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Cyber Sovereignty : Challenge to Cyber Security

There is no universally agreed definition for sovereignty. Cyber sovereignty is a phrase used in the field of internet governance to describe governments' desire to exercise control over the Internet within their own borders, including political, economic, cultural and technological activities. The physical infrastructure of cyberspace the undersea fiber optic cables is likely to continue connecting nations for trade and economic inclusion in global markets. But governments across the political spectrum are now seeking to impose their sovereign authority on the content and data that transverse their borders across those very cables.Cyber security is no longer the preserve of any single country because of the trans-border nature of malicious cyber activities and an increasingly connected and sophisticated technological and user bases. This paper will review the cardinal principle of cyber sovereignty and its application to cyberspace.
Key Words : Cyber, sovereignty, Cyber-attack, Cyber operation, Cyberspace.

DR. SANYOGITA THAKUR

Introduction :

The series of peace treaties that came out of the negotiations established the concept of sovereignty, a political order of co-existing states, establishing a norm against interference in the domestic affairs of others. Economic globalization and interdependence has slowly eroded the traditional concept of sovereignty, so has the expansion of the global internet. The physical infrastructure of cyberspace the undersea fibre optic cables is likely to continue connecting nations for trade and economic inclusion in global markets.

While half of the concept of digital sovereignty is about governing activity that is taking place on the internet within a country, the other is about reacting to external infringements through cyberspace from other states. Much like Westphalian sovereignty was the foundation of much of international law, established international law such as the law of armed conflict and international humanitarian law can also give insight into a country's right to defend their digital sovereignty.

Research Problem :

Whether sovereignty can adapt to the challenges of cyber security.

State Sovereignty and Cyber Sovereignty :

State Sovereignty : Sovereignty has always been a controversial topic in international law. The year was 1648. Europe had just negotiated the Peace of Westphalia, ending the 30 years of war that had ensnared the continent. The series of peace treaties that came out of the negotiations established the concept of sovereignty. Before 1945, sovereignty meant that whatever nations did within their borders was their own business, and no one should interfere with their internal affairs. After two world wars, nations adopted universal protections for human rights. Universal rights increase stability, but also create political risk for authoritarian regimes. They argue that sovereignty deserves greater respect.

Prof. Ian Brownlie notes that "sovereignty and equality of states represents the basic constitutional doctrine of the law of nations."[(1)] He further indicates that this basic doctrine is contextualized by three corollaries : **(1)** jurisdiction exercised by States over territories and permanent populations; **(2)** the duty not to intervene in the exclusive jurisdiction of other States; and **(3)** the dependence of obligations which emerge from the sources of international law.[(2)]

The most prominent attempts to rethink sovereignty in recent times have arisen out of the policies of few nations, particularly its conceptualization of self-defense and its attempts to promote democracy worldwide.Although in its modern development, sovereignty was considered to be an absolute power above the law.[(3)]

Cyber Sovereignty : Cyber sovereignty refers to internet governance. By internet governance, we mean 'desire of the political governments to exercise political, economic, technological and cultural control over the internet within their borders. Many security experts are of the view that cyber sovereignty movement is active in many countries

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including Russia, China, France, India, Turkey, Saudi Arabia and other middle eastern as well as East Asian states. This movement received a remarkable boost in 2013 revelations of widespread international NSA surveillance.

The topology of cyberspace does not seem to be purely Westphalian or Euclidian in its nature. Thus, from a conceptual perspective, one must emphasise the fact that the functional architecture of cyberspace is volatile, but purely relational, both geometrically as well as socially.[4] Making an analogy with the principles and international law norms regarding judicious use of the world's seas and oceans, Steven Barney given three concentric subdivisions of cyber sovereignty : internal cyberspace the critical area in which states can fully exert their national sovereignty; territorial cyberspace an area of data transit, where international access is allowed without any substantial restrictions; international cyberspace an area of transit and significant unrestricted cyber operations, in which the states have the right to intervene only if their stability and security in cyberspace are harmed.[5]

Some have linked cyberspace to the commons such as the high seas,and proposed that a similar legal regime should apply.[6] The argument is that because cyberspace does not fall within any state's territory, it is not subject to any state's sovereignty.[7] Although no state may claim sovereignty over cyberspace per se states may exercise sovereign prerogatives over any cyber structure located on their territory,as well as activities associated with that cyber infrastructure.[8] Cyber Infrastructureis composed of servers,computers,cables and other physical components.[9] These components are not located in cyberspace, but on some state's territory so states exercise sovereignty over these components. State Practice provides sufficient evidence that components of cyberspace are not immune from territorial sovereignty nor from exercise of state jurisdiction.[10]

The Main Challenge in the Area of Cyber Governance:

The cyber age will expose sovereignty to new challenges. Cyber threats pose fresh challenges to sovereignty and to international law on state responsibility. The main challenge in the area of cyber governance relates to the security. The notion of sovereignty has significant implications for the understanding of cyber security. Two of the great components of sovereignty are the principle of self-determination and non-interference.[11] Cyber-attacks that degrade the ability to command and control national security assets and attacks that disrupt critical infrastructure have direct implications to national security. Cyber security also represents a novel global issue that occurs in a new arena of interactions.[12] Norms, practices, and institutions that manage security problems in the cyber domain have been fundamentally transformed due to the globalized feature of the cyber system.[13] The global governance of cyberspace may indicate the de facto elimination of cyber security boundary. Countries across the world are using security as a reason to undermine online freedoms and privacy. The internet was teeming with subversive thought, religious extremism, pornography, fake news and financial scams.

China has been criticised for its strict internet regulations where it blocks major sites and censors posts. While Chinese officials say the new rules will help guard against cyber-attacks and prevent terrorism.This should come as little surprise given Beijing's continued advocacy for a state's right of territorial sovereignty, particularly in areas such as cyberspace and outer space. With cyberspace, China views information as well as information systems in the same context, intimating that information even outside China's borders is a potential threat to its national security interests.[14] The fundamental difference between how China and the United States view cyberspace is clear in their respective interpretations on what constitutes cyber security. While the United States maintains a technological view of cyberspace, China is more holistic in its perception taking into account not only the technology that facilitates communications, but also the actual data that traverses or is stored on it.[15] In February 2014, Chinese President Xi Jinping said that there was no national security without cyber security.[16]

A state's exercise of sovereignty over cyber resources can be directed or limited by the U.N Security Council through the power granted to it in U.N charter. States have duty to comply with Security Council resolutions, even if they limit the exercise of sovereignty over cyber issues.

Conclusion :

"Good fences make good neighbours" was the doctrine suits the territorial sovereignty, but for the purpose of cyber sovereignty there is need to create a doctrine that would soften the sharper edges of sovereignty.

Whether sovereignty can adapt to the challenges of cyber security is one of the key questions since 2009 and indeed one of the most difficult issues in dealing with cyber conflict. Perhaps, the main challenge in the area of cyber governance relates to the security that" rising of non-state actors produced tough conflict with the deploying of traditional international law based on the rule of sovereignty in these new areas". In this regard it is quite clear that the sovereignty must have a proper position in handling with cyber security issues when more and more multi-source attacks have appeared in cyberspace.

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शोध-पत्र भेजने संबंधी नियम

(1) शोध-पत्र **1500-1700 शब्दों से अधिक नहीं** होना चाहिए।

(2) हिन्दी एवं मराठी माध्यम के शोधपत्रों को कृतिदेव 10 (Kruti Dev 010) में टाईप करवाकर 'पेजमेकर 6.5' में भेजें।

(3) पंजाबी माध्यम के शोधपत्रों को अनमोल लिपि (AnmolLipi) या **अमृत बोली** (Amritboli) या **जॉय** (Joy) में टाईप करवाकर 'पेजमेकर 6.5' में भेजें।

(4) अंग्रेजी माध्यम के शोधपत्र टाईम्स न्यू रोमन (Times New Roman), एरियल फोंट (Arial) में टाईप करवाकर 'पेजमेकर 6.5' या 'माइक्रोसाफ्ट वर्ड' में भेजे जा सकते हैं।

(4) शोधपत्र की विधि - **(1)** शीर्षक **(2)** एबस्ट्रेक्ट **(3)** की-वर्ड्स **(5)** प्रस्तावना/प्रवेश **(5)** उद्देश्य **(6)** शोध परिकल्पना **(7)** शोध प्रविधि एवं क्षेत्र **(8)** सांख्यिकीय तकनीक **(9)** विवेचन या विश्लेषण **(10)** सुझाव **(11)** निष्कर्ष एवं **(12)** संदर्भ ग्रंथ सूची।

(6) संदर्भ ग्रंथ सूची इस प्रकार दें -

For Books :

(1) Name of Writer, "Name of Book", Publication, Place of Publication, Year of Publication, Page Number/numbers.

For Journals :

(2) Name of Writer, "Title of Article", Name of Journal, Volume ....., Issue ....., Page Numbers.

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(8) शोधपत्र की साफ्टकॉपी रिसर्च लिंक के ई-मेल आईडी researchlink@yahoo.co.in पर भेजने के बाद हॉर्डकॉपी, शोधपत्र के मौलिक होने के घोषणा पत्र के साथ हस्ताक्षर कर 'रिसर्च लिंक' के कार्यालय को प्रेषित करें।

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Sedition vis-vis Right to Speech

A debate over the provisions related to freedom of speech is always ignited in India whenever any proceeding has been initiated against any speech given by any person. Either it is a matter of Kanhaiya Kumar of Jawaharlal Nehru University, or of Hardik Patel of Gujarat, or of Separatists of Kashmir. In all such matters, a debate is always burned up over the concept of Sedition vs. Freedom of Speech, and it is appearing that such debates will be continued in the future also.

NITYA NAND PANDEY

Introduction :

The Supreme Court of India and the High Courts of the states are also involved in the debate which was re-ignited in the entire country after the incidence of Jawaharlal Nehru University, New Delhi. This debate of Sedition vs. Freedom of Speech and Expression is not of a mew origin, but it was in continued existence from British Reign.

In 1870, Section 124-A was added in the Indian Penal Code 1860, and in 1898 drastic amendments has been made in this provision by the British rulers. After Independence, this provision was again amended with the object to make it favourable for sovereign India by inserting the word 'Government of India' in place of 'Dominion of India'. The basic concept involve in Section 124-A of IPC was not Sedition, rather it was exciting a disaffection. The first caselaw related to the Section 124-A of IPC was Queen-Empress vs Jogendra Chunder Bose And Ors. (1892) ILR 19 Cal 35.[1] And after the amendment in the provision the first landmark judgement was Queen Empress vs. Bal Gangadhar Tilak (1897 ILR 22 Bombay 112)[2]. It was held in this case that for constituting an offence of sedition under Section 124-A, it is not essential that a person should commit riots or rebellion or any kind of disturbance to the peace. Insulting the Government or generating hatred for the Government amongst the people is sufficient to constitute an offence of sedition.

Till this judgement, neither we were having any constitution of our own nor we were assured with any kind of fundamental rights. India got its independence in 1947 and our constitution was drafted by the Constituent Assembly on 26th November 1949 and it was came into force on 26th January 1950. Our Constitution guaranteed 7 Fundamental Rights to us which are presently 6 in number. The Right to Property has been repealed from the Part III of the Indian Constitution through Constitutional (44th Amendment) Act 1978 and hence it is no longer remained a Fundamental Right. Out of 6 Fundamental Rights, the Right to Freedom is the most significant fundamental right which has been ensured from Article 19 to Article 22 of the Indian Constitution. Amongst these Fundamental Freedoms, Article 19(1)(a) guarantees the freedom of speech and expression to each and every citizen of India.

However, the freedom of speech and expression guaranteed under Article 19(1)(a) is not an absolute right. Article 19(2) provides certain grounds on the basis of which State can impose certain reasonable restrictions over the fundamental freedom guaranteed under Article 19(1)(a). These grounds are :

(1) Sovereignty and Integrity of India,
(2) Security of State,
(3) Decency or Morality,
(4) Contempt of Court,
(5) Defamation,
(6) friendly relations with foreign States,
(7) public order and
(8) incitement to an offence.[3]

Initially there only 5 ground were there for restriction, Later on, through Constitutional (First Amendment) Act 1951, three more grounds of reasonable restrictions has been added in Article 19(2), which are -

(1) Public Order,
(2) Friendly relations with foreign states, and

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(3) Incitement for offences.

No doubt, these grounds of reasonable restrictions has been incorporated in the Indian Constitution by the Constituent Assembly with a thought that if guaranteed absolutely than this right might be misused by the people. Hence, they had imposed restrictions over freedom of speech and expression of the citizens through the grounds given in Article 19(2).

Now, let us discuss the Delhi incidence of Jawaharlal Nehru University. On 9th February 2016, an event of reciting the poems was organized in the JNU campus with the approval of University Administration on the topic of "A country without post office". But eventually it ended with the sloganeering by the students which was considered as offensive and because of this the Police authorities of Basant Kunj Police Station arrested the Kanahaiya Kumar and his friends on the charges under Sections 124-A/ 120-B/ 34/ 147/ 149 of Indian Penal Code, and the matter is under investigation at present. This incidence has again ignited a debate over Section 124-A of Indian Penal Code vs. Article 19(1)(a) of the Indian Constitution.

According to Section 124-A of the Indian Penal Code "Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards,the Government established by law inIndia shall be punished withimprisonment for life,to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1 : The expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation 2 : Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3 : Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

If we examine the this provision then we find that in the case of BILAL AHMED KALOO V/S STATE OF ANDHRA PRADESH , decided on Wednesday, August 6, 1997, it is said thatthe offence of sedition under section 124A is the doing of certain acts which would bring the Government established by law in India into hatred or contempt, or create disaffection against it. If we talk the important ingredient of section 124-A, we can say that-

(1) There should be bringing or attempting to bring into hatred or contempt or exciting or attempting to excite disaffection towards the Government of India. And

(2) Such act of attempt may be done-

(a) By words, either spoken or written, or

(b) By signs, or

(c) By visible representation.

On the combine interpretation of the Article 19(1)(a) along with the restrictions given in Article 19(2), it is clear that sedition is also a reasonable ground of restriction over the freedom of speech and expression.

After coming into force of Indian Constitution the validity of this section was considered by Supreme Court in the case of Ramesh Thapar[(4)] and Brijbhusan[(5)]. As a result of these two decisions Constitution first amendment Act was passed in 1951. Thereafter in Kedar Nath Singh case the validity of this section was again questioned on the ground of the provisions of this section being in violation of freedom of speech and expression. The was negatived by the court and the section was held to be constitutional. The explanation to the section makes it clear that criticism of public measures or comment on Government action, however strongly worded, within reasonable limits and consistent with the fundamental right of freedom of speech and expression is not affected. It is only when the words have the pernicious tendency or intention of creating public disorder or disturbance of law and order that the provisions of the section are attracted.

Any act within the meaning of section 124-A which has the effect of subverting the Government by bringing that government into contempt or hatred or creating disaffection against it would be within penal statute because the feeling of disloyalty to the government established by law or enmity to it imports the idea of tendency to public disorder by the use actual violence or incitement to offence.

In other words, any written or spoken words. etc. which has implicit in them the idea of subverting government by violent means which are compendiously included within the term 'revolution' have been made penal by the section in question.[(6)]

In Shreya Singhal vs. Union of India[(7)], hon'ble Supreme Court issue following three principles to test the freedom of speech and expression:

(1) Debate.

(2) Advocacy.

(3) Incitement.

Debate and Advocacy are the soul of Article 19(1)(a) but as soon as any of these enters into the definition of incitement, it falls in the domain of Article 19(2) and so can't avail the fundamental right guaranteed under Article 19(1)(a).

I am not getting this when we claim our fundamental freedom guaranteed in Indian Constitution, why do we not respect the fundamental duties whereas both are provided by same Constitution. Part IV A of the Indian Constitution provides following 11 Fundamental Duties for each and every Indian citizen under Article 51A:

(a) to abide by the Constitution and respect its ideals and institutions, the national Flag and the National Anthem;

(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

(d) to defend the country and render national service when called upon to do so;

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.

(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Conclusion :

Thus it is clear from the above discussion that Article 19(1)(a) of the Indian Constitution guarantees the freedom of speech and expression alongwith certain reasonable restrictions given in Article 19(2). Out of the various grounds given in Article 19(2), this freedom can be restricted on the ground of unity and integrity of the nation, which includes the offence of sedition in it as it is defined in Section 124-A of IPC. Hence, it can be concluded that freedom of speech and expression is not an absolute right and reasonable restrictions can be imposed on it. Further, We must also understand that the constitution is not a common book. Each of his words should be more than every religion book.

If our constitution is giving us some basic rights then it is also imposing some basic duties on us and is expecting something from us and it is our duty to fulfil this demand of the Constitution otherwise we have no right to demandthe fundamental rights.

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Right To Health : A Challeng Task (Indian Perspectiv)

To maintenance health of the citizensis the duty of the State to fulfill its constitutional obligations which has been imposed on it by the Constitution. All governments are legally obliged to protect, respect and fulfill the constitutional fundamental rights which are given in the Constitution of India. The Indian judiciary also have been played very important role to save right to health of citizens, it is establishedin the number of decisions pronounced by the Apex court of India. The challenge for the nation is to provide in reality an accessible, affordable and equitable health care for all its citizens.

PROF. MADHU SHASTRI

Introduction :

"Sabse Bada Sukha Nirogi Kaya"

According to World Health Organization, "Health is a state of complete physical, mental andSocial wellbeing and not merely the absence of disease".This definition is not limited tobiomedical and pathology based perspective, it includes the mental and social dimensionsalso to domain "wellbeing". WHO has more positive domain of "wellbeing", it radically expanded the scope of health and by extension, the role and responsibility of health Professionals and their relationship to the larger society.[1]

The individual's intrinsic value as a person and the implicit risk associated with the advancement of science in challenging bioethical conduct. But it has created a challenge. Advancement of technology in the field of science and research has raised certain questions which may lead to discrimination. State is under the obligation to ensure that medical practitioners and professionals maintain the standards and ethical codes of conduct. Emphasis should be given to the right to enjoy the benefits of advanced technology and liberalization of trade along with intellectual and paternity rights.

The first legally binding international instrument in this field was the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine of 1997. This regional instrument was adopted by the Council of Europe in 1997. In CESC Ltd. v. Subash Chandra Bose[2], the Supreme Court relied on international instruments and concluded that right to health is a fundamental right. It went further and observed that health is not merely absence of sickness.

Right to Health is not included as an explicit fundamental right in the Indian Constitution. To achievethe goal of social and economic justice founder fathers of Indian constitution imposed this duty on the state which is embedded in part fourth of the constitution as Directive Principles of State Policy (DPSP). Provisions related to health in Part-IV (Directive Principles) are :

(a) Article 38 says that the state will secure a social order for the promotion of welfare of the people. Providing affordable healthcare is one of the ways to promote welfare. **(b)** Article 39(e) calls the state to make sure that health and strength of workers, men and women, and the tender age of children are not abused. **(c)** Article 41 imposes duty on state to provide public assistance in cases of unemployment, old age, sickness and disablement etc. **(d)** Article 42 makes provision to protect the health of infant and mother by maternity benefit. **(e)** Article 47 make it duty of the state to improve public health, securing of justice, human condition of works, extension of sickness, old age, disablement and maternity benefits and also contemplated. Further, State's duty includes prohibition of consumption of intoxicating drinking and drugs are injurious to health.

Panchayat, Municipality and Health :

Article 242 of the Constitution provides that the legislature of a State may by law, endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and may be entrusted to them to the matters listed in the Twelfth Schedule to the Constitution which include item 6, 'Public health, sanitation conservancy and solid waste management'. Similar provision is made for the panchayats under Article 243-G read with the Eleventh Schedule (item 23), of the Constitution.

The Supreme Court in Paramanand Katara v Union of India[8] case gave a landmark judgment that every doctor at government hospital or otherwise has the professional obligation to extend his services with due expertise for protecting life of a patient and has also provided certain directions such as :

(a) Provision of adequate health facilities at public health centers. **(b)** Up gradation of sub-divisional level hospitals to make them capable of treating serious patients. **(c)** To ensure availability of bed in any emergency at State

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level hospitals, there should be a centralized communication system so that the patient can be sent immediately to the hospital where bed is available in respect of the treatment, which is required. **(d)** Proper arrangement of ambulances adequately provided with necessary equipment and personnel.

The scientific revolution in the field of health related problems must have a focus on the protection of human rights. In the case of apotential conflict between the preservation of the human being from harm and other intervening interests, preference should be given to the preservation and protection of the human person.[(1)] Prohibiting research and application in this sphere may not probably be a desirable solution instead, regulating any damage to individuals and/or humanity as a whole is required.

Right to Health Care as a Fundamental Right: The Supreme Court, in Paschim Bangal Khet mazdoor Samity v. State of West Bengal [(9)] while widening the scope of Art. 21 and the government's responsibility to provide medical aid to every person in thecountry held that in a welfare state, the primary duty of the government is to secure thewelfare of the people. Providing adequate medical facilities for the people is an obligationundertaken by the government in a welfare state. The government discharges this obligationby providing medical care to the persons seeking to avail of those facilities.

The Court madecertain additional direction in respect of serious medical cases :

(1) Adequate facilities are provided at the public health centers where the patient can be given basic treatment and his condition stabilized. **(2)** Hospitals at the district and sub divisional level should be upgraded so that serious cases be treated there. **(3)** Facilities for given specialist treatment should be increased and having regard to the growing needs, it must be made available at the district and sub divisional level hospitals. **(4)** In order to ensure availability of bed in any emergency at State level hospitals, there should be a centralized communication system so that the patient can be sent immediately to the hospital where bed is available in respect of the treatment, which is required.

Environment Pollution is linked to Health and is violation of right to life with dignity :

In T. Ramakrishna Rao v. Hyderabad Development Authority,[(10)] the Andhra Pradesh High Court observed: Protection of the environment is not only the duty of the citizens but also the obligation of the State and it's all other organs including the Courts. The enjoyment of life and its attainment and fulfillment guaranteed by Article 21 of the Constitution embraces the protection and preservation of nature's gift without which life cannot be enjoyed fruitfully.

It is therefore, as held by this Court speaking through P.A, Choudary, J., in T.Damodar Rao and others s. Special Officer, Municipal Corporation of Hyderabad[(11)], the legitimate duty of the Courts as the enforcing organs of theconstitutional objectives to forbid all actions of the State and the citizens fromupsetting the ecological and environmental balance. In Virender Gaur v. State of Haryana[(12)], the Supreme Court held that environmental, ecological, air and waterpollution, etc., should be regarded as amounting to violation of right to healthguaranteed by Article 21 of the Constitution.

In consumer Education and Research Centre vs. Union of India[(13)],Kirloskar Brothers Ltd. vs. Employees' State Insurance Corporation[(14)], the Supreme Court held that right to health and medical care is a fundamental fight under Article 21 read with Article 39(e), 41 and 43. In Subhash Kumar v. State of Bihar[(15)] the Supreme Court held that right to pollution-free water and air is an enforceable fundamental right guaranteed under Article 21. Similarly in Shantistar Builders v. Narayan Khimalal Totame[(16)] the Supreme Court opined that the right to decent environment is covered by the right guaranteed under Article 21. Further, in M.C. Mehta vs. Union of India[(17)], Rural Litigation and Entitlement Kendra v. State of U.P.[(18)], Subhash Kumar vs. State of Bihar , the Supreme Court imposed a positive obligation upon the State to take steps for ensuring to the individual a better enjoyment of life and dignity and for elimination of water and air pollution. It is also relevant to notice as per the judgment of the Supreme Court in Vincent Panikurlangara v. Union of India[(19)] and in Unnikrishnan, JP v. State of A.P[(20)].

Thus to maintenance health of the citizensis the duty of the State to fulfill its constitutional obligations which has been imposed on it by the Constitution. All governments are legally obliged to protect, respect and fulfill the constitutional fundamental rights which are given in the Constitution of India. The Indian judiciary also have been played very important role to save right to health of citizens, it is establishedin the number of decisions pronounced by the Apex court of India. The challenge for the nation is to provide in reality an accessible, affordable and equitable health care for all its citizens. Non-functioning health facilities, sub-standard treatment, denial of care and medical negligence are not uncommon in India but, effective laws have to be employed to deliver health justice to the citizens, especially its most vulnerable population. Human beings can ensure fundamental equality and adequate conditions of dignity and well-being life. Health has seemed to be the subject of human rights It also requires for social participation to protect human health as well as to create awareness andeducate people about their health problems.

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Transgender Need of Humanitarian Approach

The aim of the paper is to understand the, the law related to the trans people in different parts of the world. What measures are taken by the government and judiciary of the different countries and understand the human rights issue that the trans people are facing and the priority action required to secure trans people right to dignity, equality, health 'and security. While discussing on the status of the transgender throughout. the world, it is quite evidently visible that in almost all countries the judiciary has really played an important role in upholding the rights of the transgender. But it is not the end rather it is the beginning of a new era. Now it is open for all to go deep into te matter and to work hard to increase consciousness amongst people to recognize the transgender people not only legally but also socially and to allow them to live a dignified life. Thus, the responsibility of the society is to take effective.

JYOTSANA CHOUDHARY

Introduction :

The notion of 'gender identity' offers the opportunity to understand that the sex assigned to an infant at birth might not correspond with the innate gender identity the child develops when he or she grows up. It refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, and includes the personal sense of the body and other expressions of gender (i.e. 'gender expression') such as dress, speech and mannerism. Most people legally define transgender as man or woman will to have to change their legal, social, and physical status or parts thereof - to correspond with their gender identity. Modification of bodily appearance or function by dress, medical, surgical or other means is often part of the personal experience of gender by transgender people.

Both the notion of gender identity and the forms of gender expression used in everyday life are important elements for understanding the human rights problems faced by transgender persons. Sexual orientation should be understood as each person's capacity for profound emotional, affection and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender (heterosexuality, homosexuality and bisexuality).In addition, many international and national medical classifications impose the diagnosis of mental disorder on transgender persons. Such a diagnosis may become an obstacle to the full enjoyment of human rights by transgender people especially when it is applied in a way to restrict the legal capacity or, choice for medical treatment.

Trans Gender Culture :

To different cultures or individuals, a third gender may represent an intermediate state between man and woman, a state of being both (such as "the spirit of a man in the body of a woman"), the state of being neither (neuter), the ability to cross or swap genders, another category altogether independent of men and women. This. last definition is favored by those who argue for a strict interpretation of the "third gender" concept. In any case, all of these characterizations are defining gender and not the sex that biology gives to living beings.

The term has been used to describe hijras of India, Bangladesh and Pakistan who have gained legal identity, Fa'afafine of Polynesia, and Sworn, virgins of the Balkans, among others, and is also used by many of such groups and individuals to describe themselves.

Like the hijra, the third gender is in many cultures made up of individuals considered male at the time of birth who take on a feminine gender role or sexual role. In cultures that have not taken on Western heteronomativity, they are usually seen as acceptable sexual partners for male-identifying individuals as long as the latter always maintain the "active" role.

Historical Reference :

In most parts of the world there are fewer historical references to trans men, or people born female who have a masculine gender expression. In northern Albania, the term burrnesha describes people who were born female, took a vow of chastity, wore male clothing and lived as men In Thailand, the term kathoey was historically used to describe any 'non normative' gender behavior, and encompassed trans

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men as well as trans women. This usage persists in rural Thailand today.

Trans men in Thailand and Indonesia today typically use the terms tomboy/toms, while in the Philippines, these terms are interchangeable with the word transpinoy. In Malaysia, pak nyah is used to describe trans men and pengkid refers to tomboys. Indigenous terms used today in the Pacific for trans men include fa'afatama in Samoa and tangata ira tane in New Zealand. Historical records from other parts of the world describe trans men and pengkid refers to tomboys. Indignous terms used today in the Pacific for trans men include fa' afatama in Samoa and tangata ira tane in New Zealand. Historical records from other parts of the world describe people born female who cross-dressed. Some of these individuals likely identified as male or as a third gender : Others may have been escaping Asia Pacific region suggested that there are over 9 million trans people in the region. In India, the hijra community alone is estimated to number around 1 million people, without counting the many other trans women and men, viral in societies where only men had access to paid work.

Legal Gender Recognition :

The vast majority of trans people around the world cannot obtain official identification is required for most life activities from entering into a phone contract to traveling across borders, from starting a new job to being called in the doctor's waiting room.

Trans people face daily challenges and risks if their official identification or record differ from their outward appearances .They may also be denied basic citizenship rights, including access to state rations or employment. In situations of heightened security, inaccurate identification documentation can be life-threatening.

A trans woman who is not recognized as female is typically unable to be recorded as her partner's wife. A trans man usually cannot be listed as the father of his children on their birth certificates.

Trans people are vulnerable to discrimination when their previous name or sex details are revealed to others, disclosing that they are trans. An individual's right to change sex details on identity documents protects their privacy. It prevents discrimination and stigma based on someone's gender identity or because they have transitioned. For this reason, countries that have gender recognition laws typically prevent disclosure of previous name or sex details without the trans person's explicit consent.[(1)]

Recognizing Third Gender Internationally :

United Kingdom :

The UK is having a number of legislations to protect the rights of the transgender people as follows :

(a) The Sex Discrimination Act 1975 makes it unlawful to discriminate on the ground of sex in employment, education and the provision of housing, goods, facilities and services.

(b) The Sex Discrimination (Gender Reassignment) Regulations 1999 extended the Sex Discrimination Act to make it unlawful to discriminate on grounds of gender reassignment, but only in the areas of employment and vocational training. These Regulations do not apply to discrimination in education or in the provision of housing, goods, facilities and services.

(c) The Gender Recognition Act, 2004 gives legal recognition to Gender Recognition Panel is successful, the transsexual person's gender becomes for all purposes the acquired gender and they will receive a full gender recognition certificate (GRC). The GRC allows for the creation of a modified birth certificate reflecting the holder's new gender.

(d) The Equality Act 2006 introduced the Gender Equality Duty, which places an obligation on public bodies to pay due regard to the need to address and eliminate the unlawful discrimination and harassment of transsexual people in employment, related fields and vocational training (including further and higher education) and in the provision of goods, facilities and services.

(e) The Sex Discrimination (Amendment of Legislation) Regulations, 2008 has extended the Sex Discrimination Act to make it unlawful to discriminate on grounds of gender reassignment in the provision of goods, facilities and services as well as in employment and vocational training.

With a view to make transgender equality a reality, the present Government is seriously looking for, thus in March 2011, the Government published 'Working for Lesbian, Gay, Bisexual and Transgender Equality: Moving Forward', which included Government's commitments to tear down barriers and advance equal opportunities for lesbian, gay, bisexual and transgender people in all areas of society including in schools, at workplace and in healthcare.

New Zealand :

Although New Zealand does not have specific transgender anti- discrimination laws, but in course of time its anti-discrimination laws are broadened enough to cover members of the transgender communities also. In 2005, the country's Human Rights Commission opined that it considered transgender people to fall within the definition of sex discrimination, and would accept complaints from transgender people. The battle for transgender rights continued for a longer period and finally in 2012, the Government of New Zealand gave its trans-gender. citizens a new gender category on their passports, by introducing the option of "X" for "undetermined or unspecified" category. Thus now the Transgender of New Zealand can change their gender category to "X" on their passports with. a simple declaration. However, a declaration of the Family Court is still required if citizens want to change their gender identity from male to female, and vice versa, on citizenship documents.

Australia :

The highest Court of Australia on April 2, 2014, delivering a historic decision 'with far-reaching implications for institutions and individuals across the country, formally upheld the right of transgender per-son Norrie to be

registered as neither a man nor a woman with the NSW Registry of Births, Deaths and Marriages. Norrie's battle started in 2010 when she asked to be registered as having a "non-specific" gender. Though the New South Weles Registry of Births, Deaths and Marriages first supported the rights of the transgender, the highest court held that "sex" is not binary - it is not only "male" or "female" and that this should be recognized by the law and in the basic legal documents. The Court further ruled that people are not unambiguously male or female, thus people belonging to transgender category should be provided with legal protection. The category is now known as "indeterminate"

Recently the Government of Australia has released new Australian Government Sex and Gender Recognition Guidelines as per which people who are intersex, transgender and gender diverse will now be able to establish or change their gender identity on person-al records in a consistent way For example, whether it's a record with the Department of Human Services, the Department of Immigration or the Department of Health and Ageing, the same criteria should apply, reducing complications and simplifying the process changes.

Bangladesh :

At least 10,000 hijras currently live in Bangladesh, according to national statistics. They have had the right to vote since 2009, but it wasn't until the end of last year that their gender identity was given a legal status. In November 2013 the government announced the recognition of "hijra" as a third gender category in all national documents and passports. The prime minister herself, Sheikh Hasina, announced the decision. Hasina's Cabinet secretary, Muhammad Musharraf Hossain Bhuiyan, recognized the difficult situation faced by hijras in Bangladesh as well, noting the community was "being denied their rights in various sectors, including education, health and housing because of being a marginal group."

Nepal :

Geographical size doesn't matter even a small Country can be a path-finder of a new horizon, which becomes true with Nepal being world's first Country that had shown a new horizon to the whole world by Pant, Executive Director of Blue Diamond Society and Others v. Nepal Government, where a writ petition was submitted by Blue Diamond Society (BDS)[(2)] and three sexual minority groups, demanding protection of their legal rights. Their demands were threefold: to recognize the civil rights of transgender people without requiring them to renounce one gender identity for another; to create a new law preventing discrimination and violence against LGBT communities; and to require the state to make reparations to LGBT victims of state violence or discrimination. The Supreme Court acknowledging the growing ascendance of the notion that homosexuals and third gender people are not mentally ill or sexually perverts, has held that their rights should be protected and they should not be discriminated in the enjoyment of rights guaranteed by the constitution and human rights instruments. The Supreme Court hearing the matter has passed a ruling against gender identity discrimination. The country has also introduced a third gender category on its passports,

India :

For quite a long period of time, the second populous country of the world, India has recognized the transgender as a separate community, known as 'Hijras' as citizens who don't identify themselves as either male or female term "eunuchs" despite the fact that only few of them are identified as such. Their status has further been changed in the year 2009, when the Election Commission of India has decided to formally allow for intersex or transgender voters an independent designation which meant that the citizens could choose an "other" category indicating their gender in voter forms. It is pertinent to mention here that now after the recent judgment of the Supreme Court in National Legal Services Authority v. Union of India[(3)], the transgender are now categorically recognized as third gender having the right to vote, own property, marry and to claim formal identity more meaningfully. The Apex Court even proceeding a further directed both the center and the states to treat the transgender as socially and educationally backward classes of citizens and to ensure that they are not discriminated against in obtaining basic needs like health care, employment and education.

Conclusion :

The aim of the paper is to understand the, the law related to the trans people in different parts of the world. What measures are taken by the government and judiciary of the different countries and understand the human rights issue that the trans people are facing and the priority action required to secure trans people right to dignity, equality, health 'and security.

While discussing on the status of the transgender throughout. the world, it is quite evidently visible that in almost all countries the judiciary has really played an important role in upholding the rights of the transgender. But it is not the end rather it is the beginning of a new era. Now it is open for all to go deep into te matter and to work hard to increase consciousness amongst people to recognize the transgender people not only legally but also socially and to allow them to live a dignified life. Thus, the responsibility of the society is to take effective.

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Right To Equality and Protective Discrimination in Regard to Reservation : A Socio-Legal Study into its Modern Perspectives

After about three decades of the operation of the policy of protective discrimination, the parameters of the socioeconomic situation have changed enough. Now the SCs and STs are no longer as uniformly backward as they have been when the constitutional provision for preferential facilities for them were made. As individuals they had reached a point at which they seemed to be much less deserving of preferential provisions than the mass of the population to which they belong. Therefore the creamylayer test should also be applied to the SCs and STs for identifying the actual beneficiaries under the Schedule, prepared for them only.

ASHOK KUMAR MEENA

Introduction :

The issue of "protective discrimination" through reservations is steeped in questions of equality, merit and social justice. Understanding the interactions between these questions has long evoked judicial, political and academic debate. The debates on affirmative action or protection discrimination tend to employ the language of rights, particularly the rights of "upper" against the rights of "lower" castes. The demands that the state should distribute benefits of education and employment between different castes and communities is a strong one as it echoes a social ideal that has prevailed in India for centuries. What is noticeable is a continued tendency to assert "rights" of one group as against another, as opposed to rights of an individual as an individual. The Indian Constitution guarantees fundamental rights of equality of opportunity and nondiscrimination to individuals. While the justification for the reservation policy and the quota system has been accepted by all, debates are polarized on 3 main questions: the beneficiaries of the policy, its extent and its permanence. These have been thrashed out since the turn of the century, however debates intensified post Mandal and Indra Sawhney and their legacy continues till date. So, inspired by all these logical situations of contemporary India, where from every state there is hue and cry for reservations and people get delighted to identify themselves belonging to a particular backward class or caste, the reservation has undertaken the issue of protective discrimination, to study it from sociolegal perspective. In the polemical debate on reservations, one often sees a bewildering array of terms employed, like affirmative action, positive discrimination, compensatory discrimination, protective discrimination etc.

Protective Discrimination and Judicial Treatment :

In some of the earlier cases, the Indian Supreme Court understood that the guarantee of Equality in Article 14 simply means the absence of discrimination, but in the later cases, the Court has come to hold that in order that the equality of opportunity may reach the backward classes and the minority, the state must take affirmative action by giving them a "preferential treatment" or "protective discrimination"[(1)] and taking positive measures to reduce inequality. To make equality a living reality for the large masses of people, those who are unequal cannot be treated by identical standards. It is necessary to take into account defacto inequalities which exist in the society and to take affirmative action by way of giving preference to the socially and economically disadvantaged persons in order to bring real equality. Hence, it is said that "protective discrimination" is a facet of equality under Articles 14, 15 and 16 of the Indian Constitution.

In the historic case of Indra Sawhney v. Union of India[(2)], popularly known as the Mandal case, the Supreme Court examined the scope and extent of reservation under Articles 15[4] and 16[4] respectively in detail and clarified various aspects on which there were difference of opinion in various earlier judgments. The majority opinion of the Supreme Court may be summarized briefly as follows:

(a) Backward Class of citizen in Article 16[4] can be identified on the basis of caste and not only on economic basis. The majority held that a caste can be and quite often is a social class in India and if it is backward socially it would be a backward class for the purpose of Article 16[4].

(b) Article 16[4] is not an exception to Article 16[1]. It is

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an instance of classification. Reservation can be made under Article 16[1].

(c) Backward Classes in Article 16[4] are not similar to as socially and educationally backward in Article 15[4]. It is much wider. Article 16[4] does not contain the qualifying words "socially and educationally" as does Clause [4] of Article 15. Hence the Backward class of citizens in Article 16[4] takes in SCs/STs and all other backward classes of citizens including the socially and educationally backward classes.

(d) Creamy layer must be excluded from backward classes.

(e) Article 16[4] permits classification of backward classes into backward and more backward classes.

(f) A backward class of citizens can not be identified only and exclusively with reference to common criteria.

(g) Reservation shall not exceed 50 percent.

(h) Reservation can be made by "Executive Order".

(i) No reservations in promotion.

(j) Permanent statutory body to examine complaints of overinclusion/under inclusion or noninclusion of groups, classes and sections in the list of other backward classes.

(k) Mandal Commission Report: No opinion was expressed on the correctness or adequacy of the exercise done by the Mandal Commission.

(l) All objections and disputes regarding new criteria can be raised only in the Supreme Court.

Therefore, Articles 14, 15 and 16 including Articles 16[4], 16[4A] must be applied in such a manner so that the balance is struck in the matter of appointments by creating reasonable opportunities for the reserved classes and also for the other members of the community who do not belong to reserved classes. Such a view has been indicated in M.R. Balaji and Ors v. State of Mysore[3], T. Devadasan v. Union of India and Anr[4] and R.K. Sabharwal and Ors v. State of Punjab and Ors.[5] Even in Indra Sawhney case[6], the same view has been held by indicating that only a limited reservation not exceeding 50 percent is permissible. It is to be appreciated that Article 15[4] is an enabling provision like Article 16[4] and the reservation under either provision should not exceed the legitimate limits. In making reservations for the backward classes, the state cannot ignore the fundamental rights of the rest of the citizens.[7]

Therefore, the idea of equality and inequality, the theory that no two people can be equal and the notion that equality of opportunity could combat the drawbacks which many faced due to their social position have occupied the minds of eminent philosophers such as Locke, Rousseau, Huxley and many others. There was nothing ambiguous about the arbitrarily hierarchical and socially and economically exploitative caste system that had guided India since before the Independence. For, centuries, they had been victims of humiliation and oppression and at the dawn of independence, the framing fathers had taken the plight to ensure then with justice,social, economic and political, as set forth in the Preamble of the Indian Constitution and thus inserted an extraordinary phase for the upliftment of the masses of humanity from the morass of subhuman social existence, abject poverty and economic exploitation too.

To offset the accumulated oppression of centuries of deprivation, social Constitutional measures were enacted for the Scheduled Castes and Scheduled Tribes who had traditionally been the victims of socioeconomic oppression, though the word "Other Backward Classes" was further added to the segment. Nevertheless, it reflected the idealism and moral commitment of the founding fathers that in framing the Constitution they sought to establish a democratic secular state based in equal rights for all before the eyes of the law.

Despite the above mentioned fundamental rights which are in clash with the concept of equality in general and the special provisions too meant for certain classes in Part XVI of the Constitution[8], there are certain Directive Principles of State Policy which requires the state to take special care in promoting educational and economic interest of the weaker sections of the people and in particular Scheduled Castes and Scheduled Tribes. Thus, the picture of "equality" concept under the Indian Constitution seems to be greatly diluted and the whole effort of providing equality throughout the Constitution is under the moist of discrimination in some way or other.

Conclusion and Suggestions :

After about three decades of the operation of the policy of protective discrimination, the parameters of the socioeconomic situation have changed enough. Now the SCs and STs are no longer as uniformly backward as they have been when the constitutional provision for preferential facilities for them were made. As individuals they had reached a point at which they seemed to be much less deserving of preferential provisions than the mass of the population to which they belong. Therefore the creamylayer test should also be applied to the SCs and STs for identifying the actual beneficiaries under the Schedule, prepared for them only.

The continued reluctance to define the elements that constitute the "backwardness" of the SCs and STs results in a failure to recognize and attend to the specificities of their situation. It reduces to mechanical, administrative measures what should be carefully designed strategies for the advancement of a historically disadvantage section of Indian society. So, it's high time to frame out the criteria and yardstick through which SC, ST & OBC could be defined.

Economic criteria should be the basic consideration for judging whether a particular individual is eligible for or deserves some special protection or not, along with his social background. Simply on the basis of educational and social backwardness as indicated no one should be judged as belongs to a particular castes or class. It is still unsolved that whether Articles 15[4] and 16[4] are enabling provisions or are guaranteed rights. So, a clear and certain guideline is required to be find out either by the Supreme Court or the Parliament regarding the true character of these two Articles,

to make it adequate for the purpose for which they are made.

Presently various groups demand various benefits. The state is tugged and pushed. It lurches from one concession to another. It becomes paralyzed. It loses its legitimacy and capturing the state become all important. And all this is done in the name of "will of the people", the mandate by the Janata and "social justice". Justicesocial economic and political is a triune phenomenon inscribed as a pledge in the Preambular glory of the Indian Constitution.[9] And with our independence from the British rule we have loss the excuse of blaming the British for anything going wrong, we will have nobody to blame except ourselves. So, time has come to change our attitude towards the framing of casteless society with due protection for the downtrodden and under privileged people, providing Justice,social, economic and political in the true sense of the term. From jurisprudential point of view also it is not enough to work out a just scheme of distribution, from whatever point of view, but there is the further problem of getting it accepted and keeping it acceptable, which requires constant redistribution according to changing circumstance. Both initial acceptance and continued acceptance depend on people feeling that the scheme is at least not unjust.[10] Therefore, "wheel turns history changes". Old order may change yielding place for a new social and economic order, but the process of transition must be accompanied by honest and transparent attitude and then only social justice can be said to have been done. It is equally true that "goals are dreams with deadlines"; hence, social justice is a goal of the Indian Constitution, protective discrimination is the never ending dreams for the politicians for their gain and interest too. Therefore, it can be suggested that there must be deadlines or specified time bar for achieving that goal of social justice through the concept of protective discrimination.

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(3) पंजाबी माध्यम के शोधपत्रों को अनमोल लिपि (AnmolLipi) या **अमृत बोली** (Amritboli) या **जॉय** (Joy) में टाईप करवाकर 'पेजमेकर 6.5' में भेजें।

(4) अंग्रेजी माध्यम के शोधपत्र टाईम्स न्यू रोमन (Times New Roman), एरियल फोंट (Arial) में टाईप करवाकर 'पेजमेकर 6.5' या 'माइक्रोसाफ्ट वर्ड' में भेजे जा सकते हैं।

(4) शोधपत्र की विधि - **(1)** शीर्षक **(2)** एबस्ट्रेक्ट **(3)** की-वर्ड्स **(5)** प्रस्तावना/प्रवेश **(5)** उद्देश्य **(6)** शोध परिकल्पना **(7)** शोध प्रविधि एवं क्षेत्र **(8)** सांख्यिकीय तकनीक **(9)** विवेचन या विश्लेषण **(10)** सुझाव **(11)** निष्कर्ष एवं **(12)** संदर्भ ग्रंथ सूची।

(6) संदर्भ ग्रंथ सूची इस प्रकार दें -

For Books :

(1) Name of Writer, "Name of Book", Publication, Place of Publication, Year of Publication, Page Number/numbers.

For Journals :

(2) Name of Writer, "Title of Article", Name of Journal, Volume ....., Issue ....., Page Numbers.

Web references :

http://utc.iath.virginia.edu/interpret/exhibits/hill/hill.html

(7) गुजराती माध्यम के शोधपत्र **हरेकृष्णा (Harekrishna), टेराफोंट वरुण (Terafont Varun), टेराफोंट आकाश (Terafont Aaksah)** में टाईप करवाकर 'पेजमेकर 6.5' में भेजे जा सकते हैं।

(8) शोधपत्र की साफ्टकॉपी रिसर्च लिंक के ई-मेल आईडी researchlink@yahoo.co.in पर भेजने के बाद हॉर्डकॉपी, शोधपत्र के मौलिक होने के घोषणा पत्र के साथ हस्ताक्षर कर 'रिसर्च लिंक' के कार्यालय को प्रेषित करें।

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Concept of Old Age Homes : Bane or Blessing for Elderly in Indian Society

Elder abuse and the very concept of old age homes were considered as a western problem. Earlier the elderly persons of a family in India were respected like God and they continued to live with respect till their death. But now with breakup of the system of the joint family and the introduction of a nuclear family and due to materialistic approach of the people, elderly enjoyed respectable position earlier has also eroded. This has added to the mushrooming of old age homes in India. Whether we should have Old Age Homes or not, is a debatable question confronting the Indian society now days. These homes may or not be bane for elderly but definitely a blessing for those children who consider their old parents, burden and have no time for them.

NEHA BHARTI

Introduction :

In India, old age was never a problem. Earlier joint family system was prevalent in India and the elderly enjoyed a respectable position in the family. Elder abuse and the very concept of old age homes were considered as a western problem. Earlier the elderly persons of a family in India were respected like God and they continued to live with respect till their death. It was an unquestioned norm of the society to take care of the elderly. It was considered an honour and a blessing. But now with breakup of the system of the joint family and the introduction of a nuclear family and due to materialistic approach of the people, elderly enjoyed respectable position earlier has also eroded. Elderly are now considered not more than as burden and liability. As a result these old parents are left behind neglected with no one to take care of them. This has added to the mushrooming of old age homes in India. Whether we should have Old Age Homes or not, is a debatable question confronting the Indian society now days.

As Bane for Elderly :

Old age homes are certainly a need for senior citizens who are lonely but the growing trend of throwing old parents into these homes doesn't augur well for the society. It's very shameful that there has arisen a need for old age homes in modern times in India. These homes may or not be bane for elderly but definitely a blessing for those children who consider their old parents, burden and have no time for them. Children get rid of their parental responsibilities in very convenient way by leaving their parents in such homes when they became old.

They find it convenient to leave their parents in such homes once they get old and thus the children get rid of their parental responsibilities. Now earning more and more money has become the sole motive of the people. To fulfil this desire, both the husband and wife are opting to go out to earn money. As a result these old parents are left behind neglected with no one to take care of them. This does not mean that women should not go out to work but it also does not mean that they should neglect their in-laws. They should try to balance their official and family responsibilities. Instead of putting their parents in old age homes, they can hire a person to take care of their parents at home when they are out in their offices. They shouldn't forget that their old parents are a treasure for them and their children. Their parents are the ones who transfer the age old traditions and culture to the grandchildren.

The younger generation should be made aware of the fact that the elderly are an asset to the society and not a burden. When the old people forced to live in the old age homes in spite of having children to take care of them, they have to face severe mental trauma along with physical problems. They get the feeling of being unwanted and unproductive in the society. Nowadays awareness campaigns on various social issues are being conducted but it seems not sufficient enough, everyone has forgotten this valuable section of the society.

As a Blessing for Elderly :

Of course, every inmate of old-age homes has not been forced to live there, many of them have preferred to live there for several reasons. The pain of having to live there, and

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also the joy of having the opportunity to be among people of similar needs, the loneliness of having been pushed away from one's own family, and also the togetherness of contemporaries could be read on wizened faces of these inmates of elderly people. In spite of these reasons, it is also truth that nobody want to leave their family and loved ones voluntarily. Putting old parents in old age homes should be considered as a secondary option by the children and not as the only option for taking better care of their parents. The people who do not have enough economic resources to fulfil all the necessities of their old parents and if they find that they can be given better care in old age homes then they can go for such options. What I think is that old age homes should be homes only to those types of people who don't have anybody to look after them in their old age. But it's very sad that this is no more a reason for the old to live in such homes.

Conclusion and Suggestions :

It is new emerging issue in Indian society due to various social and economical reasons. It is next to impossible and quite impractical to ask people to live the way of life as their grand-parents lived and revive joint family system in the present society. So, we have to come up with some effective solution which may suit our present social setup. When parents don't find any escape to avoid their responsibility towards children when they go out for work then why children think of putting their parents in old age homes? The government and the non- governmental organisations should think seriously about this problem. Government also should support some NGO's who are doing well to support elderly people by providing them food, shelter and medical facilities. This problem can also be solved to some extent if the elderly also give it a serious thought about some savings for their old age they don't have to depend for each and everything on their children. Economic security will also enhance their decision making power in the family.

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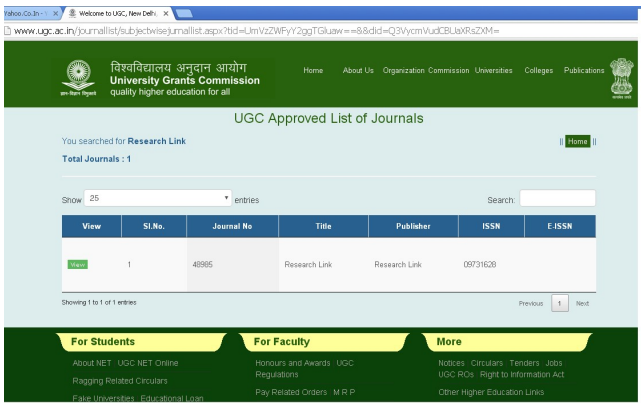

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