social and Economical Charter for Agricultural Labour : A Study

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"All are equal before the law and are entitled without any discrimination to equal protection of law".

UDHR.

Abstract

The paper has been title and formulated to emphasize Equal pay for equal work as a social and economical Charter for agricultural labour's: A Study. The paper is divided in five parts that have been chronologically arranged. The first deals introduction of the research problem. The second parts deals definition of agricultural labour. The third parts deals constitutional provision and various land mark cases of supreme court's about the concept's of "equal pay for equal work " next part discuss various ILO convention about the equal remuneration which welfare measures provide for the agricultural labour. Lastly, conclusion and suggestion for the concept of equal pay for equal work as reformative measures.

Introduction

India is a land of villages and also agricultural country and our Indian economy is stabilized by agricultural country. A vast majority of it's people for their livelihood depend on farm and non farm activities.

The agricultural labour are the weaker section of the work force. They are neither organized or enlighten and aware of their rights. This is true of agricultural labour in different regions. Their problems are different from those other enlighten section of labour. The survival of agricultural labour who are a third of the rural

In the era of globalization and liberalization employers always try to enhance their profits without providing adequate services and amenities for the betterment of workers. The employers consider these benefits as unwanted financial burden. So they always try to avoid in providing

minimum statutory requirement of the social security.³ May be the less interest of politician to such social welfare of agricultural labourers.

The unawareness and unorganized nature of agricultural labour, illiteracy fragmentation of land, poverty, social and economical condition of agricultural labourers etc, are various reasons or lacunas for such implementation of laws and schemes governing agricultural labour.

Agricultural labour means any person employed in agricultural crop production as a wage earner, whether in cash or kind, for his livelihood and includes a person engaged through a contractor or engaged as a self employed person.⁴

Constitutional Law is living law for human being. It provides social and economical charter through fundamental rights and directive principles for the human beings as well as agricultural workers.

Fundamental rights in part III of the constitution Art. 14 say's equality before law and and equal protection of laws. Art. 15 say's no discrimination on grounds of religion, race, caste or sex etc. And Art.16 say's equal opportunity in public services. Purpose of these article to established equality among the people as well as agricultural labourers. There is no discrimination between men and women the basis of sex.

In addition are the in part IV as mentioned social and economic charter including equal pay for equal work Art. 39(d), and social security charter including rights to work Art. 41 of the constitution of India for the citizens as well agricultural labourers.

Equal pay equal work is the concept of labour right it mentioned part IV of the Constitution as a Directive Principles of state policy not a fundamental rights part III of the constitution.

Pursuant to Art. 39(d), parliament has enacted the equal remuneration Act, 1976. The objects of this act to provide for payment for payment of equal remuneration to men and women workers and to prevent discrimination on the ground of sex against women is employment. The act has overriding effect over other act. The directive contained in article 39(d) and the act passed thereto can be judicially enforceable by the court. In *Randhir Singh Vs Union of India*, the supreme court has held that the principles of Equal pay for equal work though not a fundamental rights is certainly it constitutional goal and, therefore, capable of enforcement through constitutional remedies under Art. 32 of the constitution. In the above discussion conclude that, the principle "equal pay for equal work" is not an abstract doctrine but one of

substance in *dhirendra Chamoli Vs State of U.P.* the S.C. has held that the doctrine of equal pay for equal work is equally applicable to persons employed on daily wages basis. The art. 14 is entitled to the same wages as other permanent employees in the department employed to do the identical work.⁹

In the, *Grih Kalyan Kendra Vs Union of India*. In this case supreme court has complasized that "Equal pay for qual work is not expressly declared by the constitution as fundamental right but in view of the directive principal of state policy as contin in Art. 39(d) of the constitution "equal pa for equal work" has assume the status of fundamental rights in service jurisprudence having regarded to the constitution mandnte of quality in Art. 14 and 16 of for constitution.

The International labour organization is specialize ngency of the united nation in dedication to improve labour's conditions as well as living standards throughout the world. I.L.O. has passed.

The convention of Equal Remuneration, 1951. The principle of qual remuneration for men and women workers for work of eual value refers to rates of remuneration establish without discrimination based on sex. Futher, another convention is Discrimination Employment and occupational, convention 1952, Requires the promotion of equality of opportunity and treatment in relation to employment and occupation and calls on states to declare and pursue a national policy designed to eliminate all form discrimination. Equal pay for equal work also covered by Art.7 of the International convention economic, social and cultural rights. Purpose of the convention and recommendation to establish equal social and economical justice among them for development of nation as well as world.

Concluding remarks

From the above discussion it is clear that, "equal pay for equal work" is the concept of labour right's that individual doing the same work should receive the same remuneration, it is most commonly used in the context of sexual discrimination in relation to the gender pay gap. But employees are not provided equal pay for equal work for the women and men. They consider woman is less powerful form men. This principles always doing injustice on the women's workers in the agriculture sector. Hence there is a need to enact a comprehensive laws and awareness among the workers and employers through various government programmers.

In spite of all the constitutional provisions agricultural workers are poorly protected by national labour law and codes, either because they are explicitly excluded legislation often does not apply to agricultural workers or because existing laws de facto can not be applied to the agricultural sector as employment categories do not match among other things. There is need to enact effective labour legislation for the agricultural labour.

Our Indian Judiciary has protected the agricultural labour by pronouncement of various landmark decision in this direction as a result of which bonded labour and the labour of like nature would be able to get rid of from the clutches of their powerful slown awareness of the problem of agricultural workers and all plan document have suggested ways the problem of agricultural workers.

The ILO have done commendable progress in promoting developing the uniform code of the agricultural labour at world level. But the convention and recommendation are modified according to the social economical and political condition. There is need to organize agricultural labour for their betterment.

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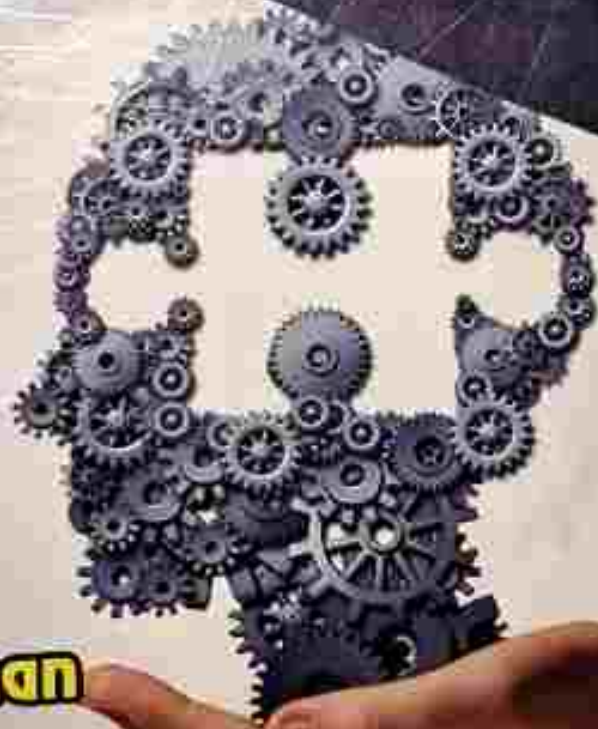
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14. Disadvantaged Group of Women: Socio - Legal Perspective

Prof. Deoyani Nikam

Asstt. Prof., Shri Omkarnath Malpani Law College Sangamner Dist-A'Nagar.

Introduction

Women have unique position in every society whether developed, developing or undeveloped. This is due to the various roles they play in their lives. Self-sacrifice and self-denial are their abilities yet they are humiliated and ill-treated by the men. Women are responsible for bearing children yet they are malnourished and in poor health. They have to complete all the domestic work and they are overworked and overburdened in their daily routine. Indian society is a male dominated society therefore Women are mistreated inside and outside the home. Women are required to prepare meal for the men who eat most of the food and only after the men are finished eating, the female can eat. Women have been made victims of inequalities, indignities and discrimination from immemorable time. So there is urgent need of protective discrimination for them.

Status of Women in India

Pandit Jawaharlal Nehru said that "You can tell the condition of the nation by looking at the status of its Women "

In ancient time Women are considered as reproducers although they invented agriculture and produce about 50% of world's food. As Manu said in the Manusmriti, "Yatra Naarayastu Poojyanti Ramante Tatra Devataha " (Where Women are respected, divine graces adore that home) but it was only a principle and was not actually in practice even lord Rama rebuked Sita when she was freed from the clutches of Ravana after the war of Ramayana.

In modern India the status of Women has radically changed. On the one hand she is confined to household where her role is to procreate, bring up children and fulfill the needs of men. On the other hand she have occupied very high position in education, politics, science, technology, medicine, judiciary and administration. The status of Women – social, economic, political and general in India is much higher than in ancient and medieval period and her status of has been raised in the eyes of law but still they are much far from equality with male. Women are still exploited and humiliated in modern India. Justice V.R Krishna Iyer in, "Human without

rights" opines that Women in India continue to be degraded and this social depravity and massive manslaughter of human rights of womanhood is a daily reality.

Role of International Community

The Preamble to the UN Charter reaffirms, "The equal rights of men and Women. The four different Articles - 1(3), 55, 68 and 76 in the Charter affirmed that human rights and fundamental freedoms belong to all, "without distinction as to the race, sex, language or religion" gave strength to the initial wordings. So the principal of equal rights of Women and men are also enshrined in the charter of United Nation.

Universal Declaration of Human rights was adopted by UN General Assembly in 1948. It also proclaims numerous rights of which people everywhere are entitled.

Economic and Social Council of UNO has established its commission on the status of general equality and advancement of Women.

In 1985 World Conference on Women called 'Precondition for the establishment of human and progressive society'. Where the representative of international alliance of Women observe the need to strengthen the perception that all human rights are linked to the protection of Women's rights.

The landmark and decisive beginning was with the adoption by General Assembly in 1979 the Convention on the Elimination of all Forms of Discrimination against Women and set up agenda for the national action to end such discrimination.

The UN decade for Women from 1975 to 1985 highlighted the contents of CEDAW. The four world conference on Women (Mexico city 1975, Copenhagen 1980, Nairobi 1985 and Beijing 1995) Women advocate raised the issue of gender violence and demanded special attention on Women's full participation in society. Since the SARRC declaration of 1990 as the year of girl child, many seminars and conferences were held and declaration passed in which the rights of the adolescent girl are acknowledged.

The Role of constitution of India

The Constitution of India contains various provisions which provide equal rights and opportunities for both men and Women

1. The Preamble

The preamble of Constitution of India contains various goals including the equality of status and opportunity to all the citizens.

2. Fundamental Rights

ART.12 to 35 is applicable to all the citizens irrespective of sex.

Art. 15 - Guarantees that the State shall not deny equality before law and equal protection of the laws.

Art. 15- prohibits discriminations against any citizen on grounds of sex.

Art. 15 (3) empowers the State to make positive discrimination in favor of Women and children.

So, National Women commission Act was enacted in 1990 in consonance with the provision of Art. 15 (3).

Art. 16 provides equality of opportunity in matter of public employment.

Art. 23 prohibits trafficking in human beings and forced labor.

Art. 39 (a) and (d) enjoins the state to provide equal means of livelihood and equal pay for equal work.

Art. 42 - enjoins upon the State to make provisions for securing just human conditions of work and for maternity relief.

Art 51 A (e) impose a fundamental duty on every citizen to renounce the practices derogatory to the dignity of Women.

Sec 243D(3)- provides that not less than $1/3^{rd}$ of the total number of seats to be filled by elections in every Panchayat to be reserved for Women.

Sec 243T(3)- provides not less than $1/3^{rd}$ of total number of seats to be filled by direct election in every Municipality shall be reserved for Women.

Sec 243T (4) - provides reservation of officers of Chairperson of Municipalities for SC, ST in such Manner as a legislature of a State by law provide.

Indian Laws and Women

After independence it was the codified Hindu law which brought out radical reforms to improve the condition of Hindu women

1. Hindu marriage Act 1955

Section 5 lays down the condition of a valid marriage.

Section 8 deals with registration of Hindu.

Section 9 deals with restitution of conjugal right.

Section 10 provides for judiciary separation.

Section 13 provides several grounds for divorce.

Section 13(2) provides four grounds which are available for women.

Section 24 - maintenance pendent lite and expenses of proceeding.

Section 25 - permanent alimony.

2. The Hindu Succession Act 1956

The law empowers the women by conferring property rights. This Act gives absolute share to the widow as well as daughters in the self – acquired property of husband and father respectively.

The Hindu Succession (amendment) Act 2005 was a revolutionary step in the field of Indian legislation regarding rights of women in India. Daughters are having the same rights in coparcenary property. He daughter is allotted the same share as is allotted to a son.

3. The law of Adoption and Maintenance Act 1956

The Act provides for maintenance of wife, widows, minor children and the poor parents. It pays special attention to women, besides under this Act women have got the right to adopt a child.

4. The Muslim Women (protection of rights on divorce) Act 1986

This Act entitles Muslim women Maintenance by her husband to be made within the period of iddat. Her right to mehr and all other properties given to her by her relatives at the time of her marriage remain intact.

5. Parsee Marriage and divorce Amendment) Act 1988

This Act brought Parsee law of marriage and divorce at par with Hindu Marriage Act.

6. Hindu Minority and guardianship Act 1956

This Act enacted to give protection to the child and gives right to women to be natural guardian of the child in some condition.

7. The equal remuneration Act 1976

This Act provides for payment of equal wages to both men and women workers for the same work or work of similar nature. This Act also prohibits discrimination against women in the matter of recruitment.

8. Dowry Prohibition Act 1961

This Act was passed to prevent evil practice of giving and taking of dowry.

9. The suppression of immoral traffic Act 1956

This Act was enacted to Prohibit exploitation of women with a view of earning money.

10. Pre-natal Diagnostic (Prevention) Act 1994

This Act prohibits the use of pre-natal techniques for the purposes of sex determination.

Criminal Law and Women

Sec.304 of IPC

This section deals with a person causing dowry death is liable to be punished with minimum imprisonment on 7 years which may extent to imprisonment of life also.

Sec.366 of IPC

According to this section kidnapping or abducting any women with the intension or compelling her to marry any person against her will or to force her to implicit intercourse is punishable with maximum imprisonment of 10 years.

Sec.326A of IPC

Acid attack – Imprisonment not less than 10 years but which may extent to imprisonment to life with fine which shall be just a reasonable to meet the medical expenses and it shall be paid to victim.

Sec.326B of IPC

Attempt to acid attack – Imprisonment not less than 5 years but which may extent to 7 years and shall also be liable to fine.

Sec.354A of IPC

Sexual harassment – Rigorous imprisonment up to 5 years or with fine or with both in case of offense described in clauses (i) and (ii) imprisonment of 1 years or with fine or with both in other cases.

Sec.354B of IPC

Act with intent to disrobe a woman. - It gives punishment of imprisonment not less than 3 years but which may extent to 7 years or with fine.

Sec.354C of IPC

Voyeurism – It provides punishment in case of first conviction, imprisonment not less than one year but which may extent to 3 years and with fine and on second subsequent conviction imprisonment shall not be less than 3 years but which may extent to 7 years and with fine.

Sec.354D of IPC

Stalking – It provides punishment of imprisonment not less than 1 year but which may extent to 3 years with fine .

Sec.493 OF IPC

If there is co-habitation by any person by deceitful means, then he is punishable with maximum punishment for 10 years.

Sec.498 (A) of IPC

This section punishes the husband and his relatives who subject a married woman to cruelty. This cruelty includes physical as well as mental harassment.

Sec.125 of Criminal Procedure Code

This section recognizes and gives effect to the fundamental duty of man to maintain his wife, children and parents. Wife includes a divorced wife who has not remarried.

Sec 46 of Criminal Procedure Code

This section was amended in 2005 which provides safeguards for women in terms of bar on arrest after sunset and sunrise except in exceptional circumstances.

Sec.437 of Criminal Procedure Code

Under this section, there are certain beneficial provisions of bail of women to be considered in non-boilable offence

Role of Judiciary

The Apex Court of the country and several High Courts of the states have protected women by their judicial decisions.

1. Amminivs Union of India – The Kerala High Court struck down Sec.10 of the Indian Divorce Act holding that discrimination between Christian spouses wherein different grounds of divorce are available to the husband as compared to wife violates Art.14 and 15 of the Constitution.
2. Vishakhavs State of Rajasthan – The Supreme Court has laid down exhaustive guideline which recognizes the right of women to work with human dignity. Sexual harassment of working woman amounts to violation of right to equality, right to life and liberty and right to practice any profession under Art.14, 15, 19(g) &21 of the Constitution.
3. Apparel Exports Promotion Council vs A. K. Chopra – The Supreme Court laid down in Vishakha was applied in above mentioned case. The Supreme Court upheld the dismissal of a superior officer. The Court held that dignity and honour of a female is to be preserved.
4. Air India vs Nargesh Mirza - The Supreme Court struck down discriminatory service Conditions requiring female employer to obtain government permission before marriage and denying married and pregnant women the right to be employed.
5. Govt of A.P vs Vijay Kumar- The Supreme Court laid down that Art.15 (3) can be read into Art.16 to sustain any special provision favouring women.

Conclusion

After independence many Laws have been passed for the development of the condition of women. The International convention and legislative measure are also in favour of women but there is need of effective implementation. Various acts have been passed for the protection of women but they are remaining only on the paper. The legislature has been over anxious to pass laws for women but other organs executive and judiciary did not implement and interpret effectively. The proper coordination of 3 branches of state is absolutely essential. Until there is empowerment of women, legal awareness among them, economic independence the laws will remain in effect for paper only. I must mention the most striking and relevant words of Mahatma Gandhi:

*I Raise Up My Voice
Not So That I Can Shout
But So That Those
Without A Voice Can Be
Heard... We cannot all
Succeed When Half of Us
Are Held Back*

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Part -4

THE PROBLEM OF FOOD SAFETY IN INDIA AND LEGAL MEASURES: AN OVERVIEW

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Abstract

To live the meaningful life good health is prerequisite whether that health is physical or mental. There is no doubt that without good health any human being can achieve the goals of life. An estimated 600 million cases of food borne illnesses reported annually. Unsafe food is a threat to human health, this estimated 420 000 people around the world die every year after eating contaminated food. The requirement for food to satisfy hunger is the basic need of life and without food, life becomes impossible. The right to food is thus sheltered under the right to life in Constitution of India. In India there are large practices about the food adulteration which is very dangerous to the human health. These kinds of adulterations with chemicals lead to the incurable diseases such as cancer. Supreme Court in this matter held that Union of India shall take up the matter seriously and come up with all possible amendments in the Food Safety and Standards Act, 2006. Similarly the roles of the authorities are crucial in the implementation of food safety and standard Act.

KEY WORDS: Keywords: Food Adulteration, Food Safety, FSSAI, etc.

Interpretation

Health is wealth is well established truth. To live the meaningful life good health is prerequisite. There is no doubt that without good

health any human being can achieve the goals of life. Knowledge about health is found in the ancient Indian Vedic literature. *Ayurveda* is dedicated only to the human health. In *Ayurveda*, regulation of diet is crucial, since it examines the whole human body as the product of food. *Ayurveda* illustrates how an individual can recuperate by establishing the connection between elements of life, food, and body. According to *Ayurvedic* concepts, food is responsible for different aspects of an individual including physical, temperamental, and mental states. To stay healthy, maintaining a stable healthy diet routinely is essential.¹ Thus from Vedic period importance is given to the good health by the good food. Up to the last 20-30 years there were no such issues regarding the food quality and adulteration in the food stuffs, but the 21st century witnesses a drastic increase in the occurrence of food born ailments. This was due to rampant use of the chemicals in the agriculture land and produce.² Chemicals are not only used in the agricultural produced but are also used in every food material.

These practices are certainly jeopardizing the billions of innocent lives in India. Therefore this paper aims to study the laws on food adulteration and its enforcement in India.

International Perspective

The World Health Organization (WHO) and the Food and Agriculture Organization of the

United Nations (FAO) jointly facilitate the observance of World Food Safety Day, in association with Member States and other related organizations. Foodborne illnesses are usually infectious or poisonous in environment and frequently unseen to the plain eye, caused by bacteria, viruses, parasites or chemical substances entering the body through contaminated food or water. An estimated 600 million cases of food borne illnesses reported annually. Unsafe food is a threat to human health, this estimated 420,000 people around the world die every year after eating contaminated food.² The developed countries are having their stringent laws on food safety and violating these laws, strict punishments are provided, but in the countries like third world or even developing countries this situation is worst. There is not stricter implementation about the food safety and food laws. There are many reasons behind these reluctances from the local government in this regard. The globalization and the food scarcity are few which can be mentioned here.

Constitutional Provision:

Constitution of India builds as a welfare state. The founding fathers of the Constitution guarantee the fundamental right to its citizens for dignified life. The political system of the India is formed on the social and economic democracy. Therefore constitution takes the responsibility of its citizens to give them freedom from hunger. The Constitution of India specifically does not promise the right to food of the people of India but, the right to food is one of the rights flowing from the package of rights assured under the right to life that is Article 21. The right to life under the Constitution does not merely mean animal way of life. Life assured under this Constitution does

not only include corporeal existence. It includes the right to live with human dignity.³ Supreme Court observed in *Shantisar Builders'* case that right to life under Article 21 includes rights of food. Since the requirement for food to satisfy hunger is the basic need of life and without food, life becomes impossible. The right to food is thus sheltered under the right to life.

Similarly to the directive principles of state policy it is mentioned under Article 25 to state direct its policy towards securing for right to an adequate means of livelihood. So the citizens in their own can manage the food requirement because without livelihood no one can earn money and thereby food. Further Article 47 speaks about the raising standard of living. It obligates the state to regard among its primary duties, the raising of level of nutrition and the standard of living of the people.⁴ This also indicates that by way of nutritious food state will endeavor to keep its citizen in healthy condition. So, these constitutional provisions clearly focus on the requirement of the citizen about the food and nutrition. And therefore this issue has constitutional base.

What is food Adulteration?

Adulteration is the process of adding unwanted substances in the food, with similar appearance/colour for making profit. Adulteration lowers the quality of food and sometimes, toxic chemicals are also added which can be hazardous to health.⁵ In India there are large practices about the food adulteration but some of the food items are mostly adulterated like as milk, in India milk is adulterated with water, detergent, fat and even urea. Tea and coffee are two most used beverages in India, and they are highly adulterated. Tea leaves are mostly

² <http://www.fao.org/news/story/en/detail/country/india/2019/06/20190619001>
³ *Minor Threats: Hazards* (A Quarterly International Multidisciplinary Journal) 3 in 6 June, 2021 - Special Issue: (ISSN: 2278-0046)
⁴ Three Days Multi-Disciplinary International Webinar On "The Impact of Liberalization, Privatization and Globalization" (ICP) Global
⁵ Organized by: P.G. & Research Department of History, C. Aluru Mahesh College (Autonomous), Velloppuram, Ranipet District, Tamil Nadu

The legislature attempted to curb the menace of food adulteration by providing stringent punishment. The foremost monetary penalties and punishment for offences conducted under various provisions of the FSSA, 2006 are given below²⁸

PENALTIES

Sections)	Type of Offence(s)	Who is Penalised	Penalty may extend upto
50	Penalty for selling food not of the nature or substance or quality demanded	the Seller The persons covered Section 71 (2) (e.g. petty manufacturer, petty retailer, hawker, small scale or cottage industry etc.)	Rs. 5 lakh Rs. 25000
51	Penalty for sub-standard food	any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is sub-standard	Rs. 5 lakh
52	Penalty for misbranded food	any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded	Rs. 5 lakh
53	Penalty for misleading advertisement	any person who publishes, or is a party to the publication of a misleading advertisement	Rs. 10 lakh
54	Penalty for food containing extraneous matter	On any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption containing extraneous matter	Rs. 1 lakh
55	Penalty for failure to comply with the directions of Food Safety Officer	On Food business operator or importer	Rs. 2 lakh
56	Penalty for unhygienic or unsanitary processing or manufacturing of food	any person who whether by himself or by any other person on his behalf manufactures or processes any article of food for human consumption under unhygienic or unsanitary conditions	Rs. 1 lakh
57	Penalty for possessing adulterant	manufacture, sales, distribution or import of any adulterant	

²⁸ <http://www.fssai.gov.in/press/pubs/announcements/2006/06-07-2006-4.pdf>
 Indian Journal Research (A Quarterly International Multidisciplinary Journal) 3 to 5 June, 2021 - Special Issue: (ISSN: 2708-1001)
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CONTRIBUTION OF TECHNOLOGY IN SMART POLICING AND MODERN OPERATIONS IN INDIA: GLIMPSES

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ABSTRACT

Because of speedy urbanization and development in technology, crime rate is also rapidly rising. Police is state agency to take care and maintain law and order in state. Hence, police should be up to date with technology. Smart policing is one such initiative involving evidence-constructed, data-driven law enforcement manoeuvres and strategies that are effective, smart, economical as well as efficient. Particularly speaking about India, the police force which is strict and sensitive, modern and mobile, alert and accountable, reliable and responsive, techno-savvy and trained. Technologies employed by the police are numerous and support diverse functions. Facial Recognition System, Body-Worn Cameras, Mobile Application Intelligence Collection, Cyber Crime, Community policing and predictive policing is crucial aspect of smart policing. Technology is an instrument, or a method, for accomplishing labour, and it can take many forms, including material, intellectual and social. Technology is ingrained in social structures and is imbued with social meanings; it shapes and modifies organizations and jobs. Currently all over the world, law enforcing agencies are using the technology for better functioning. There are cameras put in significant public sites such as railway stations, central bus stations, and other locations to collect facial photographs of people to aid in crime detection. Body-worn cameras for police officers are one of the most commonly discussed technology advancements in policing today. In Indian context, also the need of Body Worn Cameras are strongly suggested by various academicians and legal expert. Many states polices developed their application which enables citizens to report crime instantly using their mobile phones. For effective policing one important thing is records of criminals. This data can give easiness to police performance. Cybercrime is often portrayed as an unsolvable problem

because it can be perpetrated by users under the guise of secrecy and is based in certain areas without application of law. Therefore, forensic labs and Information Technology expert staff of police is need of time. Community policing means to understand the grievances of the common people in co-ordination with people itself to instill a sense of security, prevention and detecting of crimes. Predictive policing concentrates on using the power of geospatial technologies with a mix of info processing abilities as well as evidence based police response models to do crime analysis, prevention and detection. Thus technology is tool to achieve the object of effective and the complete policing.

Keywords: Smart Policing, Police and Technology, body worn cameras, Cyber Crime, Community policing etc.

INTRODUCTION

Every person wishes to live in best place in terms of safety and security. Where his all legal rights are protected. Where the law and order efficiently executing. Because of speedy urbanization and development in technology, crime rate is also rapidly rising, which is menace to progress and creates uncalled panic in the mind of citizens. The past decade has witnessed a steep rise in crime statistics in India. According to data from the National Crime Record Bureau, the number of reported crimes under the Indian Penal Code increased from 18,78,293 to 29,49,400 a significant boost, while 63% criminal offenses under special and domestic laws increased from 32, 24,167 to 43,76,699 it indicates raising point by 73%.¹ It is important to note that even in the advanced industrialized democratic context the role of the police is riddled with controversy and contradiction.² If the police functions run smoothly with the need of people then, there are no controversies and contradiction. Therefore, it is very crucial that how police machinery is functioning in that particular state? Police is state agency to take care and maintain law and order in state. Hence, police should be up to date with technology, thus bridging the gap between policing and technology is much needed requirement of the time. Therefore, the concept of smart police is gradually arising in to the Indian context.

WHAT IS SMART POLICING?

Smart policing is a strategy approach that uses new applications of analysis, technology, and evidence-based procedures to bring more science into police operations.¹² The goal of the Smart Policing Initiative is to identify law enforcement tactics and strategies that are effective, efficient, and economical.¹³ Particularly speaking about India, the police force is strict and sensitive, modern and mobile, vigilant and accountable, dependable and responsive, technologically aware, and well-trained. During the 49th annual conference of Directors-General and Inspectors-General in 2014, India's Prime Minister presented this notion at Guwahati.¹⁴ Prime Minister Narendra Modi's vision is to transform the police force of the country into 'SMART' police force. He called for sensitivity and responsiveness of police force to the people. Being equipped properly, using technology that enables the police force to control the crime with speed and precision anywhere, with the proper training to police personnel.¹⁵ His vision is right thought to the present police structure of India. Since the Police forces of many states are lagging behind in the use of advance technology for crime and evidence detection so also to maintain law and order.

This changing world brings everything as smart like smart phone, smart city, smart classrooms etc. So the term smart police is like that which gives the multi functionality. In India with the advent of technology and the internet, it became necessary to bring changes in the areas of technical management of the police. To progress the efficiency of results and outcomes in times of limited resources, smart policing is one of the steps that includes evidence-building, data-driven law enforcement and effective, intelligent, cost-effective police administration.¹⁶ There are so many factors that constitute a police force as a smart police. In this paper light is thrown on various aspects of smart policing and how Indian states police are responding to this objectives.

COMBINATION OF POLICE & TECHNOLOGY

Technology is an instrument, or a method, for accomplishing labour, and it can take many forms, including material, intellectual and social. Technology is ingrained in social structures and is imbued with social meanings; it shapes and modifies organizations and jobs.²⁴ Coercion (weapons and martial arts), mobility (transportation vehicles), detection (forensics methods, such as DNA analysis), surveillance (closed-circuit television [CCTV], digital imaging for facial recognition, remote sensing devices), and analysis are just some of the technologies used by the police (data mining software). Clusters of technologies may come together to accomplish a certain job, such as crime prevention and issue solving, or data collection, processing, and communication.²⁵ In the matters of criminal investigation the technology assists by providing unique tools, such as software, smart cameras, and microscopic sensors that surreptitiously records keystrokes and sends them to the police.²⁶

Currently all over the world, law enforcing agencies are using the technology for better functioning. So also they are equipped with specially designed gadgets that are useful in keeping a check on crime. Anti-insurgency, child safety, community policing, cyber security, elder safety, human trafficking, road safety and traffic management, women's safety, and other policing initiatives are all covered by smart policing. There are some technical gadgets which are very useful in smart policing such as:

FACIAL RECOGNITION SYSTEM

There are cameras put in significant public sites such as railway stations, central bus stations, and other locations to collect facial photographs of people to aid in crime detection. These facial photos can be linked with the criminal database to aid in crime investigation and can also be used to construct a suspect database. Video can also be studied in a playback mode, where it recognizes the face in the video frame and compares it to one in the database.²⁷ This kind of technology is widely used in European countries by their law enforcement forces and proved to be useful. In India also this technology is been used but at limited extent. This needs to be further expanded.

Body-Worn Cameras

Body-worn cameras (BWCs) for police officers are one of the most commonly discussed technology advancements in policing today. The BWC records and captures activities, creating a permanent digital video-audio record of police interactions with people.²³¹ Body-worn cameras (BWCs) have been widely acclaimed as a positive development in police oversight, with information and communication technologies having the unique ability to shift power imbalances between people and law enforcement officials. Video recordings have the strength to present untampered acts of interaction between individuals and law enforcement personnel.²³²

In Indian context, also the need of Body Worn Cameras are strongly suggested by various academicians and legal expert to control the incidents of assault, misbehavior, rude behavior, arguments with police or by police. Like police in USA which widely used these cameras to ensure that their every activity is being recorded and it can use as evidence in a court trial. Especially these incidences are reported with the traffic police. For the first time in India, Hyderabad Traffic Police used Body Worn Cameras (BWCs) for all of their frontline traffic enforcement employees in order to build citizen confidence and promote socially desirable behavior among traffic enforcement officials. The following are some of the initiative's features: All traffic enforcement personnel have been instructed to employ the BWCs during enforcement. The officers can upload the captured data to the server using their PS system. The officers who do not use the BWC are monitored by the Traffic Command Center. The Traffic Command Centre watches the footage and analyses the officers' behavior patterns on a regular basis. All law enforcement officers are given regular briefings on how to practice people-friendly policing.²³³ So by the use of this Gadgets control can be brought both public as well as on police.

MOBILE APPLICATION FOR FIRST INFORMATION REPORT

Smart mobile phones are effective tool in the hands of the people. Lots of assignments easily can be done by using smart phones. There are so many applications which are popularly known as 'apps' developed by the software company in this regard. These applications are gradually

providing help in the matter of smart policing. Many states police developed their application which enables citizens to report crime instantly using their mobile phones. One example of the same can be mentioned here of Rajasthan police, which has recently relaunched the upgraded version of 'RajCop Citizen'. This is specifically planned to give people access to police personnel for diverse crime reports, occupant authentication, employee authentication, women's assistance numbers and searches for stolen cars. Citizens can also utilize this app to look for police help. Similar application is developed by the Delhi Police 'One Touch Away' it caters all the police related apps interface to the general public on a single touch. It is designed for mobile platforms to relive public use. It is also designed taking into account the requirements of the local police department and the community. People may not be cognizant of the government's existing Apps and websites, thus this app offers them with an interface through which they can air their problems.³⁷⁵ Similarly, the state of Odisha launched the MO SAATHI Android-based mobile application in Cuttack and Bhubaneswar for the safety and security of women. This application aims to make police assistance available to women who are in danger of losing their lives. Shake to alert, power button alert, single key SMS, call alert to modern control room, automatic recording and transmission of 30 second video depicting real-life situation, automatic emergency call to either police control room or family friends, and victim's details location and time alert on phone and portal are just a few of the features. Similarly, the Delhi Police Department has launched the 'Hummat' android app, which is aimed at ensuring the protection of women travelling alone in Delhi NCR.³⁷⁶ Such kinds of mobile applications give great relief to the common public because now police help is one click away from them.

INTELLIGENCE COLLECTION

For effective policing one important thing is records of criminals. This data can give easiness to police performance. Police functioning is very much dependent on data, and presently there are various technologies that allow police to access information from sources that ordinary people has no access.³⁷⁷ One of such attempt is made by Mirzapur, Uttar Pradesh Police by 'Palchan App' which can create a data base to take the culprit while taking them to prison. Whenever police catch a suspect for interrogation or any other reasons police can check their

previous data base record and identify whether they are criminals or not.³²⁸ For data collection such practices was prevailed earlier but with the use of technology the data now easily be shared with the other police stations and other state's police also. Such initiatives saves the time of authorities as well as harden criminals can identify quickly.

CYBER CRIME

Innovation and technology have recently accelerated to various elements of life, such as education, safety, health, business and security. Regardless, these instruments are in the hands of irresponsible individuals or groups, who use them for illicit activity and exploitation. One of these crimes is cybercrime.³²⁹ Cybercrime is often portrayed as an unsolvable problem because it can be perpetrated by users under the guise of secrecy and is based in certain areas without application of law. Intermediaries are presented as being broadly shielded from liability for their users' actions.³³⁰

Cyber-crime is exploding in the recent time. There are so many online banking fraud taking place in the recent time. So also social media based crimes are also increasing. Therefore, forensic labs and Information Technology (IT) expert staff of police is need of time. Police in many states are not equipped to investigate in these matters. One example of Hyderabad city of Telangana state can be quoted here which has set up a forensic lab consisting of state of art latest tools. This is proved to be very useful in detection of the cyber-crimes.

COMMUNITY POLICING

Community policing can be termed as one aspect of smart policing which are now initiated in some of states in India. In community-oriented policing, as in problem-oriented policing, police take a proactive role in problem solving, but they do so in partnership with the communities they serve. Community-oriented policing has been defined as "the idea of full-time police work where the same officer guards and operates in the same permanent position, from a decentralized place, working in a proactive partnership with citizens to identify and solve problems."³³¹

Community policing means to understand the grievances of the common people in co-ordination with people itself to instill a sense of security, prevention and detecting of crimes. In short meaning of community policing is 'policing by the people, for the people, of the people' ^[22] The concept of community policing can be traced back to the period of British conquest of India in 1669. When the Governor of Mumbai Gerald Ovinger used to come to India, he used to be plundered and looted by the community residing near coastal areas of Mumbai. As remedial measure he set up militia group of the same community to protect the robbery by the coastal community. ^[23]

Community policing stresses the key role that, effective co-operation between the police and the community is very important in reducing offences, minimizing apprehension, and change the surrounding which can impede in the occurrence of offences. Community policing basically says that without the help of operational support and public, political support, the police will not accomplish their basic objective to maintain law and order and curb the crime rate. ^[24]

In India also this experiment has begun. One of laudable initiative taken by the Kerala police to establish the idea of community policing, *Janamithu Swatcha* project has been initiated to transform the policing to abide by the democratic ethos of the country. It has been proved useful strategy by the police to control the offences. It has been recognized as an innovative way of police administration in the state of Kerala where co-operation between the community and the police proved to be very successful. ^[25]

PREDICTIVE POLICING

Predictive policing is a relatively new concept. Police speculation promises to be a game-changing concept. It is well known that the use of calculation and analysis methods will continue to be a key element in the pursuit of the police. Although it predicts the environment, this effort incorporates details of the increase in previous cases to predict and therefore in fact the police respond in a more efficient manner. Police specifically focus on the use of analytical techniques, especially computational methods to determine the most likely aspects of immediate police treatment and crime prevention or to help solve crime through statistical prediction and analytical skills.

Predictive policing concentrates on using the power of geospatial technologies with a mix of info processing abilities as well as evidence based police response models to do crime analysis, prevention and detection.²⁰²² So predictive policing is advance method for future policing.

Therefore, the scope and objectives of policing are increasing day by day due to the diversity and complexity of the world. Police have used a number of tools in recent decades to improve policing outcomes and their relationships with the community including community engagement, volunteers and problem-solving police using preventive and systematic ways to focus on high-quality, responsible, new, empathetic and satisfied police personnel are need of hour, who could work assiduously and meticulously for the perpetuity of their multidimensional roles in different areas in the 21st epoch encapsulating the aspect of complete policing.²⁰²³

CONCLUSION

The police are one of the main agencies responsible for criminal justice. Police has an important function that works to provide solace and comfort to people by looking at their affairs. They are ready to help the community with protection, support, intervention, resolution and immediate response. The police can be seen as a pillar of every nation that provides a solid basis for maintaining peace and order.

Policing will become a less obvious and more integrated components of the urban environment as cities become 'smart,' linked, and attentive. The use of technology and artificial intelligence is game changer in the administration of police. In Indian scenario gradually police is becoming smart. Many states have introduced newer technologies. This proved to very useful to citizens. As well as to the police administration. Therefore, the smart policing needs to use more and more technology to achieve the object of effective and the complete policing.

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NEW NATIONAL FRAMEWORK FOR TACKLING THE MENACE OF DOPING IN INDIA: AN OVERVIEW

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ABSTRACT

Doping means the act of giving a person or animal drugs in order to make them perform better or worse in competition. The International Olympic Committee (IOC) established WADA as a foundation for battling doping in sports. In Olympic Athletes can be tested anytime or anywhere. Urine or blood samples are collected by trained and accredited doping control personnel to test for the presence of anti-doping substances. According to the WADA's December 2019 Anti-Doping Testing Statistics Report, India topped the list for the first time, with 225 positive instances out of 4,004 samples. Athletics was one of the worst defaulters. In this background, recently, in Lok Sabha, the National Anti-Doping Bill of 2021 was introduced. It aims to outlaw doping in sports and establish a new National Anti-Doping Agency. Various studies results show that doping was done for the best result, as well as for the money and for limelight. Doping, especially at the grassroots level, a lack of understanding of athlete's coach's and mentor's accounts is a major concern. Numerous reasons that favor doping in India, the lack of a strong governance framework, as well as political influence, are important contributors to the country's incapacity to deal with the problem. Therefore government of India proposes to bring The National Anti-doping Act, 2021 replacing the earlier authorities and establishes new supporting machineries as well as authorities.

Keywords – Anti-Doping, New Amendment 2022, Menace of doping, India on Doping Law, WADA and NADA.

INTRODUCTION

Healthy life means healthy body and mind. Quality of life is a multidimensional construct pertaining to individual's physical, emotional, mental, social and behavioral components of well-being and functioning. Physical activity and sports as the main means of combating the sedentary lifestyle and increase the quality of life.¹ Health benefits from a physically active lifestyle are well known in the general population.² Indian people are fond of every kind of sports and from very old time. Concept of sports and physical activities is found in ancient India since the Indus valley period. In early India, games and sports were very much concerned about the development of the physique and for the art of offence and defense.³ In modern time due to changed life style and technological advancement importance of sports has decline in Indian society. Similarly there are many reasons for the low level of participation and lack of involvement in sport in India. They include inadequate facilities, insufficient attention paid to the development of physical culture and general absence of positive attitudes towards sports.⁴ Speaking about the Indian impression on global platform India has won just 15 medals in its chequered Olympic history between 1928 and 2004.⁵ But in recent time success in Tokyo Olympic 2020, ranked 48th in medal tally 1 gold, 2 silver, 4 bronze India produced it's richest-ever medal haul and the finest performance of all time.⁶ And with this the sports and ethics issues came forward specially about the doping in the sports. Recently Union Government propose an amendment Bill in this regard therefore this paper aims to focus on various aspect of doping and the proposed legislation.

CONCEPT OF DOPING AND ITS BACKGROUND:

At the outset, it is important to understand that what is doping? Doping means the act of giving a person or animal drugs in order to make them perform better or worse in competition.⁷ The term "doping" was first used in an English dictionary in 1889. It was originally used to describe a combined medicine including opium and used to "dope" horses. "Dope" was a spirit prepared from the residues of grapes, which Zulu warriors used as a "stimulant" at fights and religious procedures and which also reportedly was called "doop"

in Afrikaans or Dutch. Later, the meaning of "dope" was extended in a broader sense to other beverages with stimulating properties. The expression was introduced into English Turf Sport about 1900 for illegal drugging of race horses.¹³⁰ The earliest records of doping in sport come from the Ancient Olympics games when athletes are reported to have taken figs to improve their performance. With the advent of modern pharmacology in the 19th century, many athletes began to experiment with cocktails of drugs to improve strength and overcome fatigue.¹³¹ So the doping can be understood as some substance that **increases** your energy by which performance in sports activity can be enhanced.

WORLD ANTI-DOPING AGENCY (WADA):

WADA was established on 10 November 1999 following a major doping scandal that shook the world of cycling in 1998. The main objective of WADA is to protect athletes, promote the values of clean sports, and preserve the spirit of sport internationally. The International Olympic Committee (IOC) established WADA as a foundation with the support and participation of intergovernmental organizations, governments, public authorities, and other public and private bodies battling doping in sports. The Agency is still made up of and supported by members of the sporting community as well as governments from across the world. WADA is a lead organization within the policy regime.¹³²

In February 1999, The First World Conference on Doping in Sports was held by the International Olympic Committee (IOC) in Lausanne, Switzerland. This brought all parties involved in the anti-doping campaign together. The Lausanne Declaration on Doping in Sport was issued as a consequence of the conference, and it called for the establishment of an independent international anti-doping organization in time for the XXVII Olympiad in Sydney, Australia, in 2000.¹³³ In Olympic Athletes can be tested anytime or anywhere. Urine or blood samples are collected by trained and accredited doping control personnel to test for the presence of anti-doping substances. Similarly National Anti- Doping Organizations, (NADOs) International Federations and Major Event Organisations (MEOs) could also take sample for this purpose.¹³⁴

THE NATIONAL ANTI-DOPING BILL, 2021

On 17th December 2021, in Lok Sabha, the National Anti-Doping Bill of 2021 was introduced. It aims to outlaw doping in sports and establish a new National Anti-Doping Agency to replace the current National Anti-Doping Agency. It includes several key new provisions, such as prohibiting athletes, support employees, and others from doping in sports. It establishes the National Anti-Doping Agency as a separate legal entity. The Director General will be nominated by the central government. It recommends the creation of a National Board for Anti-Doping in Sports, which would provide advice to the government on anti-doping rules and international anti-doping commitments. The board will be in charge of overseeing the agency's activities and giving it direction.²²² It will also to give effect to UNESCO International Convention against doping in the sports. India signed the convention in 2005 and ratified it in 2007. The National Dope Testing Laboratory, which already exists, will be considered the primary dope testing laboratory. More National Dope Testing Laboratories may be established by the central government.²²³

MENACE OF DOPING IN INDIA:

The entire world is suffering from the problem of doping. It cannot be exactly ascertain that how much doping is prevalence in the sporting arena. But approximately it can be counted that around 14-39 percent of the athletes deliberately use doping substances. Hence, the athletes who are being caught are only the tip of the iceberg whereas the problem lies much deeper.²²⁴

Generally speaking about India, doping continues to be important concern for the Indian sports. Russia and Italy are at the peak of the doping list, but India is also not far behind which is a big worry.²²⁵ Therefore the government of India proposes to establish various regional anti-doping centers and also is frequently conducting anti-doping awareness programs for the athletes as well as coaches all over India.²²⁶ According to the WADA's December 2019 Anti-Doping Testing Statistics Report, India topped the list for the first time, with 225 positive instances out of 4,004 samples. Athletics was one of the worst defaulters.

NADA

The Official Anti-Doping Agency, or NADA, is India's national body in charge of promoting, organizing, and monitoring the anti-doping programme in all of its manifestations.

NADA specializes with developing and executing anti-doping laws and policies that comply with the World Anti-Doping Agency, cooperating with other anti-doping organizations, and promoting anti-doping research and education, according to its official web portal. There are some drugs which prohibited by these national and international anti-doping authorities those are as follows:

BANNED DRUGS^{xxiii}

1. Substances and methods prohibited at all times (in and out of competition)
 - a. Anabolic androgenic steroids
 - b. Peptide hormones, growth factors, and related substances
 - c. Beta-2 agonists
 - d. Agents with anti-estrogenic activity
 - e. Diuretics and other masking agents
 - f. Enhancement of oxygen transfer
 - g. Chemical and physical manipulation
 - h. Gene doping
2. Substances and methods prohibited in competition. All the categories under Section I, plus
 - a. Stimulants
 - b. Narcotics
 - c. Cannabinoids
3. Glucocorticosteroids
4. Substances prohibited in particular sports
 - a. Alcohol
 - b. Beta blockers

CAUSES OF DOPING

Various studies results show that doping was done for the best result, as well as for the money and for limelight. Some time they are encourage for this by their friends, coaches, sponsors, or close family members. Similarly the socio-cultural environment in which athletes live and train determines their attitude towards doping. Even different gender has different attitude toward doping from the same sport and the same environment.²² In other areas, when it comes to doping, especially at the grassroots level, a lack of understanding of athlete's, coach's, and mentor's accounts is a major concern. Particularly in speaking about India this lack of awareness is the major cause for doping positive results.

Absence of Proper Governance Mechanism:

In addition to the numerous reasons that favor doping in India, the lack of a strong governance framework, as well as political influence, are important contributors to the country's incapacity to deal with the problem. Sports authorities and the governing bodies at different level often ignored such incidences, when such cases appears, because best performances required by these sports bodies by the particular athlete for better sponsorship and investment in that particular game.²³

Absence of Public Debate:

In India games are seen as entertainment purposes and there is no seriousness about it functioning. When the athletes are apprehended, there is no persistent national debate and because there has been no persistent public debate, there is little pressure on sports administrators to develop an effective anti-doping programme.²⁴ If there is public awareness and pressure then certainly these authorities implement new policies and ways to tackle the problem of doping.

Measures to Tackle Doping in Sports:

It is important to control the menace of doping at domestic level so the image of the sports will maintain its pride. Hence, the first and most important step must be to implement anti-doping education programmes for athletes, coaches, and support personnel. This has to be implemented from the grassroots level so that all it could be effective and inclusive. Coaches

should be given special training so they will encourage sporting values of fair play and honesty among the athletes they trained.²²⁸ WADA provides such anti-doping online training for both coaches and athletes. Therefore, such training should be made mandatory for participation in any sporting event; this may be a proposal worth pursuing to achieve this aim. Most athletes in Western nations have already participated in anti-doping procedures and considered anti-doping education as a useful tool.²²⁹ Most crucially, drug monitoring and eradication must also fall into the hands of local sports federations and organizations. This could be more effective approach for better administration to implements national plans to curb the menace of doping.

WORLD ANTI-DOPING CODE

It is the foundation document that harmonizes anti-doping policies, rules and regulations within sports organizations and among public authorities around the world. It works in conjunction with eight international standards which aims to foster consistency among anti-doping organizations in various areas.²³⁰

These standards are:

1. The international standard for testing and investigation (ISTI)
2. The international standard for laboratories (ISL)
3. The international standard for therapeutic use exemptions (ISTUE)
4. The international standard for the prohibited list (The List)
5. The international standard for protection of privacy and personal information (ISPPPI)
6. The international standard for Code compliance by signatories (ISCCS)
7. The international standard for Education (ISE)
8. The international standard for Result Management (ISRM)

INTERNATIONAL CONVENTION AGAINST DOPING IN SPORTS:

This International Convention Entered into force on 1 February 2007, it is a multilateral UNESCO Treaty by which states agrees to adopts national measures to prevent and eliminates drug doping in sports.²³¹ Through the fund for the elimination of doping in sports, it provides a platform for state parties to create and implement specialized anti-doping capacity building.

education, and policy programmes. It also boosts to the World Anti-Doping Code's functionality.

CONCLUSION:

Despite sporting bodies across the world spending an estimated US\$350 million on drug testing each year the percentage and the use of doping is increasing day by day.¹⁰⁰ Therefore at national and international level the anti-doping programs are implemented. Taking into consideration this doping menace the government of India proposes to bring The National Anti-doping Act, 2021 replacing the earlier authorities and establishes new supporting machineries as well as authorities. There are different causes of doping amongst the sportspersons. All this causes has to be removed by systematic education and awareness about the doping. The athletes, sportsperson, coaches and sports organizations have to implement and adopt the due precautionary measures for the doping policy. Then only the dignity, fair play and spirit of the sports will remain intact.

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ABSTRACT:

"Recently at the beginning of April 2022, the object that fell from the sky and landed in Chandrapur District of Maharashtra was most likely to be Chinese rocket body debris. The potential for loss of life and property due to human error in space is brought into sharp focus by this event. 'Space law' is the body of law that regulates earthly activities in outer space. Space law is made up of a wide range of documents, including treaties, conventions, accords, and resolutions from the United Nations General Assembly and other international bodies. Space law is basically used for the launching and fixing the satellite in the Earth's orbit for various reasons. The role of satellites is very important in the progress of the humanity. Space has become industry to gain the profit from it. Space as an investment theme is also likely to impact a number of industries beyond Aerospace & Defence.

Here is where we may identify a first challenge preventing space from becoming a lawless where the strongest can take an unfair advantage. Therefore, for handling of dispute which arise from satellites issues diplomatic relations between nations are absolutely necessary. The Convention on International Liability for Damages Caused by Space Objects, 1971 provides that a launching state shall be absolutely liable to pay compensation for damage caused by the space object on the surface of the Earth or to aircraft or to aircraft in flight. Problems with the 1972 Convention this conference did not make an effort to address every potential danger posed by space endeavors".

Keywords: Space Law, Importance Of Satellites, International Liability For Space Accidents, Space Traffic.

I. INTRODUCTION:

Recently in the beginning of the April 2022 the object that fell from the sky and landed in Chandrapur District of Maharashtra was most likely to be Chinese rocket body debris.¹ The potential for loss of life and property due to human error in space is brought into sharp focus

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by this event. Luckily, the secluded area that the space junk impacted meant no one was hurt. This sort of thing has happened numerous times in various countries in the past. The 1979 panic over the possible destruction of Skylab was shared by people in India. The first American space station and one of the most successful orbital platforms in history, Skylab, was expected to crash to Earth at an unspecified location. There were rumors at the time that Skylab would crash, especially over India.² This was aroused panic amongst the minds of India people. This article seeks to analyze the global issues caused by the space mission so also to focus on the international law regarding the Space exploration and its safety and problems associated with the effects of space disasters on people and their property.

II. WHAT IS SPACE LAW?:

To put it simply, 'space law' is the body of law that regulates earthly actions in outer space. Like general international law, space law is made up of a wide range of documents, including treaties, conventions, accords, and resolutions from the United Nations General Assembly and other international bodies.³

The following are the landmark agreements and conventions in the sphere of space exploration⁴:

- 1) *The Outer Space Treaty 1967*
- 2) *The Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched in the Outer Space, 1967*
- 3) *The Convention on International Liability for Damage caused by Space Objects, 1971,*
- 4) *The Convention on Registration of Objects Launched into Outer Space, 1974,*
- 5) *The Agreement Governing the Activities of States on the Moon and the other Celestial Bodies, 1979,*
- 6) *Vienna Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE-II or UNISPACE II)*
- 7) *UNISPACE III 1999*

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8) Drafts Principles on Remote Sensing of the Earth from Outer Space: 1986

The Space Treaty stands as a cornerstone in the evolution of space law. It represents the common interest of mankind. It has finished mere conjecture phase. It enshrines certain principals of space law which took a considerable period to establish and consolidate. Customary international law, such as that included in a number of United Nations resolutions, is represented by such expressions, which are themselves binding.

III. WHAT IS SATELLITE?:

Space law is basically used for the launching and fixing the satellite in the Earth's orbit for various reasons. A satellite is basically a self-contained communications system with the ability to receive signals from Earth and to retransmit those signals back with the use of a transponder, an integrated receiver and transmitter of radio signals.²² Moon is the example of natural satellite these satellites are uses for various purposes such as predicting weather, scientific research, communication, entertainment, defense and exploring universe. These satellites take pictures of other planets, the sun, black holes, dark matter or faraway galaxies. These pictures help scientists better understand the solar system and universe. A group of more than 20 satellites make up the Global Positioning System, or GPS. If you have a GPS receiver, these satellites can help figure out your exact location.²³

IV. ROLE OF SATELLITES AND DEVELOPMENT OF HUMANITY:

Since the inception of the civilization human race is continuously making development, but it took drastic turn from the launched of the first satellite in to the orbit. From that time the future human race has changed. With the help of the satellites every data can be collected accurately and quickly. Now even we reached at interstellar level by sending the space traveling satellites. We reached on Mars and almost every planet in this solar system. By these missions we are revealing the secrets of this universe. Hence role of Satellites is very important in the progress of the humanity.

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V. CURRENT SCENARIO OF SATELLITES/ SPACE INDUSTRY:

After the World War II the cold war and space race has begun, both the superpowers competed to each other. But apart from defense and strategic use of space technology it has now evolved in new aspects. Now it has become industry to gain the profit from it. Space as an investment theme is also likely to impact a number of industries beyond Aerospace & Defense, such as IT Hardware and Telecom sectors. According to Morgan Stanley, the global space business might be worth \$1 trillion or more by 2040, up from \$350 billion today.

Nevertheless, satellite broadband Internet connection may present the most promising potential in the near and medium terms.¹⁰⁴ Today where we are standing that age is called as Space 4.0, we are in a period that has experienced a shift of paradigms, with changes in motivations, actors, and, indeed, technologies.¹⁰⁵ There is an ongoing 'revolution' in the space sector with new players commercial entrepreneurs businesses entering a domain historically dominated by institutional players to seize the new opportunities opening in front of them. Possibilities range from the immediately applicable such as precise navigation, agriculture, surveillance, Earth environment monitoring, etc. to the futuristic opportunities, such as space tourism or asteroid mining.¹⁰⁶

VI. INTERNATIONAL LIABILITY:

Any action taken in space would have repercussions well beyond the borders of the country from whence it was launched or the place of registration for the satellite operator. Therefore, the international regulatory framework should clearly prevail on national regulations and limit the capability of countries to exploit less harsh regulations as a method to attract foreign industry.¹⁰⁷ Here is where we may identify a first challenge preventing space from becoming a lawless where the strongest can take an unfair advantage. The same logic should be applied to *exploration and exploitation in Medium (MEO) or Geosynchronous Earth Orbit (GEO) and beyond, not just to Low Earth Orbit (LEO)*, where the current regulatory framework

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should be further developed and enforced to manage the increasing "space traffic". Indeed, new legislation should be adopted respecting established treaties and principles.¹²²

VII. NEW THREAT FROM SPACE TRAFFIC:

Over the past few years, numerous satellites have been launched by numerous space organizations. These satellites will always remain in their current geostationary orbit. You can put them to use for a number of different things. Therefore, for handling of dispute which arose from satellites issues diplomatic relations between nations are absolutely necessary. Now owing to hundreds of satellites is revolving around the planet, there is concern of satellite collision in the space. Similarly, traffic bottlenecks on the highways were not prevalent in the past, but with the passage of time and the rise in the number of vehicles, they have become increasingly widespread. This same situation will soon unfold in space as well, thanks to these satellites. There are over 30,000 operational satellites in orbit right now. There are approximately 12,800,000 bits of space junk and 3,000 unoperational satellites.

Private corporations have joined the space race alongside government-run space agencies. SpaceX, a private spaceflight company, has created a satellite network called Star link to bring affordable internet access to outlying areas. This "mega constellation," as SpaceX calls it, might one day include as many as 42,000 satellites. Nearly 1900 satellites have been successfully launched thus far. Currently application for 4,000 satellites is filled for the consent of international regulators.¹²³ In addition, by the end of the decade, commercial firms like Blue origin, One web, and Star net want to have launched a total of 65,00 satellites. This amount has the potential to double to 2 million if current trends continue.

VIII. THE CONVENTION ON INTERNATIONAL LIABILITY FOR DAMAGED CAUSED BY SPACE OBJECTS, 1971:

General assembly agreed and commended it on November 29, 1971.¹²⁴ The Convention entered into force in September 1972. The convention provides that a launching state shall be

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absolutely liable to pay compensation for damage caused by the space object on the surface of the Earth or to aircraft or to aircraft in flight.²²¹ In the event of damage being caused elsewhere than on the surface of the earth to a space object of another launching state, the latter shall be liable only if the damage is due to its fault or the fault of the persons for whom it is responsible.²²²

IX. SPACE ACCIDENTS / THE LIABILITY FOR DAMAGES

CONVENTION OF 1972 AND COMPENSABLE HARM:

The Liability for Damages Convention contains a collection of rules that supplements the terms of the 1967 treaty. Its scope is expansive because it 'ignores the distinction between civilian and military spacecraft and applies equally to both'. It accounts for the likelihood of accidents and malfunctions, as well as their results, and identifies specific types of damage that may be recoverable. Moreover, the convention incorporates provisions that define space objects and component parts. Problems with the 1972 Convention This conference did not make an effort to address every potential danger posed by space endeavors. Problems 'that may develop when injuries are inflicted in the environment of space or on a celestial body' are not addressed in any meaningful way, for instance.

If an international space object or the people or property aboard it sustains damage while in orbit or in a location other than Earth, compensation may be awarded under Article III. Such liability depends on the fault of the launching state or the fault of the persons for whom it is liable. As another flaw in the convention, the lack of a clear definition of 'fault' has been pointed out. Other noted shortcomings are its lack to put out rules for standards of care or to provide the meaning of a reasonable man. In addition, no provision was provided for imputing negligent conduct to others or for the attribution of a principal's vicarious culpability for an agent or employee. True, the Liability Convention did not definitively settle such nuances, however crucial they may be in some local legal systems.²²³

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X. OTHER AREAS OF CONCERN:

The treaty (*formally the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies*) is a product of the Cold War and primarily addresses concerns of that era, including nuclear war. Thus, the pact has successfully banned the deployment of nuclear, biological, chemical, or nuclear weapons into space for the past half century. The commercialization of space, however, is exerting fresh constraints on the development of space law. We need a specific rule on this subject as soon as possible because there is currently no structure for regulating or managing commercial operators in space properly. In addition, the treaty is ambiguous regarding where airspace ends and space begins. If an accident were to occur in space and have an effect on Earth's surface, this could become a worry in the future as well.

A fundamental failing of the space treaty is that it does not offer any compulsory jurisdiction of the International Court of Justice for the settlement of the disputes.⁷⁷³ The international community has not yet issued any binding rulings on the subject of space law. Worse, it's unclear which international court would be responsible for mediating a space-based dispute. In order to completely address these and other issues, The Outer Space Treaty provides no express limitation against the taking of resources, the law presumes that the utilization of space resources is permissible.⁷⁷⁴

International case law also establishes the obligation to refrain from causing harm to foreign states and to natural persons, as well as the duty to compensate for harm. In the well-known Corfu Channel case, the International Court of Justice concluded that there is an obligation of every state 'not to enable deliberately its territory to be used for conduct adverse to the rights of other states'.⁷⁷⁵ The same premise, along with the responsibility to pay monetary damages for identified loss to property, was promulgated in the previous Trail Smelter dispute.⁷⁷⁶ Both the determination of the obligation under international law to compensate for harm, and the

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development of criteria relating to the measurement of damages, must take into account the above decisions and court rulings.¹¹¹

XI. CONCLUSION:

Thus, from the above observations it may be concluded that, the fundamental principles and rules in the 1967 Outer Space Treaty and the Liability for Damages Convention for obtaining money damages for harm resulting from the malfunctioning of space objects satisfactorily meet the goal of providing prompt and adequate compensation to injured parties. Though this aspect is covered under the Convention but in future there will be increasingly intensive traffic in the space environment. While higher orbits will undoubtedly become more popular in the future, at that time the heavier amount of traffic at the lower orbital levels constitutes possible risks. Objects in lower orbit are more likely to return to Earth, either as entire objects or as debris. In such a background, space mishaps are most likely to occur in near future and it will heavily cost human life and the property. Though it may be caused by human or technical faults. But before these catastrophes cause irreparable harm to humanity, we must learn to foresee them and find solutions. Therefore, it is clear that we need to take precautions. As well as to bridge the gap between present law and its future demands.

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ABSTRACT:

"The world is experiencing the fastest revolution after the industrial, green and digital revolution. India is emerging as an Information Technology hub and at the same time cyber-crimes are increasing day by day. Cyber-crimes are defined as an "illegal act in which a computer is a tool or a goal or both." Cyber-crimes are also known as computer crimes. Cybercrime can be committed against an individual or a group. It can also be committed against government and private organizations. It may be intended to harm someone's reputation, physical harm, or even mental harm. The internet technology has been using by the few people for criminal activities like hacking, phishing, cyber terrorism, bombardment of e-mails, pornography etc.

This is mainly because around more than half of the online users are not fully aware of the functioning of online platforms. India is one of the countries which has enacted Information Technology Act 2008 on par with the model law framed by the United Nations Commission on Trade Law and made an attempt to define use and misuse of digital media in a country. The IT Act was amended in 2008 in which various cyber offences are punishable with imprisonment and fine. During Covid-19 lockdown situation, Cyber-crimes have increased at a large scale in several states as the people are confined in their respective homes. The present paper highlights the meaning of cyber-crime, kinds of cyber-crimes, classification of cyber-crimes, various cyber laws in India with judicial pronouncements. The study also suggests various measures and recommendations to curtail cyber-crime incidents and tries to ensure cyber security".

Keywords: Cyber-Crimes, Cyber Security, Cyber Laws, Internet.

I. INTRODUCTION:

The industrial revolution in 16th Century has made drastic changes in the human beings. The world is experiencing the fastest revolution after Industrial, Green and Digital Revolution. It

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is to be noted that with the advent of this revolution today, we have access to more information than ever but at the same time poses some new challenges to the legal world. The internet has become a part of life of every individual. Internet data is available at affordable prices in India. So, millions of human beings are using websites and e-mails as a means of communication also. The rapid use of Internet has increased the rate of crime. Internet is actually very much usable for us but some criminal minded people use it for crimes.

It is essential to note that the first cyber-crime took place in the year 1820. In the recent past in India the cyber-crimes have gained momentum. The word 'Cybercrime' is neither defined in Indian Penal Code 1860 nor the Information Technology Act. In simple way we can say that Cybercrime is unlawful act wherein there is either a tool or target or both. It is also defined as an illegal activity which used a computer for fraud, forgery, unauthorized access to or interference with data.

II. CAUSES OF CYBER CRIMES:

II.I Easy To Access:

The difficulty to guard a computer system from hackers due to complex technology. The skilled hackers can get unauthorized access by breaching access codes, retina images, voice recognition, etc. They can easily fool the biometric system and pass through the firewall of the system.

II.II Capacity To Store Data In Small Space:

A computer has feature of storing data in very small space. Storing data in a small space makes it easier for hackers to steal data in no time and utilize it for their own profit.

II.III Complex Coding:

The computers work on operating systems. These operating systems are composed of millions of codes. Operating systems are programmed by developers who are human beings, thereby, making the codes vulnerable to make errors. Cyber-criminals can slip in through these loopholes and make the operating system malicious for the users. That's why the complex coding can often become the common cause of cyber-crime.

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II.IV Negligence:

Negligence is related with human conduct. So it is possible the while protecting the computer system there might be negligence which provides cyber criminals to get access and control over the computer system. Anything that we neglect and consider easy to ignore can turn into a grave concern. Cybercrime works the same way. Negligence in ensuring the security of your system can bring you big troubles. A little negligence at your end can provide a welcoming aisle for cybercriminals. Hence, it is necessary to remain vigilant to the happenings in your system.

II.V Loss of Evidence:

Hackers generally attack on computer system in sections, and the evidence regarding their first breach can be easily destroyed. This makes their crime even stronger that cannot be detected during the investigation of cybercrime. Loss of evidence can become an important cause of cybercrime that can possibly paralyze this system and make it more vulnerable to the cyber-attacks.

III. CLASSIFICATION OF CYBER CRIMES:

Cyber-crime has been classified on the basis of nature and purpose of the offence and have been broadly grouped into three categories depending upon the target of crime. It may be against person such as crimes like stalking, defamation, hate messages and transmissions of pornographic material. The Cyber-crime involving property include unauthorized computer trespass, vandalism and transmission of harmful programmes and unauthorized possession of computerized information. The third category of Cyber-crime targets the Government. This kind of Cyber-crime is known as Cyber terrorism.

Another classification of computer crimes has been given by David L. Carter who classifies computer-related crimes into three categories.

- Where computer is the target of the crimes;
- Where computer facilitates the commission of crime;
- Where, computer is incidental to the crime.

III.I Computer As The Target of Crimes:

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In this process the attackers use a computer to attack other computers. Crimes in which the computer is target includes such offences as:

- I. Theft of intellectual property, theft of marketing information e.g., customer list, pricing data or marketing plans.*
- II. Blackmail based on information gained from computerized files e.g., medical information, personal history or sexual preference.*
- III. Unlawful access to criminal justice and the Government record e.g., changing a criminal history, modifying want and warrant information, changing tax records, creating driver's license, passports etc.*
- IV. Sabotage of computer and computer system and programs with the intent to impede a business or create chaos in business's operations.*

III.II Computer As A Tool of Crime:

In this process computers are used to commit traditional crimes in this category of computer crimes, the computer is not essential for crime to occur. This means that the crime could occur without technology but computerization helps the crime to occur faster. *Crimes in which the computer is a tool includes such offences as:*

- I. Fraudulent use of credit cards*
- II. Fraudulent use of Automated Teller Machine (ATM) and accounts*
- III. Fraud involving electronic fund transfers*
- IV. Fraudulently conversion to transfer accounts*
- V. Telecommunication frauds*

III.III Computer As Incidental To Crime:

In this process computer is not essential. Crime could occur without Computer but use of computer help the crime to occur faster. Computers also permits processing of greater amount of information and makes the crime more difficult to identify and trace. *Computer as incidental to the crime may be classified into two broad categories:*

- Internet Crimes,*
- Web based Crimes,*

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III.III.I Internet Crimes:

- a) *Hacking*
- b) *Espionage*
- c) *Spamming*
- d) *Launching malicious Programmes*

III.III.II Web Based Crimes:

III.III.II.I Website Related Crime:

- a) *Sale of pirated software*
- b) *Gambling*
- c) *Insurance frauds*
- d) *Distribution of Pornography*

III.III.II.II Crimes Through E-Mails:

- a) *Threats*
- b) *Extortion*
- c) *E-mail bombarding*
- d) *Defamation*

IV. CATEGORIES OF CYBERCRIME:

- *Hacking*
- *Identity Theft*
- *Cyber Stalking*
- *Hate Speech Online*
- *Intellectual Property Crimes*
- *Phishing*
- *Electronic Mail and IRC related Crimes*
- *Cyber Terrorism*

IV.I Hacking:

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Means trying to get into computer systems in order to steal, corrupt or illegitimately view data. ***Examples of Hacking***, Using password cracking to gain access to a system. Hacking also means using computers to commit fraudulent acts such as fraud, privacy, invasion, stealing corporate personal data etc.

IV.II Identify Theft:

When personal information of a person is stolen with a purpose of using their financial resources or to take a loan or credit card in their name then such crime is known as identify theft.

IV.III Cyber Stalking:

The word Cyber Stalking has not been defined in Information and Technology Act But the cyber stalking means follow a person through internet by posting message on the social sites or continuously sending emails to victim etc. The cyber stalkers collect all personal information about the victim such as name, family background, telephone numbers of residence and work place, daily routine of the victim and may post this information on any website related to sex-services or dating services and invite the people to call the victim on her telephone numbers to have sexual services.

IV.IV Hate Speech Online:

In *Pravasi Bhalai Sangathan vs. Union of India*, the Supreme Court requested the commission to define 'hate speech'. According to law commission report in the age of technology, internet is means of spreading false incite violence but also perpetuate the discriminatory attitude in the society.

IV.V Intellectual Property Crimes:

The intellectual property becomes suspected to misuse and theft in cyberspace. In *Kabushiki Kaisha Trading vs. Mrs. S.K Sile & Others*, the Court held that on account of advancement of technology, fast access to information, international travel and advertising, publicity on internet, television, magazines which are available throughout the world of goods and services during fairs-exhibitions, more and more persons are coming to know of the trademarks. Therefore, trademarks need to be protected.

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IV.VI Phishing:

This is a financial crime on the cyberspaces. It refers to a form of online identity theft such as online banking passwords and credit card information from users. The earliest form of phishing attacks was email based and they date back to 90's.

IV.VII Electronic Mail & IRC Related Crimes

This is another kind of crimes where some unrelated person stole our emails.

IV.VII.I Defamatory Emails:

In this process the email receives contains defamatory mails but as per true meaning of the defamation to be attacked the defamatory matter must be known to some other person in addition to receiver.

IV.VII.II Email Frauds:

In this process some unknown abuse request for help of the use to clear some legal or accounting problems.

IV.VIII Cyber Terrorism:

Cyber terrorism is the act of internet terrorism in terrorist activities number of cyber terrorists hacks government and private computer system.

V. CYBER LAW IN INDIA:

Hart in his work "The Concept of Law" has said 'Human beings are vulnerable so rule of law is required to protect them'. If this principle is applied to cyberspace then computers are supposed to be vulnerable and rule of law is essential to protect and safeguard them against cyber-crimes. Till 2000, there was no a legislation which deals with Cyber-crimes. Parliament of India enacted 'Information Technology Act 2000' on par with the law framed by the United Nation Commission on Trade Law. The Act provides legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communications referred to as electronic commerce which involves the use of alternatives to paper-based methods of communication and storage of information to facilitate

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electronic filing of documents with the government agencies. The original Act contained 94 Sections divided into 13 chapters and 4 schedules. The law apply to whole of India. Persons from other nations can also liable under the law. If the crime involves a computer or network located in India. This act provides legal framework for electronic governance by giving recognition to electronic records and digital signatures. The act also amended various sections of Indian Penal Code 1860, Indian Evidence Act 1872, Bankers Book evidence act 1891 and Reserve Bank of India Act 1934 to make them comply with new technologies.

Objective Of Information Technology Law In India:

- 1) To give Protection to the legal recognition to E-transaction
- 2) Legal Recognition to Digital Signature is considered as valid signature to accept agreements online
- 3) To stop Cyber-crimes and provide protection to online privacy
- 4) To protect Legal Recognition to keep accounting books in electronic form by bankers

The Offences And Punishment Under Information

Technology Act, 2000:

1. Sec 43: Penalty for damage to Computer, Computer system etc.
Punishment: Compensation to tune of Rs. 1 crore to the affected person.
2. Sec 44 (a): Penalty for failing to furnish any document, return or report to the Controller the Certifying Authority.
Punishment: Penalty not exceeding one lakh and fifty thousand rupees for each such failure.
3. Sec 44 (b): Penalty for failing to file any return or furnish any information or other document within the prescribed time.
Punishment: Penalty not exceeding five thousand rupees for every day during which such failure continues.
4. Sec 44(c): Penalty for not maintaining books of accounts or records.
Punishment: Penalty not exceeding ten thousand rupees for every day during which the failure continues.

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5. Sec. 45: Offences for which no penalty is separately provided.
Punishment: Compensation not exceeding twenty five thousand rupees to the affected person or a penalty not exceeding twenty five thousand rupees.
6. Sec. 63: Penalty for tampering with computer source documents.
Punishment: Imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.
7. Sec. 66: Hacking with computer system with the intent or knowledge to cause wrongful loss.
Punishment: Imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.
8. Sec. 67: Publication of obscene material in an electronic form.
Punishment: Imprisonment up to 5 years and with fine which may extend up to two lakh rupees on first conviction and its double punishment for second and subsequent convictions.
9. Sec. 68: Penalty for failing to comply with the directions of the Controller.
Punishment: Imprisonment up to three years and fine up to two lakh or both.
10. Sec. 69: Penalty for failing facilities to decrypt information which is against of sovereignty or integrity of India.
Punishment: Imprisonment which may extend to seven years.
11. Sec. 70: Securing or attempting to secure access to a protected system.
Punishment: Imprisonment which may extend to ten years and fine.
12. Sec. 71: Penalty for misrepresentation or suppression of any material fact from the Controller or the Certifying Authority.
Punishment: Imprisonment up to 2 years or fine up to rupees one lakh or with both.
13. Sec. 72: For break of confidentiality and privacy.
Punishment: Imprisonment up to 2 years, or fine up to one lakh rupees, or with both.
14. Sec. 73: For publishing digital signature certificate false in certain particulars.
Punishment: Imprisonment up to two years, or with fine which may extend up to one lakh rupees or with both.

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15. Sec. 74: Penalty for publication of Digital Signature Certificate for any fraudulent or unlawful purpose.

Punishment: Imprisonment up to 2 years, or fine up to one lakh rupees.

The Offences and Punishment under Information Technology Act 2008:

A major amendment was made in 2008. It introduced Section 66A which penalized sending of 'Offensive Messages'. Section 67 and 67A prohibits circulating obscene and sexually explicit material through internet respectively. Section 69A allows government to block content which creates threat to security to the state, the sovereignty, integrity or defense of India; friendly relations with foreign States; public order etc. It also introduced Sections which gave authorities the powers of interception or monitoring or decryption of any information through any computer resource, it also introduced for child porn, cyber terrorism and voyeurism.

VI. LANDMARK CASES OF CYBER-CRIMES:

VI.I Shreya Singhal vs. UOI AIR 2015 SC 1523:

Facts: The two women were arrested under Section 66A of the IT Act, alleged to have posted objectionable comments on Facebook regarding the complete shutdown of Mumbai after the demise of a political leader. Section 66A of IT Act states that whoever by using a computer resource or communication provides information that is offensive, false, or causes inconvenience, danger, annoyance, insult, hatred, injury, or ill will, be punished with imprisonment. The women challenged constitutionality validity of Section 66A of the IT Act before the Supreme Court.

The Court held that section 66A is ambiguous, and is violative of the right to freedom of speech and it takes within its range the speech that is innocent as well. It removed an arbitrary provision from IT Act, 2000 and upheld citizens' fundamental right to free speech in India. It was of the view that even though section 66A is struck down, provisions in the Indian Penal Code, 1860 will continue to be applicable prohibiting racist speech, any speech that outrages

Title: "A Conceptual Analysis with reference to Information Technology Act, 2000", Authored By: Mrs. Deayani Vasantrao Nikam, Assistant Professor, Shri Omkarnath Malpani Law College, Sangamner (MS), affiliated to Savitribai Phule Pune University, Pune, Maharashtra, Email Id: deyaneedeshmukh@gmail.com.

the modesty of a woman or speech aimed at promoting enmity, abusive language, criminal intimidation, racism, etc.

VI.II CBI vs. Arif Azim (Sony Sambandh case):

Facts:

The website www.sony-sambandh.com allowed NRIs to send Sony products to their Indian friends and relatives after paying online for the same. Someone logged in May 2002 into the website under the name of Barbara Campa and a Sony Colour TV set along with a cordless telephone was ordered for Arif Azim in Noida. The payment was made by her through a credit card and the said order was delivered to Arif Azim. Though the credit card agency informed the company that it was an unauthorized payment, the purchase was denied by the actual owner. The complaint was lodged with CBI and a case under Section 419, 418, and 420 of IPC, 1860 was registered. An investigation was held, and it was concluded that Arif Azim while working at the Noida Call Centre, got access to the credit card details of Barbara Campa which he misappropriated. The court found Arif Azim guilty. He was given a one-year probationary period. The Indian Penal Code, 1860, was cited by the court as an effective piece of legislation to depend on when the IT Act was not sufficient.

VI.III State of Tamil Nadu vs. SuhasKatti CC No. 4680 of 2004:

Facts:

The accused was the victim's family friend and wanted to marry her but she married another man which resulted in a divorce. After her divorce, the accused influenced her again and but she was unwillingness to marry him. He opened a false e-mail account in the victim's name and posted obscene, defamatory, and annoying information about the victim. Charge sheet was filed under Section 67 of the IT Act and Section 469 and 509 of the Indian Penal Code, 1860 against the accused. The accused was held liable under Section 469 and 509 of the Indian Penal Code, 1860 and Section 67 of the IT Act. He was punished with a Rigorous Imprisonment of 2 years along with a fine of Rs. 500 under Section 469 of the IPC, Simple Imprisonment of 1 year along with a fine of Rs. 500 under Section 509 of the IPC, and

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Rigorous imprisonment of 2 years along with a fine of Rs. 4,000 under Section 67 of the IT Act.

VI.IV Pune Citibank Mphasis Call Center Fraud:

Some ex-employees of BPO arm of Mphasis Ltd MsourceE defrauded US Customers of Citibank to the tune of Rs 1.5 crores. It was one of those cyber-crime cases that raised concerns of many kinds including the role of "Data Protection". The crime was obviously committed using "Unauthorized Access" to the "Electronic Account Space" of the customers. It is therefore firmly within the domain of "Cyber Crimes". The accused held liable under Sec.66 and Sec.43 of Information Technology Act 2000. Accordingly, the persons involved are liable for imprisonment and fine as well as a liability to pay damages to the victims to the maximum extent of Rs 1 crore per victim.

VII. CONCLUSION AND SUGGESTIONS:

The Information Technology Act of 2000 provides all safeguards for prevention of cyber-crimes but it is insufficient to cope with the current offence as India is moving closer to being a digital nation. Crimes are on the rise and new forms of Cyber Crime are emerging every day. There is need to improve and advance legislation to deal with Cyber Crime as India's Cyber Law has been found to be inadequate in comparison to other states. The Information Technology Act of 2000 provides safeguard for prevention of cybercrime but it cannot stop each and every crime as every passing minute thousands of publics are using internet.

There is also big lacuna for proper implementation of the Act because lack of skilled technical staff in the law enforcement department and many police officer have not aware the provisions of the Act and their enforcement. For effective control and checking of illegal activities in the cyber system, the police official should be trained and separate cell may be created in every district. The Public Prosecutor must be given training in cyber-crime must be added in the curricular of law course in India so that awareness can be created among the public to effectively fight cyber-crime and its exploitation.

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CONSTITUTIONAL IMPEDIMENTS IN CRIMINAL PROCEDURE IDENTIFICATION ACT 2022: AT A GLANCE

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ABSTRACT

An investigation is a critical component of criminal procedure. Investigation is closely related to collection of evidence and identification of the accused. The Criminal Procedure (Identification) Act, 2022 has significantly altered criminal identification methods. It supersedes the Identification of Prisoners Act of 1920. The concept of measurements was restricted in previous legislation, but it now encompasses almost every biological material as a measurement. The information specified under the Act forms part of the personal data of individuals and is thus protected under the right to privacy of individuals. In 2017 Supreme Court of India in historic judgment has held that the right to privacy is a fundamental right. It may also fail Article 14 requirements of a law to be fair and reasonable and for equality under the law. The important challenges involved in this Act are that data can be collected not only from convicted individuals, but also from individuals arrested for any offence and from any other person to aid an investigation. Compulsory taking of measurements of an accused would come within the mischief of Article 20 (3). Act enables coercive drawing of samples and possibly involves a violation of Article 20(3), which protects the right against self-incrimination. Therefore, scope for arbitrariness is present in this Act which can possibly misused by the police authorities.

Keywords: Criminal Investigation, the Criminal Procedure (Identification) Act, 2022, Technology & Evidence Collection, Right to Equality and Privacy

INTRODUCTION

An investigation is a critical component of criminal procedure. Investigation is the first step taken after a crime is committed or information about a crime is received by a police officer. The goal is to identify the offender and bring him to trial so that he can be punished in accordance with the provisions of the law.¹ Criminal procedure code allows the officer in charge of a police station to investigate a case in his territorial jurisdiction without the need for a Magistrate's order if the offence is cognizable.² Similarly the code establishes the procedure for police investigation and evidence collection.³ The code also provides that if there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of a police officer and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence;⁴ so investigation is closely related to collection of evidence and identification of the accused.

The Criminal Procedure (Identification) Act, 2022, recently went into effect after being passed by Parliament in April 2022. It has significantly altered criminal identification methods. It supersedes the Identification of Prisoners Act of 1920, a colonial-era law enforced by British rule, and allows police officers to take measurements of people convicted, arrested, or facing trial in criminal cases. The Identification of Prisoners Act, 1920, a previously enacted law, allows police officers to collect certain identifiable information (fingerprints and footprints) of people, including convicts and arrested people.⁵ A Magistrate may also order measurements or photographs of a person to aid in the investigation of a crime. If the accused is acquitted or discharged, all material gathered from his side must be destroyed.

ROLE OF TECHNOLOGY IN EVIDENCE COLLECTION

The use of science and technology to detect and investigate crime and administer justice is not a new concept. Recent technological advancements are opening up new avenues for performing accurate scientific measurements. The advantages of real-time, on-site forensic investigations are numerous, and such technology has the potential to significantly improve the criminal

justice system's speed and efficacy.¹¹ From the passage of the Identification of Prisoners Act in 1920 to the present day, there has been a tremendous advancement in technology, which has undoubtedly influenced the measurements used in criminal investigations. There are numerous scientific techniques available in this regard. However, DNA technology is the most important, a proposed bill in this regard is also pending in India's Parliament. The bill is titled (Use and Application) Regulation Bill, 2019 and it establishes a framework for using DNA technology for this purpose.¹²

In this context, the Law Commission of India felt compelled to introduce new scientific techniques to improve the 1920 Act for criminal investigation in 1980.¹³ Similarly, in 2003, the Mallimath Committee for Reforms of the Criminal Justice System recommended amending the 1920 Act to allow the Magistrate to authorize the collection of data such as blood samples for DNA, hair, saliva, and semen.¹⁴ Similarly, in the case of *State of UP vs Ram Babu Mirza*, the Supreme Court emphasised the importance of amending this law.¹⁵ Therefore this Act is enacted by Parliament of India in April 2022, with object to replace the Identification of Prisoners Act, 1920.¹⁶ This paper attempts to throw light on various ambiguous provision of the present Act. Which will be the constitutional impediment in the implementing the present Act.

IMPORTANT FACETS OF THE ACT

The Criminal Procedure (Identification) Act of 2022 authorizes the taking of measurements of convicts and other persons for the purposes of identification and investigation in criminal matters, as well as the preservation of records, as well as matters connected with and incidental thereto. As a result, this Act calls for the use of modern techniques to capture and record appropriate body measurements. The concept of measurements was restricted in previous legislation, but it now encompasses almost every biological material as a measurement. According to the Act, 'measurements' includes finger-impressions, palm-print impressions, foot-print impressions, photographs, iris and retina scan, physical, biological samples and their analysis, behavioural attributes including signatures, handwriting or any other examination referred to in section 53 or section 53A of the Code of Criminal Procedure, 1973.¹⁷

This Act primarily addresses three major issues. The first is the type of data that may be collected. Secondly, an individual from whom such data may be collected, and third is, the authority that may authorize such collection. It also includes a provision for a central data base where all of these records will be stored. Resistance or refusal to provide data will be considered an obstructing a public servant from performing his duties under both the 1920 and 2022 Acts.³⁴⁸

THE ROLE OF NATIONAL CRIME RECORDS BUREAU (NCRB)

The NCRB was established in 1986 to serve as a repository of information on crime and criminals to assist investigators in linking crime to perpetrators. It has linked over 15,000 police stations and 6,000 higher level police offices across the country. The NCRB's Central Fingerprint Bureau is a national repository of all fingerprints in the country, with over one million ten-digit finger prints database of criminals both convicted and arrested, as well as a search facility on Fingerprint Analysis and Criminal Tracing System.³⁴⁹ The NCRB will be the central agency in charge of maintaining records under the new Act. It will share the information with law enforcement. Furthermore, states/UTs may notify agencies in their respective jurisdictions to collect, preserve, and share data. The collected data will be kept in digital or electronic form for 75 years. If a person is acquitted after all appeals or released without a trial, their records will be destroyed. In such cases, however, a Court or Magistrate may order the retention of details after recording the reasons in writing.³⁵⁰ The advantage of centralised data is that it can be accessed from anywhere, and it will be a new milestone in determining the accused's criminal record. As a result, it aims to ensure the unique identification of those involved in crime and to assist investigating agencies in solving cases. It will improve the efficiency and timeliness of criminal investigations while also increasing the conviction rate.

RIGHT TO EQUALITY AND PRIVACY

The Act permits the collection of certain identifiable information about individuals for the investigation of crime. The information specified under the Act forms part of the personal data of individuals and is thus protected under the right to privacy of individuals. The right to

privacy is a component of various legal traditions that seek to limit governmental and private actions that endanger individuals' privacy. The right to privacy is mentioned in over 150 national constitutions.^{xxx} In India this right is protected under Article 21.^{xxxi} In 2017 Supreme Court of India in historic judgment has held that the right to privacy is a fundamental right.^{xxxii} The Court established principles that should govern any legislation that restricts this right. These include a public purpose, a rational link between the law and the purpose, and the fact that this is the least intrusive way to achieve the goal. That is, the invasion of privacy must be both necessary and proportionate to the purpose. On several parameters, the Act may fail this test. It may also fail Article 14 requirements of a law to be fair and reasonable and for equality under the law.^{xxxiii} In *E.P. Royappa's* landmark decision, the Supreme Court stated, "From a positive standpoint, equality is the antithesis of arbitrariness." When an Act is arbitrary, it implies that it is unequal in both political logic and constitutional law, and thus violates Article 14.^{xxxiv} As a result, any authority that has ambiguous or arbitrary power is clearly violating the principle of equality. In the landmark case of *Nagamur v. Chikmagalur*,^{xxxv} The Karnataka High Court ruled that forcing a person to submit to a medical examination of his blood test without his consent or against his will violates his fundamental right to life and liberty. Despite its apparent technicality, the legislative proposal jeopardizes the right to privacy of all Indian citizens, not just those convicted of crimes. According to a simple interpretation, it allows for the collection of samples from political protesters. Lawmakers were concerned that the government would use the law to target political opponents.^{xxxvi}

The important challenges involved in this Act are that data can be collected not only from convicted individuals, but also from individuals arrested for any offence and from any other person to aid an investigation. Second, the data gathered does not have to be related to the evidence required for the case. Third, the data is stored in a central database that can be accessed from anywhere, not just the case file. Fourth, the data is kept for 75 years, which effectively means for life, and fifth, safeguards have been weakened by lowering the level of official authorised to collect the data. These issues and their consequences are discussed further below.

WHOSE DATA CAN BE COLLECTED?

The Act broadens the set of people whose data can be collected to include anyone who has been convicted or arrested for any offence. According to the Act, data can be collected from the following individuals:

- (a) Convicted of an offence punishable under any law for the time being in force; or
- (b) Ordered to give security for his good behavior or maintaining peace under section 117 of the Code of Criminal Procedure, 1973 for a proceeding under section 107 or section 108 or section 109 or section 110 of the said Code; or
- (c) Arrested in connection with an offence punishable under any law for the time being in force or detained under any preventive detention law.¹⁰⁰

This would include, for example, someone arrested for violating traffic rules and negligent driving, which carries a maximum prison sentence of six months. It also broadens the Magistrate's authority to order collection from anyone (earlier only from those arrested) to aid investigation. This differs from the observation of the Law Commission (1980) that the 1920 Act is based on the principle that the less serious the offence, the more restricted should be the power to take coercive measures. The term in Clause (c) 'under any law for the time being in force' is very wide and can be misused. Similarly, the arrest in preventive detention law is one more controversial area. Therefore, scope for arbitrariness is present in this Act.

WHO MAY ORDER DATA TO BE COLLECTED?

A Magistrate may order the collection of data to aid in the investigation of an offence under the 1920 Act. According to the Law Commission (1980), the 1920 Act did not require the Magistrate to provide reasons for his order. It observed that the ambit of the law was very wide ("*any person*" arrested in connection with "*any investigation*"), and refusal to obey the order could carry criminal penalties. It recommended that the provision be amended to require the Magistrate to record reasons for giving the order. The said Act does not have any such safeguard. Instead, it lowers the level of the police officer who may take the measurement

(from sub-inspector to head constable) and also allows the head warder of a prison to take measurements.³²⁰

WHAT INFORMATION CAN BE GATHERED?

The Bill broadens the scope of data collection to include biometrics (fingerprints, palm prints, foot prints, iris and retina scan), physical and biological samples (not defined but could include blood, sperm, saliva, and so on), and behavioural characteristics (signature, handwriting, and could include voice samples). It does not restrict the measurements to those needed for a particular investigation. For example, the Act allows for the collection of a person's handwriting specimen if they are arrested for reckless and negligent driving. It also does not expressly forbid taking DNA samples (which may contain information other than just for determining identity). Under Section 53 of the Code of Criminal Procedure, 1973, collection of biological samples and their analysis may be done only if "there are reasonable grounds for believing that such examination will afford evidence as to the commission of an offence".³²¹

Biological Samples

In the case of biological samples, the Act makes an exception. A person may refuse to provide such samples unless he is arrested for an offence that is either (1) against a woman or a child, or (2) carries a minimum sentence of seven years imprisonment. The first exception is broad. For example, it could include a theft case involving a woman. A provision like this would also violate the equality of law between people who stole something from a man and someone who stole something from a woman.

DATA RETENTION PERIOD

The Act allows for the data to be kept for 75 years. The data would be deleted only after a person arrested for an offence was acquitted or discharged. The retention of data in a central database and its potential future use in criminal investigations may also violate the necessity and proportionality standards. Collection can also lead to mass surveillance, with the database

created under this law being combined with databases from the Crime and Criminal Tracking Network and Systems (CCTNS).²²²¹

ARTICLE 20 (3) PROHIBITION AGAINST SELF INCRIMINATION

Article 20 Clause (3) states that no person accused of a crime shall be compelled to testify against himself. Thus, Article 20(3) embodies the general principle of English and American law that no one shall be compelled to give testimony that could lead to criminal prosecution. It is the prosecution's responsibility to prove the crime. The accuser is not required to make any admissions or statements against his will. This fundamental rule of criminal jurisprudence against self-incrimination has been raised to a rule of constitutional law in Article 20 (3).²²²² This guarantee extends to any person accused of an offence and prohibits all kind of compulsion to make him a witness against himself. Explaining this in *MP Sharma vs Satish Chandra*²²²³, the Supreme Court observed that this right has embodied the following essential:

- (1) It is a right pertaining to a person who is 'accused of an offence'
- (2) It is protection against 'compulsion to be a witness'
- (3) It is protection against such compulsion relating to his giving evidence 'against himself'

Thus ruling of the court is the expression 'to be a witness' is very wide so as to include oral, documentary and testimonial evidence. It further held that the compulsory taking of finger impression or specimen handwriting of an accused would come within the mischief of Article 20 (3). In significant judgment *Sehri vs State of Karnataka*²²²⁴ Supreme court held that, Narcoanalysis, Polygraphy and Brain Finger Printing tests without the consent of the accused is violation of Article 20 (3). But this Act enables coercive drawing of samples and possibly involves a violation of Article 20(3), which protects the right against self-incrimination. The present Act implied use of force in collection of biological information could also lead to Narcoanalysis and Polygraphy and Brain Finger Printing tests. Although it provides²²²⁵ that an arrested person (not accused of an offence against a woman or a child) may refuse the taking of samples, not all detainees may know that they can indeed decline to let biological samples be taken. And it may be easy for the police to ignore such refusal and later claim that

they did get the detainee's consent. So, these are the drawbacks in the present Act which can possibly be misused by the police authorities.

CONCLUSION

From the above analysis we can conclude that, the concern over privacy and the safety of the data is undoubtedly significant. Indian laws are still not fulfill the compliance of strong data protection law in this background details of personal information of citizens could be misused and there is no penal provision in regard till date. But on the other hand it is imperative to use modern scientific techniques which will help the law enforcement agencies to curb the crime and criminals. This will ultimately prove beneficial to the society at large. Due to ambiguous provision under the present law some constitution impediment has cropped up in this regard and it could be challenged in the courts of law for being violative of constitutional safeguards. Similarly, there is eminent threat to political accused or non criminal person that their biological samples could be misused by the authorities. Therefore, in this backdrop necessary clarity should be brought by sustainable changes in the present Act so as to protect the citizens from states arbitrary actions.

ENDNOTES

¹ www.legalserviceindia.com/legal/article-3464-role-of-police-and-its-power-to-investigate.html (Last visited 29/22)

² Section 156 of Criminal Procedure Code 1973

³ Section 157 of Criminal Procedure Code 1973

⁴ Section 53 of Criminal Procedure Code 1973

⁵ The Identification of Prisoners Act, 1920.

⁶ Kloosterman A, Mapes A, Gerads Z, van Elk E, Koper C, van den Berg J, Verheij S, van der Steen M, van Asten A. The interface between forensic science and technology: how technology could cause a paradigm shift in the role of forensic institutes in the criminal justice system. *Philos Trans R Soc Lond B Biol Sci*. 2015 Aug 5;370(1674):20140264. doi: 10.1098/rstb.2014.0264. PMID: 26101289. PMCID: PMC4581008.

⁷ The DNA Technology (Use and Application) Regulation Bill, 2019.

⁸ Eighty-Seventh Report on Identification of Prisoners Act, 1920, Law Commission of India, 1980.

⁹ Committee on Reforms of Criminal Justice System Report (Volume 1), Ministry of Home Affairs, March 2002.

¹⁰ AIR 1980 SC 791

¹¹ The Criminal Procedure (Identification) Bill, 2022.

¹² Section 2 (b) of the Criminal Procedure Identification Act 2022

¹³ <https://prandia.org/billtrack-the-criminal-procedure-identification-bill-2022> (Last visited 05/9/22)

¹⁴ <https://moh.gov.in/en/directors-desk> (Last visited 12/9/22)

¹⁵ <https://nclt.gov.in>

¹⁶ <https://cic.gov.in/sites/default/files/Right> (Last visited 12/9/22)

¹⁷ Article 21 of the Constitution of India.

¹⁸ Justice K.S. Puttaswamy (Retd) vs. Union of India, W.P. (Civil) No.494 of 2012, Supreme Court of India, August 24, 2017.

¹⁹ Article 14, The Constitution of India

²⁰ AIR 1974 SC 555

²¹ AIR 2000 Kar 10

²² <https://www.hindustantimes.com/india-news/centre-formulates-rules-for-criminal-identification-act-101663612347859.html> (Last visited 22/9/22)

²³ Section 3 of the Criminal Procedure Identification Act 2022

²⁴ Section 2 (c) and (e) of the Criminal Procedure Identification Act 2022

²⁵ Section 53, The Code of Criminal Procedure, 1973

²⁶ <https://www.drishtias.com/daily-updates/daily-news-analysis/criminal-procedure-identification-act-2022> (Last visited 22/9/22)

²⁷ Pandey J.N. The Constitutional Law of India, Central Law Agency, Allahabad, 49th edn, p.214

²⁸ AIR 1954 SC 300

²⁹ AIR 2010 SC 1974

³⁰ Proviso of Section 3 of the Criminal Procedure Identification Act 2022

WATER MANAGEMENT AND LAWS IN INDIA: A SMOLDERING REALITY

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ABSTRACT

Water is essential for every living organism. We cannot imagine our life without water. But with the increasing population this abundant natural resource is now not available simply to everyone. Access to safe drinking water and sanitation are internationally recognized human rights. The Supreme Court of India has interpreted the right to water as being part of the fundamental right to life, which is enshrined in Article 21 of the Constitution. India has several laws and regulations that govern water resources and their management. India is undergoing the worst water crisis in its history and nearly 600 million people are facing high to extreme water stress. India's water problem is caused by several factors, including rapid population growth, urbanization, industrialization, and climate change. At the same time, India is fast moving towards a crisis of ground water overuse and contamination. The future of water management in India depends on various factors, including government policies, community participation, and technological advancements. If well plan and policies are implemented then only this problem can be sort out otherwise we have to face serious implication in future.

Keywords: Water Management, Water Laws, Right to Water, Access to clean water, Ground water crisis, Government Policies on water.

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ANALYSIS OF ENVIRONMENTAL INJURIES SUSTAINED BY ARMED CONFLICTS

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ABSTRACT

War is a catastrophic event that affects the environment in several ways. The use of weapons and military equipment causes extensive damage to natural resources, ecosystems, and biodiversity. The impact of war on the environment is significant and can lead to long-term environmental degradation, affecting the health and well-being of local communities. The use of weapons and military equipment during war can cause air and water pollution, leading to adverse health effects on local communities. The destruction of forests during war can lead to long-term environmental degradation, affecting local communities, livelihoods and the biodiversity of the region. The use of heavy machinery during war can cause significant soil erosion, affecting agricultural productivity and food security. The use of weapons and military equipment can cause the loss of biodiversity, leading to a decline in the number of species and affecting the ecological balance of the region. International law recognizes the environmental impact of armed conflict and provides a legal framework for environmental protection during armed conflict. Geneva Conventions of 1949, The Hague Convention of 1907, The International Criminal Court (ICC) has recognized the environmental impact of armed conflict as a war crime. The measures that can be taken to mitigate the environmental impact of war include Environmental Impact Assessments, Sustainable Development, Environmental Management Plans and International Cooperation. The legal framework for environmental protection during armed conflict provides rules for the protection of the environment during conflict. The mitigation of the environmental impact of war requires a comprehensive approach that considers the social, economic, and environmental impacts of conflict.

Keywords: War and environment, Use of weapons and biodiversity, Air and Water Pollution by war, Climate Change and conflict, Deforestation and war

INTRODUCTION

War is a destructive and violent event that causes widespread human suffering and destruction of infrastructure, resources, and natural habitats. War and the environment have an intricate and inseparable relationship. The environment is affected by war, and war is influenced by the environment. The environmental impact of war is significant and can lead to long-term environmental degradation, affecting the health and well-being of local communities. The impact of war on the environment is often catastrophic and long-lasting, leaving behind environmental degradation, destruction, and contamination. Conversely, environmental factors can have a significant impact on the causes, conduct, and outcome of wars. The use of weapons, the destruction of infrastructure, and the displacement of populations can cause severe damage to natural resources, ecosystems, and biodiversity. The impact of war on the environment is a complex issue that requires a comprehensive understanding of the environmental and social impacts of conflict. This article examines the relationship between war and the environment, the impact of war on the environment, and the environmental factors that affect the causes and conduct of wars.

DESTRUCTION OF BIODIVERSITY

War has a substantial negative effect on biodiversity and can cause long-term environmental damage which includes the destruction of natural habitats. Armed conflict and the deployment of military hardware can result in biodiversity loss, which lowers the number of species and upsets the ecological balance of the area. War can cause widespread environmental degradation, destruction, and contamination, affecting air, water, soil, and biodiversity.¹ The impact of war on the environment is both direct and indirect. Direct impact includes damage to infrastructure, destruction of ecosystems, and contamination of the environment due to the use of weapons and military equipment. Indirect impact includes the disruption of social and economic systems, leading to deforestation, overgrazing, and other forms of environmental

degradation. One of the most significant environmental impacts of war is the destruction of ecosystems. During war, ecosystems can be destroyed by bombing, shelling, and other military activities.¹² For example, during the Vietnam War, the United States military used Agent Orange, a defoliant, to destroy forests and crops, leading to long-term environmental damage and health problems for local communities.¹³ Similarly, during the Gulf War, oil spills from Iraqi oil fields caused significant environmental damage to marine and coastal ecosystems in Kuwait.¹⁴

AIR AND WATER POLLUTION

The use of weapons and military equipment during war can cause air and water pollution, leading to adverse health effects on local communities. The burning of fuel and explosives releases toxic chemicals, such as carbon monoxide, nitrogen oxides, and sulfur dioxide, into the air, causing respiratory problems and other health issues. The contamination of water sources due to the dumping of waste and chemicals can also lead to waterborne diseases and other health problems. For example, the use of depleted uranium (DU) in weapons during the Gulf War and the Iraq War caused contamination of air, water, and soil, leading to long-term health problems for local communities and military personnel.¹⁵ The environmental impact of war can also be long-lasting. For example, unexploded ordnance (UXO) left behind after a war can pose a long-term threat to the environment and local communities. UXO can cause soil contamination, disrupt ecosystems, and pose a risk to human health and safety.¹⁶ Environmental Factors that Affect the Causes and Conduct of Wars Environmental factors can have a significant impact on the causes, conduct, and outcome of wars. Environmental factors include natural resources, climate change, and environmental degradation.

Natural resources, such as oil, gas, and minerals, are often a cause of conflict. Control over natural resources can be a source of power and wealth, leading to competition and conflict between countries or within countries.¹⁷ For example, the conflict in the Democratic Republic of Congo (DRC) is fueled by competition for control over the country's mineral resources, including cobalt, copper, and gold.¹⁸

CLIMATE CHANGE

Climate change can also be a cause of conflict. Climate change can lead to environmental degradation, food and water scarcity, and displacement of people, leading to conflict and instability.²⁸ For example, the conflict in Syria has been linked to a severe drought that caused widespread crop failure and displacement of people. Environmental degradation, such as deforestation, overgrazing, and soil erosion, can also be a cause of conflict. Environmental degradation can lead to resource scarcity, competition, and conflict between communities or countries. For example, the conflict in Darfur, Sudan, was fueled by competition for scarce resources, including water and grazing land.²⁹

DEFORESTATION & SOIL EROSION

The destruction of forests during war can lead to long-term environmental degradation, affecting local communities, livelihoods and the biodiversity of the region. The use of explosives, bulldozers, and other heavy machinery during war can cause significant damage to forests, leading to soil erosion, loss of habitat, and a decline in biodiversity. It affects agricultural productivity and food security. The erosion of soil can also lead to the loss of topsoil, affecting soil fertility and the ability of the land to support vegetation.³⁰

NUCLEAR WEAPONS

The most devastating, brutal, and indiscriminate weapons ever made are nuclear bombs. A city can be destroyed and the majority of its inhabitants killed by a single nuclear weapon. Tens of millions of people would perish in a series of nuclear explosions over contemporary cities. Ionising radiation is a long-term byproduct of nuclear weapons that causes cancer and genetic damage in addition to killing or injuring those who are exposed to it. Ionising radiation also contaminates the environment. They have had terrible long-term effects as a result of their pervasive use in atmospheric testing. It could disrupt the global climate and threaten as many as two billion people with starvation in a nuclear famine in the long-term. The detonation of

thousands of nuclear weapons could result in a nuclear winter, which would destroy our fragile ecosystem.³³¹

LEGAL FRAMEWORK FOR ENVIRONMENTAL PROTECTION DURING ARMED CONFLICT:

International law recognizes the environmental impact of armed conflict and provides a legal framework for environmental protection during armed conflict. The Geneva Conventions of 1949 and the Additional Protocols I and II provide rules for the protection of the environment during armed conflict.³³²

The Hague Convention of 1907 and the Convention on Certain Conventional Weapons of 1980³³³ prohibit the use of weapons that cause unnecessary suffering or have indiscriminate effects, including those that cause widespread, long-term, and severe environmental damage.

The International Criminal Court (ICC) has also recognized the environmental impact of armed conflict as a war crime.³³⁴ The Rome Statute of the ICC includes provisions that prohibit the intentional destruction of the environment during armed conflict.³³⁵ The mitigation of the environmental impact of war requires a comprehensive approach that considers the social, economic, and environmental impacts of conflict. The measures that can be taken to mitigate the environmental impact of war include the following:

Environmental Impact Assessments (EIAs): EIAs are an important tool for identifying and assessing the potential environmental impacts of conflict. EIAs should be conducted before, during, and after conflict to identify and mitigate potential environmental impacts.

Sustainable Development: Sustainable development should be promoted during conflict to reduce the environmental impact of war. Sustainable development can include the use of renewable energy, sustainable agriculture, and the conservation of natural resources.

Environmental Management Plans (EMPs): EMPs can be used to mitigate the environmental impact of conflict. EMPs should be developed before conflict to identify potential environmental impacts and to develop strategies to mitigate these impacts.

Environmental Restoration: Environmental restoration can be used to restore ecosystems that have been damaged during conflict. Environmental restoration can include reforestation, wetland restoration, and the restoration of water resources.

International Cooperation: International cooperation is essential for mitigating the environmental impact of war. International organizations such as the United Nations (UN) and the International Committee of the Red Cross (ICRC) can play a key role in promoting environmental protection during armed conflict.

CONCLUSION

War and the environment have an intricate and inseparable relationship. The impact of war on the environment is significant and far-reaching, leading to environmental degradation, destruction, and contamination. Affecting the health and well-being of local communities. The use of weapons and military equipment can cause extensive damage to natural resources, ecosystems, and biodiversity. The legal framework for environmental protection during armed conflict provides rules for the protection of the environment during conflict. The mitigation of the environmental impact of war requires a comprehensive approach that considers the social, economic, and environmental impacts of conflict. Measures to mitigate the environmental impact of war include environmental impact assessments, sustainable development, environmental management plans, environmental restoration, and international cooperation.

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⁶ Handbook on the Management of Ordnance and Explosives at Closed, Transferring, and Transferred Ranges and Other Sites, 2002. Available from <https://www.epa.gov/sites/default/files/documents/ifuoccthandbook.pdf>

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MARATHWADA MITRA MANDAL'S SCLC LAW REVIEW



**MARATHWADA MITRA MANDAL'S
SHANKARRAO CHAVAN LAW COLLEGE, PUNE**

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**SOCIAL AND LEGAL ISSUES INVOLVED IN PROPOSED LEGISLATION
ON PROHIBITION OF CHILD MARRIAGE ACT**

- Dr. Kapil Chaurpagar

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ABSTRACT

Marriage has been an important social institution. The Union Government introduced the prohibition of child marriage amendment bill 2021 in Lok Sabha. It will amend the prohibition of child marriage Act, 2006 to increase the minimum age of marriage of females. The National Family Health Survey conducted by ministry of health and family welfare found that 23.3 percent of the women in the age group of 20 to 24 years were married before they turned 18 years of age. It shows that because of early marriages they are deprived from education and employment opportunities. The new projected amendment in the Act speaks about increasing minimum marriage age of women. It proposed the minimum age of marriage for women is 21 years, by amending the definition of 'child' in amended Act. It also proposes the introduction of 'notwithstanding' clause which essentially clears the deck for equal application of the prohibition of child marriage Act across the religion. Article 25 of the constitution guarantees the freedom of conscience and free profession, practice and propagation of religion. The Prohibitions of Child Marriage Act and Muslim law on the minimum age of marriage have a glaring inconsistency in the letter of the legislation. Because Muslim law acknowledges 'attaining puberty, the proposed amendment will also have huge negative impact on vulnerable section particularly on marginalized communities such as schedule

castes and the schedule tribes, making them law breakers. Minimum age of marriage in international perspective is also the important point for consideration. Naturally girls come in age early compared to the boys for reproduction. Increasing age of the marriage in other words means to deprive person from his natural right to sex. Enactment of revised child marriage law alone will not resolve the problem of child marriage.

(Keywords: Child marriage, Minimum age of marriage of females, Child Marriage Act and Muslim law, Puberty and Marriages)

INTRODUCTION

Marriage has been an important social institution. It is the basis for the family. The functions of marriage include regulation of sexual behavior, reproduction, and nurturance, protection of children, socialization, consumption, and passing on of the race.¹ The goal of marriage in Hinduism is to foster, not self-interest, but self-restraint and love for the entire family, which keeps the family united and prevents its breakdown.

Constitution of India has given equal status to both men and women. But gender disabilities and discriminations are found in India even today. As far as their social position is concerned, they are not treated as equivalent to men in all the places. The government of India has signed different international conventions and human rights

¹ Nambi S. (2005) Marriage, mental health and the Indian Legislation. Presidential Address, *Indian J Psychiatry*, 47:3-14.

instruments committing to secure equal rights to women.² The concept of women empowerment and gender equality started in India in modern age. It is a process to change the distribution of power between men and women both in interpersonal relation and in institutions throughout society.³ Marriage is crucial turning point of life of every woman which ultimately decides her entire social and economical life. Indian laws allowed the personal laws in matter of marriages and heritance. Early marriages deprived women from equating with men in matter of education and careers. The minimum legal age for marriage is different in various countries. The main point for consideration for this is the attainment of pubertal age which is connected to sexuality and pregnancy and the attainment of age of consent.⁴ The British government enacted the Child Marriage Restraint Act of 1929, often known as the Sarda Act, which set the minimum age for marriage at 14 years for females and 18 years for boys. Later, after independence the Child Marriage Restraint Act has been amended in 1949 and in 1978. According to the amendment of 1978, the minimum age for girls has been enhanced to 18 for girls and 21 years for boys. Further, the Child Marriage Restraint Act was replaced by The Prohibition of Child Marriage Act, 2006. The new Act made several new provisions to prohibit child marriages, but the minimum age of marriage remained unchanged. Despite these legislative efforts, early marriages continue to occur in India.⁵

² Hazarika, D. (2011). Women empowerment in India: A brief discussion. *International Journal of Educational Planning & Administration*, 1(3), 199-202.

³ Nayak, P., & Mahanta, B. (2012). Women empowerment in India. *Bulletin of Political Economy*, 5(2), 155-183.

⁴ Francavilla, D. (2011). Interacting legal orders and child marriages in India. *Am. UJ Gender Soc. Pol'y & L.*, 19, 529.

⁵ Brahmapurkar, K. P. (2017). Gender equality in India hit by illiteracy, child marriages and violence: a hurdle for sustainable development. *Pan African medical journal*, 28(1).

Background of the Proposed Legislation:

Considering this social problem related to the child marriage, In June 2020, the Ministry of Women and Child Development established a task group led by Jaya Jaitly, which included other members, NITI Aayog members (Health) Dr V K Paul, and secretaries from several ministries. They made the following suggestions,⁶

To increase the minimum age of marriage up to 21 years for girls. Secondly, the government should look at improving girl's access to schools and universities, as well as their transportation. Similarly, the skill and business training to girls. Sex education in school, so also, awareness campaign to be undertaken on massive scale and to encourage social acceptance of new proposed legislation. On 21st October 2021, the Union Government introduced the prohibition of child marriage amendment bill 2021 in Loksabha.

It will amend the prohibition of child marriage Act, 2006 to increase the minimum age of marriage of females. The bill would also amend the following act.⁷

These are:

- (i) Indian Christian Marriage Act, 1872,
- (ii) Parsi Marriage and Divorce Act, 1936,
- (iii) Special Marriage Act, 1954,
- (iv) Hindu Marriage Act, 1955, and
- (v) Foreign Marriage Act, 1969.
- (vi) The Muslim Personal Law (Shariat) Application Act 1937

⁶ <https://pib.gov.in/PressReleasePage.aspx?PRID=1629832> (Last Access on 2/2/22)

⁷ <https://www.ndtv.com/india-news/jaya-jaitly-committee-parliamentary-panel-members-unwell-talks-on-marriage-age-bill-deferred-2716164> (Last Access on 2/2/22)

STATEMENT OF OBJECTS AND REASONS OF AMENDEDMENTS 8

1. The Child Marriage Restraint Act, 1929, was replaced by the Prohibition of Child Marriage Act, 2006, to prohibit solemnization of child marriages, but this highly pernicious practice is still not completely eradicated from our society. Hence, there is an urgent need to tackle this societal issue and to bring in reforms. We cannot claim progress unless women progress on all fronts including their physical, mental and reproductive health. The enactments, inter alia, relating to age of marriage of parties, such as the Indian Christian Marriage Act, 1872, the Parsi Marriage and Divorce Act, 1936, the Muslim Personal Law (Shariat) Application Act, 1937, the Special Marriage Act, 1954, the Hindu Marriage Act, 1955, and the Foreign Marriage Act, 1969, do not provide for uniform minimum age of marriage for men and women.
2. The Constitution guarantees gender equality as part of the fundamental rights and also guarantees prohibition of discrimination on the grounds of sex. The existing laws do not adequately secure the Constitutional mandate of gender equality in marriageable age among men and women. Women are often put to disadvantageous position in regard to higher education, vocational instruction, attainment of psychological maturity and skill-sets, etc. Entering into employment sphere and being part of the work force to make themselves self-dependent before girls getting married is a critical area. These disadvantages perpetuate dependence of women on men. There are also imperatives for lowering maternal mortality rate and infant mortality rate, as well as improvement of nutrition levels and sex ratio

⁸[https://prsindia.org/files/bills_act/bills_parliament/2021/The%20Prohibition%20Of%20Child%20Marriage%20\(Amendment\)%20Bill,%202021.pdf](https://prsindia.org/files/bills_act/bills_parliament/2021/The%20Prohibition%20Of%20Child%20Marriage%20(Amendment)%20Bill,%202021.pdf) (Last access on 2/2/22)

at birth, as these would promote possibilities of responsible parenthood for both father and mother, making them more capable of taking better care of their children. It is also important to bring down the incidence of teenage pregnancies, which are not only harmful for women's overall health but also result in more miscarriages and stillbirths. Discrimination against women also comes in the way of achieving sustainable development goals, and goes against the principles enunciated under the Convention on the Elimination of All Forms of Discrimination against Women, to which India is a signatory. It is imperative to tackle gender inequality and gender discrimination and to put in place adequate measures to secure health, welfare and empowerment of our women and girls and to ensure status and opportunity for them at par with men.

3. In order to address the issues of women in a holistic manner, as a measure for empowerment of women, gender equality, increasing the female labour force participation, make them self-reliant and to enable them to take decisions themselves,

National Family Health Survey Report

The National Family Health Survey⁹ (2019-21) conducted by ministry of health and family welfare found that 23.3 percent of the women in the age group of 20 to 24 years were married before they turned 18 years of age, similarly it reveals that 7 percent of the women 15-18 years age grouped were pregnant. It signifies that child marriage continues to be practiced in India despite laws and stringent regulations. Furthermore, 6.8% of women in the 15-19 year old age group were already mothers or pregnant at

⁹ http://rchiips.org/nfhs/factsheet_NFHS-5.shtml (Last access on 4/2/22)

the time of conducting this survey. Just 41 percent of them have had more than ten years of schooling as against 50.2 percent of men. It shows that because of early marriages they are also deprived from education.

Three Projected Amendments in Act

1. Increasing Minimum Marriage Age:

The new projected amendment in the Act speaks about increasing minimum marriage age of women. It proposed the minimum age of marriage for women is 21 years, by amending the definition of 'child' in Section 2 (a) to mean 'a male or female who has not completed twenty-one years of age' This measure equalizes the minimum age for men and women to marriage. As a result, there is equality in terms of marriage age.

2. Declaring Child Marriage Void

It has provision to increase the time period for the "Child" to file a petition to declare the child marriage void. In the present Act of 2006, though child marriages are illegal, but they are not 'void' but 'voidable'.

A child marriage can be declared null and void by a court when either party to the marriage file a petition under section 3 (4) of the prohibition of child marriage Act, 2006.

It is also proposed to extend this time period for both men and women to five years after attaining the majority. Because both men and women gain majority at the age of 18, either man or woman can file a petition to declare a child marriage void before becoming 23, or two years after attaining the new minimum age of marriage.

3. Notwithstanding Clause

It proposes the introduction of 'notwithstanding' clause; it essentially clears the deck for equal application of the prohibition of child marriage Act across the religion, notwithstanding any customs. In 2006 PCMA there was no provision that explicitly says that, the law would override any other law on this issue. The Prohibitions of Child Marriage Act and Muslim law on the minimum age of marriage have a glaring inconsistency in the letter of the legislation. Because Muslim law acknowledges 'attaining puberty,' which is formally presumed at the age of 15, as the minimum age for marriage, it brings up the question whether the child marriage law can apply to the Muslims also. This confusion is clear with this amendment now this Act will also applicable to Muslims irrespective of their legal concept of 'attaining puberty'.

Proposed Socio-Economic Impact:

Speaking about the socio economic impact of this new amendment Act this will largely benefit the Indian women on social front, this will lead to the social benefit like lowering maternal mortality ratio¹⁰ (MMR) as well as improvement of nutrition level amongst new born child. While on financial front opportunities will be opened up for women to pursue the higher education, careers and become financially empowered thus resulting in more egalitarian society in thinking. This will complete the constitutional aim of equality.

¹⁰<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1697441> (Last access on 7/2/22)

Constitutionality of the Bill:

Every legislation which is passed by the parliament has to be in tune with the constitution, especially part three of the constitution which ensures the fundamental rights of citizens. And any law made in contravention of fundamental rights shall, to the extent of contravention, be void.¹¹ Article 25¹² of the constitution guarantees the freedom of conscience and free profession, practice and propagation of religion. Hence the new bill impacts the religious freedom guaranteed by the part three of the constitution. But like other constitutional rights this right of freedom of religion is not absolute. This right is subject to public order, morality and health. Under sub clauses (a) and (b) of clause (2) of Article 25 the state empowered by law –

- a) To regulate or restrict any economic, financial, political or other secular activity which may be associated with religious practice.
- b) To provide for social welfare and reforms.

Analyzing this power to surpass the fundamental rights on the ground of social welfare and reform, the new amendment seems to be reasonable. But it has to be ultimately decided by the judiciary. In similar cases the Supreme Court has given its verdict in favor of social reforms and good religious practices which are in tune with constitutional philosophy.

In *Sayara Bano V Union of India*¹³ The Supreme Court ruled that the practice of quick triple talaq is illegal, despite the fact that it is legal in Muslim law. The apex court

¹¹ Article 13 of Constitution of India.

¹² Article 25 of Constitution of India

¹³ (2017) 9 SCC 1

further held that the Muslim Personal Law (Shariat) Application Act 1937 is void where it recognizes and enforces triple talaq, citing Article 13(1), which states that all laws in force immediately before the commencement of the current Constitution (including the 1937 Act) are void. This judgment was a step toward equality, and it has provided a foundation for future personal law and social amendments. Similarly in *Shabana Bano V Imran Khan*¹⁴ The Supreme Court ruled that a divorced Muslim woman can sue her husband for maintenance under section 125 of the criminal procedure code even after the *iddat* (mourning) period has passed, as provided as she does not remarry. The view taken in these cases by Supreme Court is of progressive nature. If the constitutional validity of these proposed Act would challenge in Supreme Court the validity of this amendment likely to be upheld by the Supreme Court.

Adverse Effects of Projected Amendments:

The proposed amendment will have huge negative impact on vulnerable section. Because the present Act does not immediately render child marriage unlawful. The rise in the minimum age may not be useful for women. Increases in the minimum age for marriage will force many more marriages to the verge of becoming unlawful. It would end up being coercive and particular negatively and impact marginalized communities such as schedule castes and the schedule tribes, making them law breakers. In such communities maximum marriages are took place in attaining the age of puberty. Similarly rural and poor people do not want their daughters to be at home if she is of marriageable age by many social reasons.¹⁵ The other negative impact is

¹⁴ AIR 2010 SC 305, (2009) 1 SCC 666

¹⁵ Bhabha, J., & Kelly, O. (2013). Child marriage and the right to education: evidence from India. Evidence submitted to the Office of High Commission of Human Rights. University of Harvard.

that in Indian society inter-caste and inters religion marriages are still generally not accepted by parents. Incidences of honor killing are increasing in recent time in Indian society.¹⁶ Such laws are often used by the parents against rebellious sons and daughters. This new age of marriage might caste the net of criminality wider, drawing more distressed women and family in to the downward spiral of cops and court rooms.¹⁷

Human Rights & International Perspective:

Minimum age of marriage in international perspective is also the important point which is to be discussed here. The legal age of marriage in the United Kingdom,¹⁸ Australia is 18 years of age. However, people under the age of 16 can still be married provided that there is parental consent. In Japan women can get married as young as 16 years of age. While man can marry after completing 18 years of age.¹⁹ In USA also the minimum age for women is 18 years.²⁰ So the normal age of the marriage in European and developed countries are 18 years. But some countries have set 21 years age as minimum age of marriage without parental consent. Such as China, Hong Kong, Monaco, Philippines, Singapore etc, but there is also provision that, they can marry at the age of 16 to 18 with their parent's consent.²¹ The similar provision is missing in

¹⁶ Singhal, V. (2014). Honour killing in India: An assessment. Available at SSRN 2406031.

¹⁷ Donner, H. (2002). One's own marriage: Love marriages in a Calcutta neighbourhood. *South Asia Research*, 22(1), 79-94.

¹⁸ <https://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/relationships/overview/lawofmarriage> (Last access on 9/2/22)

¹⁹ <https://www.indiatoday.in/education-today/gk-current-affairs/story/from-uk-to-north-korea-minimum-age-of-marriage-across-the-globe-1888951-2021-12-17> (Last access on 9/2/22)

²⁰ <https://data.un.org/documentdata.aspx?id=336> (Last access on 9/2/22)

²¹ *Ibid.*

the new amendment bill. Plainly fixing minimum age of 21 for women practically not seems to be perfect. Because there may be certain socio-economic reasons by which marriages should be performed up to 18 years.

Universal Declaration of Human Rights:

Article 16 of the Universal Declaration of Human Rights²² states that:

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses,

General Assembly by resolution 1763 A (XVII) of 7 November 1962 ratified Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.²³ Article 2 of the said convention says that, States Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses. Here in UDHR and in Convention on Consent to Marriage, Minimum Age for Marriage. A right to marry is considered as essential Human Rights and accordingly minimum age should be fixed by the signatory states as per their legislations. But on global platform this minimum age is fixed United

²² <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (Last access on 9/2/22)

²³ <https://www.ohchr.org/en/professionalinterest/pages/minimumageformarriage.aspx> (Last access on 9/2/22)

Nations General Assembly by its resolution No. 44/25 of 20 November 1989 and ratified it by Convention on the Rights of the Child.²⁴ As per Article 1 of the said convention 'a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'. Considering all these points we can understand that, all the international norms are indicating marriageable age of particularly of women at around 18 years of age.

Scientific Analysis:

The concerns about sexual precocity and changes in timing of puberty appear to be much greater in girls than in boys,²⁵ naturally girls come in age early compared to the boys for reproduction. Globally there are many factors which decide the occurrence of early sexual maturation in girls. Especially Environmental and dietary factors decides variations in pubertal timing around the world.²⁶ There are also some chemicals and pesticides in present in food and edible stuffs that can effect early maturation.²⁷ All recent studies indicate that the onset of puberty is occurring at increasingly younger ages around the globe and India is not exception to this fact. Ones it is establish that naturally girl's pubertal age is lesser than boys then equating their age with men's is not scientifically justifiable.

²⁴ <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (Last access on 9/2/22)

²⁵ Anne-Simone Parent, Grete Teilmann, Anders Juul, Niels E. Skakkebaek, Jorma Toppari, Jean-Pierre Bourguignon, The Timing of Normal Puberty and the Age Limits of Sexual Precocity: Variations around the World, Secular Trends, and Changes after Migration, *Endocrine Reviews*, Volume 24, Issue 5, 1 October 2003, Pages 668-693, <https://doi.org/10.1210/er.2002-0019>

²⁶ *Ibid*

²⁷ Fisher, M. M., & Eugster, E. A. (2014). What is in our environment that effects puberty? *Reproductive Toxicology*, 44, 7-14.

Biological Needs and Morality:

Naturally like any other animal human too have basic instinct about sex. Being social and cultured human being control their impetus and behaviors. Marriages are legally and socially accepted means to fulfill these desires. Marriages protect the balance of the society in this regard. Increasing age of the marriage in other words means to deprive person from his natural right to sex. Delaying time for marriages could certainly bring sex related crimes in society. What cannot be obtained legally people get it illegally. Premarital sex will increased in our society. Already with increasing opportunities for schooling and employment, urbanization and globalization, young people in India tend to have an ample of opportunity for opposite-sex interactions, including the formation of pre-marital sexual partnerships. Indeed, evidence from a growing body of research indicates that between one in seven and one in three young men and fewer than one in ten young women had ever engaged in pre-marital sex.²⁸ Therefore, the correlates of the timing of marriage and thus, indirectly, of the timing of sexual initiation within marriage is important thing to balance to sexual orientation.²⁹ Marriages in reasonable age avoid these kinds of problem and also keep the morality in society.

Free Higher Education for Women in India:

The proposed amendment intended to give more education and employment opportunity to women equating them with men. Right to Education Act ³⁰ which

²⁸ Abraham, L., and K.A. Kumar. 1999. Sexual experiences and their correlates among college students in Mumbai city, India. *International Family Planning Perspectives* 25, no. 3: 139-46.

²⁹ Santhiya, K. G., Acharya, R., Jejeebhoy, S. J., & Ram, U. (2011). Timing of first sex before marriage and its correlates: evidence from India. *Culture, Health & Sexuality*, 13(03), 327-341.

³⁰ Right of Children to Free and Compulsory Education Act, 2009

stipulates compulsory and free education to all children within the age groups of 6-14 years, it speaks only about primary education and not about the higher education. The point for consideration is that, whether government is providing higher education free to women. Currently the secondary and higher education has involved increasingly burdening households for the payment, creating a situation in which education beyond the secondary level is essentially unaffordable for most working people.³¹ The other issue about higher education is that the quality of that higher education. Quality in higher education is a multi-dimensional, multilevel, and a dynamic concept. Ensuring quality in higher education is amongst the foremost challenges being faced in India today. However, Government is continuously focusing on the quality education. Still Large number of colleges and universities in India are unable to meet the minimum requirements laid down by the UGC.³² Apart from conventional stream of education focusing on professional and technical education, The All India Survey on Higher Education (AISHE) 2019-20 revealed that in the professional and technical courses female enrolment is significantly lower.³³ Similarly The National Education Policy (NEP) 2020 was launched last year with a huge fanfare. It advocated that 6 per cent of GDP should be allocated to the education sector. But, this year's (2022) budget comes down to less than 2 per cent.³⁴ All these points indicate that government only speaks

³¹<https://www.thehindubusinessline.com/opinion/columns/c-p-chandrasekhar/the-alarming-rise-in-education-costs-in-new-india/article33215181.ece> (Last access on 10/2/22)

³² Sheikh, Y. A. (2017). Higher education in India: Challenges and opportunities. *Journal of Education and Practice*, 8(1), 39-42.

³³https://www.education.gov.in/sites/upload_files/mhrd/files/statistics-new/aishe_eng.pdf (Last access on 10/2/22)

³⁴<https://indianexpress.com/article/education/budget-2022-fails-to-focus-on-reducing-learning-gaps-caused-amid-covid-allocations-not-in-line-with-nep-2020-experts-7755013/> (Last access on 16/2/22)

about the higher education to women but significant budgetary allotment should be made available to the women's education. Particularly by law adequate measures should be taken in this regard to promote women's higher education.

Job Opportunities for Women in India:

The other argument which proposed amendment is increase in marriage age wills women's equal rights in employment. Though the spirit of the proposed law is good but in reality getting employment is not easy task. The problem of unemployment is consistent from past few decades; youth could not find jobs easily as per their qualification. The statistics of unemployment is increasing year by years. In 2019, the estimated youth unemployment rate in India was at 23.01 percent. According to the data of ILO which estimates that for the past decade, India's youth unemployment rate has been hovering around the 22 percent mark³⁵ Recently the data released by the Labour Ministry showed 7.8 per cent of all employable urban youth being jobless, while the percentage for the rural was 5.3 per cent. This was highest Unemployment rate in last 45 years.³⁶ Pointing particularly about female labor force participation it is noticed that, despite increase in education, decline in fertility, and strong economic growth, India's female labor force participation has decline over recent years. Therefore positive action is required to increase women's participation.³⁷ But increasing marriage age not seem to be correct solution of this problem instead that certain policies favoring women work force should be adopted to curing this problem.

³⁵ <https://www.statista.com/statistics/812106/youth-unemployment-rate-in-india/> [Last accessed on 05/2/2022]

³⁶ <https://www.hindustantimes.com/india-news/unemployment-rate-highest-in-45-years-touche-6-1/story> [Last accessed on 08/10/2021]

³⁷ Fletcher, E., Pande, R., & Moore, C. M. T. (2017). Women and work in India: Descriptive evidence and a review of potential policies.

Remedies for Proposed Objectives:

For eradication of any social problem awareness is plays an important role. Therefore, at grass root level campaign for awareness should be conducted to generate awareness amongst community and build catalyst of change within these communities. The focus must be on creating social awareness about women's sexual and reproductive health and health rights, and ensuring girls are not forced to drop out of school or college. In this regard this media could play a very responsible role for our society. The media has got a vital role in molding a good society to develop our lifestyle and move it on the right path. It is the best tool to spread awareness in the modern society either it be political, social or economic and giving us latest sight.³⁸ So by social awareness this objective can be achieved. The other remedy for empowering women is skill development. The National Policy of the Education should act as an enabler to ensure that girls are provided access to secondary and higher education along with window of opportunity for skill development, so to empower them to make more informed life choices rather than allow others to decide their fate. Currently, a majority of the female workforce in India is unskilled. They can be motivated to develop their life skills that will give them high paying jobs with better livelihood & confidence to earn for their family. It will develop their ability & quality to move ahead and be self-dependent. It is observed, that the concept of training and skill development needs to move beyond imparting technical and managerial skills, with more focus on literacy, numeracy, political & life skills.³⁹ By providing these skills this objective can be achieved.

³⁸ Dwivedi, P. K., & Pandey, I. (2013). Role of media in social awareness. *Humanities & Social Sciences Reviews*, 1(1), 67-70.

³⁹ Vyas, A. (2018). The Impact of Skill Development on Women Empowerment. *International Journal for Advance Research and Development*, 3(1), 8-11.

Other important remedy is to provide and ensure safe environment, free from the constant threat of sexual assault and exploitation premarital sex, rape. This is another important reason which why girls are married off early.⁴⁰ If societal attitude and behavior ensures this safe and secure environment then certainly this secure environment parents will also not force for early marriages. It is also significant to focus on Poverty alleviation plans, child marriages have allegedly increased in the pandemic due to poverty and want of access to Schools. So, the government has to safeguard the continuation of poverty alleviation plans, particularly in rural areas since poverty is one of the basic aspect which contribute to the occurrence of premature marriage.⁴¹ Through such programs parents and girls could change their mind about early marriages.

Conclusion:

Child marriage is a social problem which has significant impact on the entire life of the person and the family as well as the society. Undoubtedly, enactment of revised child marriage law alone will not resolve the problem of child marriage. We are all aware of the plethora of child marriage related legislation adopted since India's independence which failed to eradicate this social evil on account of practice deeply rooted in our culture. A law to rise the legal age of the marriage needs wide societal support and should be accompanied by measures to improve access to healthcare. Continuing education will delay marriage; especially higher education should be made

⁴⁰ EP, A. A., & Poonia, A. (2015). Determinants, attitudes and practices on child marriage: Evidences from rural Rajasthan. *Social Work Chronicle*, 4(1).

⁴¹ Bhanji, S. M., & Punjani, N. S. (2014). Determinants of child (early) marriages among young girls: a public health issue. *J Women's Health Care*, 3(3), 1-3.

as fundamental right for women. Getting into paid work prior to the marriage will enable choice and finally it will empower them to take right decision on right time.

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- (4) Francavilla, D. (2011). Interacting legal orders and child marriages in India. *Am. UJ Gender Soc. Pol'y & L.*, 19, 529.
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- (6) <https://pib.gov.in/PressReleasePage.aspx?PRID=1629832> (Last Access on 2/2/22)
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- (8) [https://prsindia.org/files/bills_acts/bills_parliament/2021/The%20Prohibition%20Of%20Child%20Marriage%20\(Amendment\)%20Bill,%202021.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2021/The%20Prohibition%20Of%20Child%20Marriage%20(Amendment)%20Bill,%202021.pdf) (Last access on 2/2/22) http://rchiips.org/nfhs/factsheet_NFHS-5.shtml (Last access

on 4/2/22) (<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1697441>)

(Last access on 7/2/22)

(9) Article 13 of Constitution of India.

(10) Article 25 of Constitution of India

(11) (2017) 9 SCC 1

(12) AIR 2010 SC 305, (2009) 1 SCC 666

(13) Bhabha, J., & Kelly, O. (2013). Child marriage and the right to education: evidence from India. Evidence submitted to the Office of High Commission of Human Rights. University of Harvard.

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(16) <https://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/relationships/overview/lawofmarriage> (Last access on 9/2/22)

(17) <https://www.indiatoday.in/education-today/gk-current-affairs/story/from-uk-to-north-korea-minimum-age-of-marriage-across-the-globe-1888951-2021-12-17> (Last access on 9/2/22)

(18) <https://data.un.org/documentdata.aspx?id=336> (Last access on 9/2/22)

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