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C O N T E N T

EDITORIAL

FROM A LIBERAL TO A COMPRADOR CAMPUS

The resignations of social scientist Pratap Bhanu Mehta and economist Arvind Subramanian from the faculty of Ashoka University has started a discussion about a liberal university unable take the load of 'political liability'. For those who may not know, Ashoka is a private university which marketed itself as a liberal centre of learning albeit at a huge fee.

With resignation of the two dons, and believing what they have mentioned as the reasons for them quitting to be true, the whole marketing pitch of the Ashoka University has come a cropper. Ashoka is not a place for poor seeking knowledge but largely a finishing school for the rich seeking a seat in the universities abroad.

Having a pantheon of professors with a foreign connect has by far been its best marketing instrument attracting students from rich Indian, and largely upper-caste families, who could not make it to centres like Delhi University on the account of reservations, with just 40 percent of the seats available for them. These professors often issue 'academic visas' for the campuses abroad

Good liberal campuses are known for the possession of elitisms arising out of intellectual arrogance amidst its residents, both faculty and students. Elitism does pervade the Ashoka air too but it has more to do with Mammon than Apollo. The Ashokan culture is more about aping the western world than discussing the Indian society.

So, the hue and cry raised over the two Ashoka dons resigning, in the western world populated with Indian voices, for sure would not have many ascribing on the Indian campuses, who are fighting their own battles for ideological egalitarianism. Given this backdrop, the crisis at Ashoka University is more of commerce than of expression.

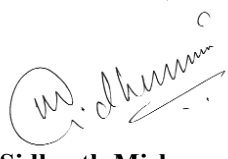
And if one needed an evidence, it's there in the joint statement issued by the university as a move to control the damage to its marketing façade. "We acknowledge that there have been some lapses in institutional processes which we will work to rectify in consultation with all stakeholders. This will reaffirm our commitment to academic autonomy and freedom which have always been at the core of the Ashoka University ideals," said the statement issued jointly by Chancellor Rudrangshu Mukherjee, Vice-Chancellor Malabika Sarkar, Mehta, Subramanian, and Ashish Dhawan, the Chairman the university's Board of Trustees. And as a post-script, the statement also added that they, "continue to believe strongly that Ashoka University should embody a liberal vision and commitment to academic freedom and autonomy."

Having said this about the Ashoka incident, it however cannot be said in the same vein that the other Indian campuses are not under the threat of ideological parochialism. And it's also true that the pandemic of ideological parochialism did not hit the Indian campuses post-2014. Even intellectuals like Ramchandra Guha, among the foremost critics of the Narendra Modi government, have been

critical of the Indian campuses being turned into fiefdoms of the Left in the pre-2014 era, with little space for any other thought or philosophy.

The problem post-2014 has been the inability to sift out the good from the ordinary, with the wearing of ideology on the sleeves being the only criterion for acceptance. This has led to the creation of a very pedestrian pantheon of professors inviting the jibe and the sneer of even those intellectually rich who may not be a cardholder of the Left as much as they may not be flag-bearer of the Right despite being a patriot, if it were a parameter for selection.

Indian campuses are having issues from funding to populating but certainly the crisis at Ashoka doesn't qualify to be the leading the symptom of the ailment. It's just a side reaction.



31 March 2021 **Sidharth Mishra**

SECRETARY'S DESK

The year 2020 was a difficult year and at a time when several journals were facing problems of publication, *The Discussant* has kept tryst with scholarship. It's with great humility and also sense of achievement that we acknowledge that *The Discussant* has completed the 8th year of regular publications and among its various achievements have been successful audition by an international agency for impact factor - International Scientific Indexing.

With equal humility we share the information that *The Discussant* was shortlisted by the Library of the US Congress as part of its India Collection and in due course awarded the LCCN (Library of Congress Control Number) and also will be catalogued online. In these years, this journal has proved to be an asset in promoting research among young scholars across the universities, and what better recognition for our effort than the one coming from the US Congress. *The Discussant* indeed has come to be recognized as journal of honest endevour.

We have completed seven years of unbroken publication of *The Discussant* as an RNI registered quarterly periodical too. We had received the ISSN accreditation a year earlier. I am happy to share with you that our online edition too is crossing new frontiers and getting accessed from new territories, which gives our writers a global exposure unthinkable for any journal of our vintage. The online edition too has been successfully audited for impact factor. We continue with our endevours to partner in intellectual exercises.

This is the fifth edition of *The Discussant* which is being brought out amidst very challenging situations. There have been lockdowns worldwide as the globe has been invaded by disease causing virus Covid-19. Though the process of unlocking has started, the signs of the pandemic being on wane is now in sight. It would be sometime before the threat of the virus is fully erased.

The first edition of the year has an anthology of select papers across disciplines on varied issues. I we have repeatedly mentioned in reports at the beginning of the various past editions, the members of Centre for Reforms, Development and Justice including Centre president, self and other members have taken up academic activities in the right earnest participating in seminars and deliberations of national importance. We welcome young scholars to associate with us with ideas and proposal for an intellectual enterprise, where we can join hands.

31 March 2021 **Dr Sanjeev Kumar Tiwari**

Heritage as a Tool of Electoral Power Politics in India: A Critical Discourse

Prof. Atanu Mohapatra*

ABSTRACT

India is a land of ancient cultures and civilizations. It has a rich history and material culture. India's material culture in the form of heritage was enriched in successive phases of its history. Each phase of Indian history has its share of material culture in the form of art and architecture; many times, juxtaposed or super imposed on the previous phase. Depending on the sway of power politics, heritage structures in general and faith-based heritage structures in particular had been destroyed, added, altered, partially disfigured, vandalized and even razed. With the independence of India in 1947 and the advent of electoral politics, heritage became a tool of power politics in India. The present paper tries to explore phase wise, various nuances of electoral power politics in India centring round the built heritage. The paper will also try to highlight the ramifications and future course of heritage based electoral politics in India. The methodology of the study is based on the scientific study and documentation of events and incidents related to heritage based electoral power politics from primary sources like interviews of political leaders and other secondary sources on the subject.

Keywords: Heritage, Power Politics, Material Culture, Discourse

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Heritage is inheritance bequeathed by the past generations. It may be tangible and intangible, movable and immovable, archaeological and architectural, cultural and natural and so on. There are many subdivisions of heritage; many times, overlapping with each other. While tangible heritage includes monuments, sites and group of buildings, intangible heritage comprises of performing arts, traditional knowledge systems, rites, rituals, legends, folklores, puppetry, story-telling etc. Similarly, movable heritage includes objects, artifacts and antiquities, immovable heritage encompasses heritage buildings. Ancient ruins, excavated monuments and sites comes under archaeological heritage while buildings with architectural merit are included in architectural heritage. Likewise, cultural heritage is manmade tangible and intangible heritage and natural heritage are the gifts of nature and encompasses mountains, rivers, seas, oceans, oasis, lagoons, mangroves etc.

Heritage is cherished and nourished by successive generations for the values attached to it. The values are identity, historical, social, economic, political, religious, artistic, architectural, symbolic etc (Fielden, 1989. p.4). The present research deals with the political value of the heritage with special reference to build heritage as a tool of electoral politics in India. While discussing the issue, special emphasis will be given to some of the important flash point heritage sites that involved power politics and which, in turn, shaped the future course of Indian polity.

ANTECEDENTS

Heritage and power politics are mutually supportive. More so in case of religious built heritage. In the past,chieftains in the chiefdoms and monarchs in the kingdoms have always tried to validate their authority through religious built heritage. The monumental buildings they built were the means of political validation of their authority, which scholars label as 'ritual sovereignty' (Kulke. 1982. p.244). There are thousands of instances in the inscriptions in ancient and medieval India that land was granted by the kings to religious establishments or built heritage for their overall management and in the process the rulers validate their political authority over the masses. During Islamic rule in India also the rulers built magnificent mosques and validate their authority through the imams and many times, the rulers claimed to be the representatives of God on earth.In modern times, the monarchical power politics gave way to electoral power politics but be it monarchical form of government or representative form, built heritage always played an important role for the political validation of the individual king, a leader, a group of people or a political party.

INDIGENOUS VS FOREIGN

In modern times, the root of the political value of the heritage may be traced to the concept of indigenous versus foreign origin of an ethnic community that settles in a

particular geographical area. India is a kaleidoscope of divergent cultures. This diversity is due to the successive phases of political conquests, trade and contact, adventure,or migration for pilgrimage and so on. People carry their culture while moving from one place to the other. While many migrants and invaders settled in India adapted with the indigenous culture and traditions, some of them retained and spread their exclusive culture which they practise even today. One of the material manifestations of these cultural practices are the built heritage. The dichotomy of indigenous and foreign has been created successively by individuals or groups for ambition to acquire or retain political power and sometimes, deny the same to the other. If we will take the example of British India, the colonial masters had developed a narrative that Vedic Aryans came as conquerors or migrants from their homeland in Central Asia or Southern Russia and forced the Indus valley people to flee to the south India who were labelled as Dravidians (Marshall. 1931.p.104). This imperial narrative was contemplated to develop animagery that Aryans were not indigenous and so also the Muslim invaders and the British and all came from outside.The Marxist scholars, echoing the imperial historiography, also opined that the Aryans were invaders or migrants to India. On the contrary, the nationalist historians are of the view that Aryans are indigenous to India (Bryant, 2001) and others who are not adapting to the indigenous culture are foreigners. With these concepts of indigenous vs foreign lies the genesis of heritage power politics in India.

CONTESTED AND UNCONTESTED BUILT HERITAGE

Many times, built heritage becomes the bone of contention between different ethnic groups due to historical legacy of subjugation and superimposition of the material culture of the invading or migrant ethnic groups on the indigenous populace. Therefore,often, the contested material culture in the form of built heritage give rise to communal tension and conflict (Jain, 2017). Depending on the value of the built heritage in terms of mass belief, the contested built heritage is often intertwined with vote bank power politics also. This is also witnessed in the context of India with a myriad of built heritage sites being contested and in most of the cases Hindus and Muslims claiming the ownership of the contested built heritage sites resulted in communal tension and strife.

Mainstream political parties in India have often tried to grab or retain power directly or indirectly using contested or uncontested built heritage as a tool of power politics. In most of the cases the heritage is religious in nature and political parties or their leaders made conscious efforts by displaying their deep concern towards that heritage to whip up public frenzy which transformed into votes for those political leaders or parties.

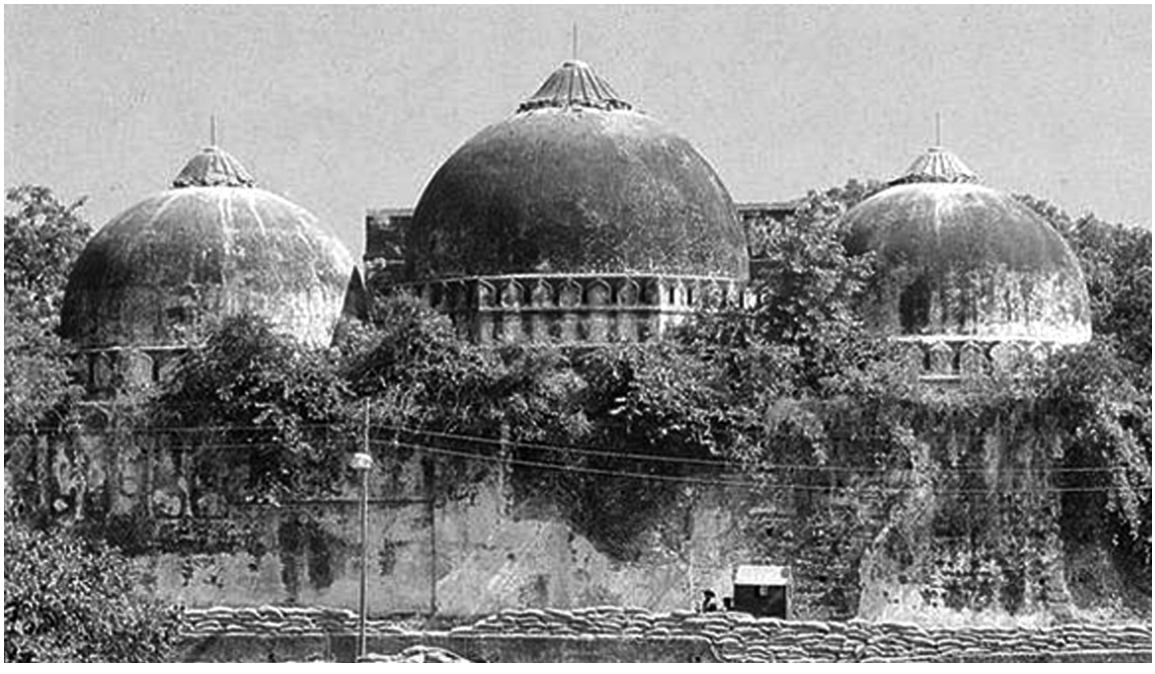
CULTURAL NATIONALISM

Scholars try to analyse the contested built heritage vis-à-vis the concept of cultural nationalism.Cultural nationalism is very much embedded with the quest for cultural identities. When nationalism is practised with culture as a tool, it takes the form of cultural nationalism. Built heritage and power politics are the integral part of cultural nationalism. One of the best examples of power politics vis-à-vis cultural nationalism through built heritage is the Ayodhya Ram Mandir movement. On the basis of historical records and archaeological excavations and research, it was found that on the disputed site at Ayodhya, before the arrival of Mughal Emperor Babur, there existed a temple, which was probably Ram Mandir. Babur's general Mir Baqi, under the express command of his master built a mosque at the site of the temple which was known as Babri Masjid (Elst: 2011, p.17). Since colonial period up to modern times, there were multiple claimants to the disputed site with Hindus and Muslims calling it as their own. On December 6, 1992, a frenzied mob destroyed the Babri Masjid. On November 9, 2019, the Supreme Court of India, through a 5-judge constitution bench headed by Chief Justice Ranjan Gogoi, pronounced a landmark judgment paving the way for the construction of a grand Ram Mandir on the disputed site (https://www.sci.gov.in/pdf/JUD_2.pdf). The Court further directed the central and state governments of UP to allocate 5 acres of land within the city of Ayodhya to be given to the Sunni Waqf board to develop a Masjid. If one will critically analyse the dispute from its inception up to the construction of new Ram Mandir, one can clearly visualize that although faith played a predominant role in sustaining the Ram Mandir movement, it was also used as a tool for electoral power politics in India. Interesting part is,there are popular perceptions that those who advocate for the cause of built heritage, they are the real beneficiaries of the heritage centric power politics. This may be true to some extent. However, many times, those who oppose the cause of heritage are also part of appeasement power politics concerning heritage.When there were disputes concerning heritage sites, Congress and other so called secular national and regional political parties like CPI, CPIM, Samajwadi Party, Rashtriya Janata Dal, Janata Dal United, Nationalist Congress Party etc. always tried to appease the minorities for their vote bank power politics.

Another important aspect is that all heritage is not used as part of electoral power politics. Heritage having mass faith are always chosen by the political parties to use as a tool for electoral power politics. There are hundreds of disputed heritage structures in India and all are not used as a tool for power politics.

FUTURE PERSPECTIVE

The Supreme Court verdict on Ayodhya has emboldened the Hindu groups and political outfits to accelerate the process of staking claim on the disputed site of

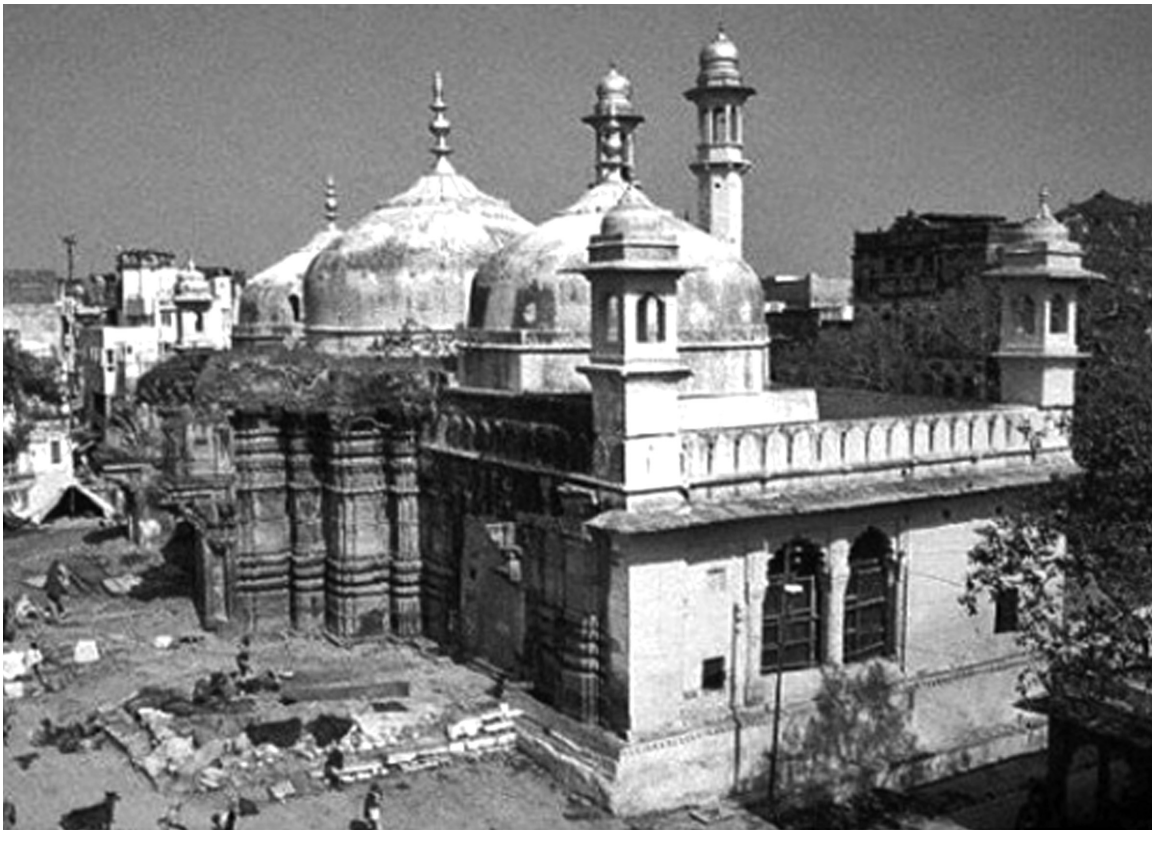


Babri Masjid, Ayodhya, before Demolition

Gyanvapi Mosque-Kashi Vishwanath temple. The first petition on the title dispute was filed in the Varanasi civil court in 1991. The petitioners contended that the original temple was built by King Vikramaditya about 2050 years ago and was destroyed by Aurangzeb in 1664. They also contended that the remains of the temple were used to build the Gyanvapi Mosque on a portion of the same land.The plea urged that the temple land be handed over to the Hindu community, and that the Places of Worship (Special Provisions) Act doesn't apply to it since the mosque was built on the remnants of the temple, parts of which still exist.

In 1998, mosque's management committee, the Anjuman Intezamia Masjid moved the Allahabad High Court, contending that the dispute cannot be adjudicated as it is barred by the Places of Worship Act. The high court stayed the proceedings in the lower court, and the matter stayed pending for 22 years.

In 2019, the advocate for the petitioners filed another plea requesting an Archaeological Survey of India (ASI) survey of the Gyanvapi compound. In January 2020, the defendant filed its objection. In April 8, 2021, the Varanasi civil court asked the ASI to get a comprehensive archaeological physical survey done on the disputed site. The Court fixed May 31st as the next date of hearing on the issue.



Gyanvapi Masjid, Banaras

Another flashpoint for built heritage as a tool of power politics is the Krishna Janmbhoomi-Idgah Mosque dispute in Mathura which has been simmering since pre-British period with Hindus alleging that it was Aurangzeb, a descendant of Babur, who destroyed part of a temple in the exact birth place of Lord Krishna to construct the Idgah mosque in 1669-70. The dispute timeline shows that in 1770, Marathas defeated the Mughals and Mathura came under them; in 1803, British defeated Marathas and brought Mathura under their control; in 1815, 13.37 acres disputed land was sold by East India Company to Raja Patni Maal of Banaras and the dispute over the land continued with Muslims taking the matter to the Court; in 1932, Allahabad High Court ruled in favour of descendants of Raja Patni Maal; in 1944, the legal heirs of Raja Patni Maal transferred the title of the land for a consideration of Rs 13,400 to Hindu Mahasabha; in 1951, Jugal Kishore Birla created the Shree Krishna Janmabhoomi Trust to which the

deed of the land was transferred but the property became defunct in 1958; in 1958, Shree Krishna Janmasthan Seva Sangh was formed; in 1968, the settlement was reached between Shree Krishna Janmasthan Seva Sangh and Idgah Masjid Trust which was decreed by the court in 1974. The compromise divided the land and asked the Seva Sangh and the management of the Shahi Masjid Idgah to stay away from each other's sections. A petition was filed in the Mathura civil court on October 16, 2020, on behalf of Lord Shrikrishna Virajman, for removal of Idgah Masjid, allegedly built on the land of Shrikrishna Janam Bhoomi. The petitioners claimed that the compromise made between the Hindus and Muslims regarding the disputed site in 1968 was not legally valid as it was obtained through false submissions. The petitioners also challenged the land deal as "illegal and void ab initio (not legally binding)" and maintained that the land was vested in another trust, Shree Krishna Janmabhoomi Trust (https://thegrillpost.com/india/what-is-shree-krishna-janmabhoomi-case-history-that-led-to-1968-settlement-explained).

There are many cases of disputed built heritage which have been used as a tool for electoral power politics by political parties in India ranging from local to sub-regional, regional and national level. So far as the issue in regional levels are concerned, one of the

Sri Krishna Janmbhoomi and Idgah Masjid, Mathura

best examples is the Sabrimala shrine issue of Kerala. For the recent assembly elections in Kerala, political parties have included Sabrimala issue in their manifesto using it as a tool for regional electoral power politics. At local levels also, during the local bodies' elections, the local leaders promise to renovate or provide new infrastructures to the local religious-built heritage in the form of devalayas or temples, mosques, Gurudwaras etc.It has been observed that built heritage as a tool of power politics is not a new phenomenon but the extension of the old system in a new format, i.e., electoral power politics and it will continue to stay there as long as the game of thrones is there. It is highly probable that both Gyanvapi Masjid-Kashi Vishwanath temple and Krishna Janmbhoomi-Idgah Mosque disputes would be used as tools of power politics in the forthcoming Lok Sabha elections in 2024.

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Understanding Agricultural Marketing Reforms and New Regulations: A Review

Dr. Minakshi Kar*

ABSTRACT

Agriculture and allied sector continue to play an important role in India as they ensure food security of about 1.3 billion people, employing more than 50 percent of the workforce and make a contribution of about 15.4 percent to the country's Gross Domestic Product. It has undergone many paradigm shifts during the last seven decades. Still the growth rate in farming does not provide enough to the farmers. Extant literature points to the fact that despite continuous efforts by successive governments right since independence, strategic attention has not been given towards overhaul of marketing facilities and services and this has reflected in the bad state of affairs of farmers. In this backdrop, the Government of India has come out with three agricultural legislations in September 2020 targeted at benefitting farmers. The legislations are expected to drive towards developing the agricultural supply chain, fostering innovation, building and upgrading mandi infrastructure, providing business promotional services to farmers and their enterprises. By following an exploratory approach with the support of past experiences and evidences from several

* Associate Professor, Department of Commerce, Dyal Singh College, University of Delhi

studies, this paper aims at analysing and evaluating agri-marketing reforms so far and the futuristic actionable agenda of the new agri-legislations for drawing meaningful conclusions.
Keywords: Agriculture, Marketing, Reforms, GDP, Agro-Laws, APMC

INTRODUCTION

Agriculture and allied sector continue to play an important role in India as they ensure food security of about 1.3 billion people, employing more than 50% of the workforce and make a contribution of about 15.4% (GoI, 2018) to the country's Gross Domestic Product. It has undergone many paradigm shifts during the last seven decades from subsistence agriculture till the early 50s in the twentieth century, to gradual commercial farming approach through the green revolution of the late fifties and early sixties and the allied sector advancements with white revolution, blue revolution etc to present state of adoption of technology and innovation. Still the growth rate in farming has not achieved the expected levels. Extant literature points to the fact that despite continuous efforts by successive governments right since independence, strategic attention has not been given towards overhaul of marketing facilities and services (Acharya, 1996; Raipuria,2002; Hegde &Madhuri, 2013) and this has reflected in the bad state of affairs of farmers. In this backdrop, the Government of India has come out with three agricultural legislations in Sept 2020 targeted at benefitting farmers.

The field of agriculture is vast for a paper as it entails several dimensions of growth and development of the economy. Hence, the author limits the scope towards targeting agri-marketing reforms and the new agri-legislations for drawing meaningful conclusions. Accordingly, the objectives of this paper are related to a brief analysis of what was achieved (synthesis of multiple reforms), what is the present state of the actionable agenda and what is the way forward. With these objectives in mind, the author here follows a descriptive approach of assessing the strengths and weaknesses of the agri-marketing reforms so far. The arguments developed used past experiences and evidence to develop the narratives, analyses the context by scanning a large part of the extant content and presents the discussion and conclusion. Besides introduction, this paper is organised in three sections. The second section presents a synthesis of multiple reforms. The third section presents the futuristic actionable agenda. The fourth section derives the discussion and conclusion.

SYNTHESIS OF THE MULTIPLE REFORMS

An important development in the agricultural marketing scene in the country has been the recommendation of the Royal Commission on Agriculture, 1928 for regulation

of marketing practices and establishment of regulated markets (GoI, 2017). In pursuance, Government of India prepared a Model Bill in 1938 and circulated to all the States. Though, several provinces and states enacted legislation for the regulation of agricultural produces markets, not much happened till independence (DMI, 2015).

Before the Green Revolution, it was considered that regulation of markets and marketing practices would prove to be important measures for improvement of agricultural marketing. The development of agricultural sector was planned through development of an agricultural marketing system, consisting of Market Committees constituted under the State Marketing Legislations. So, the organized agricultural marketing came into existence through regulated markets. The market had representation from all stakeholders including farmers. These Agricultural Produce Market Committees, established under the Act enforce the regulatory provisions. Agricultural Produce Market Committees (APMC) were constituted for framing and enforcing the rules for them.

The basic objective of setting up of network of physical markets has been to ensure reasonable gain to the farmers by fair play of supply and demand forces and regulation of market practices. The number of regulated markets has been increasing in the country. While by the end of 1950, there were only 286 regulated markets in the country, the number stands at 6746 as on 2015 (Kar, 2018, p 3). Majority of the states had enacted the Agricultural Produce Market Acts. The states or Union Territories that enacted their own legislation are Kerala, Manipur, Meghalaya, Nagaland, Sikkim, A&N Islands, Dadra & Nagar Haveli, Daman and Diu and Lakshadweep.

Since agriculture is in the state list, regulation of Agriculture Marketing' laws have been done by the State Governments. In order to provide better price realization to the farmers through improved and alternative marketing channels are required. Reforms in the sector also include removal of restrictive provisions in the State marketing laws, monopolistic approach of APMCs, enhance investment in development of post-harvest marketing infrastructure (Rangarajan, 1997, Acharya, 2004; ICAR 2010). Central Government has been engaging with the States for a long period to implement reforms in the sector but enactment and final decision lies with the states. In the early part of 21st century, central government has been coming up with many rules/recommendations/laws for improvement of agri-practices. One such effort has been Department of Agriculture, Cooperation & farmer welfare formulating a Model APMC Act in 2003 and also Model Rules in 2007 which were shared with the States/UTs for their guidance and implementation.

Many of the States have partially adopted the provisions of model APMC Acts and amended their APMC Acts. Some of the states have not framed rules to implement the

amended provisions, which indicate that many state governments want their farmers to sell their produce to through channels other than APMCs. Model APMC Act couldn't achieve the purpose for which it was created because as it retains the rule that buyers have to pay APMC charges even when the produce is sold directly outside the APMC area, even though no facility provided by the APMC is used. In the same vain, Model APMC Act doesn't allow the APMCs and commission agents to charge market fee/commission from the seller and the burden of these fees/commission falls on the farmers since buyers would reduce their bids by the amount of the fees/commission charged by the APMC and the Commission agents (GoI, 2015). Though the model APMC Act allows establishment of markets by private sector, the owner of the private market will have to collect the APMC fees/taxes, for and on behalf of the APMC, from the buyers/sellers in addition to the fee that he wants to charge for providing facilities like trading platform and service like loading, unloading, grading, weighing etc. (Kar, 2018, p 8).

Through advisories issued to the States from time to time, central Govt. has been requesting the States to reform their marketing regulations and align these with the provisions in the Model Act. The state of reforms however, has not been satisfactory. The main reasons include there is a huge variation in the density of regulated markets in different parts of the country and there are multiple license requirements for trading in a State resulting in levy of market fee at multiple points. In addition to these, other charges, such as, various types of development cess, entry tax, purchase tax and weighment charges etc are also required to be paid resulting in to higher transaction cost and low-price realization by the farmers in a regulated market. It is also to be noted that covered and open auction platforms exist only in two-thirds of the regulated markets, while only one-fourth of the markets have common drying yards. Cold storage units exist in only nine per cent of the markets and grading facilities in less than one-third of the markets. Electronic weigh-bridges are available only in a few markets (Kar, 2018, p 7).

Study conducted by ICAR (2015), indicates that the range of post-harvest losses of various commodities ranges from 4.65-5.99% for cereals, 6.36-8.41% for pulses, 3.08- 9.96 for oilseeds, 6.7-15.88% for fruits, 4.8- 12.44% for vegetables, 0.92% for milk, 7.19 % for eggs and 6.74% for poultry meat. The total post-harvest losses of agriculture commodities have been estimated at about Rs 92,651 crores at average prices value of 2014 (GoI, 2015). The licensing of commission agents in the regulated markets have led to the monopoly of these licensed traders acting as a barrier to entry of new entrepreneur in existing APMCs and hence, preventing competition. The Millennium study conducted by Ministry of Agriculture in 2004 indicates that long supply chain (normally 5-6) incurs disproportionate marketing cost and margin in order to provide the remunerative prices to the farmers, there is a need to reduce the intermediation by providing alternative

marketing channels like direct marketing, contract farming etc. for which reforms in agricultural marketing system is necessary (Achraya, 2004).

Most often, the farmers are not able to obtain information on exact market prices in different markets. So, they accept whatever price the traders offer to them. With a view to tackle this problem the Government is using the radio and television to broadcast market prices regularly. The newspapers also keep the farmers posted with the latest changes in the prices. However, the price quotations are sometimes not reliable and sometimes have a great time-lag (Kar, 2020). The trader generally offers less than the price quoted by the Government news media. Another important problem lies in the fact that farmer, being poor, tries to sell his produce immediately after the crop harvesting though prices at that time are very low. The safeguard of the farmer from such "forced sales" is to provide him credit so that he can wait for better times and better prices.

Again, during 2017-18, the central government released the Model APMC and Contract Farming Acts to allow restriction-free trade of farmers' produce, promote competition through multiple marketing channels, and promote farming under pre-agreed contracts. The Standing Committee on Agriculture (2018-19) noted that states have not implemented several of the reforms suggested in the Model Acts and are not implemented in their true sense and need to be reformed urgently. It recommended that the central government constitute a Committee of Agriculture Ministers of all states to arrive at a consensus and design a legal framework for agricultural marketing (Lok Sabha, 2019). A High-Powered Committee of seven Chief Ministers was set up in July 2019 to discuss, among other things (Niti Ayog, 2019):

(i) adoption and time-bound implementation of model Acts by States, and
(ii) changes to the Essential Commodities Act, 1955 (which provides for control of production, supply, and trade of essential commodities) for attracting private investment in agricultural marketing and infrastructure.

Issues identified by the Standing Committee include most APMCs have a limited number of traders operating, which leads to cartelization and reduces competition. Traders, commission agents, and other functionaries organise themselves into associations, which do not allow easy entry of new persons into market yards, stifling competition. The said Acts are highly restrictive in promotion of multiple channels of marketing (such as more buyers, private markets, direct sale to businesses and retail consumers, and online transactions) and competition in the system (Lok Sabha, 2019).

The Standing Committee on Agriculture (2018-19) noted that "availability of a transparent, easily accessible, and efficient marketing platform is a pre-requisite to ensure remunerative prices for farmers". It was emphasized that "agriculture sector is the backbone of our economy" and none can deny that "there exists a further scope of

technological development and better access to markets in agricultural sector" (Lok Sabha, 2019).Further, it is mentioned that "the situation has been regressive for the small and marginal farmers who happen to be the biggest sufferer than the counterparts.While most farmers lack access to government procurement facilities and APMC markets, small and marginal farmers (who hold 86% of the agricultural land holdings in the country) face various issues in selling their produce in APMC markets such as inadequate marketable surplus, long-distance to the nearest APMC markets, and lack of transportation facilities. The average area served by an APMC market is 496 sq. km., much higher than the 80 sq. km. recommended by the National Commission on Farmers in 2006" (Lok Sabha, 2019).

The current round of legislations to transform agriculture started in June 2020 when three ordinances were promulgated by the Centre. Of the three ordinances, the most significant one is the Farmers' Produce Trade & Commerce (Promotion & Facilitation Ordinance) 2020. This legislation was targeted to provide for the creation of an ecosystem where the farmers and traders enjoy the freedom of choice relating to sale and purchase of farmers' produce which facilitates remunerative prices through competitive alternative trading channels; to promote efficient, transparent and barrier-free inter-State and intra-State trade and commerce of farmers' produce outside the physical premises of markets or deemed markets notified under various State agricultural produce market legislations; to provide a facilitative framework for electronic trading and for matters connected therewith or incidental thereto allow intra-state and inter-state trade of farmers' produce beyond the physical premises of APMC markets. State governments are prohibited from levying any market fee, cess or levy outside APMC areas. Over a quiet long time, Agricultural Produce Market Committees (APMCs) have not been associated with the best pricing for the efforts of these farmers. Even the Economic Survey 2020-21 has emphasized that the APMCs have been sponsoring the monopolies (GoI, 2021). The idea of opening more avenues with the agriculturists is not very new in our economy. There was a similar urge among the recommendations of Swaminathan Commission to get better pricing for the peasants (GoI, 2006).The recent report by the Shanta Kumar panel on restructuring of Food Corporation of India (2015) noted that only 5.8 percent of farmers gain from MSP. Even for wheat and paddy, the MSP has not been assured in every corner of the nation (Damodaran, 2020).

ACTIONABLE FUTURISTIC AGENDA

The enactment of following three Acts in September 2020 together aim to increase opportunities and freedom for farmers to enter sale contracts over a long period of time and permits buyers to purchase farm produce in bulk. The transformation of the Indian

agri reforms envisioned through these legislations is futuristic and clearly lays a pathway towards progress of farmers.

(i) *Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020* [ii]

This landmark regulation allows intra-state and inter-state trade of farmers' produce outside (i) the physical premises of market yards run by market committees formed under the state APMC Acts and (ii) other markets notified under the state APMC Acts. Such trade can be conducted in an 'outside trade area', i.e., any place of production, collection, and aggregation of farmers' produce including: (i) farm gates, (ii) factory premises, (iii) warehouses, (iv) silos, and (v) cold storages.

This act permits the electronic trading of scheduled farmers' produce (agricultural produce regulated under any state APMC Act) in the specified trade area. An electronic trading and transaction platform may be set up to facilitate the direct and online buying and selling of such produce through electronic devices and internet. The specified entities may establish and operate such platforms are; (i) companies, partnership firms, or registered societies, having permanent account number under the Income Tax Act, 1961 or any other document notified by the central government, and (ii) a farmer producer organisation or agricultural cooperative society.

It prohibits state governments from levying any market fee, cess or levy on farmers, traders, and electronic trading platforms for trade of farmers' produce conducted in an 'outside trade area'. It further provides buyers the freedom to buy farmers' produce outside the APMC markets without having any license or paying any fees to APMCs.

(ii) *The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020* [iii]

This Act is meant to provide a national framework for the farming agreements that protect and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner. It also provides for a farming agreement between a farmer and a buyer prior to the production or rearing of any farm produce. This agreement will provide for the mutually agreed upon terms and conditions for supply of such produce, including the time of supply, quality, grade, standards, price and such other matters; and the terms related to supply of farm services The minimum period of an agreement will be one crop season, or one production cycle of livestock. The maximum period is five years, unless the production cycle is more than five years.

This legislation also contains provisions for price. The price of farming produce should be mentioned in the agreement. For prices subjected to variation, a guaranteed price for the produce and a clear reference for any additional amount above the guaranteed price

must be specified in the agreement. Further, the process of price determination must be mentioned in the agreement. In case the above-stated price is subject to variation, the agreement shall explicitly provide for the following: The method of determining the stated price should be mentioned in the agreement.

The act states that Sponsor should take the delivery of farming produce on the agreed time and delivery date. At the time of accepting the farm produce, it's the responsibility of the sponsor to inspect the same as afterwards, he shall have no right to retract from acceptance of such produce. It also provides "relief in the form of once a farmer enters into a farming agreement, he shall be exempted from the State Act with regard to regulation of sale and purchase of farming produce". Essential Commodities Act will also not be applicable, if the farm produce is purchased under the farming agreement.

Another important safeguard is injected in the Act (Sec 8) which set aside the fear of many farmers that such sponsor may try to usurp their land by stating that Farming Agreement shall not be entered for the following purpose:

"any transfer, including sale, lease and mortgage of the land or premises of the farmer raising any permanent structure or making any modification on the land or premises of the farmer, unless the Sponsor agrees to remove such structure or to restore the land to its original condition, at his cost, on the conclusion of the agreement or expiry of the agreement period"

At any time, the farming agreement can be either altered or terminated with mutual consent of the parties. The said act also provides for mechanism for dispute resolution as explained in sec 14 of the act . The Magistrate or the Appellate Authority may impose certain penalties on the party contravening the agreement. However, no action can be taken against the agricultural land of farmer for recovery of any dues.

(iii) The Essential Commodities (Amendment) Act 2020[v]

After independence, agricultural produce was limited so agricultural products had to be imported in order to meet the needs of the masses. This often resulted in black marketing of these products. To prevent the black marketing of agriculture products the essential commodities act was passed in 1955 to enable the Government to control the marketing, pricing and stocking of products to avoid the exploitation of people.The Essential Commodities Act, 1955 empowered the central government to declare certain commodities such as food items, fertilizers, and petroleum products as essential commodities.[vi]

Through the Essential Commodities (Amendment) Act, 2020, now certain commodities such as cereals, pulses, oilseeds, edible oils, onion and potatoes have been removed from the list of essential commodities. It provides that the central government may regulate the supply of certain food items including cereals, pulses, potatoes, onions,

edible oilseeds, and oils, only under extraordinary circumstances. These include war, famine, extraordinary price rise and natural calamity of grave nature. The EC (Amendment) Bill 2020 aims to remove fears of private investors of excessive regulatory interference in their business operations. The freedom to produce, hold, move, distribute and supply will lead to harnessing of economies of scale and attract private sector/foreign direct investment into agriculture sector. It will help drive up investment in cold storages and modernization of food supply chain.

The Government, while liberalizing the regulatory environment, has also ensured that interests of consumers are safeguarded. It has been provided in the amendment, that in situations such as war, famine, extraordinary price rise and natural calamity, such agricultural foodstuff can be regulated. However, the installed capacity of a value chain participant and the export demand of an exporter will remain exempted from such stock limit imposition so as to ensure that investments in agriculture are not discouraged. This amendment in the Essential Commodities Act provides that stock limits for agricultural produce can be imposed only when retail prices increase sharply and exempts value chain participants and exporters from any stock limit . The legislation requires that imposition of any stock limit on agricultural produce must be based on price rise. Farmers therefore will be able to choose their markets, customers and will be able to get a better price since they can store their produce till, they get a fair price.

DISCUSSION AND CONCLUSION

These new regulations do not repeal the existing APMC laws but limit the control of APMCs to the physical boundaries of the markets under their control. The regulations may lead to increased competition, resulting in APMCs becoming more efficient in providing cost-effective services for marketing. The prices prevailing in APMC markets is expected to aid in a better price discovery for farmers. Simply put, the new Central agri-legislations has attempted to create new market areas where farmers could sell their produce without being subject to state regulations and fees. Therefore, while the original APMC markets are going to stay, new markets will come up as a result of new regulations.

While India has become surplus in most agri-commodities, farmers have been unable to get better prices due to lack of investment in cold storage, warehouses, processing and export as the entrepreneurial spirit gets dampened due to Essential Commodities Act. Farmers suffer huge losses when there are bumper harvests, especially of perishable commodities. Agriculture sector needs well-functioning markets to drive growth, employment and economic prosperity in rural areas of the country. There is an urgent need to garner large investments for the development of post-harvest and cold chain

infrastructure nearer to the farmers' field that would provide dynamism and efficiency into the marketing system. On account of the APMC Act, farmers were not able to sell directly to ultimate buyers such as processors, exporters and retailers, and hence sell their produce to traders or local aggregators. Processors, exporters, and retailers in turn buy from local aggregators. This increases the number of intermediaries and leads to higher costs. Besides these non-value-adding transaction costs, there is a lack of standardization across the regulated market yards, in terms of quality or other costs. Different state governments levy different taxes on transactions carried out at these market yards. As a result, the spot prices prevailing at these markets vary widely for agri-commodities (Kar, 2020).

Further, farmer's apprehensions also emanate from the fact that for their financial needs, they rely on the middlemen, also called *artiyas*. They fear these laws will do away with artiyas and their access to small credits from them. Farmers need to understand that they will have more freedom in choice of their buyers and terms of sale ultimately resulting in better revenue.The provision on contract farming will allow farmers to enter into a contract with agri-business firms or large retailers on pre-agreed prices of their produce. This will help small and marginal farmers as the legislation will transfer the risk of market unpredictability from the farmer to the sponsor. The law on essential commodities seeks to remove commodities like cereals, pulses, oilseeds, edible oils, onion and potatoes from the list of essential commodities. This provision will attract private sector/foreign direct investment into the agriculture sector.

The efforts of the Govt. in bringing in new regulations with a detailed framework for contract farming are going to set in a new phase of Indian agricultural reforms.The legislations will help drive up investment in cold storages and modernization of food supply chain. It will help both farmers and consumers while bringing in price stability. It will create competitive market environment and also prevent wastage of agri-produce that happens due to lack of storage facilities. Certain sections of farmers in pockets of northern India feel that the recent laws enacted by the Centre will do away with the MSP system which is not based on actual facts and evidences. The government has assured again and again that MSP is going to stay and even provided several safety valves to protect the interest of farmers. Even there have been several media reports of record MSP dispersals for the Rabi crop during the pandemic times.

Over the years, the institutions of regulated markets once thought of as panacea for all the ills of the farmers in marketing their produce has seemed to become revenue generating institutions for the state exchequer marginalizing the farmers' interests (Acharya, 2004).Thus, the need of the hour is developing the agricultural supply chain, fostering innovation, building and upgrading mandi infrastructure, providing business

promotional services to farmers and their enterprises (Kar, 2020) as has been envisioned in these new legislations. This can be expedited through engagement of public private partnerships in agri-business sector as has been learnt from the experience of several countries. This would also help us towards achievement of the sustainable development goals.

END NOTES

1. The all-India average area served by a regulated market is 487.40 sq. km, against the recommendation of the National Farmers Commission (2004) that a regulated market should be available to farmers within a radius of 5 Km (corresponding market area of about 80 sq. km.)
2. Govt of India (2020), The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020, Ministry of Agriculture and Farmers Welfare, GoI.
3. Govt of India (2020), The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020, Ministry of Agriculture and Farmers Welfare, GoI.
4. Where, the farming agreement does not provide for conciliation process or the parties to the farming agreement fail to settle their dispute under that section within a period of thirty days, then, any such party may approach the concerned Sub-Divisional Magistrate who shall be the Sub-Divisional Authority for deciding the disputes under farming agreements.
5. Govt of India (2020), The Essential Commodities (Amendment) Ordinance, 2020, Ministry of Consumer Affairs, Food and Public Distribution, GoI.
6. Essential commodities under the Act contained seven commodities: drugs; fertilisers, whether inorganic, organic or mixed; foodstuffs including edible oils; hank yarn made wholly from cotton; petroleum and petroleum products; raw jute and jute textiles; seeds of food-crops and seeds of fruits and vegetables, seeds of cattle fodder, jute seed, cotton seed.
7. A stock limit may be imposed only if there is: a 100% increase in retail price of horticultural produce; and a 50% increase in the retail price of non-perishable agricultural food items.

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Prisoners' Rights in India: An Overview

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ABSTRACT

While the civilized world has been very keen on declaration of the citizen's rights, their implementation has varied from right to right and has been to an extent specific to the social groups it affects. The constitution of India grants fundamental rights to everyone within its territory but the same set of rights are not available to people living inside the jails. Here comes the issue of rights of prisoners. Even inside the prison the human element or the respect of individual dignity cannot be altogether absent. In this context, this paper attempts to study Prisoner's Rights in not just the constitutional framework but the pragmatic and humanistic approach of the judicial system that has come to rescue in the arena of the rights of prisoners at least in India.

Keywords: Prisoner's Rights, Fundamental Rights, Jail, Judiciary, Constitution, India,

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INTRODUCTION

Prisons are the places for detention of people when they are charged or convicted for violating the law of the land. Prisoners are those who stay behind bars or the inside the places of detention. A person loses all contacts with the outside world when enters a prison. The constitution of India grants fundamental rights to everyone within its territory but the same set of rights are not available to people living inside the jails. Here comes the issue of rights of prisoners. Even inside the prison the human element or the respect of individual dignity cannot be altogether absent. The socialism inside a prison has its own boundaries. Maintaining certain basic human rights inside the prison is an arena of prison reforms. It can also be understood as those prisons are not only the places of torture or punishment but a place of reform and rehabilitation. To analyze the rights of prisoners in the light of international developments and prison situation in India vis-à-vis prison reform is the central theme of this paper. Prison Reforms, basically, mean an extension of human rights even within prison walls as guaranteed by the Constitution of the land. Globally, the term 'prison' is identified with a place of terror and torture. Prisons are categorized as Central Jails, District Jails, and Sub Jails, Borstal Institutions/Juvenile Jails, Open Jails/Camps/Farms, and some specialized institutions. There are also Women's Jails in the country. The word 'prison' is a synonym for an unhygienic, overcrowded unit with unsatisfactory living conditions, a place like hell on earth. Indian prisons fall in the same line. The judgments of the Supreme court have paved way for prison reforms in India. An attempt has been made to address the following concerns in this section:

I. Prisoners do retain certain basic rights within the walls of prison.
II. The United Nations guidelines act as torch bearer in this arena.
III. Prisoners are at the receiving end of the criminal-justice system.
IV. The judicial pronouncements have paved the way for prison reforms in India.
V. New Prison/Jail Manuals have started addressing the issue of prison reform.

The civil society of today ensures fundamental rights to its citizens. On the one hand it ensures rights and the entire criminal-justice system exists for it while on the other it denies the same to those who fail in following the rules and regulations of civil society. It should also be a matter of concern for a civil society that how these offenders of law are treated inside a prison. Such society must treat the prisoners with sympathy and affection. This treatment is not possible until the society recognizes and accepts the rights of prisoners as basic human rights. A prisoner, be he/she, a convict or under-trial or a detenue, does not cease to be a human being. Even when lodged in jail, he/she should continue to enjoy all his basic human rights and fundamental rights.In Indian context, the Constitution of India grants fundamental rights to its people. They are fundamental

to human life. These rights can be taken back only by the procedure established by law for violating the law. A person inside the prison does not loose these fundamental rights. They are restricted or suspended only for a short while.

The recognition of human rights as an essential component for every individual human life has its genesis in the United Nations Declaration. The Universal Declaration of Human Rights, 1948 stipulates that *"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."*[1] The world community agreed to ensure a dignified life to each and every individual living in any corner. Article 21 of the Constitution of India reflects the same sentiment. It recognizes that the right to life includes a right to live with human dignity.Here treatment includes the treatment inside a prison also and not in civil life only. A prison atmosphere can be called human and civilized only if it recognizes the basic human rights.The rights of the prisoners should be realized only through the effective and meaningful means of prison reforms.

RIGHTS OF PRISONERS AND THE UNITED NATIONS (UN)

Prisoners have different set of rule hence different set of rights. Now the question is that they should be allowed to exercise which rights and to which extent. Prison reforms symbolizes a change in the attitude as well in laws governing prisons. Rights do exist within the walls of prison but within limitations.

The justification behind holding the some of the rights of prisoners back is that a few people not following the legal code of conduct must not be allowed to disturb the peace of entire society. The conduct of individuals cannot be regulated round the clock. Disorders are bound to exist and they are to be corrected. So, the traditional job of prisons was to make people realize their mistakes by curtailing their liberties and rights. The treatment inside the prisons was to reorient the human mind. Maintaining physical custody of the prisoners is considered essential for accomplishing this task.Prisons give prisoners a stressful life compelling them to surrender their civil rights once behind bars. The horrifying effect of prison life should control the rest of life once outside the prison. As a result the inmates/prisoners suffer various kinds of deprivations. The liberty of law breakers are restricted under legal provisions for the time being so that law abiding citizens may enjoy their liberty. It is done in the name of punishment.

The population inside any prison is a mixed cluster. The inmates of prison i.e., prisoners are the people either waiting for their trial or serving sentences at the post-conviction stage. Every prisoner is a human being irrespective of their age, sex, social position, educational level or economic capabilities. They find themselves behind prison walls for offending the law. Once inside the prison either as an accused or convicted, a prisoner loses certain rights especially the right to freedom. This does not mean losing

other rights concerning his/her treatment. Can a punitive deprivation take away all the fundamental freedoms? The answer is definitely no. It means acknowledging the fact that prisoners do have rights and liberty.

Broadly speaking, we can outline the rights of prisoners as:

1. A prisoner despite confinement behind walls cannot be subjected to any inhuman treatment or physically torture.
2. The human dignity of prisoner must be respected during the stay in prison.
3. In case of any mental or physical illness, a prisoner has a right to have proper medical attention. He/she must be attended by a qualified doctor.
4. A prisoner must be given full outfit and bedding as per the requirement of the season.
5. The right to communicate with the outside world must be given in the form of prison visiting system, mails or phone calls etc. Ultimately, a prisoner has to rejoin the society.
6. Imprisonment cannot forbid a prisoner from practicing his/her own religion.
7. Prison custody cannot prevent a prisoner from pursuing education.
8. A prisoner can file a petition for bail, legal aid or speedy trial.
9. A prisoner must be released immediately after completing the sentence.
10. On violation of any of his/her basic right, a prisoner can approach the Superintendent or higher authority or file a writ petition before the judiciary.

The three major sources of these rights of prisoners are:

(a) The Universal Declaration of Human Rights (UDHR), 1948
(b) The Standard Minimum Rules for the Treatment of Prisoners (SMRTP), 1955
(c) The International Covenant on Civil and Political Rights (ICCPR), 1966

On 10th December, 1948, the United Nations (U.N.) adopted the UDHR. On 30th August 1955, the First United Nations Congress on the Prevention of Crime and Treatment of Offenders adopted the SMRTP. The U.N. Assembly adopted the ICCPR on 6th December 1966. *"The Universal Declaration of Human Rights and the two International Covenants, which together may be called the 'Magna Carta of mankind', … which puts faith in fundamental human rights and the dignity and worth of the human person."*[2] This comment of Justice Iyer appears significant because the penology has undergone changes due to such global initiatives.

The UDHR clearly outlines the nature and scope of human rights. It is the guiding principle in the arena of human rights. The rights of prisoners also find its source in the UDHR. In its article 30, the UDHR sets out the basic rights and freedoms for all people, covering civil, political, economic, social and cultural rights.[3]

The SMRTP is the only agreed document of world community that outlines the treatment of prisoners. It not only deals with the convicted but with the under-trials prisoners also. In every five years the meeting of SMRTP is held. In July, 1957, the Economic and Social Council approved those rules and recommended them to the member states. These rules call for complete prohibition of corporal punishment, solitary confinements in cell and all cruel, inhuman and degrading punishments.

The ICCPR resolution states that the treatment of prisoners must be 'humane'. It says as:

"*1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. ….

3. The penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status."[4]

Declaration on Protection from Torture, 1975 is another important document adopted by the UN in this direction. This document also pleaded for the human treatment of subjects and provides many protections against the torture, inhuman, cruel or degrading treatment punishment. (9th. Dec. 1975)

However, these recommendations of the U.N. remain are forceless unless the member states adopt appropriate domestic legislation. The UN cannot exercise any legal force. It is entirely dependent upon the member states that how they accept it and at what stage.

In 1977, the UN General Assembly drew the attention of member-states to SMRTP and called for an effective implementation and incorporation in domestic legislature, the General Assembly made additional recommendations on the subject in 1984. In December 1990 it further elaborated the basic principles on the treatment of prisoners. These principles confirm certain fundamental prisoners' rights as P. C. Sinha points out:

1. "*All prisoners should be treated with due respect for their inherent dignity and value as human beings, without discrimination of any kind.*
2. *Except for the necessary limitations of the freedom of movement all prisoners should be afforded the human rights and fundamental freedoms.*"[5]

Thus, we find the acceptance of the world community. The rights of prisoners do exist. It can be curtailed but as necessary limitation only. The pioneering work in the field of the rights of prisoners has been done under the ambit of the UN. Globally, the U.N. has continuously been making efforts to work in the direction of the rights of prisoners.

CRIMINAL-JUSTICE SYSTEM AND THE RIGHTS OF PRISONERS

Police, Judiciary and Prison all three are the major components of the criminal-justice system. They are interlinked agencies. The duty of police is to ensure peace to the citizens, the judiciary is there to award punishment to the offenders, and the prison is there to treat the offenders. Prison is at the receiving end but it has the most vital role to play in the treatment of offenders. An offender is to be punished and at the same time reformed by the same agency because he/she has to go back to the society.

Let us find out how these agencies have an interlinked relationship.

POLICE

Police is the central agency in the criminal-justice system. It is the agency which is supposed to maintain law and order in a civil society. It is the agency legally authorized to book the offenders. The central role of police in the criminal-justice system can be identified as:

1. The police reach first whenever there is a breach of law as an agency of the legal system; the future legal battles are fought in the law court on the basis of the legal report (charge sheet) of the police.
2. The police investigate the cases, collect facts, evidences, locate witnesses and perform all other related jobs in the process of finding truth and establish the charges. The police remain the central agency in all modern societies by virtue of the nature of its functions.
3. The police are empowered to deal with the violators and probable breakers of law even before the occurrence of actual crime. They are expected to take preventive measures to curb criminal menace and create conditions conducive for the obedience of law and enjoyment of civil liberties.

JUDICIARY

The duty of judiciary is to award punishment to those booked by police and at the same time to ensure that innocents are not punished. A person is innocent unless proven guilty. When the primary job of police is over in the realm of criminal-justice system, the judiciary comes into picture. A democratic constitutional system like India assigns high prestige to the judiciary. The judiciary acts as the Guardian of the Constitution, interprets the law and imparts justice in the society. It enjoys an independent status and is exempted from criticism even at the parliamentary forums. It gives an opportunity for defense as well as fair trial as per the laws through the established procedure. The cases are pleaded and finally heard in the form of appeal up to the Supreme Court since it is the highest legal body to admit appeals. Once the charges are proved and the person is

found guilty of violating the law, the role of next agency begins. To declare an accused guilty and send him to prison is the job of the judicial system as far as the law permits. It can exonerates the accused if not found guilty after trial. The judiciary handles that part of criminal-justice which is crucial, critical, and sensitive and deceives, writes P.D. Sharma.[6]

Justice is arrived at with the help of professional lawyers as well as the police. The Judiciary has triple responsibilities - first, towards the law;second, towards the government; and third, towards the society. The Courts act as watchdog of the system. Its role is not only to keep its own house in order but putting the other agencies of the government on the right track. Thus, the judiciary acts as the real guardian.

PRISON

Prisoners are received in prison either in judicial custody or once punishment is awarded. Prison is the house of under-trials as well as convicts. Mohanty also agrees that prison represents the tail end of the criminal justice system.[7] Prisons receive their clientele from the law courts either as accused (under-trials) or convicts. The convicted prisoners are awarded punishment as per the legal provisions and awarded by the courts. They serve their sentences in prison unless out on parole. On the other hand, the accused wait for their fate till the final verdict comes and stay in prison under judicial custody unless granted bail. Whenever police feel that a legal case may be influenced by an accused, it makes a plea for their police custody. Now, it depends upon the courts to agree upon as per the provisions of law otherwise the person is sent in judicial custody. Thus, prisons have a role as the receiver.

Prisons are often identified with barbaric torture houses. The transformation of criminals has always been their objective. They are the oldest and most widely used institution dealing with offenders. Here, we find the emergence and continuance of prison for fulfilling this objective of the state. They work on behalf of the state but for the society.

The modern theory of punishment which stresses upon the aspects of reform, correction and rehabilitation of criminals views crime as a pathological phenomenon.[8] This requires that the prisons be turned in to the correctional houses. The British pattern of Indian prison administration is no more desirable and needs a revamp. The criminal-justice system hands over the criminals/ offenders to prison and prison are supposed to reform them while keeping them in custody.

PRISONERS' RIGHT IN INDIA - CONSTITUTIONAL PROVISIONS

The Constitution of India provides for Fundamental Rights. These rights have been enumerated in part-III of the Constitution. There is no specific mention of prisoners'

rights in the Constitution of India. However, the Fundamental Rights may be available to the prisoners also because a prisoner remains a person even in prison. It is also not written anywhere in the entire legal document that these rights will not be available to a prisoner. Besides the Constitution there are certain other statutes like the Prison Act 1894, the Prisoners Act 1900 and the Prisoners (Attendance in Courts) Act 1955 where certain rights are conferred to the prisoners. The Prison and Police manuals also have certain rules and safeguards for the prisoners and cast an obligation on the prison authorities to follow these rules.

The significant constitutional provisions providing rights (fundamental and legal both) are Article 14-16, 19-23, 25, 29-32, 136, 226, cr. Pc. 173(3), 207 208 218, 228(2) 235(2) 238, 254(2) 248 (2) 273, 304, 306, 313, 314, 317 374, 379, 380 and 381 etc.

However, the issue of applicability of the Fundamental Rights within the prison wall has been decided by the independent judiciary in India especially by the Supreme Court of India from time to time. The scope of the Fundamental Rights has been expanded and extended to prisoners also. The Constitution is silent but several judicial decisions have tried to ensure rights of prisoners in India.

JUDICIAL EXTENSION OF PRISONERS' RIGHTS IN INDIA

In the early days of post independent era, the courts did not adopt liberal attitude towards prisoners' claim of various freedoms emerging from the fundamental rights. The case of A. K. Gopalan vs. State of Madras confirms this view point. The petitioner who was detained under the Preventive Detention Act (Act IV of 1950) applied under Art. 32 of the Constitution for a writ of habeas corpus and for his release from detention, on the ground that the said Act contravened the provisions of Arts. 13, 19, 21 and 22 of the Constitution and was consequently ultra rites and that his detention was therefore illegal. The court said, "*... in my opinion, the impugned Act is a valid law*".[10] The judgment of the court was very much traditional.

In this case the phrase 'procedure established by law' under article 21 was challenged on the ground of fair trial. The Supreme Court rejected the arguments of the appellant who was a detenue under the preventive detention laws. The Court refused to interfere in the matter of law by declaring it as the prerogative of the state. The state was held reasonably fair. Given a choice between the liberty of an individual granted by the Constitution of India and a preventive detention act, the mandate of the court was clearly in favour of the state law. So, rights of prisoners did not get priority.

It question of rights of prisoners was again raised after 28 years in the Maneka Gandhi vs. Union of India[11] case. The grounds were same as it was in the A.K. Gopalan case. The Supreme Court held that the phrase 'procedure established by law' did not give

more prescriptive powers to the state. It must comply with the principle of natural justice as it is included in Article 21 in content.

In the year 1978, the Supreme Court delivered a historic judgment in the Maneka Gandhi case. The court accepted that 'law' as contained in article 21 of the India Constitution denotes a fair and reasonable law which was raised in the A. K. Gopalan vs. State of Madras[12] case.

The provision of reasonable restriction was challenged which was valid under Article 21. It was established by the decision that law made by the state depriving the liberty of the individuals can be tested against and should be in accordance with the principle of natural justice. Here onwards the journey of prisoners' rights started with court judgments.

In the history of the rights of prisoners, the decisions of the Supreme Court in the following cases need special mention:

1. In the case of State of Maharashtra vs. Prabhakar, 1966, the aid of Article 21 was made available perhaps for the first time to a prisoner while dealing with the question of his right of reading and writing books while in jail. It was related with the right to expression.
2. In the case of Suresh Chandra vs. State of Gujarat, 1976, the court stated about penological innovation in the shape of parole to check recidivism because of which liberal use of the same was recommended. It was a step towards correctional approach.
3. A challenge was made to the policy of segregation of prisoners in Bhutan Mohan Pattnaik vs. State of Andhra Pradesh case, 1974, and a three Judge bench stated that resort to oppressive measures to curb political beliefs could not be permitted. The Court, however, opined that a prisoner could not complain of installation of high-volt live wire mechanism on the jail walls to prevent escape from prisons, as no prisoner had fundamental right to escape from lawful custody. The petitioner was a naxalite.
4. In Charles Sobhraj vs. Delhi Administration case, 1978, it was stated that this Court would intervene even in prison administration when constitutional rights or statutory prescriptions are transgressed to the injury of a prisoner. In this case the complaint was against incarcerator torture. Charles Sobhraj had challenged his confinement with bar-fetters.

   The court also held that there was no arbitrary power to put an under-trial under bar-fetters. The discretion to impose "irons" is a quasi-judicial decision and a previous hearing is essential before putting a prisoner in fetters. The grounds for imposing fetters would be given to each victim in his language. It was further laid down that no "fetters" shall continue beyond day time and a prolonged continuance

of bar-fetters shall be with the approval of the Chief Judicial Magistrate or a Sessions Judge.

5. The case of Sunil Batra (I)vs. Delhi Administration[13] case, 1978, dealt with the question whether prisoners were entitled to all constitutional rights, apart from fundamental rights. In this case the Court was called upon to decide as to when solitary confinement could be imposed on a prisoner.

   In the Sunil Batra-I case this issue was discussed in the light of Art 21. The petitioner, who was an accused and was lodged in the Tihar Jail, complained because his punishment was subject to the confirmation by the higher court. The imposition of solitary confinement was challenged on the ground that it was substantive punishment which only a court of law could award and not the prison authorities. The Supreme Court opined that solitary confinement results into a complete stripping off the relations of the prisoners with outsiders as well as with inmates. The freedom of talking, mixing, mingling and sharing company with co-prisoners are derivatives of article 21. Hence solitary confinement amounts to an infringement of right to life and personal liberty as provided under fundamental rights.

   In the H. M. Hoskot Vs. State of Maharashtra[14] case, 1978, case the petitioner filed an appeal after 4 years while he was sentenced for three years the reason cited was given a copy of judgment after four years the Supreme Court gave the verdict as the convict should be provided a copy of judgment within a reasonable period for the right to appeal; and the free legal aid should be provided to him if he cannot afford it at his own owning to this disability or poverty.

   In the Superintendent Of legal affairs W.B. vs. S Bhowmick[15] case it was again asserted by the Supreme Court.

6. The right to speedy trial was established in Hussainara Khatoon vs. Home Secretary Bihar[16] case, 1979. In this case the court found that people were simply lodged in prison and had already stayed for a longer period even if convicted for the charges made against them. The court directed the State of Bihar to file within three weeks a revised chart in regard to the under-trial prisoners in all the 65 jails in a manner which would clearly show year wise as to what was the date from which each of them were in jail after making a broad division into two categories of minor offences and major offences. The court delivered a judgment with long term implications.

7. The use of fetters was challenged in Prem Shankar Shukla vs. Delhi Administration[17] case, 1980. The court prohibited putting off under trial prisoners in leg-irons. Handcuffing and fettering with the accused have been found violative of Art 21 of the Constitution of India by the Supreme Court in this case. The court observed that these are inhuman, unreasonable, over harsh and arbitrary. A person in custody

should only be hand cuffed if there is a clear and present danger of escape and breaking out of police control.

The procedural safeguard for handcuffing and that too in extreme circumstances must be observed as:

- The detailed reasons for imposing the handcuff must be recorded contemporaneously;
- The escorting officer must show the reason for handcuffing to the Judge and get his or her approval; and
- Once the court directs that handcuffs should be off, no escorting authority can overrule the judicial discretion.

In the case of Sunil Batra (II) vs. Delhi Administration[18], 1980, the Court was called up on to deal with prison vices and the judgment protected the prisoners from these vices with the shield of Article 21. This is an underline case in which a simple hand written letter enumerating the grievances of the inmates addressed to one of the judges of the Supreme Court which was ultimately transformed by the Supreme Court in a writ of habeas corpus petition in order to provide the speedy remedy.

Justice V.R. Krishna Iyer laid down that any type of the physical infliction apart from assaults and pushing a prisoner into solitary confinement, denial of a necessary amenity, transfer to the distant prison where visits of friends and other relative become impossible allotment of the degrading labour, assigning him to a desperate or tough gang will amount to punitive action and is an infringement of the personal liberty as contained in article 21. The procedure prescribed by the law for the deprivation of any type of liberty guaranteed by the Fundamental rights must be fair and reasonable. The Supreme Court speaking on the concept of the writ of Habeas Corpus petition said that it cannot be denied on the basis of the procedural or other formal technicalities.

It also laid down that inadequate food, hard and harsh labour, infliction of body, keeping under-trials with convicts, overcrowding and heavy punishment for jail offences without hearing the prisoner amounts to the infringement of the basic constitution right contained in Art. 21. It also suggests that there is a need for new law on the problems and present law has failed to provide the protections to prisoners.

8. In the case of Kishore Singh Ravinder Dev vs. State of Rajasthan[19], 1981, the Supreme Court treated a telegram as a writ petition of habeas corpus and provided relief to an inmate who was languishing in prison under fetters. Justice Krishna Iyer and R.S. Pathak held that use of solitary confinement offended the spirit of the

Constitution. "*Article 21 would become dysfunctional unless the agencies of the law in the police and prison establishments have sympathy for the humanist creed of that Article. The State must re-educate the police and inculcate a respect for the human person.*"[20]

9. A challenge was made to a prison rule which permitted only one interview in a month with the members of the family or legal advisor in Francis Coralie vs. Union Territory of Delhi[21] case, 1981, and the rule was held violative, inter alia, of Article 21. The judgment asserts as: "*We are therefore of view that … regulating the right of a detenue to have interview with a legal adviser of his choice is violative of Articles 14 and 21 and must be held to be unconstitutional and void. We think that it would be quite reasonable if a detenue were to be entitled to have interview with his legal adviser at any reasonable hour during the day after taking appointment from the Superintendent of the Jail, which appointment should be given by the Superintendent without any avoidable delay.*"[22]

   The Supreme Court has been active in responding to human right violations in prisons and in the process, recognized a number of rights of prisoners by interpreting Articles 19, 21, 22, 32, 37 and 39A of the Constitution in a humane way. "*Given the Supreme Courts overarching authority, these newly recognized rights are also binding on the State under Article 141 of the Constitution of India which provides that the Law declared by the Supreme Court shall be binding on all courts within the territory of India.*"[23] The Public Interest Litigation (PIL) has also given a boost to the rights of prisoners.

The Supreme Court has given the verdict that there cannot be total deprivation of a prisoner's rights of life and liberty. The "safe keeping" in jail custody is the limited jurisdiction of the jailer as per the law. To keep a prisoner in safe-keeping is his main duty. It does not mean deprivations and violation of basic human rights. "*The purpose and justification for a sentence of imprisonment or a similar measure is ultimately to protect society against crime. That is to say the objective of imprisonment is not only punitive but also reformative, and to make an offender a non-offender.*"[24] Taking away the rights is not the solution but is a problem.

Theoretically, the Criminal Procedure Code(CrPC) requires investigations to be completed within 60 or 90 days (depending on the offence). If not, bail is granted by the courts. After 1973, a new right called 'anticipatory bail' in advance of an offence being registered, is also possible. Although the Supreme Court has laid down the broad principle of 'bail not jail'.Bail during investigation should not be the order of the day. Accused often have to fight all the way to the Supreme Court to get bail. The CrPC is

amended from time to time keeping in view the rights of all human beings including prisoners.

JAIL MANUALS AND THE RIGHTS OF PRISONERS

Prison as a subject of legislation finds its place under Entry 4 in List-II [state list] of the seventh Schedule of the Constitution of India. Hence, prisons in different states vary in their organization, rules and models.

Broadly speaking there are four legislations that govern the administration of prisons in India with necessary amendments varying from state to state.These are -

1. The Prisons Act 1894
2. The Prisoners Act 1900
3. The Transfer of Prisoners Act 1950, and
4. The Prisoners (Attendance in Courts) Act 1955

Besides the above, there are various miscellaneous legislations such as the Identification of Prisoners Act (1920), the Civil Jails Act (1874), the Borstal Schools Act and the Habitual Offenders Act. Although, the Supreme Court of India has expanded the horizons of prisoner's rights jurisprudence through a series of judgments, this issue needs more attention.

The day-to-day administration of prisons in all the states and union territories of India are governed by the respective Jail Manuals because prison is state subject. Some states have still not redrafted their jail manuals. Despite the new jail manuals it is interesting to note that none of them mention the rights of prisoners. What they mention is the safeguards available to the prisoners.

Keeping in view that the laws have become archaic and that the Prisons Act of 1894 was drafted during the period of British rule, there have been demands to change/amend the existing prison laws. The All India Committee on Jail Reforms (1980-83) more popularly known as the Mulla Committee, in fact, drafted a model prison bill on the lines of the standards recommended by the Standard Minimum Rules for Treatment of Prisoners, 1955.

The All India Committee on Jail Reforms (1980-83), headed by Justice A.N. Mulla, studied the rules and conditions of prisons of various states in India. Many recommendations of this committee has still not accepted by state governments. It strongly recommended that a "Model Prison Manual" should be prepared by the Government of India and circulated to all States but this had not been adopted and the position has not changed since that period.

The National Human Rights Commission of India also proposed two Model Prison Bills for consideration by state governments and re-enactment of the prison

legislations in their states in accordance with the standards prescribed by the Commission. These were the Indian Prison Bill of 1996 and The Prisons [Administration and Treatment of Prisoners] Bill of 1998 respectively. A few states namely Delhi, Jammu & Kashmir, Maharashtra, Rajasthan etc. have come out with new bills / legislations. The Ministry of Home Affairs which is responsible for administration of prisons in India then circulated the Draft Bill of 1998 to all the state governments for consideration.

The Prison Department of the Bureau of Police Research & Development (BPR&D) under the Ministry of Home Affairs is still engaged in drafting a Model National Prison Manual relying on Article 252 of the Constitution of India. It provides that the Parliament of India may legislate for two or more states by consent and it may be adopted by other states by legislation.

The Prisons Act 1894 and the respective State Jail Manuals require immediate amendments so as to ensure that the prison authorities follow fair and just procedure while dealing with the prisoners. Justice H. R. Bhardwaj holds the slow pace of criminal justice system as responsible for overcrowding in prison. The rate of conviction is very low. As a result a large number of under-trial prisoners are languishing in jails.[25]

It is the travesty of justice that despite a new jurisprudence coming forth from the Apex Court articulating new forms of rights and liberties to prisoners, it remains non-existent for a large percentage of illiterate, ignorant and impoverished masses of this country and it did not change substantially the position of prisoners or prison system in India. We have excellent court verdicts, directions and innovative interpretations on paper but those have seldom been implemented in favour of those for whose benefit they have been decided. When the prisons are used as a part of regime sponsored violence, it is understandable that they perpetrate such violence and tend to firmly accentuate on discipline and punishment and regard it as both legitimate and justified for all purposes.

In this respect, the Supreme Court of India, discarding its erstwhile 'hands off' doctrine in favor of a judicial intervention when the rights of prisoners are found in jeopardy, has already enunciated three basic principles:

i. a person in custody does not become a 'non person';
ii. a prisoner is entitled to all human rights within the limitations of imprisonment; and,
iii. There is no justification for aggravating the suffering which is already inherent in the process of incarceration.

Apart from directing for basic amenities in prison, the Supreme Court has given

directions from time to time in various cases for the amelioration of prison conditions. These can be summarized as:

1) Separation of the young offenders: The young inmates must be separated and freed from exploitation by adults.
2) Companionship: Subject to discipline and other security criteria, the right of the society of fellow men, parents and other family members cannot be denied in the light of Article 19 and its sweep.
3) Legal consultancy: Lawyers nominated by courts be given all facilities for interview, visits, and confidential communication with prisoners, subject to discipline and security considerations.
4) Judicial surveillance: District Magistrates and Sessions Judges shall personally or through surrogates, visit prisons in their jurisdiction and afford effective opportunities for ventilating legal grievances of the prisoners.
5) Standard Minimum Rules: The State shall take steps to keep up to the Standard Minimum Rules for treatment of prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategy.
6) Just and rationale Prison Act and Manual: The Prisons Act needs modification and the Prison Manual total overhaul. A correctional cum orientation course has become necessitous for the prison staff indicating the constitutional values, therapeutic approaches and tension free management.
7) The prisoners need legal protection also. A free legal service may be provided to meet this end.

So, we can summarize by saying that it is not the constitutional framework but the pragmatic and humanistic approach of the judicial system that has come to rescue in the arena of the rights of prisoners at least in India. The international views have got heard in India also that 'Prisoners do have their rights'. A prisoner does not loose all his/her rights by default. India is a member-state of the UN. Hence it is the moral duty of the state to protect the rights of prisoners. The establishment of the Human Rights Commission (1993) is a positive effort in this direction. The new jail manuals are the reflections of the incorporation of the new trend in the history of prison-humane jurisprudence. In simple language, acceptance of the humane approach towards the inmates of prison does mean the acceptance of the reformative approach towards the prisoners.

Prisons cannot be considered in a vacuum. A cultural change is central to prison reform. Changes have to be owned by those working within the system if they are to be

sustainable. Human rights are integral to everything that goes on in a prison; it is not something merely to be added on. The punishment centric approach has to be replaced by prisoner centric approach.

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Representation of Ageing People in Bengali Cinema

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ABSTRACT

This paper seeks to study the changing dynamics in the representation of older adults in Bengali cinema. The constructive concept of ageing is represented quite well in Bengali cinema interestingly in both mainstream and off-mainstream, offering tributes to life in totality rather than a tribute to the idea of ageing particularly. Accordingly, the priority of research and opportunities are mapped so as to contribute for a vibrant economy and revenue generation in a society. Although such research may be useful for an economic development in society, it equally becomes insensitive to the group of people who are out of 'production circuit' of economy or any effort has been made to make such population within the 'circuit of production'. The process of ageing becomes the target of such production process. This paper would be reading two movies namely 'Belaseshe' (2015) and 'Posto' (2017) by same Director (duo) – Shiboprasad Mukherjee and Nandita Roy as case studies. This paper would also analyse the changing aspects in the portrayal of senior citizens in celluloid over the years. Further, it will also look into other contemporary movies released during the same time period.

Keywords: Ageing people, Senior citizens, Bengali cinema, celluloid, older adults

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INTRODUCTION

Messages about ageing and aged people flood the culture, one universal source of which is the media. Livingstone (2009) addresses the widespread claim that the media largely mediates everything; it shapes the ordinary yet substantial relations among individuals and the society. It is important to understand the interplay between rapid global population ageing and increasing mediation in shaping the meanings of everyday life. Representation of 'mellowing' represents positive implications of ageing these days which is represented quite aptly in Bengali cinema. The celluloid depiction of ageing in Bengali cinema centred on older adults has attracted a large number of audiences to the theatres over the years. The depiction of ageing in the popular media like television, magazines, newspapers, films, advertisements, and even the evolving digital media are often negative, indicating that ageing primarily involves decay and decline. These images resonate with not only widely held outlooks toward ageing people but also influence individuals' views of their own ageing. Studying this topic is important as population ageing is one globally acclaimed crisis of the present century and India is undergoing record in terms of demographic changes with an increasing population of older adults.

Communication scholars over the last few decades have documented age representation of characters in film and television (Gerbner, et al., 1980). They found in their study that women in younger age groups (twenties and thirties) are over represented, while older age groups (sixty and older) are underrepresented, in both television and film productions (Greenberg and Collette 1997; Lauzen and Dozier, 2005; Lauzen, Dozier, and Reyes 2007). Relatively little research has examined the possible causes of this pattern. In another study Lauzen and Dozier (2002) analysed prime-time television programmes that aired between 1999 and 2000 and suggested that relatively few women working behind the scenes as producers may be one of the key factors contributing towards the uneven distribution of female characters on-screen. Similarly, Lincoln and Allen (2004) have suggested that age or gender disparities among actors may be related to attraction stereotypes that are consistent with the affirmation that "a woman's fortunes depend, on being 'acceptable' looking. Such reasoning is also found consistent with the conclusion made by Bielby and Bielby's (2002) that because certain types of cultural typecasts are embodied in the television and film industry that prominently figure in the marketing strategies. Some of the studies have found that some macro level socio-economic factors and audiences' preferences are associated with the age and gender distribution of roles in film and television (Pettijohn, 2003; Treme & Craig, 2013). These results are in line with other findings that show male actors' exposure increases box office sales, but female actors' exposure doesn't and it is more

difficult for older male actors to carry a film and it is even harder for an older female actor to land a role (Treme & Craig, 2013).

Ageing or aged population are the captive group that has become vulnerable due to physiological and other conditions that results in dependency. The characteristics of old age have been redefined completely on celluloid by films like Piku, Pink and Black. Ageing women characters too have been portrayed in layers of strong roles in movies like Mother India, Aradhana or Godmother. Further, films like Saraansh, Avtaar and Baghban represents how the ageing protagonists win against all odds in life and revive their independent position. These movies offer very optimistic and positive image of older adults that is portrayed with dignity and elegance. The older characters in these films were shown not suffering from any insecurity or fall into depression or rely on religion and prayers. What is good is that the characters set examples for both young and old. This paper is a descriptive one and hence the data has been collected from secondary sources. The paper attempts to discuss the prominent representations of old age in the popular culture and tries to understand the linkage between media portrayal and larger perceptions about ageing.

MEDIA AND AGE IDENTITIES

The examination of the historical distribution of onscreen actors' age is useful for understanding some of the demographics associated with inequality in film and television, but examining the portrayal of such social categories reveals more about the intersections of ageing, media, and culture. Images represented in the media have an influence on people's perceptions of older people (Dhar, 2020). This study also noted how the media portrayal affects the self-perceptions among the ageing people (Dhar, 2020). As noted by Bielby (2009), Hollywood's culture industries of film and television are sites where representative depictions of gender and in some cases, age are literally produced, and they provide new trials for understanding the perseverance of gender and age disparity. In regard to the depiction of age and gender in film, an examination of the one hundred top-grossing motion pictures from the 1940s through the 1980s by Bazzini et al,. (1997) found ageist and sexist typecasts were interrelated in a way that depicted older female characters more negatively than their male counterparts. Lauzen and Dozier (2005) have found that ageist and sexist stereotypes continue across time, where older female characters were less likely to have goals, and their male counterparts (male actors forty to sixty-nine years old) were more likely to play the lead protagonist characters. Another study by Lauzen and Dozier (2002) noted that the portrayal of age and gender in film is important, but television represents a more persistent conduit of age or gender typecasts as one of the most noteworthy disseminators of cultural messages.

Depictions of ageing people in the media have been constant with typecasts held by people of all ages (Miller, Leyell, & Mazachek, 2004; Robinson & Anderson, 2006; Robinson, Callister, Magoffin, & Moore, 2007). Most of the older characters in the media are portrayed with positive character personalities, such as friendly and caring (Peterson & Karnes, 1976; Cassata & Irwin, 1997; Dellmann-Jenkins & Yang, 1998; Robinson et al., 2007). At the same time, older characters are also shown to have some negative attributes especially older women, who are often portrayed as mean, ill-tempered, and eccentric (Gerbner, 1997; Vasil & Wass, 1993). A previous study noted specifically about the Gerontological issues in Bengali films brilliantly show the different ageing issues including physical and psychological in the lives of older adults in different social perspectives (Mandal & Rai, 2020). Much of the deliberations on media are loosely based on the production of culture perspective which focuses on the industrial systems within which the symbolic elements of culture are created, circulated, evaluated as well as conserved (Peterson & Anand, 2004).

One consistent finding of most research studies centres on gender. For instance, older women are depicted less often as compared to older men (Lee, Carpenter, & Meyers, 2007). Older women are often portrayed in gender stereotypic ways and are seen in supporting, not primary, roles (Lauzen & Dozier, 2005; Robinson, et al. 2007). Writing a review on media representation of ageing has been extremely challenging as the research contributions are less in Indian context and it has not gained substantial attention in Indian academia. This paper tries to fill the gap by doing a narrative review of representation of ageing characters in Bengali movies.

BENGALI CINEMA AND PORTRAYAL OF AGEING

The Bengali film industry which is known for giving strong bold characters has produced some significantly new work reflecting the much-side-lined ageing population. The celluloid portrayal of ageing as a category does not sound much of a commercial prospect or as having appeal for the mass audience because conventionally the term 'entertainment' relates directly to youth, romance, and lots of sound, action, dance and music. Time and again, movies have paid tributes to the aged people and mostly by focussing on the despair of old age and loneliness and unfolding their insecurities defining a pointer to the negative impact of urbanisation, westernisation and modernisation on the contemporary Indian mind-set. Satyajit Ray paid his tribute to ageing through his film Agantuk (The Stranger) performed by Utpal Dutt. Gautam Ghose paid his tribute to a lustful old artist slowly losing his vision in the movie Dekha. Aparna Sen's movie Paromitar Ek Din shows the beautiful bonding between the ageing mother-in-law and her daughter-in-law and it shows how the old lady dies when her

daughter-in-law leaves the home as she cannot cope with the loss of losing this young friend. Contrarily, Indian cinema which has now started centring on ageing and aged characters has been drawing a large number of the Indian audience to the theatres. This changing trend can be observed in Bengali cinema as well. To prove this argument, two Bengali movies would be studied – Belaseshe and Posto. The narrative would be primarily focussed on the plot of the movie and its significance of representation of ageing characters.

First movie studied is Belaseshe (meaning - in the autumn of my life) released in the year 2015 directed jointly by Shiboprosad Mukherjee and Nandita Roy. This movie revolves around an elderly couple who decided to separate after 50 years of marriage as the old man perceives the relationship has been reduced to a 'habit' after so many years of marriage. The plot tells a story of how this choice or decision will affect not only the lives of their children but also their individual lives as well, alone and together. The film wonderfully portrays different narratives on relations. The movie gives the audience a refreshing take on the boredom that sets into marriages. Instead Belaseshe treads down a safe path from there, adoring the role of traditional Indian wife as housekeeper and maid, and approving socially pre-determined roles for man and woman within the institution of marriage. In the film, the elderly wife was shown to be revealing the fact that she used to eat the leftovers of her husband after he was through with his meals and she would also reuse his wet towels after he had washed, since that smelled of him. In the end, the film shows how the old man returns to his wife because he misses the constant presence of that person who would clear up his disarrays and who always knew where to find his shoes. The film stereotypically shows that apparently a true husbandly love is all about acknowledging that the wife is an excellent home keeper. 'Belaseshe' gives the audiences many learning experiences as it highlights the value of a relationship and the bonding between family members. This movie gave a serious message about the importance of family in Indian culture and how one depends on it to lead a healthy and happy life. Focusing on the marital life of an elderly couple, it gives a strong message that any relationship needs to be continually rejuvenated.

The other movie taken as case study for this paper 'Posto' (2017) shows the unique bond between grandparents and a grandkid and portrays the relationship which is unexplainable. This movie by the same director duo – Nandita Roy & Shiboprosad Mukherjee aptly explores the psyche of senior citizens in Indian society. It shows more specifically the psychology when the parents grow older and the loneliness they face after their children move out. This movie shows the loneliness that creeps into the lives of the ageing people after the children move out of the house. But when they were given the

responsibility of their grandson, it was possessiveness that overpowers all relations. The elderly grandparents even refuse to give their grandson back to his parents when they return to take him back and settle. It shows the psychology of ageing people and the sense of fear that they have of living alone away from the children. This movie ends with a good note where the entire family reunites.

What is to be noted in the two movies – Belaseshe and Posto – is that stories with strong deep messages with elderly people as protagonists can also be successfully made and catered to the audiences. Another Bengali movie 'Shonar Pahar' directed by Parambrata Chatterjee highlights how a strong bond is built between an old woman and a kid amidst the declining shades of the elderly character. The film wonderfully depicts strengthening of this beautiful intergenerational bond. The subtle message that this film tries to show is how in today's era of rat race, kids should be spending more time with their family especially the grandparents who possess the wonderful ability to nurture and shape their young mind in the right way. This movie draws its similarities with the movie Posto in the manner how the elderly woman has to oppose a tense relationship with her son and eventually finding some peace in her bonding with the little boy. The bonding between the elderly parents and the kids had been a subject for exploration for directors in all decades. Posto and Shonar Pahar project the weakening relationship of the elderly parents and their children. Similarly, another movie 'Mayurakshi' directed by Atanu Ghosh is also about a father-son relationship affected by long distance.

The trends in the representation of ageing characters in Bengali cinema have changed positively in the last few years. Movies are being made with ageing characters portrayed in the lead role. One of the outstanding features to be noted in these changing trends is that the actors playing the ageing characters have once ruled Bengali cinema in the past but are somehow unfortunately almost forgotten by contemporary filmmakers. So, actors like Soumitra Chatterjee, Lily Chakraborty, Swatilekha Sengupta and others are made to act their real age with characteristic variations and combinations which they come across naturally and spontaneously in the films. From the review of literature significant differences can be noted between the depictions of older men and older women, though women were not represented nearly as negatively as showed by previous readings (Gerbner, 1997; Signorielli, 2004; Vasil & Wass, 1993). Over the past some decades, certain progress has been made in portraying women who work outside the home (Signorielli & Bacue, 1999). In both the Bengali movies analysed for this research, it has been observed that older women characters carried equal importance. However, in both the movies major difference between older men and older women could be seen with older men to be shown in positions of authority in the household. Similar representations have been noted by previous researches where it

was found that women were suggestively less likely than men to be shown in places of power (Lauzen & Dozier, 2005; Signorielli, 2004).

CONCLUDING NOTE

At the core of the relationship between media industries, media engagement, and the individual as a consumer is the ageing self. The social system is changing. Mainstream Indian cinema is often known for representing artificial breaks between parents and children, where children are often, blatantly impolite towards their elderly parents to the point of embarrassing and insulting them. The above discussion reveals that physical presence and characteristics of ageing characters in the media have been usually positive or neutral, with some represented as sick or some negative typecasts have continued in the media as well. Though this study has taken much reference from studies done on Hollywood movies and ageing characters, it has tried to find co-relation with the existing data with the two examples of Bengali movies analysed for this paper. The cultivation of ageism was supported by repeated viewing of negative stereotypes of the elderly. Past representations of the elderly often showed them as wise or frail, impaired or out of touch, the trend however is found to be changing positively.

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Socio-Cultural Life of Indentured Indians: A Case Study of South Africa

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ABSTRACT

This article explores the socio-cultural conditions of Indian indentured labour in South Africa. The focus of this paper is to understand the continuity and change in their life in India and in South Africa. This article elaborates on the worker's day to-day activities, their ritual observances and their social interactions. The article also analyses the narratives and experiences of Indians in South Africa and recreates picture of the life of indentured labourers in the South African plantations.

Keywords: Culture, indentured labourers, plantations, Africa, India

HISTORICAL BACKGROUND

The indenture system was introduced in the aftermath of the abolition of slavery in 1834 when capitalist planters faced problem of labour on their plantations across the globe. The British government introduced this system legally in 1837 by an Act but emigration under the system had already started in Mauritius in 1834. The general feature of the Indian indenture system was that emigrants had to sign an agreement

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of five year for doing work in British colonies. Actual conditions of employment were stated on a form of contract in English, Hindi (Devnagri script) and Urdu (Arabic script), which the recruiters in the districts of recruitment gave to the prospective emigrants. According to Lal (1983),the agreement specified the type of works to be done, everyday task or numbers of hours of work required, holidays during the year, remuneration for each day work, facilities of accommodation, ration and hospital on the plantations and return passage to India after spending another five years as industrial residence in the colonies. The indentured migration to South Africa started in 1860 and until it's banning there in 1911, more than 152000 had reached on the various plantations under the scheme. There has been debate among historians and scholars on the nature of the indenture system. They have believed that the system robbed the socio-cultural life of Indian on the plantation and the plantation culture was born out of the colonial regime without having any connection with its roots. In this paper I have tried to explore the socio-cultural life through the memoirs and labourer's descriptions available in archives and outside the archives.

SOCIAL AND FAMILY LIFE IN SOUTH AFRICA

The social and family life of Indians changed drastically once these people entered into the contract of indenture. The caste hierarchy and social norms they were following at home got fractured once they entered into the depot with a new identity of 'coolie', whether it was a depot for Natal or Mauritius, Trinidad, Surinam, Guyana or Fiji. From that stage all workers irrespective of their castes, region and religion were 'coolies'. Khan (1943), an indentured labourer to Surinam remembers in his autobiography that until reaching the central coolie depot at Calcutta, indentured laborers maintained their status and differences. They received raw food material and prepared their own food, maintaining all caste and hierarchical differences; once they reached the Calcutta depot, however, they had to forget caste and hierarchy while dining. Khan writes:

> Till we reach here [Calcutta], we were allowed to cook our own meals as we pleased as we were given raw food materials. Everyone followed his own rituals and system. They wore their Janeu (sacred thread), tikka (forehead mark), Kanthi Mala (sacred necklace) etc. according to her/his caste and religion and followed the system of caste and creed.... [But in the depot at Calcutta]in order to get food, we had to line up in two separate queues, one for men and the other for women. There was no separation based on caste, religion or class. At this point in time no Brahmin or Kshatriya protested that they would not sit along and eat with Muslims or Chamars (lower castes). This is because they all had become sudras (Khan, 1943: 138-9).

Indentured labourers wanted to continue with their caste and religious practices but the ground reality was that, they had to outgrow their identity despite the protest. Totaram Sanadhya, an indentured in Fiji also writes about the similar experiences while he entered into the depot. He writes that

> "Jabardasti chamar, Koli, Brahman ityadi sabko ek jagah baithakar bhojan karaya jata hai. Lagbhag sabko mitti ke juthe bartanon me bhojan karaya jata hai aur pani pilaya gaya." (Chamar, Koli, Brahman and so forth were all seated in one place and forced to have their meal together. Just about everyone was forced to their meal on re-used plates, and was forced to drink water.) (Totaram Sanadhya, 2012:5).

Though the above testimonies reveal the discriminating mentality of the Indian Brahminic system, however the disruption of this institution in the Colonies gave birth to a new society and community, which was less discriminating and more accommodating. Moreover the new realities did not permit old identities to continue.

The caste system which had common characteristics such as ascription by birth, hierarchy, endogamy, occupational specialization, and restrictions on social interaction was almost impossible to respect on ship, which was the site of massive social upheavals. Migrants had to eat, sleep and drink together. According to Desai & Vahed (2007) the notions of hierarchy and privilege were disbanded by the forced "closeness" on the ship. Further, every Indians were simply "coolies" in the view of non- Indians.

Totaram's and Khan's testimony corroborates Grierson's evidence from Bihar that "a man can eat anything on board ship, a vessel being like the Temple of Jagannath, without caste restrictions." (Grierson, 1883:19). The high-caste emigrants soon accepted their newfound circumstances. Since they were removed from their caste fellows and traditional social system, they did mingle with other caste migrants. As the poet Mishra (1999) puts it, "many things were lost during that nautical passage, family, caste and religion, and yet many things were also found, Chamars found Brahmins, Muslims found Hindus, Biharis found Marathis, so that by the end of the voyage we were a nation of jahajibhais, … all for one and one for all" (Mishra, 1999:2). The sea journey broke many settled habits, hierarchy, and cultural protocols.Lal(2005: 2)asserts that this transformation was the beginning of a new and powerful ship bond known as Jahaji Bhai. It almost became equivalent to blood bonds later.

According to Desai & Vahed, (2007) on the plantations of South Africa, labourers were accommodated in the coolie lines where indentured workers had to live together without caste and religious distinctions. But it does not mean that caste completely

disappeared on the plantations. Those indentured workers, who made much money and became influential; they tried to re-establish the social and caste practices of India. Desai and Vahed have provided examples of two indentured workers in Natal. Charlie Nulliah who was indentured labourer in Natal, became rich after the finishing his contract. Soon he became leader of a local community in Maritzburg and head of a panchayat that decided on the matters affecting the religious-cum-caste groups of Telegu. In another case, Boodha Dulel Sing, an indentured labourer in Natal bought a few acres of land in Nonoti and began planting sugar cane, tobacco, and vegetables. He soon became one of the wealthiest ex-indentured Indian. His farm 'Hyde Park' measures almost five thousand acres. He employed over a hundred Indian workers. He had his five sons and three daughters. His property was left to his male offspring's. Each of the five sons received more than a thousand acres while three daughters received a normal ten acres each. Boodha Sing story replicates the patterns of inheritance remembered from 'back-home' where women in north-west India were denied land ownership. This practice was still in the mind of the indentured workers. This also reflects the continuity of patriarchal values. Caste became an important part of the 'baggage' that Indians carried from the village Desai & Vahed (2007). But in Natal caste did not dominate social interactions and more often intermingling became the norms. Desai & Vahed, (2007) say this was not necessarily borne out of an anti-caste consciousness, but rather the circumstances in which people found themselves. It was difficult to reposition the caste system in Natal. Recruitment of workers under the indenture system was initiated on individual basis and hence, it was difficult for them to established a structure of caste and obligations associated with it. Moreover, the emigrants belonging to lower castes found a great opportunity to experience a society that was casteless. They could not transplant the caste system they experienced back home in India. According to Jayawardene, indentured migrants were not visionaries' to set out and build a new society and a new culture. Jayawardene writes:

> "[Most] expected to continue to live in the land in accordance with the institutions to which they were accustomed. It is therefore likely that they consciously or unconsciously attempted to maintain in the new setting the cultural pattern they had learned at home and presumably valued... [however] a complete and comprehensive re-creation of the culture of the homeland was clearly impossible" (Jayawardene, 1968:434).

Hence, one can say that caste in the new environment was simply neither abandoned nor duplicated. Employers were interested in work than the social status of Indians.

Everyone was same in the eyes of Europeans. Moreover, high castes workers were seen as lazy and less productive. The economic opportunity in South Africa provided a mobility among migrants irrespective of caste and most of them too advantage of this. Desai and Vahed have provided narratives of indentured workers in Natal about their understanding of caste. For example, Ramdeen Ujudha express to Wragg Commission:

> "Here I have eaten with different people and broken my caste. My friends in India will not eat with me, so I must come back. When I go back I will ask my mother cook, but I will tell what I have done; she will cook and I will eat outside. No fine could bring me back my caste, being a Brahmin. When coolies come here, they lose all caste, even a Brahmin intermarry with Chamar. What is to be done? In my own country if a Brahmin even goes for a call of nature, he must put a thread round his ear". (Desai & Bhana, 2007: 172)

Some emigrants tried to follow the caste prejudices and norms even though they crossed the kalapani. They believed that in this way they couldn't be called outcaste desiring all caste practices and prejudices meant for them to be retaining purity. Teluck Sing a storekeeper and ex-indentured told the same Commission that if caste restrictions are maintained than they don't suffer any discrimination which is contrary to what Ramdeen expressed earlier. Teluck Sing says that:

> I have not suffered in my caste in anyway by coming across the ocean To Natal, because I observed all my religious ceremonies and I have done nothing to debar me from enjoying mu caste privileges. I am of a Kshatriya caste, which is the caste of fighting men and agriculturists. If a Brahmin came here, he would not lose his caste unless he did something detrimental to his religion. The Indians here drink to excess and do not comply with any of their caste observations (Desai & Vahed, 2007: 172).

"Totaram Sanadhya, when returned to India, he was interrogated by the priest of the villages. He was asked whether he married with a Brahmin girl and follows the caste and religious norms in Fiji. The panchayat of his village asked him to give a feast party to re-enter in the caste otherwise he would be permitted to stay more." (Sanadhya,1928).

According to Desai & Vahed (2007) on the plantations of South Africa or elsewhere in the Empire, the process of Indian traditional marriages was not possible to follow. Also colonial government did not sanction a marriage if couple has no marriage certificate from the magistrate. Plantation life, situated far away from their homeland, had changed their

long established culture of marriages. In India there was no established culture of re-marriage of widows, on the other hand the plantation system provided the space for their marriages. Plantation life also broke the long established marriage rules of Hindus and Muslims community regarding caste and religion. Indian culture does not provide any space for inter religious marriage. But under plantation life, couples were frequently marrying beyond the caste and marriage rules. On the plantations of South Africa, registration of marriage was essential to claim if someone is his wife or someone is her husband. In cases of the quarrel for wives between males, court always favour those who had evidence of registered marriage. For example, in 1887, Muthoora, an indentured visited Protector of immigrants Mr. Mason to registered marriage with Tejia with whom he was living for two years. After discovering the fact about Tejia, Mason decline to register Tejia as wife of Muthoora as Tejia was already married with Shewdal in 1882 and there was no divorce between them. According to the marriage law, Manson forced Tejia to stay with Shewdal as their marriage was lawful and 'duly solemnised'. Hence, even though Tejia wanted to live with Muthoora, she had no right to do this. Emigration from India included 80% single migrants and only 20% families. Among the single migrants the percentage of male was quite high than female migrants. Sex disparity created huge problems in efforts to establish family for those who wished to do so.

Other problems which compounded it was absence of marriage alliances across racial divide. The hard long hours of plantation system, the break-ups of families, the house with no privacy, paucity of laws regarding marriages, divorce, adultery, dowry and polygamy were other obstacles, which affected the stable family life. Government of Natal did not anticipate a settled Indian life and hence, the government did not bother to frame laws for a stable family system of indentured workers. Despite the various odds, indentured workers formed families and in many cases it survived the adversity of bondage. In the initial years due to shortage of women, family was unstable but as soon as the proportion of women increased, it got stabilized. But as Desai & Vahed (2007) have indicated that the formative families in Natal were more nuclear and were much different from Indian patriarchal joint family structure at the time. Marriages solemnized by pandits or religious leaders were not recognized by the colonial government in Natal and hence, the status of couples was unclear. As soon as the numbers of Indian indentured labour increased, the disputes and complaints related to marriage and divorce increased. Natal government setup a commission in 1972, which recommended that Protector of Emigrants had to compile a registration of Indian women; single, married, concubines etc. Commission also recommended the registration of marriage mandatory. According to the commission recommendation, which translated into law, to seduce married women or entice a girl of the age below of 16 was an offence.

Guilty of adultery had to pay fine of £10 and 30 days of imprisonment. As a data provided by Desai & Vahed (2007) between 1973 and 1886, 4998 Hindus, Muslims and Christian marriages were registered in South Africa. During the same period 115 marriages were also registered between Hindus and Muslims, one marriage between Muslim and Christian, 12 marriages between

EVERYDAY LIFE ON PLANTATIONS

Various petitions written by indentured workers give us rare peep into the everyday life on the plantations. On 6 December 1872, coolies wrote a petition to town clerk to increase their wages. The petition was as follow:

> "We, the undersigned Coolies in the service of the Corporation, beg most respectfully to submit the under mentioned pitiful petition for the consideration of the Town Council… we the undersigned coolies have got large family and the wages that we get at present is not enough to maintain our poor distressed family…for the period of 9 years of which the corporation is aware worked hard and tried our endeavours to render the Corporation every satisfaction… we have received 16 shillings of which wages is not enough to maintain ourselves…and we also driven in the road to draw the cart load of stones, which we feel it very hard and also our strength is broken down, and sometimes we are so badly in want of clothes we are very afraid to go our bare body to the public road, for fear we will be taken to the station. So our extreme need is very great." (Bhana and Pachai, 1984: 4)

Above petition reveals that the wages of the colonies were extremely less for a worker to run his/her family properly. Even the wages were not enough so that they could meet their daily needs. Apart from the nominal wages, coolies' complaints also reveal the assault by managers of the plantations and estates. For example, Hureebhukut deposition of 10th February 1877 is as follow:

> "I am an indentured coolie and work for Mr. Thomas Brown, Umgeni Sugar Estate. On Friday… at morning muster I was present, and told the manager Mr. John Brown that I was sick, and went home. Half an hour after, the white man who is in charge of the coolies at the mill, came to me, and said come on, at the same time struck me with a whip which he had in his hand, twice on the legs. Fearing that he would strike me again, I went off to the mill and worked all day. Again at muster on Saturday morning I told the manager and sirdar that I wassick, suffering from loose bowels and was not able to work. So I went to my hut; about an hour after, the same

> white man came to my hut. I was at that time just entering my hut when he caught me by the neck and struck me three times on the back with a stick after which I snatched away the stick and ran into the cane". (Bhana & Pachai, 1984: 5)

In another complaint lodged by indentured workers to the Protector of Emigrants against the ill treatment at the estate of J. Meikle. The testimony of an indentured labourer Bhagoo, dated 19th February 1884 is as follow:

> "I am indentured to Mr. Meikle. Five of men who were assigned with me ran away as they were illtreated, and about a fortnight ago one of my sons named Augna (25980) about 10 years of age left the estate and has not been heard since. The circumstances of his leaving were, he had 50 sheep to look after and one evening one did not return with the rest, the boy also through fear stayed away. The missing sheep afterwards returned and the boy also. The next morning Mr. Meikle with Mrs.Meikle's approval tied the boy's hands together with a strap and hung him naked to a rafter in the dinning room and thrashed him with a hunting crop. The boy was kept hanging for an hour about two feet from ground and when breakfast time came he was taken down and sent off with sheep as usual. He went but as stated never returned. I served with (Junari) Kaffir Ammabella one month; and with mealy meal another, I also get salt and dhal but no fish, ghee or rice… I have not received wages for 4 months." (Bhana & Pachai, 1984: 5-6)

Above complaints and testimonies show that white planters and their wives used violent methods towards Indian workers. In some cases they cut their wages due to minor mistakes. Despite the various laws and regulations, plantation violence emerged as one of the serious defect of the indenture system. It seems that the violence meted out by the white planters was unchanged mentality of controlling slaves in pre-indenture period.

The violence and hardship of plantation life became one of the horror stories and rumour in the villages of northern India. Pitcher and Grierson, two officials in north India found the rumour of mimiaikatel during their enquiry into the working of the indenture system and view of villagers about indenture. The rumour of mimiaikatel might be arisen due to the demand of young and able bodies workers for the plantation works. Planters had instructed to the emigration agencies and recruiters in the countryside regarding the layout of an emigrant labour. Hence, the objection to the old age male or female and high demand of young and able body emigrants provided a basis for a rumour of mimiaikatel as it was believed that such expensive oil was only available

in young and juvenile's heads. The rumours about mimiaikatel along with some of Grierson's insights and cultural linguistics have also been projected by the novelist Amitav Gosh of the 1830s on that curiously populated ship that marks the site of his novel Sea of Poppies. Writes Ghosh:

> "The most frightening of the rumors was centered upon the question of why the white men were so insistent on procuring the young and the juvenile, rather than those who were wise, knowing, and rich in experience: it was because they were after an oil that was to be found only in the human brain - the coveted mimiái-ka-tel, which was known to be most plentiful among people who had recently reached maturity. The method employed in extracting this substance was to hang the victims upside down, by their ankles, with small holes bored into their skulls: this allowed the oil to drip slowly into a pan." (Ghosh, 2009:340)

Apart from the hard work on the plantations, there were many other problems were being faced by the indentured workers in Natal. Many depositions of indentured workers reveal that the switching over of wife was big anxiety among the male labourers. Plantation regime had provided equality and complete freedom to women to choose her partners. Hence, whenever a woman found her husband unsuitable she left to live with someone else. Switching over of wives was one of the reasons of the suicide on the plantations. A letter written by Moothen an indentured to the Protector of Indian Immigrants on 8 February 1875 was as follow:

> I have the honour humbly to bring to your notice that my wife Chinnamah who I am married to for upwards twenty-four years and by whom was born to me five children one of which is deceased and four left with me to look after, whilst my wife is living with another Indian named Theracumny. They are both living together about a mile and half from Pietermaritzburg and my wife is conceived of a child by this Theracumny. I must state how many wife come to live with this man. I having heard that she was living with him I went to give her advice and told her that she was not doing right towards me. She not heeding me but this Theracumny, and subsequently she deliberately and falsely went and complained to the magistrate of this division and there stated that I threaten to stab her with knife. Subsequently the case was tried and I was bound to keep the peace towards her for 6 months, which is now over a week… I did not beak the peace towards her and she went and lived with this Theracumny and during these 6 months and a week I had to keep my four children which is very hard seeing that I am a poor person. Now sir, taking all these

circumstances contained in this humble petition, I humbly leave it for your judgment and trust that my wife may be sent back to me.

Above petition indicates that women on the plantations not only chose to depart from the violent husbands even if she had sons and daughters but also compelled males to urge for her return despite knowing that his wife stayed with someone else. It seems that paucity of women on the plantationshad changed the socio-cultural structure of Indians in South Africa.

CONCLUSION

Indentured Indians belonged to varied socio-cultural backgrounds. It was very difficult for them to maintain their socio-cultural practices as planters were not interested in the maintenances of the cultural and social norms of workers rather they were more motivated to use the labour force fully. Many social practices of workers' home country got mutated and some even ended in South Africa. The practice of caste system was not possible on the plantations as colonial planters given a common identity to all Indian labourers i.e. 'coolie'. This new identity was free from caste hierarchies and social differentiations between high and low castes. Since, labourers were emigrated by their own choice and was voluntary, they were free from Indian social obligation to follow the norms. Plantation regime run on different rules and regulation, workers had to accommodate with that. Ritual marriages were disregarded by the plantation regime hence; it was essential for couples to register their marriages to make family. Another significant problem was that in India socio-cultural practices were associated with peasant calendar, which was completely absent in Natal. Indentured Indians' petitions show that women were exploiting their scarcity value and hence, they were switching over to men. For those males who had lived in a patriarchal society, found it unconventional and hence, murders and suicide became an abominable practice among indentured Indians in Natal. In the marriages on the plantations women chose their choices and if she found any odd with someone, she did not hesitate in getting out from the wedlock. Hence, one can find divorces and remarriages as common practice in Natal. But it does not mean that Indian indentured workers in Natal did not try to carry their socio-cultural norms. In many cases they erected temples and mosques for worship. They celebrated Hindus and Muslim festivals such Holi, Diwali, Ramlila, Muharram, Eid etc. on the plantations of Natal. We find some continuity and changes in the socio-cultural practices in Natal. Indentured Indians were not robbed entirely of their culture on the plantations of Natal but they lived it differently. To continue their practices, they carried enough portable Indian objects, tastes and words to reproduce their cultural selves away

from home, as they laboured and reinvented new and different futures for themselves thousands of miles away from home.

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Studies.

Reproductive Rights: An ethnographic study in Uttar Pradesh

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ABSTRACT

In virtually all societies, procreation and sexual behaviour are important markers and determinants of social position or status. Reproductive events are consequential to the lives of both men and women and individual's ability to shape those experiences is vital. Women's health has a bearing on her family and in turn reflects the wellbeing of the society in which she lives. The reproductive rights paradigm enables women to enjoy best possible health, physical, mental and social. These rights have increasingly been recognised as an inalienable aspect of basic human rights and cannot be viewed as mutually exclusive. This paper would attempt to study a woman's reproductive rights in Indian, rather the denial of the same to her.

Keywords: Human Rights, Reproductive Rights, Women Health, Women's Rights

REPRODUCTIVE RIGHTS

The term Reproductive Health gained currency after the International Conference on Population and Development (ICPD) in year 1994 (Fincher, 1994). Broadly speaking, reproductive health is an umbrella concept which involves a range of disciplines such as

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medicine, social sciences, women's issues and their rights, population studies, demographics and so on. Thus, under its ambit falls multiple specialties and it could be an area of interest to any one of these. In virtually all societies, procreation and sexual behaviour are important markers and determinants of social position or status. Reproductive events are consequential to the lives of both men and women and individual's ability to shape those experiences is vital. Women's health has a bearing on her family and in turn reflects the wellbeing of the society in which she lives.

REPRODUCTIVE RIGHTS

Reproductive rights "embrace certain human rights that are already recognized in national laws, international human rights documents and other relevant consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so. … It also includes their right to make decisions concerning reproduction free of discrimination, coercion, and violence" (ICPD Programme of Action, 1994, paragraph 7.3).

Reproduction is primarily a social function. It emerged as an area of concerted global concern after the second World War (WW II), amidst the growing chaos about rapidly increasing fertility rates (TFR)[1] in the southern half of the world. Until the 1990s, reproductive rights were not clearly defined as basic human rights in international agreements (El Kotni & Singer, 2019). After the International Conference on Population and Development (ICPD) in Cairo (1994), the agenda of "reproductive rights for all" came to the fore and was further reiterated at the Fourth World UN Conference on Women in Beijing (1995)[2] (Freedman and Isaacs, 1993). A significant amount of change in global regimes of fertility regulation was initiated and reproductive decisions were positioned within the realm of universal human rights where demographic goals aimed at regulating rapid increase in fertility rates were replaced by a promise to preserve, safeguard and promote individual's reproductive health and rights as a universal moral virtue (Ginsburg et al., 1995). However, even after decades of global women's health activism, reproductive and sexual health rights as an idea is generally conceived as alien to Indian society and is seen as being imported by feminists from the West. One of the primary arguments extended against action on reproductive rights is that people don't have enough to eat and a roof to sleep and that discussion diverts attention from the many other immediate needs for survival. However, this argument doesn't hold much water as people's reproductive health plays a crucial role in their survival – morbidity, mortality & life expectancy (Spielberg, 2007) particularly women. Their reproductive system, in function, dysfunction and disease, plays an important role in physical and

mental wellbeing. It is important to note that right to life also qualifies for quality of life that a surviving individual is entitled to. Both reproductive health and reproductive rights of women are vital for a quality life. Hence, in no way is the discussion on this significant aspect is less important than one on food and housing security. Due to their biology and gender related roles and responsibilities, women have a greater right to make reproductive choices thus making women's right to choose an important part of a human rights framework (Fathalla, 1993).

Due to prevailing patriarchy across cultures and societies, a great deal of hypocrisy surrounds matters relating to women's sexual behaviour. Their reproductive organs and functions (menstruation & childbirth) are considered as polluting and shameful in many contexts. Adding to this, there are numerous cultural beliefs and traditional practices concerning the smallest aspect of women's reproductive lives, particularly menarche, pregnancy & childbirth, childrearing, menopause, infertility, and other obstetrical and gynaecological health problems. In such a scenario, achieving a state of good health and well-being is not easy for women and adolescent girls. These cultural biases are deep rooted not just within communities at large, but also within women themselves and the service providers who are supposed to provide healthcare to the community (Arousell & Carlbom, 2016). Globally, universal human rights provide a legible framework to communicate local issues and concerns. It is an effective tool to hold the state accountable to global standards to safeguard women's basic rights, overall health and citizenship (Morgan, 2015). Feminists demanded that the design and implementation of all reproductive health services should be done in accordance with the women's general health care needs and demographic objectives. A concept of universal rights has also been an integral component of various social movements in recent times that strove for reproductive equity among men and women.

REPRODUCTIVE RIGHTS IN INDIAN CONTEXT

In 1997, the Government of India rechristened its family health and welfare programme (with aid from World Bank) and included reproductive health along with maternal and child health. In Indian settings, reproductive health is often shaped by the interplay of various factors such as socio-economic status, education, employment, marital age and gender. Many healthcare seekers fear abuse, neglect and discrimination by care providers along with lack of confidentiality as major impediments in utilization of sexual and reproductive health care. This leads to the widespread use of lay methods in matters of sexuality and reproduction (Singh & Srinivasan, 2000). The continuously expanding range of available reproductive services may not always be affordable, accessible or acceptable to many women especially young, marginalised and women in rural settings. Researches

have suggested that socio-cultural norms about being a good wife and a good mother, and prevalent notions of self and collective responsibility impacts utilisation of birth control (Unnithan-Kumar, 2003). Jeffery et al. (1985) notes that in rural parts of north and north-western India, women tended to remain under the strict control of household authorities, especially men, thus, got little freedom to exercise their sexual and reproductive rights. In cultures across much of India, women are generally socialised into self -denial from an early stage and in this way are made to accept all forms of privations or deprivations as fait accompli and that decisions are made on their behalf. The concept of the primacy of 'self'[3] or the individual identity which is also central to the debates on women's bodily integrity forms the core of reproductive rights (Priaulx, 2008). It is denied in women's very socialisation. Thus, Unnithan and Pigg (2014) further underscore the need to examine the relationship between rights and justice in South Asian context where rights framework has been pushed forward as a health policy agenda but have not taken into account several structural injustices underlying women's sexual and reproductive health. According to them a rights-based approach should also entail social and reproductive justice that enables women to make meaningful and informed health decisions according to their specific contexts.

The entire subject of reproductive health and reproductive rights becomes extremely relevant in Indian context where the following social and structural inequities/ injustices prevail: sex pre-selection and female foeticide; widespread malnutrition; inadequate education for the girl child; early marriage and early child-bearing; frequent pregnancies; sexual violence; taboos, harmful customs and practices; notions of shame and pollution around reproductive organs and physiological processes like menstruation, pregnancy and child birth (Paul et al., 2017). The lack of quality reproductive and family planning (e.g. inadequate services for RTIs and STDs, ante-natal-postnatal care & emergency obstetric care, non-uniform contraceptive supply across regions), higher incidence of unwanted and forced sterilizations, lack of knowledge about quality of care parameters (e.g., effective communication, patient satisfaction, safe and stress free environmental conditions) among health care workers and lack of women's negotiating power within sexual relationships leads to negative reproductive health outcomes (Priaulx, 2008). Lack of knowledge about quality-of-care parameters among health care workers result in their over reliance on numbers or quantitative health parameters. This reduces the importance of looking at qualitative aspects of women's health leading to inadequate accountability mechanism and dishonest record keeping (as health providers are held accountable only on the basis of their numerical performance alone). Healthcare professionals tend to dismiss client-centred care due to existing biases, stereotypes and culture of hierarchy among them (Berwick & Knapp, 1987).

Furthermore, long history of state's control over women's bodies and their reproductive choices has further restricted women's reproductive rights. Vertical population control programmes by state have served as a means of controlling women's bodies. According to NFHS-3, over a third of married Indian women rely on sterilization for birth control (IIPS, 2014). Patel (2017) notes, since Indian society is male-dominated, the onus of family planning fall flat on women's shoulders due numerous misconceptions associated with male sterilization such as weakness, loss of libido etc. Most of the sterilizations are performed under unhygienic conditions and in an assembly-line fashion and no follow-up care is offered to the women. As a result, many women lose their lives due to various general and gynaecological infections.

OBJECTIVES OF STUDY

The present study aims to understand, what a human rights approach on reproduction engenders and how these rights can lead to improvement in women's reproductive health. It further explores how reproductive rights can serve as important means of women's empowerment.

RESEARCH METHODOLOGY

An exploratory, community based cross-sectional study was conducted among married women of reproductive age group 17-49 yrs. in an urban census town. Stratified cluster random sampling technique in conjunction with snowball sampling was employed to ensure adequate coverage of population sub-groups. Primary data was collected through intensive field work that involved face-to-face interviews, repeated meetings and conversations with individual and in groups as well as formal Focus Group Discussions (FGDs) with respondents in the research settings. Secondary data was collected through systematic review of existing literature and synthesis and compilation of various published works that are currently available.

STUDY AREA

Study was conducted in Pakbara, a Census Town in the district of Moradabad (Uttar Pradesh), with a population of 36,728 as per the Census 2011. The female literacy rate is around 52.2 % while male literacy is 69.9 %. Pakbara has an area of 4.0 km square with a population density of 9,182/sq. km. It is located 366 kms from the state capital and 11 kms west of the district headquarter (Census, 2011). A mix of Urdu and Hindi is the local language here. The two main religions, which are followed by the people, are Islam and Hinduism.

DISCUSSION

I) Violation of Rights in Domestic Sphere

Skewed power relations led to little agency in decision-making to which is added lack of adequate information for appropriate self-risk assessment, certain beliefs and perceptions about contraceptive usage and intimate partner violence. These emerged as key determinant in sexual and reproductive health (SRH) outcomes of women. During the study, a few women reported of being aware of the risk of infection transmission and unintended pregnancies through unprotected sexual intercourse. Condom use was infrequently reported. Substance abuse (like alcoholism and use of illicit drugs) and lack of enjoyment by the husband was said to deter condom use. As one of the women said,

I know it is safer to use (condom) but what will you do if your husband does not listen to you, he becomes furious and often hits me. He drinks (alcohol) too much (Bimla, 40, Hindu).

Sexual violence was also prevalent. Coercive sex/ marital rape comes under the ambit of sexual violence and forms an important part of reproductive rights as this phenomenon involves control over women's bodies through force or violence. Often sexual violence is not visible as it is downplayed when it happens within the marital context, in which reproduction of progeny is considered as a social goal. Countless children are either born or aborted due to such violence as narratives regarding sexual ownership (taking away women's sexual agency) and control over women is naturalised within a marital relationship. Current literature suggests association between intimate partner violence (IPV) and contraceptive failure/ unintended pregnancy in India (Stephenson et al., 2008). According to an estimate, approximately one in three ever-married women reported physical, sexual, or emotional violence from their husband (IIPS, 2017). Hence, spousal opposition not only prevents women's attempts to use birth control, IPV further leads to unsuccessful use of contraceptives (i.e., contributes to contraceptive failure).

Research in low-income countries showed a positive association between intimate partner violence and abortion. It is suggested that unintended pregnancy due to reproductive coercion or IPV may drive decisions (coerced or otherwise) to abort such pregnancies (Stöckl, 2012; Pallitto et al., 2013). The primary reason for this may include women's fear of their ability to cope with the new pregnancy or take care of another child in the context of ongoing physical and mental abuse (Chibber et al., 2014). In the Indian context, IPV has been strongly associated with son preference where women and girls are considered to be of lower worth (Jha et al., 2006). A growing body of evidence suggested the role of husbands and in-laws in reproductive decision where women are not sole decision-

makers regarding childbearing, use of birth control methods, and induced abortion (Ghule et al., 2015). Studies have found out that women's use and non-use of contraception is highly dependent on their husband's perceptions about birth control and other family member's attitudes towards family planning. For instance, a study in Nepal by Chapagain (2006) have shown that men often direct their wives in contraceptive use or non-use. This skewed decision-making can lead to lower use of contraceptives by women and greater conflict with respect to their future family planning intentions.[5]

Current research has noted specific mechanisms by which the husband and in-laws (especially, the mother-in-law) directly interfere with women's attempts to use birth control methods. This included specific forms of coercion (physical & psychological) and sabotage to inhibit women's access, initiation, continuation, and successful use of modern contraceptives. In existing literature such mechanisms have been labelled as reproductive coercion[6] (McCauley et al., 2017). Recent guidelines by the World Health Organization (WHO) have identified reproductive coercion as a key aspect of gender-based violence resulting in negative reproductive outcomes (unintended pregnancy/cies and contraceptive non-use) (WHO, 2017). Reproductive coercion is not just perpetrated by partners/husbands but also family members or in-laws. A mother of eight, who was concerned about her uncontrolled childbearing said,

I am illiterate and can't go alone as there are lots of male doctors in government hospital. My sister-in-law told me that if I give her the amount I receive after bada operation (tubectomy) than only she will take me to the hospital. She warned me that, if I ever try to go alone, she will tell my husband. My husband does not want any operation. He beat me up when I went for abortion during my previous pregnancy without telling him. (Manju, 34, Hindu)

Therefore, reproductive coercion should not be seen as restricted to spouses but should be conceptualized as a form of family violence.

During the study there seemed a gender imbalance in consent rules, where a man does not require any consent from his wife regarding sexual behaviour, while the woman needs to obtain consent from her partner to access certain reproductive health services. Apart from this, freedom of movement in public spaces emerged as an important factor in the realisation of reproductive rights. Women and girls are strained from leaving the house without their husband's or parents' permission. They are often subjected to traditional male control over their movements. Difficulty in access is further compounded by lack of awareness about legally accessible services and rights. In this study, I found no women who were aware of the fact that contraception is their legal right and very few were in a position

to make uncoerced and independent choices about their reproductive health. In areas where provision of healthcare in general is very poor women often suffer from high rates of maternal morbidity and mortality owing to their lack of knowledge about available services and legal rights. All these issues, when combined together can be addressed from within the ambit of reproductive rights and cannot be treated as separate. By acknowledging reproductive rights and making them a human rights issue, their subordination can be directly confronted at the ground level.

At an experiential level, many women tend to understand and live with their negative health conditions as certain sexual and reproductive health problems are embedded with specific cultural meanings and are socially constructed. During one of the FGD a woman equated induced abortion with a sin and said,

If you abort your child, God will make you banjh (infertile) in the next birth (Vimlesh, 45, Hindu)

Thus, infertility is understood more as the wrath of God or the fruit of past wrong deeds rather than a medical condition. Furthermore, the little focus on emotional as well as social aspects of childbearing has led to the violation of rights of women (Wang and Pillai, 2001). The decision to have a child or not seemed to have physiological and psychological bearing in women's life and was amply clear in the response of a woman who was married to a man much older than her age. She lamented,

I have four children, two of them are from his (husband's) earlier marriage. I cannot differentiate among them; they are my responsibility now. I just wanted two children so that they can take care of me in old age. Also, I wanted to have my own (biological children), this thing I made clear to my husband before marriage only. The youngest one was not planned; he (husband) refuses to use anything (condom). What can I do? (Farah, 31, Muslim).

Thus, coerced bearing of children (reproductive coercion) due to various personal and cultural beliefs (e.g children are financial asset; son preference) is a blatant violation of reproductive rights as reproductive decisions are key aspect of personal autonomy relating to women's body and mind. Since, childbearing takes place inside women's bodies and they themselves carry the primary responsibility of childrearing they should have ability to make informed choices.

Other harmful traditional practice[7] that violate a number of human rights and have strong implications for women's reproductive and bodily autonomy include early

marriages. Early marriage of young girls can increase the levels of verbal and physical violence that limits her opportunities for independent decision-making, particularly when it comes to their sexuality and reproduction. This inability of young women in negotiating safe sex due to their marriage at younger age result in coercive sex, early and frequent pregnancies and childbirths. Such practices trigger a continuum of human rights violations as women suffer from ill-health throughout their life.

This complex interplay of multiple determinants of sexual and reproductive health occurs not just at the level of individual and family but also at the level of community and institutions.

II) Violation of Rights in Health Care Settings

In Latin America, women activists got mobilized against "obstetric violence", an institutionalized practice in public and private healthcare settings. Broadly, obstetric violence refers to disrespect and abuse women often face in maternal healthcare facilities. It also includes bio-medicalization of childbirth where doctors often don't consult women or misguide them during delivery and subject them to unnecessary medical procedures. Sometimes, women are denied privacy during childbirth or shackled to maternity beds during labour while there are incidences where mothers were detained and abused post-delivery for their inability to pay health bills (Bohren et al., 2015). As per WHO (2017), stigma and discrimination that includes negative attitudes, evasive and unsatisfactory explanations, ill-treatment, shame, blame and a sense of being judged are bound up in the histories of sexual and reproductive healthcare often leading to exaggerated medical violence[8] against marginalized groups by health workers. All this amount to ill-treatment and can be labelled as obstetric violence.

During the study several research participants reported that stigma and discrimination represent significant barriers to treatment apart from other obstacles like the lack of quality care, cost of treatment, corruption, and distance. One of the women while recalling her experience in a nearby PHC said,

Yes, nurses discriminate in the sense that they think poor women don't follow the treatment course, are unkempt and irresponsible. And they said this directly to me, that she (nurse) will not go ahead with my treatment because I am irresponsible as I was not able to come for the scheduled visit (due to long distance). (Shama, 29, Muslim)

These contextual factors increase women's vulnerability to reproductive ill-health and thus contributes towards differential health related behaviours. The state and patriarchal institutions or ideology further limit women from approaching health care services by

emphasizing population control as a collective good. For example, certain laws prescribing a lower age of marriage for girls than for boys restricted women to domestic and childbearing roles and deny them opportunities available to men (Ouattara et al.,1998). Because of these reasons a woman's capacity to protect her existing rights and to seek new rights has been curtailed. During the study, helplessness of women in controlling their bodies was highlighted in multiple responses. A woman while narrated her labour room experience. She said,

I don't know what was going on inside (the labour room), after my operation (C-section delivery), I came to know that I have been sterilized. They didn't ask anything from me. Later, they told me that it (tubectomy) is for my own good as a further pregnancy can harm me. But now, nothing is in my hands; children (further pregnancy) have stopped permanently (Veerta, 35, Hindu).

Schirato, Danaher, and Webb (2012) highlight the concept of biopower with respect to human reproduction. Biopower is a "set of mechanisms through which the basic biological features of the human species became the object of a political strategy" (p. 90). It operates at the broad population level. Both biopolitics and biopower influence various socio-cultural institutions in creating narratives and setting a number of expectations for women about appropriate behaviour in child bearing and rearing i.e., reproduction.

Today, increasing biomedicalization[9] have labelled biomedicine as an authoritative voice in reproductive concerns. According to Clarke et al. (2003), biomedicine relies on an extension of medical jurisdiction of health itself (in addition to illness, disease, and injury). Biomedicalization can take a myriad of forms. Notably, medicalization of reproductive processes and the female body; the compartmentalisation of 'self' from 'body' (particularly during reproductive events); role of women's agency and doctor's authoritative knowledge in health care decisions; and the intersectionality of ethnicity, casteism, classism, and other structural prejudices in realisation of reproductive rights (Elliot, 2019).

During the study, social inequality emerged as another important correlate of reproductive rights. Skewed power relations along with inequalities in the distribution of tangible resources (e.g., land and money) and social positions leave women's right to reproductive and sexual health care stunted (Wang & Pillai, 2001). Low social status of women and their economic dependence on men lower their chances to negotiate for safe sex practices (Bharat, 1999). Petchesky (2000) in his study "Human Rights, Reproductive Health and Economic Justice: Why They Are Indivisible" (2000), addressed violations of reproductive rights of Dalit women in Andhra Pradesh where issues of health and rights form a continuous web with land issues, indebtedness and social discrimination. Another

important cause of indebtedness in rural India is the excessive out of pocket expenditure on healthcare. Due to poverty and discrimination, a large number of Dalit women became migrant labourers and were further forced into the international sex trade resulting in higher deaths and sufferings due to RTIs and STDs particularly, HIV. Thus, it is difficult for poor women to assert their reproductive rights without access to basic human rights such as food security, livelihood, safety and literacy. All these factors further deteriorate the chances of accessing reproductive justice for disadvantaged groups. A young mother of two expressed her helplessness by saying,

Afterall, we are poor people. Who listens to us except God? (Sanam, 25, Muslim)

Various legislations and policy documents, religious edicts/injunctions, and state programmes en-folded in clinical care (at public institutions), public discourse, and multi-media messages - produce, monitor, and control reproductive behaviours and population practices. Morgan and Roberts (2012) termed it as reproductive governance[10] which is enacted from above by diverse social groups and institutions through the use of "legislative controls, economic inducements, moral injunctions, direct coercion, and ethical incitements" (p.243).

III) Reproductive Rights as Tool for Women Empowerment

Since, abuse of women's human rights is almost always about controlling their bodies, particularly their reproductive and sexual lives. Reproductive rights can be used as a tool in changing the circumstances of women's lives as they also have political resonance. In India, the judiciary has recognized the right to health as a fundamental constitutional guarantee. Courts have passed many positive orders to upheld the right to have a quality and dignified reproductive healthcare. For instance, in Laxmi Mandal vs Deen Dayal Harinagar Hospital case, the High Court of Delhi held that the failure of the government authorities to ensure adequate access to reproductive health services constitutes a serious violation of the right to life under Article 21 of the Indian Constitution. This also violates India's commitments under international human rights treaties (Freedman & Kruk, 2014). In another case of a homeless woman named Fatima, who experienced severe epileptic fits during her pregnancy was denied treatment at a local maternity home. Eventually, she was forced to deliver under a tree. Taking due cognisance, High Court of Delhi in 2010 passed an order declaring mistreatment faced by the women was the result of the non-implementation of programmes and policies that were intended to improve access to quality reproductive health care (Madhok, Unnithan & Heitmeyer, 2014).

CONCLUSION

The research findings reflected the ground realities of women's health and their reproductive rights, as it exists in India. Several health problems are brought on by the fact that she is a woman (gender roles and biology). As a result, she has been denied economic independence and several legal, political and social rights as compared to man.

Observing this, rights-based discourse doesn't seem to be alien in the Indian context. The reproductive rights paradigm enables women to enjoy best possible health, physical, mental and social. These rights have increasingly been recognised as an inalienable aspect of basic human rights and cannot be viewed as mutually exclusive. They entail women's bodily autonomy, reproductive decision-making, access to safe and effective reproductive and sexual healthcare. Such inclusion of women's rights under reproductive rights takes care of the broader questions relating to women's autonomy, choice, & freedom. Human rights framework with respect to sexuality and reproduction reveals unequal structures of power and authority and can serve as a tool to fight reproductive injustice.

END NOTES

1. Total Fertility Rates
2. The Beijing Declaration and the Platform for Action was adopted by 189 Nations. It is a global movement for women's overall empowerment and is considered as key international policy document on gender equality.
3. Gaertner, Sedikides & Graetz., 1999. In search of self-definition: motivational primacy of the individual self, motivational primacy of the collective self, or contextual primacy?
4. A census town has a minimum population of 5,000;at least 75 % of the male working population is engaged in non-agricultural work and has a population density of at least 400 per km2 (https://cprindia.org/news/census-towns-india-current-patterns-and-future-discourses).
5. In this study, domination of husband was ubiquitous with regards to all forms of power and gender privileges.
6. Reproductive and sexual coercion pertains to the behaviour which intends to maintain power and control in a relationship related to reproductive health by someone, particularly a partner or husband (ACOG, 2012).
7. E.g., Female Genital Mutilation.
8. Comes under the ambit of structural violence in which a social structures perpetuates social inequity leading to different levels of suffering. While exploring structural violence, it is vital to explore different ways by which existing structures such as economic, political, medical, and legislative can have a disproportionate (adverse) influence on specific groups as well as communities (Lewis, 2019).

9. Biomedicalization is transformations of both the human and nonhuman by technoscientific innovations such as molecular biology, biotechnologies, genomization, transplant medicine, and new medical technologies (Clarke et al., 2003).
10. For e.g., in Latin America, reproductive governance is in a phase of rapid transformation as public policy discourses are merging around new ethical regimes and rights-based actors via debates and discussions on reproductive processes likepregnancy termination, emergency contraceptives, sterilization, migration, and ARTs (Assisted Reproductive Technologies) (Morgan and Roberts, 2012).

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BOOK REVIEW

Indian Social Work

By Bishnu Mohan Dash, Mithlesh Kumar, D.P.Singh and Siddheshwar Shukla

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Insight Into Indian Understanding of Social Work

Sunil Prasad*

The Book 'Indian Social Work' is the first such title in the field of Social Work. The Book is an important milestone in the history of Social work education in India. This book provides multiple frameworks and paradigms for social work education which integrates indigenous theories and cultural practices. It focuses on the need to diversify and reorient social work curriculum to include indigenous traditions and highlights the importance of Indianisation/Bharatiyakaran of Social work education in India. The book is divided into 14 parts, each of which offers a different structure and paradigm for social work education, incorporating indigenous ideas and cultural traditions. To help social work grow as a career in India, each chapter discusses and reflects on the need to diversify and re-orient social work curriculum to include indigenous practices of service, charity, and volunteerism.

Mukul Kanitkar's first chapter explores the Indian viewpoint on social work. He has summarized the idea of Bharatiya Perspective as well as various approaches that have been marginalized in the past by many academicians who admire and promote Eurocentric Social Work, which is far removed from the ground reality and the expectations and aspirations of the people of great country like India.

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In chapter two the author discusses numerous issues and challenges in social work education in India, especially in these unpredictable and rapidly changing times, and how social work education and the profession as a whole have not adequately adapted to these changes.

Lawani's and Jadhav and Rana's chapter three and four, stress the need for indigenization of the social work curriculum. The writers concentrate on the social work curriculum's importance to Indian culture. They have examined some of the main aspects in terms of their initial formulation, improvements and development, as well as the future agenda for social work curriculum and provide insights into indigenous social work practices in order to prepare an academic road map.

In chapter five, Rohta attempts to discuss the current problems faced by social work education and practice in India, arguing that it is the duty of academicians, scholars, and practitioners to ensure excellence in their respective fields. The author also discusses the difficulties that practitioners and educators face in the growth of social work as a discipline, especially in India's north-east. The chapter emphasizes the disconnect between classroom instruction and practical application. When doing social work in India, a country with unparalleled diversity, the primary form of social work with Western influences can become difficult. Practitioners also struggle to put theoretical experience into practice.

Marak in chapter six states that social work education and practice have remained static, with ideas and approaches adapted only to the destructions caused by the industrial revolution in Europe, thus undermining the background of colonized countries. As a result, it has fallen short of meeting the requirements of the Indian context. For example, the indigenous situation in the north east province makes it difficult for social work education and practice to develop initiatives and strategies that are tailored to their specific needs. It is essential to decolonize social work practice by incorporating indigenous worldviews in order to provide successful social services.

Rubina addresses some of the indigenous scholarly contributions made by Indian academics in the area of social work in chapter seven. The chapter emphasizes how the Western social work model shaped the social work curriculum at first. It is recognized that certain concepts have minimal applicability in the Indian context. As a result, indigenization of social work education clearly entails adapting the current social work curriculum to the Indian context.

Prof. Archana Kasuhik explains how yoga seeks to achieve complete union between body, mind, and soul through ethical discipline, physical postures, breathing exercises, and meditation in chapter eight. In Indian ethics, yoga and Bhakti are deeply rooted. The author emphasizes the research-based validations of individual and social benefits from yoga practice in this chapter. The National Association of Social Workers (NASW) in the

United States promotes culturally responsive social work practice, so indigenization is expected. To be successful in India, social work must follow and adapt methods and approaches that are relevant to the socio-cultural contours of the country.

In chapter nine, Bhat examines and evaluates principles found in ancient Indian literature in the light of India's emerging indigenous social work. The success of social work is determined by the cultural history of those being studied. As a result, in order to improve indigenous knowledge, it is necessary to investigate and examine pre-colonial conceptions of social service and social change. There are many ideas in ancient Indian literature that are relevant to the practice of social work in India. Daanam is a Hindu term that encompasses far more than charity. In short, pre-colonial texts include ideas from the Indian perspective of social work that can be adequately recorded in order to establish indigenous knowledge for Indian social work.

The tenth chapter examines how Indian mental health principles can be integrated into modern psychiatry practices. Rathore argues in his chapter that modern Western psychiatry is incapable of meeting the needs of Indian psyche because the two are socially and culturally distinct. Working in this position necessitates an appreciation of these distinctions. When we discuss mental science as a whole, we must recognize that, even though we use modern Western psychiatry, the thousands of years old Indian mental science should not be overlooked, not just because it is very empirical, but also because it is completely established in all respects. All of its theories have been put to the test in a series of experiments. .Similarly to how a non-scientific and illogical method of treatment must be rejected, it is important to ensure that a science that has developed over thousands of years is not discriminated against a few who originated in the Indian subcontinent.

Apart from pharmacological therapy, Das and Anand highlight the fact that other supportive techniques are also available that can aid in treating and living with cancer without any side effects. As a result, researchers set out to investigate the function of vipassana meditation in reducing psychosocial stress in cancer patients. A total of 30 people in the age range of 40 to 50 years old took part in the study. In contrast to the control group, there was a substantial difference between the pre and post scores of psychosocial stress in the study groups. It can be seen that vipassana meditation has a major positive impact on reducing psychosocial stress in cancer patients.

Gulalia's twelfth chapter tries to capture the fieldwork students' experiences through the eyes of an ethnographer—the instructor who constantly collaborated with them during their placement/fieldwork journey as an integral part of the fieldwork curriculum as an accomplished practitioner. The chapter creates a space for general debates in the indigenous linkages of the field with the profession of social work.

In chapter thirteen, Dash and Nagar address the importance of Hinduism in social work. Hindu Dharma is described as the various religious and philosophical beliefs practiced in the Indian subcontinent since the incarnation of Vedic wisdom about 1500 B.C., according to them. As a result, Hindu Dharma is regarded as both a faith and a philosophy and way of life. Hindu philosophy, on the other hand, has been identified by some European scholars as having made an incomparable contribution to science and social science. Beliefs and faith are powerful social influence instruments in India. The importance and implications of Vedic expertise in the solution of person and community problems have been largely ignored by professional social work education in India. The chapter claims that indigenous understanding of Vedic ontology, epistemology, and social practice can be very useful in the treatment of psycho-social issues in people, groups, and societies, and that it should be included in the social work curriculum as soon as possible. In this context, the author has argued for the importance of Hindu Dharma in social work education in India, as well as its significance and implications.

In Chapter fourteen, Singh looks at the importance of food and food practices in ancient Indian philosophical ideas, stories, and social events. She is interested in tracing ancient Indian meditative threads on alimentary aspects as they relate to social construction discourse and ideological formulations about the existence of ultimate truth, Brahma. The effectiveness of food practices as they affect various aspects of social, corporeal, and moral life is investigated in ancient Indian literature ranging from Vedic wisdom, Upanishads, and Ayurveda. The importance of food in human physiological, psychological, and moral existence is repeatedly elaborated in the Upanishads.

Kumar claims that Jainism has become more important than ever before in the book's final chapter. In Jainism, the idea of ahimsa encompasses nonhuman beings, which many other cultures have been unable to comprehend in the grand scheme of things. In this context, the chapter attempts to introduce the basic aspects of Jainism, as well as its relationship to the discipline of social work that evolved globally as a profession. It also addresses the implications of Jain epistemology for the field of social work. It also attempts to link Western skilled social work with centuries-old Jainism, as well as its contribution to Indic practices.

This book will be a valuable resource for academics, professionals, and researchers interested in learning more about the indigenous identity of social work through the social, cultural, and economic background of India. This collection of essays focuses primarily on Indianization and related topics. This book is a good source of information for those who want to understand the current problems of social work education in India and those who question the Western orientation of social work. It offers an alternative discourse to the Eurocentric discourse of social work education and practice in India. This book contains

chapters that serve as a road map for the Indianization of the social work profession by presenting very insightful reasons for creating a perceptive critique of European empirical philanthropy versus Indian voluntary philanthropy. It will make valuable contributions to the development of a counter-narrative to the current Eurocentric debate on social work education and practice in India.

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