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NATIONAL RESEARCH JOURNAL OF SOCIAL SCIENCES

Volume-2, Issue-1, Year-2017 (January to June, 2017)

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EDITOR'S NOTE

Wishing Happy Independence Day to all. Independence finds its expression in terms of economic, social and political freedoms. Nobel- laureate Amratya Sen talked about 'Development as Freedom' where he tries to establish the relation between development and freedom. Freedom is the basic ingredient of development in itself and the licence for other kinds of freedoms. In the era of globalization, it is very much difficult but essential to save the socio-political-economic freedoms. The people and the government must find out the ways and means to face this challenge. Patriotism needs to be refined in terms of one's social, cultural, ethical, religious, economic and political responsibility and freedom. 'Swedeshi', to be more appropriate 'economic patriotism' is much more relevant nowadays but we must understand it with a very broader vision. Let us join hands together not only to face the global competition (social, cultural, ethical, religious, economic and political) but also to enable ourselves to gain from the world and contribute to the global development, removing hunger and poverty from every nook and corner of the globe, proving Bharat's Philosophy of VASUDEV KUTUMBKAM.

The basic aim of any research is to enable the masses to participate in the development process of the nation. The present issue of National Research Journal of Social Sciences (NRJSS) publishes empirical research papers for the benefit of the researchers, readers and the society as a whole.

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Impact of Universal Declaration of Human Rights on Indian Constitutional Jurisprudence: A Critical Analysis

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*“Awal Allah Noor Upaya, Kudrat Ke Sab Bande
Ek Noor Te Sab Jag Upja, Kaun Bhaley , Kau Mande”*

By Sri Guru Granth Sahib

Abstract

Human rights to which all human entitled, simply because we are human. Our human rights are inalienable and they belong to all of us, whatever our caste, class, race, age, gender, religion or belief, and should not be taken away from us under any circumstances. Human rights are those minimal rights which every individual must have against the State or other public authority by virtue of his being a 'member of the human family' irrespective of any other consideration. In this regard the UDHR has exercised a profound influence upon the minds of men. It is a primary proclamation of the international community's commitment to human rights as a common standard of achievement for all peoples and for all nations. Its message is one of hope, equality, liberation and empowerment. It is a message to all who are committed to freedom, justice and peace in the World. The present paper attempts a critical evaluation of UDHR's background, content and impact, and examines how today the social face of international law is well-focused in the Indian constitutional jurisprudence.

Key words: Human Rights, UDHR, International Community, International Law, Jurisprudence

I. Introduction

The content of UDHR reflects sublime thoughts or philosophical foundation of human rights. The moral force underlying human rights principles demands that all those rights which one possesses or ought to possess by virtue of human being shall be available to every human being. Rights which are based on natural law ideology, justice, utility, personhood, development and social solidarity have found place in UDHR. Not only blossoming of individual personality, but also communitarian or collective development and cultural and intellectual advancement of the society have been the goals set. Each of the seedlings has been developed in an atmosphere of care and in interrelated manner to give an integrated framework of full-fledged rights. It starts with a statement reflecting eternal truth, 'whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world' and 'Whereas disregard and contempt for human rights have resulted in barbarous acts which

have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.' From this it can be inferred that each seedling of human right should project this spirit and fulfill the underlying purpose to the human beings.

The UDHR has been hailed as the common standard of achievement for all peoples and nations. The UDHR is like "the vast gateway of a temple." Its preamble has been rightly described by Rene Cassin as the forecourt containing the general principles of liberty, equality, non-discrimination and fraternity. They are for columns; first personal rights, second, the rights of the individual in his relationship to the outside world, the community; third political rights and fourth, economic, social and cultural rights. Rene Cassin regards these four columns as surrounded by a pediment linking the individual with the society. The UDHR is an inspiring source for future UN Declaration for the Protection of Human Rights and Fundamental Freedom (1950), American Convention of Human Rights 1969; African Charter of Human Rights refer UDHR in their Preambles. The spirit of UDHR establishes a new basis for relations between all countries. The widest acceptance of this practical and effective universality of values are enshrined in its 30 Articles. UDHR has now become a part of the customary international law. The Declaration recognizes that the inherent dignity of all members of the human family is the foundation of freedom, justice and peace in the world and is linked to the recognition of fundamental rights towards which every human being aspires. Within a year after the adoption of UDHR, The Constitution of India was adopted by Constitution Assembly on 26th Nov 1949. No other document has inspired the oppressed people over the world that the UDHR. The framers of the Indian Constitution were influenced by it.

II. Human Rights: Concept and Definition

The expression 'human rights' cover every aspect of human dignity. Right to live with human dignity includes all the finer graces of human civilization. In Francis' case, Human rights in practice have been redefined to encompass every aspect of dignified human existence and to make every human being an equal member of the human family. The goal is still very far, but the road to it has been marked. Mahatma Gandhi has stated that it has always been a mystery to me how men can feel themselves honored by the humiliation of their fellow beings. The current conception of human rights, like all dominant conception of rights, is the outcome of a political struggle aimed at achieving moral legitimacy. Human rights were conceived as the inalienable rights of all members of the human family, which are inherent in human existence. The concept of human rights is based on the dignity and worth of the human individual. Human rights are the essential for realization of the true potential of every human being. Human being are rational beings. They by virtue of their being human possess certain basic and inalienable rights which are commonly known as human rights. Since this rights belong to them because of their very existence, they become operative with their birth. Human rights, being the birth rights, are, therefore, inherent in all the individual irrespective of their caste, creed, religion, sex and nationality. These rights are essential for all the individual as they are consonant with their freedom and dignity and are conducive to physical, moral, social and spiritual welfare. They are also necessary as they provide suitable conditions for the material and moral uplift of the people. Because of their

immense significant of human beings; human rights all also sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights.

Definitional Interpretations of Human Rights

From the discussion made above, it is apparent that it is difficult to conceptualize human rights. Yet many scholars have attempted to define it in various terms, some of them are as follows:

"Human rights as, those moral rights whose moral ground and generating factors are the same, namely being human in some relevant sense".¹

"Human rights as those minimal rights, which every individual must have against the State or other public authority by virtue of his being a member of the human family, irrespective of any other consideration".²

"Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed under the constitution or embodied in the international Covenants and enforceable by courts in India".³

III. UDHR: The Magna Carta of all Humankind

The Universal Declaration, the contemporary Magna Carta of Rights was one of the first major achievements of the United Nations in the field of human rights. The Declaration set for the international community a common standard of achievement. It recognized the inherent dignity and the equal inalienable rights of all people in all nations. The human rights in the form of norms mentioned in the Declaration are fundamental in a moral sense are universal individual, interdependent and interrelated. It is the duty of the States regardless of their social, political and economic systems to promote and protect human rights. Further, the Declaration is an authoritative statement of the meaning of Article 55 of the U. N. Charter, which is law : thus the U. N. member States did reach agreement on a meaning of Article 55 that was relatively more specific. The Declaration has enumerated human rights for all the people. They are common to all cultural relations and adoptable to a great verity of social system. In other words, it has made human rights universal but they are not universally accepted due to political, economic and social limitations. All rights for all people in every country should be the goal of this century.³ The rights movements is required to see that this goal is achieved by all means crossing all barriers. The declaration is deficient in three aspects. Firstly, it is not binding on States as law but rather a U.N. recommendation to States. Secondly, some of its provisions are as general as that of Article 55 of the U.N. Charter. For instance, Article 3 stated that 'everyone has the right to life, liberty and security of person. And thirdly, the declaration offered no means of implementation other than State's goodwill. The declaration has no binding force of a treaty, but its provisions have found a place in basic law and constitution of several countries. India is best example to this.

1. Baier, (Ed.) Chapman, Human Rights, Nomos, XXXIII, New York Press, 1981, P. 19
2. D.D. Basu, Human Rights in Constitutional Law, Delhi: Prentice Hall, 1994, P.5.
3. Section 2 of the Protection of Human rights Act 1993

IV. UDHR and The Indian Constitution

Human rights is a dicta of a civilized society. It should not be a mere constitutional guarantee. Protection and preservation of the rights of the individual and his free access to justice are indispensable constituents of the march of a civilized society. Its emphasis is based on rule of law. Our concept of parliamentary democracy is based on the Westminster Model. The Constitution of India had placed individual as its focal center. Fair play and justice are the sine qua non of the good governance. The absence of arbitrary power is the first essential rule of law. The rule of law prevails over the entire field.

A. UDHR and fundamental rights

India was a signatory to the Declaration. The Indian Constitution adopted by the Constituent Assembly on December 26, 1949, which came into force from January 26, 1950 was greatly influenced by the Declaration. The Preamble of the Constitution used to words 'dignity of the individual' which implied that the worth inherent in the human person was well recognized. Provisions of Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) bear a close resemblance to the Universal Declaration. Consequently, a number of fundamental rights guaranteed to individual in Part III of the Indian Constitution

Civil and Political Rights

Universal Declaration of Human Rights	Indian Constitution Part -III
1. Right to life, liberty and security of person, (Art. 3)	Art. 21
2. Prohibition of slavery, slave trade etc., (Art. 4)	Art. 23
3. Equality before law and non-discrimination, (Art.7)	Art.14 & 15(1)
4. Right to effective Remedy, (Art.8)	Art* 32
5. Right against arbitrary arrest, detention etc, (Art.9)	Art.22
6. Right against ex-post facto laws, (Art. 11(2))	Art.20(1)
7. Right to freedom of movement, (Art.13(1))	Art.19(1)(d)
8. Right to own property and not to be deprived, (Art.17)	Art.19(1)(f) (Omitted)
9. Right to freedom of thought, conscience & religion, (Art.18)	Art 25(1)
10. Right to freedom of opinion and expression, (Art.19)	Art.19 (1) (a)
11. Right to freedom of peacefully assembly and association. (Art.20(1))	Art.19 (1) (a)
12. Right to equal access to public service, (Art.21(1))	Art. 16 (1)
13. Right to form and to join trade unions (Art.23(4))	Art-19(1)(c)

The above chart shows that many of the civil and political rights enshrined in the UDHR also find mention in Part III of the Constitution as fundamental rights. However, there are certain rights which are contained in the Universal Declaration but have not

been expressly mentions in the Constitution. These rights are: Right to be not subjected to torture, or to cruel, inhumane treatment or punishment,' "Right to recognition everywhere as person before the law, Right to privacy, Right to nationality etc. It would not be correct to contend that the above rights have not been incorporated in Indian Constitution, though they do not find express mention in the Constitution these are either subsumed under the existing fundamental rights or have been held to emanate from the existing rights under the theory of emanation. For example, the right to life and personal liberty enshrined in Article 21 of Constitution is of widest amplitude and several un-enumerated rights fall within Article 21, these rights are: Right to go abroad, Right to privacy, Right to legal aid, Right to speedy trial etc.

Furthermore, the Constitution establishes rule of law as one of cardinal principles in the administration of justice. It also sets up independent judiciary to act as the custodian of human rights. Even parliament can't deprive the citizen of his fundamental rights. The Constitution is supreme and sovereign and all the organs of the state, function under the Constitution and are subject to the Constitution.⁴

B. UDHR and Directive Principles of State Policy

The economic, social and cultural rights are reflected in the part IV of the Indian Constitution i.e. in Directive Principles of State Policy. Though these rights are non-justifiable, the directive principles occupies a significant position in establishing a social order for the promotion of welfare of the Indian people.⁵ These rights were regarded as ideals cherished by the preamble that the state shall strive to establish a social order in which justice, social, economic and political, shall inform all the institutions of the national life and it is the duty of the state to apply directive principles in making laws as they are fundamental in the governance of the country. The rights of Indian citizens under Part IV are examined here in the light of UDHR are:

4. Dr. T.R. Subramanya, "The Application of International Law in Municipal Systems: Vol. 48, Indian Journal of International Law, 2008, P. 396
5. Dr. B.R. Purohit, "Indian Fundamental Rights and UDHR Vol. XIV, Central India Law Quarterly, 2001, P.150.

Economic, Social and Cultural Rights

Universal Declaration of Human Right	Indian Constitution Part-IV
1. Right to social security, (Art.22)	Art. 41& 42
2. Right to work, to free choice of an employment, to just and favourable conditions of work etc., (Art. 23(1))	Art. 41
3. Right to equal pay for equal work, (Art. 23(2))	Art. 39 (d)
4. Right to just and favourable remuneration, (Art.23 (3))	Art. 43
5. Right to rest and leisure, (Art.24)	Art.43
6. Right of standard of living adequate for him and his family, (Art. 25(1))	Art. 39(a) & Art. 47
7. Right to education and free education in the elementary and fundamental stages, (Art.26 (1))	Art. 41 & 45
8. Right to proper social order, (Art.28)	Art. 38

The above chart shows the most of the economic, social and cultural rights proclaimed in the UDHR have been incorporated in part IV of the Indian Constitution. However, the Constitution of India is conspicuous by absence of express mention of certain rights proclaimed in the Universal Declaration such as Right to special care and assistance to mothers and children and some social protection for all children, whether born in or out of wedlock,⁶ Parents rights to choose the kind of education for their children, Right of everyone to freely participate in the cultural life of the community to enjoy arts and to share in scientific advancement and its benefits and right of everyone to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. So in respect of the above rights absence of express mention does not mean that these rights have not been incorporated in Indian Constitution. As a matter of fact the above rights are either subsumed in the existing rights or are part thereof or have been expressed in a little different wording and having a little different scope.¹

6. UDHR 1948, Art. 25(2)

V. UDHR and Indian Courts

The founders of the Indian Constitution, it appears were conscious about the content of the Universal Declaration and therefore they gave due recognition to its provisions¹ and the supreme court of India is also not an exception to this. While referring to the fundamental rights in Part 3 of the Constitution, Sikri C. J., of the Supreme Court in *Kheavanand Bharati v. State of Kerala*⁷, observes:

"I am unable to hold this provisions how that rights are not natural or inalienable rights. As a matter of fact, India was a party to the UDHR ... and that declaration describes some fundamental rights are inalienable"

Gradually, over the years; the role of Supreme Court of India has been commendable in expanding the areas of human rights preponderantly. While interpreting the Indian Constitution harmoniously with the norms laid down in international human rights instruments,' a majority of the cases related to Constitutional matters decided by the apex court in India, have been strongly influenced by the UDHR.⁸

In *Ahmadabad Municipal Corporation v. Nabab Khan, Gulam Khan and Other*⁹ the apex court considered the provisions of Article 19(1)(e) read with Article 21 of the Constitution of India and Article 25(1) of the UDHR. and held that everyone has a right to standard of living , adequate health and welfare of himself and his family.

In *Geeta Hariharan and Another v. Reserve Bank of India*,¹⁰ the court declared that:

"the domestic courts are under an obligation to give regard to international conventions and norms construing domestic norms when there no inconsistency between them"

In *P. G. Gupta V. State of Gujarat*,¹¹ the Supreme Court considers the human right to shelter and rights enshrined in Article 19(1)(e) of the Constitution of India and Articles 21 of the UDHR and CCECR and held that it is the duty of the state to construct houses at reasonable cost and make them easily accessible to the poor. The said principle was found embodied and inbuilt in the Constitution of India to secure socio economic democracy so that everyone has right to life, liberty and security of person. The court also emphasized on Article 21 of the UDHR which

7. AIR, 1973, SC 1461, 1536

8. *Vishaka & others V. State of Rajasthan and other* (1997) 6 SCC 241.

9. 1995 (Suppl.) 2 SCC 182.

10. AIR 1995.

11. 1995 (Supp.) 2 SCC 182.

envisaged that everyone has a right to social security and is entitled to its realization & become the economic, social and cultural rights are indispensable for his dignity and free development of his personality. Influence of Universal Declaration of Human Rights on The Indian Constitution

Furthermore, in *Chairman Railway Board and Others v. Mrs. Chandrimadas*,¹² the supreme court of India observed that: *"The Universal Declaration has the international recognition as the moral code of conduct' having been adopted by the general assembly of the United Nations," the applicability of the UDHR and principles thereof may have to be read, if need be into the domestic jurisprudence"* From the above decided cases one can understand the influence of UDHR on Indian courts.

Conclusion

Finally it is concluded that since its adoption, the UDHR has created social pressure for adherence to the human rights values and contributed to the cultural attributes of a society. In the identification of the scope of an unnamed right as part of named right the essential character of the named right and the direct and inevitable links between the two and with

other rights need to be properly taken into account. While the mainstream case law development in India has adhered to this requirement and strategy for a welcome result, in parental choice right cases non adherence to this has caused discomforts. The Indian Constitution also greatly influenced by this declaration and therefore the two but inseparable aspects of human rights, namely the civil and political rights and economic, social and cultural are both reflected in the Constitution of India. The realization of civil and political rights was considered as a goal within immediate reach while the economic, social and cultural rights were regarded as ideals for which the country should strive.

12. 2000, 1 SCC 265.

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Prevention of Sexual Harassment of Women at Work Place: Issues and Concerns

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Abstract

Sexual harassment of women at workplace discourages women's participation in work and adversely affects their performance. It is coercive, cruel and distractive behaviour against the women. Due to societal reasons most of the cases go unreported. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 recognizes that every woman has a right to work with dignity and sexual harassment is violation of fundamental right of working women. This Act is a very positive step for the protection of women from sexual harassment at work place. But even after passing of the Act there are so many high profile cases of sexual harassment happens in India. Some cases have been reported from the sections upon which rest a great part of the moral responsibility to ensure that women are safe at their work place. Hence, the present research paper deals with the issues and concerns which are required for prevention of sexual harassment of women at workplace.

Key words: Women, sexual harassment, Act, India, workplace.

Introduction

Sexual harassment at work place is a social stigma which is increasing day by day. It is prevalent throughout the world. Sexual harassment which was an invisible problem until quite recently it has now become a major social problem with the widespread entry of women into labour force .Every occurrence of sexual harassment of women at workplace results in violation of 'gender equality'. The gender equality includes protection from sexual harassment or abuse and right to work with dignity, which is universally recognized as a basic human right. A number of countries like U.S.A, U.K, Japan, Canada, Australia, India and several European nations have laws that prohibit sexual harassment of women at work place.¹

While the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 mandates all registered undertakings, including NGO's and political parties, to establish sexual harassment

¹ <http://www.articleally.com/article7780/18.html>. visited on 10/11/2015

complaints committees, none of the six major national political parties have followed what they preach to the rest of the world. That the political parties practice the same approach prevalent in the Indian society is no big secret.² The proposed legislation to reserve 33 percent seats in Parliament and state legislations for women, presented before parliament several times, could not be passed because of lack of a political consensus. It is the time political parties of all shade should give protection to their women member against sexual harassment by following the laws they legislated for other so that women can have an equal participation in democratic processes.

Historical Background

Woman is physically weak by nature which is resulted in discrimination and crimes against women in their parental houses, matrimonial homes, society and at workplaces. From ancient times the female has been considered an object of enjoyment of beauty, Manu Smriti enumerates that in childhood the parents, in youth the husband, in old age the sons are the guardian of women and the women should never be free. Not only in Hindu religion, in Islamic way of life the women commanded to observe strict 'prdah'. Her beauty and elegance she applies are only to be exposed to her husband. If perfumes, the smell should not reach the sundry, the click of her ornaments should not be heard by others.³ Christian thought is also similar to it. U.N report depicts that violence against women is a high growth sector in India⁴. Though in national and international documents she enjoys right to equality⁵. Women are discriminated in every walk of life, be it political, employment, education or home etc.⁶. Crime against women within the house or outside the house has tremendously increased in India.⁷ High officials are involved in exploitation of women at workplace. .

Concept of Sexual Harassment of Women at Workplace

The term sexual harassment at workplace got its origin in the mid 1970's in North America the word was adopted and repeated in the United Kingdom in 1980's.⁸ This concept has been well described in few leading cases.⁹ In the U.K. a woman who do some work either in public or private undertaking in lieu of monetary consideration and attempt is made on her for satisfying the sex instinct of some male person (may be superior employee or any employee) she is called sexually harassed. 'Sexual' here means the intention to enjoy opposite sex by the male. 'Harassment', means any conduct which results annoyance, physical or mental cruelty, threat, outrage of modesty and defamation etc. In other words to do an act or commission which she

² The Tribune, Chandigarh, dated 5/12/2013

³ Imtiaz Hussan, "Crimes Against Women" CILIQ, Vol.XII p.466, 1999.

⁴ U.N. Report, Hindustan Times, 16 January, 2001

⁵ Art. 14, 15 of the Indian Constitution, Preamble, Art 2,7,16,23,25,26, of the Universal Declaration of Human Rights, 1948.

⁶ National Commission for women, Annual Report (1996-97), Delhi.

⁷ Syed Mohammed Afzal Qadri and Abdul Latif Wani, Women as Victims of Rape and Sexual Abuse, 7 KULR 2000 at P.113.

⁸ Alism M. Thomas and Celia Kitzinger (ed.), "Sexual Harassment: Reviewing the Field in Sexual Harassment Contemporary Perspective", 1-19 (1997)

⁹ Stratchlyde Regional Council v. Porcelli, (1986) IR, LR 134, Wadaman V. Carpenter Farer Partnership (1993) ILLR 134.

does not want to accept but she is compelled to accept for saving herself from employment hardships¹⁰ or other domestic or social hardships or victimized to do for some sex entertainments. According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 the term 'Harassment' refers to physical contact and advances, demand or request of sexual favours, sexually coloured remarks; showing pornography and any other unwelcome physical, verbal or non-verbal conduct of sexual nature. It also includes explicit or implied promise of preferential treatment in employment on account of sexual favour; implied or explicit threat of deterrent treatment upon denial of sexual favour; humiliating treatment that affects work and intimidation at work.¹¹

The definition of "aggrieved women", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status,¹² whether in the organized or unorganized sectors, public or private and covers clients, customers and domestic workers as well.¹³ The service rules were also amended by the ministry on November 19,2014 to widen definition of sexual harassment and to make work place more conducive for women.¹⁴ While in the guidelines given in Vishaka's Case¹⁵ is confined to the traditional office setup where there is a clear employers and employee relationship, the Act goes much further to include organizations, department, office, branch unit etc. In the public and private sector, organized and unorganized hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation.¹⁶

According to Australian Human Rights and Equal employment opportunity Commission "sexual harassment is an unwelcome conduct , such as sexual advances and requests for sexual favours, when a reasonable person would feel offended , humiliated by the conduct". The International Labour Organisation defines the 'sexual harassment' as it is a clear form of gender discrimination based on sex, a manifestation of unequal power relations between men and women:¹⁷. Humiliating treatment of women at workplace affect their health and promise of preferential or detrimental treatment can 'now amount to sexual harassment under amended service rules for government employees. The service rules were amended by the Ministry on Nov.19, 2014 widen the definition of sexual harassment and to make work place more conducive for women to work.¹⁸

¹⁰ P.J. Murray, "Employer Beware of Hostile Environment, Sexual Harassment", 26 Deg. L.R. 461 (1988).

¹¹ Section 3 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

¹² Section 2 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

¹³ Section 2(O) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

¹⁴ The Tribune, dated 27th November,2014 at p. 16.

¹⁵ Vishakha v. State of Rajastahn, AIR 1997 SC 3011

¹⁶ Supra note 13.

¹⁷ Available at: <http://sib.research.org/uploads> visited on 10/12/2015

¹⁸ The Tribune , Chandigarh, Nov.27, 2014 at p.10

Factors Responsible for the Problem

There are various causes which are responsible for the problem. Firstly, the centering old conception that woman is an object of enjoyment only and is created to serve the man. Secondly the social setup which includes customs are also not in favour of the women. Women themselves are also responsible for the problem because they do not unite and support the female victim. Downgrading of moral standards, deteriorating law and order situation, unwillingness to be a witness against such incident, fast life, in which there is shortage of time to initiate any legal action, Unemployment which advises the victim to be silent against any harassment because the hunger is more painful than harassment are several factors which increase the problem. Inaction of the police or other authorities and less female police officers in police force is also considerable factors. Reported cases are compromised due to political, social, bureaucratic and family's pressures which is the ultimate death of a ray of hope. The development of modernization, urbanization and the attitudes of man give rise to a lot of functional division of status and role of human beings in society. The dominant behaviour of man gives rise to feudalistic attitude in the modern society. After having number of cases of sexual harassment at work place, this is very natural questions, which arises in every intellectual mind that why such incidents occur against women.

International Perspective

The Universal Declaration of Human Rights, 1948 provides that all human beings are born free and equal in dignity and rights. It also provides that "all are equal before the law and are entitled without any discrimination to equal protection of laws. On 7th December, 1967, the General Assembly of United Nations adopted the Declaration on Elimination of Discrimination against Women. The preamble of this Declaration states that despite the existence of various conventions protecting the rights of women the discrimination against women continues. This Declaration is pledged to eradicate the discrimination against women in any worldwide scenario¹⁹. International instruments like Convention on Prevention of All Forms of Discrimination Against Women, Beijing's Declaration on Women and International Convention on Economic, Social and Cultural Rights, 1966 recognizes women's rights to fair conditions of work and reflects that women shall not be subjects to sexual harassment at work place which may vitiate the working environment. The declaration on the elimination of violence against women defines violence as any act of gender based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.²⁰ It

¹⁹ Sindhu, Sanjay and Meghta Ranjeeta , " An Overview of the Indian Law on Sexual Harassment of Women at Workplace, in the light of Criminal Law (Amendment) Act, 2013, Kurukshetra Law Journal, 2014 (vol-iv) at p 69.

²⁰ Dr. Shashi Bala , "Protection of Women from Sexual Harassment at Workplace", Indian Bar Review, vol. XXXVIII (4) 2011 at p. 161

suggested that the right to work is an inalienable right of all human beings, state parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on a basis of equality of men and women. At the International level this problem was discussed many times.²¹

Statutory Provisions Against Sexual Harassment at Workplace in India

The victim of sexual harassment finds her protection in fundamental rights guaranteed under the Indian Constitution such as fundamental right to equality²² and right to life and personal liberty.²³ Article 32 of the Constitution provides writ remedy in the case of sexual harassment. Although before the passing of the Sexual Harassment (Prevention, Prohibition and Redressal) Act, 2013 there was no specific law against sexual harassment at workplace in India but many provisions of the Indian Penal Code protects women against sexual harassment. Section 294, I.P.C. covers the offences of doing any obscene acts and songs, to the annoyance of others. Section 294 I.P.C. provides that whoever, to the annoyance of others does any obscene act in any place or sings, recites or utters any obscene song, ballad or utters any obscene song, ballad or words in or near any public place shall be punished with imprisonment of either description for a term which may extends to three months, or with fine or with both.

Section 354 of the Indian Penal Code 1860 deals with the assault or use of criminal force on a woman with intent to outrage her modesty. After section 354 of the Penal Code, new sections 354A, 354B, 354C and 354 D were inserted by the Criminal Law (Amendment) Act, 2013. Section 354-A define the sexual harassment and provides punishment for that. Section 354B deals with assault or use of criminal force to women with intent to disrobe. Section 354C discuss in detail the definition of voyeurism and provides punishment. Stalking is also an offence under section 354D of the Act. Criminal Law (Amendment) Act, 2013 widely amend the provisions of the I.P.C. by substitution of new sections, i.e., 375, 376, 376-A, 376B, 376C and 376D. Section 509, IPC deals with word gesture or act intended to insult the modesty of a woman. The Criminal Law (Amendment Act), 2013 has amended the Criminal Procedure Code, 1973 by inserting many provisions in consistent with the new law. A new provision was added to the section 26 of the Code taking into account the sensitivity of the case and degree of understanding that a woman may exhibit in these cases. A woman who is below the age of 18 years who has been subjected to rape or other sexual offences, the evidence of that woman shall be recorded in the absence of the accused. Indian Evidence Act also consist certain provisions for the prevention of sexual harassment against women. Criminal Law Amendment

²¹The CEDAW was signed on Dec. 18, 1979, which came into force in 1981 and the same was rectified by India on June 25, 1993.

²² Article 14 and 15 of the Constitution of India.

²³ Article 21 of the Constitution.

Act (2013) also brings some changes in the Indian Evidence Act for the protection of women.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

In the case of *Vishaka v. State of Rajasthan*²⁴, the Supreme Court held that sexual harassment is a form of discrimination against women and violates Constitutional right to equality. Present Act is a comprehensive legislation to provide for safe, secure and enabling environment to every woman, irrespective of her age or employment status, free from all forms of sexual harassment by fixing the responsibility on the employer as well as the district magistrate or additional district magistrates etc and laying down a Statutory mechanism. Being signatory to the Convention on the Elimination of all Forms of Discrimination Against Women India was under the legal obligation to bar sexual harassment at workplace. Elaborating on the Vishakha Judgment, the new law provides for a complete procedure to set up internal complaints committees. All government and private sector organizations are required under the law to set up four members committees in every branch where the strength of their workforce is 10 or more. The four members committees should have a senior woman employee as president, one NGO representative and two employees having knowledge of legal and gender issues one of these two should preferably be a woman. The contacts and emails of committee members need to be widely publicised in the offices and the employer must ensure the committee meet regularly and their members attend the proceedings.

To cover the organizations with workforce up-to 10 women, the district magistrates to set-up local complaint committees in every district to enable the women to approach. The complaint committee would have to complete their investigation within 90 days following which the employer would have 60 days to act on the committee's recommendations. The employer would also have to draft a policy against sexual harassment to indicate zero tolerance to the offence. The private sector has no service rules even when the complaint committees are required to recommend punishment as prescribed under the service rules. It is required now that private employers must draft proper service rules elaborating upon the kinds of disciplinary or other actions which accused of sexual harassment will attract. These rules should be made part of the recruitment contracts so everyone knows that appropriate behavior at workplace is required from them. It is responsibility of the appropriate government to monitor its implementation and maintain data on the number of case filed and disposed off. The ministry of women and child has also take-up the matter with the ministry of corporate affairs for the constitution of internal complaints committee in accordance with the Act as mandatory disclosure under the Act.²⁵To extend the protection under

²⁴ AIR 1997 SC 3011

²⁵ The Tribune, Chandigarh, December 1,2013 at p.12.

the Act it further defines the workplace not just as the office but all places a women visits during the course of her job including the transport she uses. In Tarun Tejpal case, the elevator in which he allegedly assaulted the victim qualifies as workplace because she was using to discharge the duties assigned to her during Tehelka's Think fest in Goa.

Section 14 of the Act deals with malicious complaints. It provides appropriate penalties against those complainants who knowing the complaint to be false and press the charge of sexual harassment against a respondent. The internal complains committees can penalize complainants if they find the charge to be false, malicious and motivated. This section goes against the objective of the Act. Some time victim is not able to prove the allegations due to not having sufficient evidence against the accused.²⁶ Under section 16 and 17 of the Act right to privacy is also provided. All the complaints put and respondents in cases of sexual harassment can claim complete privacy in so far as deliberation of the case goes. The Act provides for covering communications regarding sexual harassment complaints out of the ambit of the Right to Information Act, 2005. Conciliation between complainant and the accused was one of the most debated provisions of the SHW Act, 2013. The question before experts was that whether conciliation as measure of redressal be provided at considering the accused in powerful position in the institutions which may be used to suppress victim's voices. After several deliberations the parliamentary standing committee examine the draft bill decided to approve mediation as a part of redress mechanism provided no money exchanged hands. It is submitted that the possibility of conciliation may be negative effect on the measures undertaken by the government to reduce attacks against woman in our society. Some cases of sexual harassment included grave violation of woman's body, dignity²⁷ rights and therefore, it is possible that politically and economically influential accused can take the advantage of the victim²⁸. Section 26 of the Act provides that the employers who fail to comply with the law will face a penalty of Rs. 50,000 on the first offence following by the double the penalty on the second. In case of repeated violations, the employer can lose license, action can be recommended against the accused as a written apology, warning, withholding of the promotions, transfer, termination, etc. Similar penalties apply to visitors and clients also.

Judicial Concerns

Indian judiciary is vigilant against sexual harassment and has been exercising its powers even it vested with insufficient legislation in *Rupan Deol Bajaj v. KPS Gill*,²⁹ the dignity of women was upheld. In this case the apex court did not allow the mighty police supremo Mr. Gill to escape judicial scanning of his alleged insult to the modesty of the complainant who

²⁶ Indian express in article/own visited on 24 Oct. 2015.

²⁷ How safe is a woman at her workplace, The Tribune , 1 Dec, 2013 at p.12

²⁸ Supra note, 19

²⁹ AIR 1996 SC 309

was none else but a very sensitive I.A.S. officer. The leading case of *Vishakha v. State of Rajasthan*³⁰ was before the Supreme Court in which honourable court supplement the vacuum by defining the offence of sexual harassment and also expressed that till any comprehensive law is passed combating the problem, the guidelines provided will be sufficient. This case was not of sexual harassment at workplace rather a case of gang rape of a social worker in village of Rajasthan. The Apex court defined the term 'Sexual Harassment' (undefined by any legislation at that time). In a case of sexual harassment the Court ordered the general manager (HRD) to pay Rs 10,000 as cost to the lady telephone operator for making sexual advances towards her causing the victim to suffer from hypertension³¹ In another case Bombay High Court upheld the judgment of Labour Court ordering the reinstatement of Shebang Audbhatkal with full back wages including all attendance benefits w.e.f., July 23,1985 along with Rs. 10,000/- as a loss in the case of sexual harassment by her superior³² The Supreme Court has reiterated its sensitivities to the problem of up-holding the dismissal of an employee in the case of *Apparel Export Promotion Council v. A.K. Chopra*.³³ The death of the women CEO of a tea company in Jaipur on 11th June, 2011 again brought the debate on sexual harassment at workplace. She committed suicide leaving behind a suicide note that on June 8th, 2011 the M.D. of her company G.K. Dalmia and his friend Sunil Jain raped and dragged her in the flat. She mentioned that the accused wanted her to clear some company documents with financial irregularities which she refused. To teach her a lesson she was raped.³⁴

Conclusion and Suggestions

Harassment of women is not a new phenomenon. Only now, more and more victims are speaking up. But recent cases shows that women will not crouch and curl up before powerful perpetrators of the crime, but will fight back for their sense of justice. The Tarun Tejpal and Justice Ganguely cases confirm it. In all matters pertaining to crime against women there should be zero tolerance. Working women must have knowledge about the meaning of sexual harassment under the Act. Learn to say no to inappropriate behavior at the first instance. Women should demand complaint redress mechanisms at their workplace. Take details of members of the complaint committee and keep record of assault of harassment. Victim should preserve emails, messages, phone call records to firm up the case before the committee. It may be ensured that the committee must be chaired by a woman. Appropriate action in such cases is absolutely essential. Such action will also warn others.

³⁰ AIR 1997 SC 3011

³¹ The Indian Express Newspaper , Delhi, Jan 8, 1999, cited by Dr. S.S.Shilwant , M.D.U law Journal , volume 8, 2003 at pp.137-138.

³² M/s Saudi Arabina Airlines v. Mrs. Shehnaz Muddbhatkal and others (1999) BomLR 687

³³ AIR 1999 SC 625

³⁴ <http://www.sexualharassmentworkplaceorg/sexualharassmentagainstworkingwomen-executive-endsher-life>.

Under the Present Act, the burden of proof is on the women who complain harassment if found making a false complaint or giving false evidences, she may be prosecuted, which has raised concerns about the reporting of offences. Even though the present Act is an extremely well drafted document, its implementation is not easy. There is no centralized mechanism to collect data to maintain record on the number of cases filed and disposed off. For proper implementation of the Act the responsibility must be imposed upon the specific agency to collect the data. Precautions need to be taken so that the Act may not be misused. The Act needs to be pushed further with the rectification of flaws. There should be strict implementation of the Act. There should be more consultations with the concerned parties including non-governmental organizations, National Human Right Commission, the National Commission for Women and Women Commissions for States. Besides, there should be awareness campaigns to find out the ways to cover informal unorganised women workers who in fact suffer the sexual harassment in greater degree.

Though Judiciary has been vigilant about the problem in the society but justice does not come easily. A 40 years old chemistry laboratory assistant died in October 2013 after setting herself ablaze outside the Delhi Secretariat. She had long been alleged the harassment at the hands of the Principal of SSB.R. Ambedkar College. It is the failure of the Indian Criminal Justice System.

The Act is framed mainly keeping in mind the workplace like offices, organisations, other institutions or enterprises, where complaints can be referred to committee. But the problem arises as majority of Indian women do not work in institutions or enterprises or in developed cities, They work in formal sectors which as fields, on the roads or as self employed procedures or vendors. There is no proper mechanism to prevent the sexual harassment that they may be undergone.³⁵

The government may organize orientation programmes and aware the public regarding the provisions of the Act. More police officers may be recruited in the police force. The mindset of the society should be changed. In India there is no dearth of laws as well as active judiciary interpreting laws favorable to women. The lapse is only on the part of the society. Unless and until we teach every mentor of our society to respect women and womanhood no number of laws will be able to give power to women in India. If each one of us vows to ensure dignity and honour for all women we might help to envisage women empowerment in our small way.

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Effects of E-Commerce on MSMES

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Abstract

The technological innovation is a concept related with the technological change. It is a dynamic network of agents interacting in a specific area under a particular institutional infrastructure and involved in the generation, diffusion, and utilization of technology. It includes developments like entrepreneurial activities, knowledge management, market formation, resource mobilization etc. various developments under digital India, e-commerce, technology up gradation have an positive impact on consumers. Up to 100% FDI is permitted under the automatic route in data processing, software development and computer consultancy services, software supply services, business and management consultancy services, market research services, technical testing and analysis services.

Key words: technology, e-commerce, development, innovation, services

Introduction

Micro, Small and Medium enterprises (MSMEs) are one of the most vital sectors of any economy in general and India in particular in ensuring equitable, inclusive and employment friendly economic growth. MSMES have been playing a momentous role in overall economy.

Classification of MSMEs based on investment plans

Manufacturing Enterprises	Investment In Plant And Machinery
Micro	UptoRs 25 Lakhs
Small	More Than 25 Lakhs And Upto 5 Crores
Medium	More Than 5 Crores And Upto 10 Crores
Service Enterprises	
Enterprises	Investment In Equipments
Micro	Upto 10 Lakhs
Small	More Than 10 Lakhs And Upto 2 Crores
Medium	More Than 2 Crores And Upto 5 Crores

E - Commerce

E-Commerce involves the transactions of buying & selling or exchange of products and services electronically. It is the use of web to transact the business. Electronic commerce

include online retail sales, supplier purchases, online bill etc. It is utilizing various technologies such as E-data interchange (EDI), EFTs, credit cards and e-mail.

Models of e-commerce

1. **B2B** -Business to business transactions are involved in this type of business model. There are some models of **B2B** prevailing in Society:-

E-DISTRIBUTOR: - These are suppliers of products and services to individual business.

Acc to MRO, the no. of distributors whose e-commerce revenue comprises between 5 and 10% of total revenue has increased by 50% over last year.

Examples: Wesco International, VWR International, Peterson Cos, WW Grainger, MSC Industrial Direct Co., Interline Brands, HD Supply, Takkt America, Newport Corp, Production Tool Supply.

2. **B2C Models:** - Involves transactions between Business Organizations.

B2C Models are:

1. Portal-E-news, e-mail, Instant Massaging, Calendars, Shopping, Music

Downloads, Video streaming, Study.com e.g. Banker'sadda, Yahoo.com, ADL.com, MSN.com, Exportal.com, Quiken.com.

2. E-tailer: - These are online retail stores that sell variety of products on their websites.examples: - Wall Mart, Barnes & Noble, JcPenny, e-bay.com, Yepme, Amazon.com.

Content provider: - News Paper, Music Publishers, Book Publishers.

3. **C2B (Consumer to business)**

Examples: -

Google ad words / Absence Tradedouble Commission Junction	Advertising services through search engines and websites
Micro stock - jotoliaShullerslock I Stock Photo	Stock Photos, Vectors, Flash Animations
H3 Jobbster Jobseekers, Sarkari Naukri.com	Job Hiring Services

Digital India

It includes high speed internet,digital and financial space ,Infrastructure as Utility to Every Citizen,cyber and security laws etc.it provides governance services like real time ,financial transactions,support system and development,streamlines various departments.It also have interest in digital empowerment of citizens by providing universal digital literacy,participativegovernance,transparency of government sites with e-governance.Digital India aims to provide the much needed thrust to the **nine pillars** of growth areas, namely

1. Broadband Highways,
2. Universal Access to Mobile Connectivity,
3. Public Internet Access Programme,

4. e-Governance: Reforming Government through Technology,
5. e-Kranti - Electronic Delivery of Services,
6. Information for All,
7. Electronics Manufacturing,
8. IT for Jobs
9. Early Harvest Programmes.

Objectives and Methodology

The objectives are:

- To explore the extent of e-commerce implementation in MSMEs
- To know the growth of MSMEs sector
- To know the problems faced by the sector

Methodology

It was decided to use a survey research method because the aim is to obtain wide coverage. After a thorough review of the literature, trends and analysis have been extracted to know about growth of MSMEs and their future problems. The literature study includes various reports on e-commerce and survey conducted recently have been considered to know the real picture behind problems

Results and Discussions

Table no 1 : Growth of MSMEs sector

YEAR	TOTAL MSMEs (in lakhs)	FIXED INVESTMENT(in crores)	PRODUCTIONS (in crores)
2004-05	105.21	154349	282270
2005-06	118.59	178699	314850
2007-08	272.79	558190	464547
2008-09	285.16	621753	529796
2009-10	298.08	693835	790759
2012-13	311.52	773487	982919
2014-15	410.50	874002	1095758
CAGR	17%	25%	18%

Source: Ministry of MSMEs annual report ,2015

Above table highlights the growth performance of MSMEs sector .it is clear that total number of MSMEs have increased at the CAGR of 17 %.the fixed investment in this sector have also raised in a considerable manner. The value of production of MSMEs has grown at the compound rate of 18 %during 10 years.

Table no 2: Contribution of MSMEs in GDP in India

Year	Total industrial production (in crores)	Gross domestic product(GDP) (%)
2004-05	39.12	5.77
2005-06	38.89	5.91
2007-08	38.74	5.79
2008-09	38.62	5.84
2009-10	38.56	5.83
2012-13	45.62	7.2
2014-15	45.24	8

Source; Ministry of MSMEs annual report ,2015

Above table represents the contribution of MSME in total industrial production and gross domestic product which has increased from 5.77 percent to 8 which justifies the need for continuous efforts to sustain the progress of MSMEs sector.

The tribune News as on 13th april,2017 on technology elusive at most MSME units,a study of MSMES conducted by the Chamber of Commercial and Industrial undertakings (CICU) has found that only 27% units have websites ,9% use advanced software for R&D and product development.The industry in the district lags behind in terms of adopting latest technology and marketing tools.There had a sample size of around 200 units into the MSME sector including firms in different spheres such as those manufacturing bicycle parts ,textile ,automotive components ,sewing machines and hand tools with technology elusive .the following findings are:

Table no.3

73 percent units	continue to operate using traditional printed directories such as Trade india,india mart
20 percent of the units	still don't have computers and continue to maintain records in books instead of using computers
46 percent units	continue to rely on traditional marketing methods instead of using computers or mobiles

Source: Tribune dated 13th April,2017

It is also cleared that MSME sector has also consistently attained a higher growth rate as compared to the overall industrial sector in each year. Another important point here is that the sharp decline in the growth rate of industrial sector in the year 2008-09, which may be due to the impact of global economic crises. The development of MSMEs has been viewed as a powerful instrument for accelerated industrial growth, productive employment opportunities and export earnings in any economy in general and India, in particular.

This sector is contributing to the manufacturing output, employment and exports in Indian economy since long time. This sector accounts for about 45 per cent of the manufacturing output and 40 per cent of the total exports of the country. The sector is estimated to employ about 60 million persons in over 26 million events throughout the country. MSMEs are

labour-oriented and labour intensive with relatively high labour-investment ratio. A given amount of capital invested in this sector of industries is likely to provide more employment, at least in short run, than the same amount invested in a large industry. It has been estimated that a lakh rupees of investment in fixed assets in the small scale sector generates employment for four persons. It will not be wrong to say that small scale sector in India creates largest employment opportunities for the Indian populace, next only to agriculture. Similarly, MSMEs play a major role in present export performance of India because about 45-50 per cent of the Indian exports are being contributed by this sector

Opportunities and Constraints:

Globalization may be defined as the process of integrating various economies of the world without creating any hindrances in the free flow of goods and services, technology, capital and even labour or human capital. Therefore, it signifies internationalization plus liberalization,

Through which the world has become a small global village.

Opportunities:

Exposure to foreign markets: Globalization has opened up the economy and integrated it with the world economy. The MSMEs enjoy the benefits of selling their products and services to the world market rather than being confined into domestic market. The free economy ushers in accessibility to bigger markets, greater linkages for SMEs with larger companies and marketing outfits, improved manufacturing techniques and processes.

Flow of foreign investment and technology: The MSMEs in India suffer from outdated technology and sub-optimal scale of operation. Many foreign companies have tied up with Indian MSMEs and helped them to use better technology, managerial skill etc. Thus, a proper collaboration between the small and large companies can help small firms to develop technology base through Research & Development activities, contribution from the technological institutes, universities, etc.

Emerging areas of business: MSMEs have been able to identify many uncommon but highly promising business areas like outsourcing, medical transcription, clinical research trials, sub-contracting, ancillarization and many new technologies like biotechnology, nanotechnology, etc. which are attractive for the new generation MSME entrepreneurs.

Less Govt. Intervention: As the economy is mainly market driven; there is less Govt. intervention, red tapes, less control on import and export etc. The MSMEs would be allowed to work in a free environment.

Employment generation: Being labour-intensive in nature, the MSMEs make significant contribution in employment generation and expanding industrial network in rural areas. This sector nurtures the traditional skills and knowledge based small and cottage industries. The workers inherit and transfer skills from generation to generation. The handicrafts and other products produced by this sector have good demand in market.

Better performance by the MSMEs: Before globalization, the MSME sector was a highly protected sector. Suddenly, after globalization they discovered that many of such protective

measures were withdrawn and they had to fight for their existence. This competitiveness in domestic and global market might bring out superior performance.

Better Customer Satisfaction: As the domestic market gets competitive, small and medium firms try to satisfy the consumers in every possible way. They try to produce products as per the needs and preferences of the consumers and satisfy the customers in the best possible way.

Short and long term capital : In a liberalized economy, banks would try to find out new avenues of giving credits to increase their profitability. Thus, supply of funds may be easier. Development in money market would initiate development in capital market.

Export contribution : The products produced by MSME sector (like sports goods, readymade garments, woolen garments and knitwear, plastic products, processed food and leather products, handicrafts, etc.) have an excellent foreign market.

Constraints:

Financing MSMEs: Financing has always been a major problem for the small and medium industries in India. The MSMEs mostly depend on internal sources of finance (personal savings, loan from relatives, and loan from local money lenders) than that of institutional financing by banks and other financial institutions. The Scheduled banks do not consider the MSMEs as preferred area of investment.

Extreme competition: The MSMEs face ruthless competition from the large domestic firms and multinationals armed with improved technology, managerial ability, skilled workers, marketing skills, better product quality, and wide range of products. The small firms find it difficult to maintain their existence as the cases of merger and acquisition are continuously increasing.

Poor Technology Base: There exists considerable heterogeneity among the MSMEs in India. A small percentage of firms operate with sophisticated technology base whereas majority of firms use outdated technology. The small and medium scale enterprises have suffered with many problems which are like difficulties in obtaining credit, identifying appropriate technology, investment promotion and instability to offer liberal credit terms in the sale of their products. Thus, MSMEs are facing multi-dimensional problems. However, this sector in India has been confronted with an increasingly competitive environment due to: (i) liberalization of the investment regime in the 1990s, favouring foreign direct investment at the international level, particularly in socialistic and developing countries; (ii) the formation of the World Trade Organization (WTO) in 1995, forcing its member- countries (including India) to drastically scale down quantitative and non-quantitative restrictions on imports, and (iii) domestic economic reforms

Government Schemes for MSMEs:

There are various schemes run by the Indian Government to boost the SME's in the country to help them become more innovative, efficient and competitive. The enactment of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 was a landmark initiative taken by the Government of India to enable the SMEs' competitive strength, address the issues and challenges and reap the benefits of the global market. SME policy initiatives at the national and state level are aimed at strengthening the role of SMEs at the

base as well as at the higher level. The Ministry of Micro, Small and Medium Enterprises (MSME) is implementing the

promotional schemes for the development of micro, small and medium enterprises.

- Scheme of Surveys, Studies and Policy Research.
- Entrepreneurship Development Institution Scheme.
- Scheme of Fund for Regeneration of Traditional Industries (SFURTI).
- Rajiv Gandhi Udyami Mitra Yojana (RGUMY).
- Marketing Assistance Scheme (Implemented through NSIC).
- Performance and Credit Rating Scheme (Implemented through NSIC).
- Prime Minister's Employment Generation Programme (PMEGP) (Implemented through KVIC). Product Development, Design Intervention and Packaging (PRODIP) (Implemented through KVIC).
- Khadi Karigar Janashree Bima Yojana for Khadi Artisans (Implemented through KVIC).
- Interest Subsidy Eligibility Certification (ISEC).

Conclusion and Suggestions:

It is ironic that even though India is considered an IT superpower, MSMEs have been tardy in adopting technology and hardware for maximizing its business, manufacturing and marketing purpose. Various suggestions For MSMEs are :

1. Establishment of Software Technology Parks of India (STPIs).
2. Special Economy Zones (SEZ) Policy.
3. National e-Governance Plan (NeGP).
4. National Cyber Security Policy 2013.
5. The setting up of IT services, BPM, software product companies, shared service centres.
6. Fast-growing sectors within the BPM domain – knowledge services, data analytics, legal services, Business Process as a Service (BPaaS), cloud-based services.
7. IT Services and fast-growing sectors within it such as solutions and services around SMAC, IS outsourcing, IT consulting, software testing.
8. Engineering and R&D within which the fastest growing sectors are – telecom & semiconductors.
9. Department of Electronics & Information Technology, Ministry of Communications & Information Technology, Government of India
10. Indian Software Product Industry Round Table
11. Other Service Providers Association of India
12. Data Security Council of India

13. Electronic manufacturing
14. National manufacturing policy
15. e-kranti electronic delivery of services
16. technology for financial inclusion

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Women Workers in Unorganised Sector – Victims of Challenges and Disabilities

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Abstract

The paper presents an overview of the situation of women workers in unorganised sector of India. Today, unorganised sector constitutes a pivotal part of our economy and covers about half of GDP. Also it has led to preponderance of unorganised workers which occupies more than 90 per cent of the workforce in it. Undoubtedly, this sector generates employment opportunities for marginalised and vulnerable section for their subsistence but at the same time, it is plagued by several problems such as no service rules, no wage rules, and no possibilities of career advancement. A large proportion of socially and economically underprivileged section of our society i.e. women who constitutes lion's share but their work often goes unaccounted. The plight of women in this sector is miserable as they mostly do arduous work as wage earners, piece rate workers, casual labourer with extremely low wages, no fixed working hours and hardly drive any benefits.

Key words: unorganised sector, women workers, plight of women, etc.

Introduction: Today, women constitute a significant part of labour force in India. Traditionally well entrenched and prevailing socio cultural milieu emphasised that women are meant only for household chores, their role outside the world has never socially accepted. Despite cult and conventional values confine Indian women folk into four walls of the family yet women have never been exclusively confined to domesticity, sitting idle on platter served by others. However, over the years population pressure, economic hardship, and changing social cultural attitude towards women has necessitated their participation in labour market. Even though numerable structural changes in our economy forced out women from organised sector to join unorganised sector. Consequently there are an increasing number of women workers in the unorganised sector. The term informal sector and unorganised sector are often used interchangeably. Unorganised sector constitutes a pivotal part of our economy and covers about half of GDP. There is preponderance of unorganised workers in it occupies more than 90 per cent of the workforce and 50 per cent of the national products are accounted by this sector only.

Unorganised sector workers are those who do not have any job security, income security and therefore extremely vulnerable to exogenous shocks. Moreover unorganised workers are not able to legally organise themselves in pursuit of their common interests like casual nature of employment, ignorance, illiteracy and scattered size of employments. The second labour commission (2002) specifies characteristics of unorganised labour follows- apprentices, casual and contract workers, home based artisans, section of self-employed

persons involved in jobs like vending, rag picking, rickshaw pulling, agricultural labour, migrant labour and those who perform manual and helper jobs. According to the ministry of labour: 90 per cent of women workforce comprises women in unorganised sector, but paradoxically, all the laws made so far have been with an eye on the women in the organised sector which forms a mere 10 per cent of the workforce.(Arfat,2013). As per report of international labour organisation, women represent 50% of the population 30% of labour force performs 60% of all working hours, receive 10% of the world's income, and owning less than 1% of world's property. Despite high sounding legal equality, provisions and other declarations, women have remained oblivious and denigrated in almost every walk of life. It is grave matter of concern that being sole supporters of our economy, women do not get recognition of their work; their work is completely invisible and undermined.

Objectives of the study:

1. To study the socio economic profile of women workers of sports goods industry.
2. To examine the challenges and social disabilities of women workers.

Methodology:

Sports goods industry of Jalandhar district of Punjab is one such widespread and unorganised industry which is absorbing a large number of women as home based workers in it. Home based worker is one of the categories of unorganised sector that carry out their activities in their household units, not to be seen on factory floor of employers. These workers are relatively free to work as piece rate workers under the control of contractors or employers who supplies the raw material to them. Sports goods industry is highly labour intensive industry has shown unprecedented growth and provides employment to many people from weaker section including women. This industry is so wide and no. of products are manufactured in it such as cricket balls, inflatable balls, shuttle cock, badminton racquets, sports cap and soccer balls etc. The present study is primarily focused on production of soccer balls. Three hundred home based workers were selected and interviewed with structured interview schedule. An observation method was also applied during the course of study.

Findings of the study:

The main findings are summarised here under the following headings:

Socio economic profile: As per the sample for the study, the age of sample women was between 20 and 46 above. The study shows that a large proportion of women falls in the age category of 31-45 years (60%) followed by 32% of women who falls between the age group of 20-30 years. Lack of skills and literacy are the main causes to enter into sports goods industry. A majority of women workers were illiterate and amongst all of the respondents 85.33 per cent were from schedule caste who had taken up this work because of caste traditions because in caste system occupations and crafts have been handed down from one generation to next. 95.67% respondents were married who taken up such tasks for shouldering the family responsibilities because of inadequate income of male members or absence of bread winner.

Challenges and social disabilities:

On one side, labour intensive industry feeds most of the population of Jalandhar city but on the other side it poses numerous challenges and social disabilities to those home based women workers who are actually the bedrock of it.

High level of insecurity

It is found that more number of home based women workers were having constraints such as insecurity of their work as they had no contract with the owner of the factory for whom they were working. Due to lack of direct relationship, they were easily exploited by contractor and usually had a risk of the termination of employment due to delaying of the product or even because of wrong stitching of soccer ball.

Deplorable wages

Home based women workers as part of the unorganised labour are today victims of unmitigated hardship and indignities. The plight of these workers is particularly bad.

As home based women workers are not registered in any account and their work is totally invisible. It is found that respondents were getting extremely low wages for their work if anybody tries to raise their voice for increasing it they are easily terminated. Also contractors are able to find easily new entrant who will do the work for them at very cheaper rates.

Disparity in wages

Gender based discrimination at work is the most enduring and universal phenomenon. Despite of enactment of Equal remuneration act in 1976 and subsequent amendment in 1987, women workers in the sports goods industry are still discriminated for wages as compared to men. The study shows that 65% of the respondents claim that they are not getting fair and equal wages with their male counterparts and rest of the workers did not report any wage disparity for their experiences, efficiency and regularity of work.

Gender based division of labour

It is observed that preferably women are recruited to perform monotonous and time consuming task along with their domestic chores on the pretext of women innate characteristics for stitching. The findings of the present study are in conformity with those of Singh and Iyer (1991) who also found that women are employed in those processes where they are indispensable and cheaper to engage.

Lack of recognition of women's work

It is found that a considerable segment of the workers of sports goods industry are home based workers but their work is not acknowledged. They worked throughout the day and seldom got time for rest, leisure and recreation. Moreover not any authentic register of workers is maintained by employers to avoid claim any benefit under the law.

Offences against woman's personhood

With regards to dignity of womanhood, women faced numerous challenges. In the present study, sexuality and violence together constitute one of greatest hurdle in determining honourable position in the society. A majority (66%) the respondents had not received the

full payment of wages where as 29% of the respondents faced the problem of disrespect during their work i.e. insulting and filthy language by the contractor and 5% of workers reported about sexual assault in the study.

Dual dilemma of working women

Due to present inflationary pressure and tremendous changes in the lifestyle, the economic exigencies all necessitated women participation in the labour force. Also survival of poor families is entirely based on women wages. Under the present study, it has been found that home based workers has joined this work to overcome financial crisis but with that confronted with role conflict.

The study shows that 50% of the respondents were facing role conflict due to husband's drinking habits and one fourth of them claimed that the role conflict they have due to non-cooperation from family members. They also reported that conflicting family environment has a profound impact on the family members. With the entering of women into labour market for sustenance needs leads to distortion of personality of their children. About 50 per cent of the respondent claimed that due to familial conflict their children lacked interest in studies. A few respondents reported that their children have become delinquent due to uncongenial family atmosphere.

The other dejecting dimension of the present study is problem of child labour. It is observed that out of 300 respondents about one third reporting for their children became as labour of this industry to meet the family expenses.

Conclusion

The analysis reveals that lives of home based women workers are hard and tough. They bear the double burden but deprived of all statutory benefits and amenities under the legislation. Both centre and state government have formulated certain specific schemes for safeguarding the unorganised workers but fail in meeting the real needs and requirements of the labour force. Hence it is imperative that government should make the efforts to ameliorate the working conditions in terms of occupational safety, limits of working hours, payment of adequate wages so that productive capacity of these workers not to be undermined ,may have mandatory, decent and dignified work.

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Corruption as an Economic, Cultural, Social and Political Problem

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"If we cannot make India corruption-free, then the vision of making the nation develop by 2020 would remain as a dream."

Dr. A.P.J. Abdul Kalam

Introduction

Corruption is considered to be one of the greatest impediments on the way towards progress for developing country like India. The economic, social and cultural structure of our country is very strong; however, due to the menace called- Corruption, it has been adversely affected and has become defenseless against the forces of anti-social elements. According to Shri N. Vittal, Former Chief Vigilance Commissioner, the first stage in the dynamics of the rule of law is the framing of effective rules and laws, which are equipped to hinder the ever-rising escalation of the corruption graph. It is in this context that the Prevention of Corruption Act, 1988 becomes highly significant.

The Constitutional Perspective

The Solemn Constitutional resolution by the People of India which ensure to all its Citizens Justice, social, economical and political, equality of status and of opportunity has its basis in clean administration of the governance of the country at all levels without which these would simply be empty platitudes. The Constitutional directives even if followed only broadly by the State, expected to strive to promote welfare of the people, would leave no scope for a corrupt regime. The Constitutional duty of every citizen to strive towards excellence in all spheres of individual activity is obviously in context of lawful activities that enhance individual and national prestige. The Constitutional Oaths of its functionaries bind them to faithful and conscientious discharge of duties without fear or favour, affection or ill will and to upholding the law. There is therefore, no scope in the Indian Polity for use of corrupt practices, such as bribery or fraud in the governance of the country if these Constitutional values are scrupulously observed, upheld and if need be, enforced. There are built in provisions in our Constitutional System to ensure that those guilty of this gross misconduct are impeached or removed. Collective wisdom is necessarily pure because no society is so debased as to collectively declare negative values of avarice and self-aggrandizement which are at the root of corruption.

Political Corruption

The general administration in our country particularly during the last few years has been so sullied by corruption which has permeated every sphere of activity that our existence as an independent, democratic, self respecting republic is at stake. Leaders of all shades of opinion & to dismay we find encouragement to corruption from the very same quarter which

declared from the house tops that corruption should be weeded out from the body politic. In respect of all matter, affecting the citizen where the response from the govt., a local body, a public sector organization or even a private sector organization is required before the next step can be taken, a time limit should be set before which the response should be given. If such response is not forthcoming the citizen should presume that he can go ahead and will be at liberty to do so. Even an account of the matter requiring serious consideration there is likely to be delay in the response. A final time limit for the ultimate response should be fixed so that the citizen can proceed further in the absence of the response. However this should not be an encouragement for providing an easy escape by a negative response. It must therefore be laid down that all negative response should be accompanied by reasons for rejecting the request of the citizen so that he can frame his case for appeal, correction or other alternatives. Obviously, the time limit of the response cannot be the same for all types of requests. Where it is a question of undertaking an irrigation project or a telecommunication scheme or other highly sophisticated technical or political venture, the limit should obviously be much longer. But in case different limits are laid down for different types of requests this should be communicated to the citizens without any reservation. Such a system should form a part of a scheme for the right to freedom of information.

The introduction of complete openness and the total demolition of any wall of Jericho in respect of any matter of public importance other than matters affecting defense, the safety of the state or preservation of harmony between various sections of the people is needed. Every department of the govt. or of semi govt. should have effective public information in whose primary duty would be to inform the citizen about any and every matter that concerns that particular department. In my view, this wing, the department would be the most be the most sensation and therefore the most important. The every effort therefore should be made to see that the best persons are posted to meet it and its functioning is monitored from time to time by the Head of the department. It may be argued that this will result in an inordinate expansion of the staff the fact is just the contrary. The expenditure on a strong sensible and understanding Public Relation Wing will have the effect of directly reducing considerably staff in various other departments and result in an overall saving of expenditure.

Government must concern itself in future only with such activities as cannot be performed by or transferred to voluntary agencies. In all fields the main instrument for implementations of all policies directed towards the welfare and protection of the people should be the non-governmental instruction and all funds which hitherto have been earmarked in govt. for the use of particular department in charge of such activities would need supervision and monitoring and this can be done on a selective and affirmative basis by govt. Political preference or other consideration should not weigh in the selection of voluntary organization for undertaking the activities mentioned above. In fact in this case through proliferation and duplication, should undoubtedly be avoided, the involvement of as many voluntary organization as possible in such activities should be desirable as it would give citizens of all shades of all opinion an aptitudes and opportunity to participate in such activities should a particular agency be found dishonest or unfit it should be taken to task and the work should be immediately handed over to another voluntary agency in the same or neighbouring area.

Since corruption in the service sector viz. Rail Transport, Public distribution, Communication, Supply of Manufacturing commodities, Information and Entertainment is the highest and effects the most vulnerable section of population, the administration of such services should be totally open and left to citizen bodies. The govt. or semi govt. parapherhelic in these spheres should be totally dismantled our friends in govt. will start saying that this will lead to chaos. It will lead on the other hand to convenience and contentment. Such safeguard as are necessary to contain aberrations can always be undertaken.

Social Corruption

Most important is the preservation of moral values and the instantaneous acceptance of the accountability of men and women in administration and political authority to the supreme of the moral law where any person in authority is accused of malpractices or of corruption and such accusation is made before a responsible authority under whose control he is working the person making the accusation must be asked with a reasonable time to justify the accusation with facts and figure and if such justification is not received within a reasonable period, a public statement must be made to the effect that the accusation was irresponsible and unjustified. If however the person making the accusation gives facts and figures and justification with the time limit, a copy of such letter should be send to the person who has been accused and should be given a reasonable time to make an affidavit in respect of his position with regard to the accusation. Simultaneously if the authority to which such a accusation has been sent feels that a prima facie case has been made out for an adhoc enquiry such an enquiry should be made and a report asked for within a reasonable time not exceeding 3 months during which the person against whom accusation has been made will be temporarily functus officio. The persons selected as for conducting the adhoc enquiry should be selected as far as possible from among Judicial Officers or prominent persons of the large. A large number of public spirited persons would come forward to perform this duty happily because this will result in a thorough cleansing of the body politic. Moreover in the sphere of protection and defense of society, we have the creation of National Human Rights Commission. When the system of fundamental guarantees is corruption it is impossible to have civilized coexistence and equitable progress. In this way new demands for exercising authority have been imposed or the exercise of authority requiring accountability and a conception of public things a stage open to supervision by citizens, communities and representation agents.

Economic Corruption

Upon this social factor we must add the economic factor of the situation of many societies where income distribution is not on an equal basis, where public servants are adequately paid or do not have any legal protection to feel job security at the time of government changes when they are due for retirement. The amount of money may be minor or nil. The important fact is the position of the person involved since the citizens have the idea or rather want to have the idea that their authorities are people of inapproachable conduct and for that reason many times accept economic measures which are contrary to their interests because they believe the explanation offered by their leader. With respect to economic factor we should mention that in our country is the level of development of companies of several developed countries is to restore to any means to obtain an order or a contract of public

works. This fact shows that the corrupted bound not only in the Third World but in every society. Tenth of companies around the world do not retribute in corrupting public officials everywhere in order to sell their products or services. From the social and economic standpoint we should also include the role of international organizations which provide funding and support to developing countries. It is simply not possible to apply the same criteria or to give the same treatment to every country without due regard for our cultural, ethnic, social and development differences. Among the social and economic aspects with corruption there is a quite intresting one the perception of people on corruption is a function of their own personal situation. When people know that policemen and public servants earn so little, most of them do not disapprove the fact that they take part in corruption practices via small amount of money. The assumption is that in almost every case they would never become rich and most of them live in poverty after 30 or 40 years of work. There is no doubt that the problem of low wages has not been seriously tackled in any of our countries and that it is neither a magic stick that will solve the minor corruption in place.

Conclusion

Corruption is a termite that is eating up with the pith of our society it not only hampers the individual's growth but also the collective growth of our country. Hence, it stands highly imperative to control and then stop this growing menace. We now stand at the threshold of heightened public awareness. Ethics in public service is crucial to success of any democratic set-up. The strength of the Court system to combat corruption lies in its own stature and image to the large extent as also in its own accountability and respect for the law. This is reflected from the dictum of the majority decision of the Apex Court in *K. Veera Swami v. Union of India* that there is no law providing protection for judges from criminal prosecution. The existing Court system is efficient but it has to derive its strength from those who man it and whose adequate extent of knowledge, experience, involvement and determination alone can effectively curb the evil of corruption.

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Concept of Marginalisation in Indian Society: A Critical Analysis

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Introduction

The concept of marginality was first introduced by Robert Park (1928). Marginalisation is a symbol that refers to process by which individuals or groups are kept at or pushed beyond the edges of society. The term outsiders may be used to refer to those individuals or groups who are marginalised¹. The Encyclopaedia of Public Health defines marginalisation as, “to be marginalised is to be placed in the margins and thus excluded from the privilege and power found at the centre”,²

The concept of marginality is generally used to analyse socioeconomic, political and cultural spheres, where disadvantaged people struggle to gain access to resources and full participation in social life. In other words, marginalised people might be socially, economically, politically and legally ignored, excluded or neglected and therefore vulnerable.³ A great majority of people in the developing nations are under the line of poverty. They are deprived of adequate access in the basic needs of life such as health, education, housing, food, security, employment, justice and equity. The issues of sustainable livelihood, social and political participation of the vulnerable groups exists as the major problem in these developing nations, particularly in India. Governments have failed to guarantee people’s rights in the implementation level. People who belong to the vulnerable groups are unable to acquire and use their rights.

Despite international commitments,⁴ individuals and groups experience differential access to food, education and health in India. The process of identifying vulnerable groups generated from the pressing reality on the ground that stemmed from the fact that there are certain groups who are vulnerable and marginalised lacking full enjoyment of a wide range of human rights including, rights to political participation, health and education. Certain groups in the society often encounter discriminatory treatment and need special attention to avoid potential exploitation. This population constitutes what is referred to as vulnerable or what is now-a-days called Marginalised Groups.⁵

Marginality is demeaning, for economic well being, for human dignity, as well as for physical security. Marginalisation/ deprived is generally described as the overt actions or tendencies of human societies, where people who they perceive to be undesirable or without

¹ Zulufkar Ahmad Khanday, Mohammad Akram, Health Status of Marginalized Groups in India, International Journal of Applied Sociology 2012, 2(6): at 60.

² George Ritzer “The Blackwell encyclopedia of sociology”, 2nd ed., Blackwell Publishing, USA, at 2765, (2007).
Online Available: <http://www.egyankosh.ac.in/bitstream/123456789349231/Unit3.pdf>. (visited on September 15, 2013)

³ Supra note 1

⁴ Universal Declaration of human rights, International Covenant on Civil and Political Rights (ICCPR), The International Covenant on Economic, Social and Cultural Rights (ICESCR)

⁵ Yamin. Alicia Ely, “Learning to Dance; Advancing Women’s Reproductive Health and Well-Being from the Perspectives of Public Health and Human Rights”, Harvard series on Health and Human Rights, Harvard School of Public Health, Harvard Univ. Press, London, 2005

useful function are excluded, i.e., marginalised. The people who are deprived/ marginalised are outside the existing systems of protection and integration. This limits their opportunities and means for survival.⁶

Nature of Marginalised Groups

Marginalisation is, to place in a position of marginal importance, influence, or power. Deprived/ marginalised is a multidimensional, multicausal, historical phenomenon. To relegate or confine to a lower or outer limit or edge, as of social standing. There are no general laws to understand and comprehend the complex nature of marginalisation. Marginalisation can be due to class, in relation to specific social, cultural, economic and political conditions as well as ideological systems, social awareness, and human action. Marginalised groups happen simultaneously at the micro and macro levels. Marginalised groups occur at different levels, i.e. individual, group, community and global. Discrimination across different social institutions, such as family, schools and neighbourhood, at work places, or places of worship. Many communities, as a result of colonization, experience marginalisation such as aboriginals, or women too face discrimination. Globalisation too has increased the gap between rich and poor nations. The influx of capitalism, information technology, company outsourcing, job insecurity, and the widening gap between the rich and the poor, impacts the lives of individuals and groups in many capacities.⁷

Types of Marginalised Groups⁸

Some broad types of deprived/ marginalised groups such as social, economic and political have been identified

- **Socially marginalised groups**

Social marginalisation is a process of social rupture or destruction, in which groups as well as individuals alike became detached from various types of social functions and relations. This generally prevents these people from functioning in the so called normal activities within a society. The individual is forced into a new system of rules while facing social stigma and stereotypes from the dominant group in society. Socially marginalised people are largely deprived of social opportunities. These are born into marginal groupings e.g., lower castes in India, or members of ethnic groups suffer discrimination. This marginality is typically for life. They lack the required social and cultural capital to participate in mainstream development processes. Their social networks are weak and vulnerable. They are deprived of access to resources, such as, economic, educational, cultural, and other support systems. This creates social isolation and limits their participation in the development process

- **Economically marginalised Groups**

Economic marginalisation means being unimportant to the economy. Some individuals or groups can be marginalised from the rest of the economy. The sources and amount of their

⁶ V.K.Maheshwari, Education of the Deprived/ Marginalised groups, available at <http://www.vkmaheshwari.com> (visited on October 9, 2013)

⁷ D. Pulla Rao, Empowering Marginalised categories in India- Problems and Prospects, Madhav Publications, 1st edition (2012), at 8

⁸ Supra note 6

income varies. Poverty and economic marginalisation have both direct and indirect impact on people's health and well being.

- **Politically Marginalised Groups**

Political marginalisation does not allow the group to participate democratically in decision making, and, hence, they lose their right to every social, economic and political benefit. In every society, lack of political empowerment affects large sections of people, including women, ethnic minorities, migrants and disabled persons, elderly.

Reasons Responsible for Marginalisation

Some of the important factors that are responsible for marginalisation are as follows:

- **Exclusion:** Marginalisation is a process that denies opportunities and outcomes to those living on the margins, while enhancing the opportunities and outcomes for those who are at the centre. Marginalised combines discrimination and social exclusion. It offends human dignity, and it denies human rights. Caste and class prejudice, in many societies across the globe, exclude many groups and communities, and hinder their active participation in economic and social development.⁹
- **Globalization:** Globalization has increased openness which has promoted development at the cost of equity. It is viewed that globalization has enhanced the gap between haves and have-nots and thus boosted marginalisation. While it is true that some middle income developing countries, as well as the most populous countries, India and China, are gaining out of globalization, yet the impact is not equally universal.
- **Displacement:** The development programmes implemented by the government and increasing construction of development project consistently displace a massive number of tribal, poor, and weaker sections. This results in marginalisation of already marginalised people.¹⁰

Most Vulnerable Marginalised Groups and their Position:

Following are the identifiable marginalised groups:

Women

Under different economic conditions, and under the influence of specific historical, cultural, legal and religious factors, marginalisation of women can be seen from their exclusion from certain jobs and occupations. Women belonging to lower classes, lower castes, illiterate, and the poorest region have been marginalised more than their better off counterparts. In India norms and cultural practices are rooted in a highly patriarchal social order where women are expected to adhere to strict gender roles. Women face particular forms of discrimination including internally displaced women, women in slums and sub urban settings, indigenous and rural women, women with disabilities or women living with HIV/AIDS, facing multiple forms of discrimination, barriers and marginalization in addition to gender

⁹ Dev Nathan and Virginius Xaxa, Social Exclusion and Adverse Inclusion (Development and Deprivation of Adivasis in India), OUP India, (2012), at 34

¹⁰ David Cox, Marginalisation and Social Development, at Social Development and the empowerment of marginalised groups: Perspectives and Strategies edited by Debal K Singharoy, Sage Publications Pvt. Ltd, 2002 at 56-57

discrimination. In Indian societies women face double discrimination being members of specific caste, class or ethnic group apart from experiencing gendered vulnerabilities. Women have low status as compared to men in Indian society. They have little control on the resources and on important decisions relating to their lives.¹¹ Violence against women in India cuts across caste, class and other divides. Normally it is estimated that 21% of women have experienced beatings or physical mistreatment by husband, in laws or other persons since the age of fifteen. Violence against women includes violence that occurs within the family or within the community in general. The main factor of violence is the inequality between men and women and discrimination faced by women in their day-to-day life. Now-a-days the violence against women can be conceptualised as an issue of power and social control over women.¹²

Marginalisation of women

The marginalisation of women in Indian society exists in the following forms:

- **Social marginalisation** may include sexual offences against women, female foeticide, denial of equality rights to women, violence against women both within home and outside
- **Economic marginalisation** may include denial of equal opportunities to women, relegation of women to status of mainly household workers, denial of maternity benefits, non payment of equal remuneration to women as men, denial of property rights, denial of maintenance rights
- **Political marginalisation** includes denial of women of equal opportunities in decision making, lack of representation in decision making bodies

Children

In India, children's vulnerabilities and exposure to violations of their protection rights remain spread and multiple in nature. The manifestations of these violations are various, ranging from child labour, child trafficking to commercial sexual exploitation and many other forms of violence and abuse. With an estimated 12.6 million children engaged in hazardous occupations, for instance, India has the largest number of child labourers under the age of 14 in the world. Those children working in the brick kilns, stone quarries, mines, carpets and zari industry suffering from occupation related diseases.¹³

Marginalisation of children

Marginalisation of children is manifested in the following forms:

- *Sexual exploitation of children*
- *Child labour*
- *Child marriages*
- *Child abuse*
- *Insecurity of children in India: coercion, dropout and exclusion*
- *Street children*
- *Children abandoned*

¹¹ H.C. Upreti, Nandani Upreti, Women and Problems of gender Discrimination, Pointer Publications (Jaipur), 2000, at 20

¹² Shobha Saxena, Crimes Against Women and Protective Laws, Deep and Deep Publications New Delhi (1995), at 9

¹³ Hajira Kumar, Social work and developmental issues 2005, Aakar Books New Delhi, at 176

➤ *Missing children*

People with Disabilities

People with disabilities have had to battle against centuries of biased assumptions, harmful stereotypes and irrational fears. The stigmatization of disability resulted in the social and economic marginalization of generations with disabilities, and thus has left people with disabilities in a severe state of impoverishment for centuries. Disability is essentially a social construct and reflects a flaw in the thinking processes of our society. Disabled people have always experienced exclusion and segregation. They have been prevented from using opportunities to make contribution to society with their fullest capacity. The person with polio does not have a problem; the problem is rather with the building which prevents his wheelchair to get inside or with the bus which stops him from riding in it or the taxi driver who ignores him on the roadside.¹⁴

According to the World Health organization,¹⁵ a disabled person is one who suffers from any one of the following:

- a) **Impairment:** It is concerned with abnormalities of body structure and appearance and with organ or system function resulting from any cause; in principle, impairments represent disturbance at the organ level.
- b) **Disability:** It reflects the consequences of impairment in terms of functional performance and activity by the individual; disabilities, thus, represent disturbances at the individual level of the person.
- c) **Handicap:** It is concerned with the disadvantage experienced by the individual as a result of impairments and disabilities; handicap thus reflects interaction with and adaption to the individual's surroundings.

Making the Declaration on the Rights of the Disabled Persons, the *General Assembly* (of the United Nations) at its plenary meeting on 9th December, 1975 defined a disabled person "as any person unable to ensure by himself or herself wholly or partly, the necessities of a normal individual and/or social if as a result of a deficiency, either congenital or not, in his or her physical or mental capabilities".¹⁶ A similar view was put forward in the 1976 General Assembly Resolution No. 31/123 dated 16 December 1976.¹⁷

Another international organization which has systematically tried to define the meaning of the term 'Disability' is *International Labor Organization*. In its Recommendation No. 99, it provides a clear and concise definition of the term 'disabled'. It says: "A disabled person is an individual whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment"¹⁸

¹⁴ V.R. Krishna Iyer (1982): *Law Justice and the Disabled*, Deep & Deep Publications, Delhi, at 133

¹⁵ World Health Organization (1986): *International Classification of Impairments, Disabilities and Handicaps*, A Manual of Classification relating to the Consequences of Disease (1980) quoted by United Nations, Disability Situation, Strategies and Policies at 6-7

¹⁶ General Assembly Resolution (1975): 3447 (xxx) 9 Dec

¹⁷ By this resolution *United Nations* declared (1981): International Year of Disabled Persons

¹⁸ ILO Recommendation No. 99 (1984): *Recommendation Concerning Vocational Rehabilitation of the Disabled*, quoted in International Labour Standards on Vocational Rehabilitation, International Labour Office, at 11.

Indian Legislation with regard to industrial injuries and compensation seems to be in tune with the ILO's conceptualization of disability. The Workmen's Compensation Act, 1923 (an Indian Statute) categorizes disability as under: ¹⁹

- 1) *Temporary total disability is that period in which the injured is totally unable to work.*
- 2) *Temporary partial when disability period is that recovery has reached the stage of impairment so that the person may begin some kind of gainful occupation.*
- 3) *Permanent disability refers to permanent damage or loss of use of some part of the body after the stage of maximum improvement from orthopedic or other medical treatment has condition is been reached and stationery*

Again, India passing Parliament while the *Employees State Insurance Act, 1948* seems to be in line with the definition in disability given of ILO's as conceptualization of disability. The Act classifies and defines disability as under: ²⁰

1. **Temporary disablement:** *It is a condition resulting from an employment injury. This requires medical treatment and renders an employed temporarily incapable of doing the work which he was doing prior to or at the time of injury.*
2. **Permanent Partial Disablement:** *It is such disablement of a permanent nature as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement.*
3. **Permanent total disablement:** *It is such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of accident resulting in such disablement.*

Considering the modes of disabilities, the world of the disabled encompass four major categories; namely, ²¹

1. *The visually handicapped (blindness),*
2. *The handicap of speech and hearing (deafness and dumbness),*
3. *Orthopedically handicapped, and*
4. *The mentally handicapped (mentally retarded and mentally ill persons).*

disabled

Disability poses greater challenges in obtaining the needed range of services. Persons with disabilities face several forms of discrimination and have reduced access to education, good health employment and other socioeconomic opportunities. In India, there is an increase of proportion of disabled population. It has been noted that there are more than 650 million people worldwide suffering from one or another form of disability (two thirds of whom live in developing countries), most have long been neglected and marginalized by the state and society. They are victims of physical, sexual, psychological and emotional abuse, neglect, and financial exploitation, while women with disabilities are particularly exposed to forced sterilization and sexual violence. It may take the following forms:

¹⁹ Section 2 (1) (g) *Workmen's Compensation Act (1923)*

²⁰ Section 21 (A) and (B) *Employees State Insurance Act (1948)*

²¹ M. Blaxter (1976): *The Meaning of Disability: A Sociological Study of Impairment*, Heinemann Educational Book Ltd., London, at 5.

- *Lack of Education and Employment Opportunities*
- *Social Exclusion of the PWDs*
- *Attitudinal Barriers*
- *The prevalence of architectural and environmental barriers*
- *Absence of special care for mentally retarded children*

People Living with HIV/AIDS

Despite the passage of a quarter-century since the AIDS/HIV infection was diagnosed, the stigma that surrounds it has not subsided. The number of persons who have become victims of this affliction has swelled to such staggering sums, that its enormous proportions have caused a global effort to be made to combat it. This is an epidemic that knows no borders of geography, class, caste, gender and sexuality.

India's socio-economic status, traditional social ills, cultural myths on sex and sexuality and a huge population of marginalised people make it extremely vulnerable to the HIV/AIDS epidemic. In fact, the epidemic has become one of the most serious challenges faced by the country since Independence. Still, India has the second highest number of people living with HIV/AIDS in the world after South Africa. India accounts for almost 10 per cent of the 40 million people living with HIV/AIDS globally and over 60% of the 7.4 million Persons Living with HIV/AIDS (PLWHA) in the Asia and Pacific region. Over 35% of all reported HIV/AIDS cases in India occur among young people in the age group of 15 to 24 years. **1986-1992, Denial of the Threat of HIV:** This was a period that saw the beginning of a largely research-based programme. Surveillance activities were launched in 55 cities in three states.

Marginalisation of people living with HIV/AIDS

Various types of marginalisation faced by people living with HIV/AIDS are as follows:

- **Marginalisation with respect to employment opportunities:** it may occur in following ways:
 - a) *PLWHAs are often denied jobs at the time of recruitment on account of their HIV status*
 - b) *HIV-positive employees are discriminated against by their co-workers*
 - c) *Such people are frequently terminated from employment altogether.*
 - d) *Compassionate employment and other benefits such as provident fund and gratuity to survivors of deceased HIV-positive employees.*
- **Exclusion from society:** dispassionate behaviour by the people in surroundings who know about the infection, in respect to people living with HIV/AIDS.

Sexual Minorities (Transgender Persons)

The term "transgender" is used most often to refer to people whose gender identity differs from their birth sex. The term 'transgender' has been derived from the Latin word 'trans' and the English word 'gender'. Different sorts of individuals come under this category. No particular form of sexual orientation is meant through the term transgender. The way they behave and act differs from the 'normative' gender role of men and women. Leading a life as a transgender is far from easy because such people can be neither categorized as male nor female and this deviation is "unacceptable" to society's vast majority. There is a significant lack of understanding of transgender people as human beings whose lives encompass a complexity which goes beyond the normative correlation between biological sex on the one hand and gender identity and sexual orientation on the other. A person who is biologically

male is expected to be 'masculine' and be attracted to women. However, a transgender person could be biologically male and often take on the gender identity of the other gender. In some cases, the transgender person might also want to alter the fact of biological maleness/ femaleness through a sex reassignment surgery (SRS). However, the above description does not exhaust the full range of transgender behaviour and identity. Transgender/ homosexual communities have existed in almost all parts of the world, with their own local identities, customs and rituals.. The transgender expressions of sexuality or gender identity are often hidden or stigmatized by the wider society. Resisting this stigma has been part of the long struggle for survival of the transgender community to live alongside the society at large. Of course it remains an open question as to what extent do they appropriate existing rituals and to what extent are they unable to escape from the circumscribed roles assigned to them. ²²

Marginalisation of transgender persons

Marginalisation of transgender persons exist in the following ways: transgenders in India have virtually no safe spaces, not even in their families, where they are protected from prejudice and abuse.

- *Denial of identity*
- *Discrimination*
- *Violation of right of privacy*
- *Denial of other general human rights protection to all, regardless of sexual orientation of gender identity.*
- *Prejudice translated into violence, often of a brutal nature, in public spaces, police stations, prisons and even in their homes. The transgenders face many sorts of state and societal harassments such as:*

Harassment by the police in public places, Harassment at home, Police entrapment, Abuse/harassment at police stations and Rape in jails etc. The Indian state's policy of recognizing only two sexes and refusing to recognize hijras as women, or as a third sex (if a hijra wants it), has deprived them at a stroke of several rights that Indian citizens take for granted. These rights include the right to vote, the right to own property, the right to marry, the right to claim a formal identity through a passport and a ration card, a driver's license, the right to education, employment, health so on. Such deprivation secludes hijras from the very fabric of Indian civil society. The main problems that are being faced by the transgender community are of discrimination, unemployment, lack of educational facilities, homelessness, lack of medical facilities like HIV care and hygiene, depression, hormone pill abuse, tobacco and alcohol abuse, penectomy and problems related to marriage and adopt. In 1994, transgender persons got the voting right but the task of issuing them voter identity cards got caught up in the male or female question. Several of them were denied cards with sexual category of their choice. The other fields where this community feels neglected are inheritance of property or adoption of a child. They are often pushed to the periphery as a social outcaste and many may end up begging

²² Abhinav Sinha, Did God made only Adam and Eve(An insight into Legal Position of Eunuchs), available at www.legalserviceindia.com (visited on November 15, 2013)

and dancing. This is by all means human trafficking. They even engage themselves as sex workers for survival.²³

Conclusion

The Indian Constitution adopted in 1950 enshrines equality and social justice as the fundamental principles of the Indian democratic system. The aim of the Constitution is to empower the society and ensure the dignity of the individual and equality of status among all the citizens of India. These ideas are reflected in different Articles of the Constitution. Despite safeguards provided by the law of the land, marginalised sections of society like women, children, people living with HIV/AIDS, people with disabilities and transgender persons face various forms of discrimination in the society. Women form the unequal half of our society- in terms of vulnerability, marginalisation and exclusion in most of the cases, with few exceptions. Amongst all kinds of discriminations, female population of the country is struggling through the life: there are lot of issues to be addressed- falling sex ratio, poor literacy levels, weaker formal education levels, bad nutrition status, high morbidity and mortality, lesser leadership opportunities, lack of self-reliance, inadequate empowerment measures all these issues tend to affect this section predominantly, which is related to various socio-economic factors, environment, gender discrimination and domestic violence against women. Over 35% of the female population in India was out of the world of letters as per census 2001. Still there are 242 districts in the country where female literacy rate has not gone beyond 50%. Over 50% of the girl children are still outside formal education, wherein the country has put up a right to education act to ensure basic education to all within the age group of 6 to 14. Access of women to employment and direct income is also limited- their contributions to direct income are limited to 26% of the total. When access to power is seen, it is very limited for women- even with upto 50% reservation in elected positions, women's control over Panchayati Raj institutions are limited- and there is no reservations for assembly and parliament positions, leading to a situation near to absence of women in leading governance roles, though with some exceptions . India's female labour participation rate was just 29 percent in 2010. Women thus constitute just a quarter of India's 473 million strong workforces. Women's inequality may, have cost India's economy almost 4 percent of annual growth over the past 10 years.

Secondly, In India, children suffer from malnutrition or die of starvation and preventable diseases. According to UNAIDS there are 170,000 children infected by HIV/AIDS in India. The passing of the 93rd Amendment Bill (passed as the 86th Amendment to the Constitution) making education a fundamental right, should have been an occasion to rejoice. Instead it has become an issue for another long struggle because it only reinforces the lack of political will to make education universal and accessible for all. Beatings, abuse, physical and mental torture faced by the students in schools is one of the reasons for the high dropout rate. The Census found an increase in the number of child labourers from 11.28 million in 1991 to 12.66 million in 200. Nearly 11.8% children age 5-14 years works either for their own household or for somebody else. It is alarming that, in 2011, the Crimes

²³ Supra Note 37

against children reported a 24% increase from the previous year with a total of 33,098 cases of crimes against Children reported in the country during 2011 as compared to 26,694 cases during 2010.

Thirdly, there are more than 650 million people worldwide suffering from one or another form of disability (two thirds of whom live in developing countries), most have long been neglected and marginalized by the state and society. They are victims of physical, sexual, psychological and emotional abuse, neglect, and financial exploitation, while women with disabilities are particularly exposed to forced sterilization and sexual violence.

Fourthly, Total number of people living with HIV is 33.2 Million. Young people aged 15–24 living with HIV is 5.4 million. Children below 15 years living with HIV are 2.5 Million. The HIV/AIDS epidemic is hidden, often children of are from already marginalized groups such as sex workers (SW), Injecting Drug Users (IDUs) and spouses of Men who have Sex with Men (MSM). Limited number of people are testing for HIV. HIV/AIDS related stigma is very high.

Fifthly, Hijras (Eunuchs) in India have virtually no safe spaces, not even in their families, where they are protected from prejudice and abuse. The PUCL(K) Report on Human Rights Violations against the Transgender Community²⁴ has documented the kind of prejudice that hijras face in Bangalore. The report shows that this prejudice is translated into violence, often of a brutal nature, in public spaces, police stations, prisons and even in their homes. The main factor behind the violence is that society is not able to come to terms with the fact that hijras do not conform to the accepted gender divisions. In addition to this, most hijras have a lower middle-class background, which makes them susceptible to harassment by the police. The discrimination based on their class and gender makes the hijra community one of the most disempowered groups in Indian society. The systematic violence that hijras face is reinforced by the institutions such as the family, media and the medical establishments and is given legitimacy by the legal system.

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Issues and Challenges in Make in India: With Special Reference to Roads & Transport

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Abstract

Make in India is business friendly program launched by Prime Minister Narender Modi on 25th September 2014 to encourage multinational and domestic companies to manufacture their products in India. It is launched with an aim to turn the country into a global manufacturing hub. The initiative aims to raise the contribution of manufacturing sector to 25% of the GDP by the year 2025 from its current 16%. There are many issues that need to be addressed in different infrastructure field like electricity, production, transport etc. As roads and transportation is the backbone of Indian infrastructure but it is inadequate in terms of quality, quantity and connectivity. Also in the overall transport sector, civil aviation and ports desperately need modernization. It is expected that public sector will continue to play an important role in building transport infrastructure. However, the resources needed are much larger than what the public sector can provide. So, the paper in concern reflects the present position of Indian roads and transportation and the need of Make in India program in this field.

Key words: Make in India, Manufacturing, Hub, GDP, Roads and Transportation

Introduction

Make in India is a special campaign launched by Prime Minister Narender Modi on 25th September 2014 which focuses on Make in India program for global manufacturing hub. Key thrust of the program would be on cutting down in delays in manufacturing projects clearance, develop adequate infrastructure and make it easier for companies to do business in India. On 29th December, 2014, a workshop was organised by the Department of Industrial Policy and promotion which was attended by Prime Minister Narender Modi, his cabinet ministers and chief secretaries of states as well as various cadres. The 25 key sectors identified under the program include automobiles, auto components, bio-technology, defence, electronic systems, food processing, leather, mining, oil & gas, railways, roads & transport etc.

Overview: The major objective behind the initiative is to focus on job creation and skill empowerment in 25 sectors of the economy. The initiative also aims at maintaining high quality standards and minimising the impact on the environment. The initiative hopes to attract capital and technological investment in India. Under this initiative, brochures on the 25 sectors and a web portal were released. Before this program was launched, foreign equity caps in various sectors had been relaxed. The applications for licences were made available online and the validity of licences was increased to three years. Various other norms and

procedures were also relaxed. In August 2014, the cabinet of India allowed 49% FDI in defence sector and 100% in Railways infrastructure. The defence sector previously allowed 26% FDI and there was no FDI in Railways. This was done in hope of bringing down the military imports of India. Between September 2014 and November 2015, the government received Rupees 1.20 lakh crores which is \$18 billion worth of proposals from the foreign companies interested in manufacturing electronics in India. India is the 4th largest economy in the world. However, one factor which is a drag on its development is the lack of world class infrastructure. Infact, estimates suggests that the lack of proper infrastructure pulls down India's GDP growth by 1-2% every year. Physical infrastructure has a direct impact on the growth and overall development of an economy. As the fast growth of the Indian economy in recent years has placed enormous stress on physical infrastructure such as electricity, railways, roads, ports, airports, water and sanitation, all of which are already suffering from substantial deficit. The goals for inclusive growth and a 9% growth can be achieved only if this infrastructure deficit is overcome.

Infrastructure Development in 12th Plan

Inadequate infrastructure was identified in the 11th plan as a major constraint for rapid growth. The plan had; therefore, emphasized on the need for massive expansion on investment in infrastructure based on a combination of public and private investment. The total investment in infrastructure which includes roads, railways, ports, electricity and telecommunication, oil gas pipelines and irrigation is estimated to have increased from 5.7% of GDP in the base year of 11th plan to around 8% in the last year of the 11th plan. Development of infrastructure is a sine qua non of economic development of agriculture to a considerable extent, on the adequate expansion and development of power and electricity generation, transport & communication. Obviously, if proper attention is not paid to the development of infrastructure, it is likely to act as a severe constraint on the economic development process in the country. Keeping in view, the various plans have focused attention on the expansion of infrastructure facilities. In the 11th plan, investment of US \$ 500 billion in infrastructure through a mix of public & private sectors were planned. Investment in infrastructure increased to 6.2% in 2007-2008 to 7% in 2011-12. The 12th plan aims to increase this further to 9%. The total investment in 12th plan is estimated at Rupees 56.3 lakh crores where infrastructure includes:-- Sources and demand of energy, Power & electricity, Coal-oil & gas-Atomic energy, Railways, Air Transport, Telecommunication etc.

Road transport is the backbone of Indian transport infrastructure. It can be classified into the following categories.

1. National Highways :- These roads are the primary roads of the country and connect large cities & big industrial centres. Their development & maintenance is the responsibility of the central government. Initially, our road system developed around four main national highways connecting Khyber with Kolkata through Delhi. Kolkata with Chennai, Chennai via Mumbai with Delhi.
2. State Highways :- These roads link all the important centres of industry, trade & commerce of the State & National Highways.
3. District Roads :- These roads connect different parts of the district, important industrial centres & market centres and usually lead to local railway station.

4. Rural Roads :- These roads are found in villages and are usually of two types- pucca roads & kutchra roads.

Importance of Road Transport in India

As compared to railways, road transport has the following advantage:-

1. A large number of places are not connected by railways. Therefore, the only means of transport in these areas is the road transport.
2. Road transport is complimentary to railways. It provides feeder services to goods arriving at a railway station. Goods are despatched to their destination on trucks or other means of transport.
3. Road transport provides door to door service within cities.
4. It is a better means of transport as compared to railways for carrying perishable and less bulky goods.
5. The chances of delay, damage or loss are less in the case of road transport as compared to railways.
6. Road transport does not require heavy capital investment unlike railways.
7. From the point of view of defence of the country, the road network plays a very important role. It is the roads that enable the defence forces to move to areas inaccessible by the railways in the time of need. This is particularly so in the case of border areas and hilly tracks.

Road Development in India

India has the largest roads network in the world, aggregating more than 48.65 lakh kilometres at present. However, this network is not adequate for speedy and efficient transportation. Half of this is made up of non-surfaced roads. The National Highways which are arterial roads have currently a network of 96,214 kms, although they carry nearly 40% goods & passenger traffic. The National Highways network constitutes only about 2% of the total road network.

Three important initiatives in the road sector were undertaken in recent years:-

1. A: -The National Highway Development Project – NHDP deals with building high quality Highways
2. B:- The Pradhan Mantri Bharat Jodo Pariyojna- PMBJP deals with linking up major cities to the NHDP Highways
3. C:- Pradhan Mantri Gram Sadak Yojna- PMGSY addresses rural roads

NHDP Plan

For augmenting the capacity of National Highways, Central Government with the help of National Highway Authority of India as its nodal agency is undertaking National Highway Development Project. The plan envisages six laning of the following roads.

1. Golden Quadrilateral Highway connecting Delhi Mumbai Chennai Kolkata having an aggregate length of 5846 kms.
2. North South Corridor:- Srinagar to Kanayakumari with length of 7142 kms.
3. East West Corridor:- Silchar to Porbandhar.

Expansion of NH System It is proposed that the existing NH Network of 71,772 km may be increased to about 85,000 km in the 12th Plan period. 4.7.2. Development of Non-NHDP NHs . Two-laning It is estimated that there would be about 9,220 km length of NHs having less than 2-lane standards at the beginning of the 12th Plan. It is proposed to develop them to 2-lane NH standards during the 12th Plan. Apart from this, considering an addition of about 15,000 km length in the NH network during 12th Plan, and also keeping in view the likely availability of allocations under GBS, and inter-se priority, it is proposed to develop 2,000 km length of NHs to be declared during 12th Plan to 2-lane NH standards. The mode of implementation has been estimated broadly as per the following break up: - Through GBS (including toll remittances) - 5,100 km Through proposed World Bank Loan Assistance - 3,770 km Through Private sector funding on BOT (Toll) mode - 2,350 km Further, feasibility may be explored to put maximum lengths of stretches developed through GBS or proposed External loan assistance on Operate-Maintain-Transfer (OMT) Contracts after their development. - 7 - Document. Four-laning / Six-laning Existing 2-lane NHs are to be developed to 4-lane divided carriageway facilities or more as per necessity only as fully access controlled facilities with closure of all median openings, replacing of all at grade intersections by grade separated intersections, providing vehicular, pedestrian and cattle underpasses, segregation of slow moving traffic by providing service roads / alternate road connectivity wherever required, etc., from Road Safety point of view. In case it is not possible to do so, feasibility shall be explored to develop separate fully access controlled facilities, i.e. expressways (either as a green field project, or along any other feasible alignment) having 4 or more lanes with divided carriageway if the traffic on the existing 2-lane NH corridors exceed its design service volume. It is envisaged that leaving apart the ongoing phases of NHDP (viz. NHDP-Phases-I to VI and NHDP-Phase-VII), there may be requirement to upgrade about another 200 km length of NHs to at least 4-lane divided carriageway facilities. It is recommended the possibility may be explored to develop these entire lengths of NHs to 4-or more lane standards through PPP mode. . Riding Quality Tentatively, it is estimated that Riding Quality of about 5,000 km may need to be improved during 12th Plan. . Bypasses and Over Bridges For cities with population above 1 million on the NH Network, it is recommended that a desirable strategy would be to plan for bypasses in the form of peripheral expressways to interlink the highways radiating from these cities. Further, there should be no railway level crossings on NH Network and all existing level crossings on NH Network should be replaced by Road Over / Under Bridges. A phase-wise programme may be drawn up accordingly depending upon the traffic and number of gate closures. . Bridges A system of maintaining and updating database on Bridge Inventory and their conditions needs to be set up for enabling timely decision making regarding formulating their maintenance strategies. Development of Bridge Management System (BMS) may be considered to be set up in a time bound manner for this purpose. - 8 - Document. Amenities It is important the wayside amenities be integrally planned and developed along with Expressways and all projects for 4-laning / 6-laning of NHs. Due provision is required to be made for LA, etc. while conceptualizing and preparing such project reports. If the project is to be developed on BOT (Toll) basis, the concessionaire may develop the facilities and operate the same during the concession period or even after that. For projects developed through BOT(Annuity), Concessionaire may develop the facilities and the Government may consider entrusting operation and maintenance of the facilities through private participation. For projects developed through GBS funding, the facilities

may be integrally developed by the Government and entrusted to private sector for operation and maintenance. Broadly, the Integrated Way-side amenities may have following features: -

- o Facilities to be owned by Government operating / construction agencies.
- o Operation & maintenance of individual facilities in the wayside amenities through lease on profit sharing basis with private companies.
- o Earmark certain facilities in the wayside amenities exclusively to encourage local small scale producer on subsidy basis.
- o Due consideration for preservation of ecology and environment including recycling of waste water and harnessing of alternative sources of energy (e.g. solar energy) for captive use.

Further, wherever feasible, State-of-Art Traffic Control Centres shall be provided (especially for stretches developed on BOT basis through Public-Private Partnership) along with facilities for information dissemination and exigency management system for alleviating traffic congestions, promoting more environment friendly, energy efficient and safe travel. For Expressways as well as any other access control facilities, these provisions should be made mandatory

Funding Plan for Development of Roads

Roads are primarily funded through budgetary allocations. Central Government provides funds to National Highway Authority of India and to State Governments for other roads. Presently, the total allocations available for Central & States road development are to the tune of Rupees 110 billion which is just 42% of total transportation revenues received by the Government. This implies the inefficiency of our system which consumes 58% of the total revenue received by the transport sector.

The following table shows the quantum of investment expected to be infused in three years:-

Investment in NHDP

Particulars	FY01	FY02	FY03
Quadrilateral	19.5	59.0	87.2
Corridor	7.3	8.1	7.9
Total	26.8	67.1	95.1

Financing Plan for NHDP

Source	Rupees Crores
Total Cost	54000
Cess on Petrol& Diesel	20000
Extended Assistant	20000
Market	10000
Private Sector Participation	4000

Source: Reports, NHDP

Maintenance of National Highways

In order to reduce this total transport cost it is essential to maintain the roads at a good level of service. The basic cause for poor management of National Highways is a lack of funds made available for maintenance as per norms. They do not exceed 60% of normal requirements for main roads. Maintenance being a non-plan activity there is also a tendency by the Government to apply adhoc cuts in the face of resource constraints. - 15 - Document4
The issue needs to be urgently addressed to prevent premature failure of sections of NHs developed at large capital investments on account of self-accumulation of deficiencies due to thin spreading of available resources for M&R on large NH network. There is necessity of providing adequate allocation of funds for M&R of NHs either during B.E. stage or sufficiently early in the Financial Year are commensurate to the requirements. The following suggestions may also be considered in this context: - Develop sound "Maintenance Strategies" with planned interventions of maintenance inputs. Do away with traditional system of funding M&R activities under non-Plan and take up M&R under Annual Plans separately segregated from construction. Ensure assured funding for development as well as maintenance and repair of NHs so as to enable taking up of preventive maintenance works rather than the compulsion of presently resorting to only reactive maintenance works. Take up short term maintenance works on already developed stretches through private sector on Operate-Maintain-Transfer (OMT) basis, which are targeted for further upgradation in say within about 4 ~ 9 year period. Long term O&M Contracts is a preferred mode and therefore Performance based maintenance system to be adopted for non NHDP developed reaches as well which may include Incident management. Increase cess on petrol and High Speed Diesel (HSD) oil suitably from present level of Rs. 2 per liter and mobilize additional accrual entirely for National Highways. The Government may consider levy of cess on petrol and High Speed diesel (HSD) oil as per the provisions of the Central Road Fund (CRF) Act, 2000 on ad-valorem basis in place of the current policy of charging it at Rs. 2.00 per litre of petrol and HSD oil. The resource thus generate could be partly used for M&R of NHs. Develop a system of maintaining and periodically updating the database on inventory of roads, bridges and other structures on NHs including their condition as decision support system for prioritizing development and maintenance works, viz. Pavement Management System(PMS) and Bridge Management System(BMS). Reorganize maintenance operations by replacing the road gang with mechanized mobile units to improve the productivity of the existing labour force. Encourage use of equipment for quick repairs of potholes, slurry seal machines, combined bitumen sprayer and chip spreader and cold/hot recycling plants to improve the maintenance culture

Key Issues facing the Sector

In spite of all the concessions, private sector participation has been below the expected level. This is primarily due to reasons like reluctance of the private sector to participate in long term prospects, land acquisition problems and difficulty in toll collection in the operating phase in certain stretches. Although the Indian transportation infrastructure is one of the largest in the world, it is far from being the best. The population of the country is almost four times of USA and has the highest growth rate in the world. The existing transportation system is not adequate to sustain the current rate of economic & industrial development in the country. Demand has constantly outstripped the supply of transportation over the last fifty years. As compared to USA, the amount of freight traffic carried by highways in India

is quite meagre. This is partially due to poor surface quality of the roads. The Indian automobile industry today manufactures a large variety of multi axel vehicles with turbo charged engine but most of these are exported. The Indian industry needs large freight carriers to transport goods at low costs but the inefficient load infrastructure acts as an economic bottleneck impeding the growth of both segments of these industries. Indian automobile industry has necessary facilities to manufacture these multi axel vehicles but poor Indian infrastructure acts as a barrier for the sale of these big freight carriers within the country.

Network connectivity :- Achievement of high network connectivity is usually the first step in infrastructure development. The current road plan aims at achieving a level of adequate road connectivity.

Travel Time :- The average speed on Indian Highways is around 45 kms per hour which is far less than the speed on USA Highways.

Investment Needs Amount in Rs. crore SI No. Scheme Estimated Fund Requirement for 12th Five Year Plan

1	External Aid	10,980
2	NH (O) Widening to 2-lanes, Strengthening, IRQP, Bridges, ROBs, Bypasses, etc.	37,540
3	Development of Expressways	11,295
4	Works under BRDB	3,000
5	Other Charges & IT	40
6	Strategic Roads under BRDB	500
7	R&D and Training	100
8	Charged Expd.	30
9	NHAI (Investment) (Cess)	54,898
10	Remittance of toll receipts	28,797
11	NHAI (ABS for J&K package, etc.)	7,771
12	E&I for States/UTs from CRF	1,664

Special Packages (i) Special Accelerated Road Development Programme for North Eastern Region, including Arunachal Pradesh Package 37,674 (ii) Special Programme for development of road connectivity (NH and State Roads) in LWE Affected Areas 16,076 (iii) Development of Vijayawada-Ranchi Road (State road portion) 1,100 (iv) Special Package for development of roads in the Scheduled Areas (under Fifth Schedule) under Tribal SubPlan 5,000 (v) Special Programme for development of State roads for DMIC Project for Maharashtra and Rajasthan region on pilot basis 14,425 (vi) Special Package for development of State roads in the State of J & K from strategic considerations 700 (vii) Special Package for development of road connectivity for about 50 minor ports 5000 (viii) Special Package for development of road connectivity for 24 Airports 1800 (A) TOTAL GBS+Cess+Toll remittances+ABS for J&K package + Special Packages 2,38,390 (B) IEBR / Borrowings by NHAI 66,680 (C) Grand Total 3,05,070 Private Sector Investments (Non-NHDP) Widening to 2-lanes 5,765 4-laning of NHs 1,610 Development of Expressways 4,140 Sub-Total - Private Sector Investments (Non-NHDP) 11,515 - 30 - Document4 Private sector Investments (NHDP) 1,66,738 (D) Total Private Sector Investments 1,78,253 (E) Grand Total for Central Sector Roads (incl. Private Investments) 4,83,323 The above includes total Tribal Sub-Plan (TSP) Component of Rs. 9,900 crore [which is about 4.15 % of the total projected budgetary allocation of Rs. 2,38,390 crore (ref. Col (A) in above table) for Central Roads Sector] However, it is pertinent to mention that the cost of LA and R&R (which have been assumed as Rs. 1 crore per Ha) may escalate significantly consequent to promulgation of revised legislations by the Government in this regard, for which necessary actions have already been taken up. Sources of funds: - Amount in Rs. Crore Cess External Assistance GBS ABS for SARDPNE and J&K ABS for Special Packages* IEBR Estimated surplus from Toll Revenue Share of Private Sector 54,898 10,980 54,169 7,771 81,775 66,680 28,797 178,253 * - viz. SARDP-NE including Arunachal Package, development of roads in LWE affected

areas, development of Vijayawada-Ranchi Road, development of roads in Scheduled Areas (under Fifth Schedule) under Tribal Sub-Plan, development of road corridors of DMIC Project on Pilot basis, development of State roads in J&K, development of road connectivity to 50 minor ports, development of road connectivity to 24 Airports, etc. Rs. 7,771 crore (2%) Rs. 81,775 crore (17%) Rs. 54,169 crore (11%) Rs. 10,980 crore (2%) Rs. 54,898 crore (11%) Rs. 66,680 crore (14%) Rs. 28,797 crore (6%) Rs. 178,253 crore (37%) Cess External Assistance GBS ABS for SARDPNE and J&K ABS for Special Packages* IEBR Estimated surplus from Toll Revenue Share of Private Sector.

Road Safety and Research & Development

Road Safety - Standards and Guidelines for Highways and Urban Roads Highway and urban road design standards and guidelines will be made consistent with the safety requirements and in tune with the international best practice. All existing standards/guidelines/ manuals/codes, etc., of IRC/MoRT&H will be reviewed for their specific Focus to Road Safety, and deficiencies/shortfalls identified in relation to safety. New standards and manuals will be prepared for filling the gaps in the current standards. There should be adequate engineering measures supported by strict enforcements to ensure segregation of fast and slow moving traffic, especially on the multi-lane (i.e. having 4-or more lanes) highways. To that extent the Project Scopes defined in the Concession Agreements of projects being undertaken under various phases of NHDP need to be adequately reviewed. This should also apply to the O&M contracts / OMT concessions. All road projects being delivered at present (either at planning stage, design stage, construction stage, or even at implementation stage and operation stage), whether on BOT or as Item Rate / EPC Contracts, will be reviewed at each stage to identify any issue related to road safety. All State Highways and National Highways are to be provided with both pavement markings and road signs as per the requirements specified by the standards of IRC/MoRT&H. These shall be mandatory requirement for road safety. Initiatives are required to be taken for taking up adequate State-of Art Traffic Calming Measures in the relevant areas / places, especially in urban areas, near habitations, etc. for enhanced safety to vulnerable road users. For ensuring the construction zone safety for traffic operation, there should be proper estimate prepared at the stage of Detailed Design, and it should be part of the total project cost like any other item in the form of BOQ items. Monitoring and evaluation of road designs and traffic management strategies Road Safety Audit should be made an integral part of the project planning, report preparation, appraisal, designing, implementation, operation and maintenance, etc. The project should be duly reviewed and necessary corrective actions should be taken pursuant to the report of the Road Safety Audit at every stage. The entire network of NH and SH are to be subjected to Road Safety Audit (RSA) in a planned and time bound manner. The RSA shall identify all the potential hazards in terms of deficiencies observed in the network, which are required to be corrected on continuous basis for making the road network safe. The States and MoRTH will prioritize the network to be audited, and will implement the improvements recommended by Road Safety Audit. The priority roads with high accident records are to be taken up first in a time bound manner. To carry out Road Safety Audit (RSA) for the entire primary network, required capacity is to be developed through proper training of qualified engineers, who are eligible for training. For this purpose, a special committee will be set up to draw up guidelines for a RSA procedure suitable for Indian traffic and safety issues with special

reference to vulnerable road users by December 2011. Teaching and research institutions including IITs, NITs, CSIR, etc. will be identified for establishing training programmes for RSA professionals. Road Safety Audit is to be carried out for the roads using the trained auditors available in the country and in accordance with the manual of Road Safety Audit adopted by IRC. All steps of audit delivery including the initial meeting and audit completion meeting with the Client must be completed with submission of audit report and exception report etc for every road assigned for audit. This will bring out what all is required to be done for the road ensuring highest level of safety. No compromise, whatsoever, should be made in essential road safety features and all safety concerns must be addressed as per the recommendations of the Road Safety Audit Report. This aspect needs to be critically considered especially while analyzing project viability. Encourage Institutionalization of conducting Road Safety Audits by certified Road Safety Auditors. An accreditation body is required to be created for Road Safety Auditors, which will control the utilization of these trained auditors and will maintain the register of certified auditors. Such auditors will have to undergo training and retraining as per a set of guidelines to maintain a high standard of auditing. Capacity for Road Safety Audit works in the country is to be enhanced by training and conducting certifications courses for Road Safety Auditors.

Accident Investigation : Accident data recording system is to be adopted uniformly across all States for roads in urban and non-urban areas in a standard - 41 - Document4 format. This standard format is to be evolved with national consensus and should include all rational data that are required for accident investigation, accident reconstruction, and also adjudication of the accident cases. The data collection should be tech-savvy with hand-held GPS and computer interface so as to collect all data with highest precision. There will be standard accident analysis module for accident investigation and adjudication uniformly to be used across the country without any exception. Only a few specialized centres shall study selected accidents, using the accident reconstruction technique, etc. and the same data system. Institutionalized System of Database storage shall be developed.

Training: The engineers involved in planning, design, construction and operation of roads and highways in the country are to be trained on road safety aspects covering engineering measures, safety at construction sites and hands on experience in road safety audit. Research & Development related to Road Safety To establish about five to seven Centres of Excellence for Road Safety Research and Accident Analysis in Academic Institutions across the country in addition to the existing research institutions. The capacity in road safety research and accident analysis is also to be developed, for which bright young professionals are to be identified for specialized training. National Road Safety & Traffic Management Board Government is already initiated the process of approving the Bill for creation of a Road Safety & Traffic Management Board. This Central Body is an urgent requirement along with the counterparts in the States. Institutional Arrangements for planning, delivery, evaluation, monitoring and improvement The concerned Road Agency should be made responsible for the planning, delivery, evaluation, monitoring and improvement with specific focus to road safety. For this purpose, it is of utmost importance that necessary institutional arrangements be developed within a fixed time frame. Inter-Disciplinary Coordination It is very important to establish synergy between various stakeholders at various levels (i.e Central, State, District, etc.), which is presently missing, e.g. between the engineering authorities (viz. Road Agency, R&D / Academic organizations,) enforcement authorities (viz. Police, State

Transport Authorities), organizations responsible for emergency care (viz. M/o Health & Family Welfares, Hospitals, Trauma Care Centres, etc.). The focus should be to establish a robust mechanism to address road safety issues in a comprehensive manner. Availability of Resources Adequate funds should be made available commensurate to the requirements, especially for development and maintenance of non-NHDP National Highways Network. It needs to be appreciated that in the absence of required allocations, there is inevitable compulsion of compromising with many of the essential features and requirements which have significantly adverse road safety implications. Similarly resources provided for State roads shall have to be commensurate to the estimated requirements. . Capacity Building in Safety Administrations Due emphasis is required to be given to fast track capacity building of all stakeholders and organizations associated with Road Safety aspects. Further, these aspects shall also have to essentially reviewed on a continuous basis for needful adaptation with changing environment and evolving State-of-Art practices. Research & Development (i) Specific R&D schemes need to be taken up for possible adaptation of State-of-Art innovative technologies and materials in the highway development and maintenance in Indian context. Field / Pilot testing of such technologies / materials may be taken up under ongoing projects under NHDP, SARDP-NE, and other projects to test their efficacy and for enabling their adaptation. (ii) Possible use of waste materials / by-products, etc., in highway development and maintenance by necessary treatments for their qualitative improvements (if required) should be explored and R&D should focus on adaptation of such technologies corroborated by field testing in a time bound manner. Further, recycling of pavement materials should be also considered. These suggested measures are considered to be very important considering the depletion of natural resources such as aggregates, etc., besides their adverse effects on environmental degradation. (iii) The R&D schemes, having immediate practical relevance in the context of the initiative of the Government to develop highways in the country, needs to be taken up on priority. (iv) There are Committees in IRC for giving accreditation to new materials / technologies, etc. However, in numerous occasions, the general experience is that there are reluctance on part of executive agencies to allow field testing of these new technologies / materials, etc., as a means of their performance evaluation for enabling taking up of further necessary action for their possible wider use in the sector. It is important that the Government encourages field testing of such new technologies / materials, etc., accredited by the IRC Committees, by the executive agencies.

Conclusion

In the end I would say that our Prime Minister, Narendra Modi gives a hope to significant & sustainable growth in manufacturing sector & making India a manufacturing hub which will become double if the infrastructure of economy will develop and attain the required levels.

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Role of Self Help Groups and Women Empowerment in India

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Abstract

"Women equality with men" is the worldwide slogan. Women empowerment means to create an environment for women where women can make their own decisions for their own benefits as well as for society. In this paper, an effort is made to identify the different determinants of SHGs which empower the women and how these groups guide to create confidence and self-reliant. These groups not only provide strength to the rural people, rather save them from exploitation also. It also provide status to the women in the family and the society and empower the women to take independent decisions. The paper is divided into the following parts: Concept of women empowerment and its empirical background; SHGs and its empirical background; Income generating determinants; case studies.

Key words: Empowerment, Self Help Groups (SHGs), Women, status.

Introduction

"Women equality with men" is the worldwide slogan. Women empowerment means to create an environment for women where women can make their own decisions for their own benefits as well as for society. The main agenda behind women empowerment is to improve social, economic political and legal strength of the women and to make them confident enough to claim their rights. In short, women have the rights to get their voices heard. Women empowerment is important and essential so that they can be equally competent in the society. Secondary the overall development of the society can be encouraged. It helps in reducing domestic violence, corruption, poverty. By reducing this nation gets developed in all its aspects. Keeping all this in mind SHGs act as fuel for the women empowerment SHGs are non professional organization which is formed by people with a common problem or solution. SHGs are therefore, also known as mutual help groups, mutual aid groups and support groups. In traditional society family and friends got together and provided social and economical support to each other. Whereas, in today's modern society such family and communities are not found. Therefore need for such SHGs is realized. SHG in today's world have emerged as an important strategy for empowering women and removing the rural poverty SHGs give new avenue of empowering women and removing the rural poverty. SHGs given new avenue employment to women, especially from the rural area. They have encouraged the housewives to be together for a constructive activity which infact utilise their time as well.

Objective:- The main objective of the paper is to identify the implication of SHGs, which play a vital role for women empowerment in India.

Methodology:- It is a small effort which do not carry any statistical analysis or tabular analysis. It has empirical evidences about the concept of SHG and women empowerment i.e. when and how they came. It has 2 to 3 case studies to point out the effective role of SHGs.

Features of SHGs

- SHG is basically an economically homogeneous group which is basically formed on the basis of self selection.
- Most SHG are women's group with membership ranging between 10 and 20.
- These SHGS are self-managed groups or institutions. They are characterized by participatory and collective decision making.
- SHG almost meet regularly and maintain their records of savings and credits. They have well-defined rules and laws for their working.
- Generally, a SHG engage in a single income generating activity for which it takes loan. Sometimes, a SHG may also engage in multiple activities and take group loans.
- For formation and development of the SHGs, financial assistance is provided to NGOs/CBDs, etc. The criteria followed is as below: 20% at the beginning i.e. at the time of group formation; 30% when a group qualifies for Revolving fund; 40% when group finally takes up economic activity; 10% after the start of economic activity.
- From one family only one member is allowed in the particular SHG is allowed in a particular SHG as by this more families can join SHGs.
- Mixed groups are usually not preferred. The group consist of either only men or only women where, women groups are generally found to perform better.
- Members have same social and financial background, this makes the members to understand each. Other in a better way. Members freely interact with each other if they have same background. Compulsory and full attendance is generally required. The group need not be registered one. Under book keeping of SHG there is. Minutes Book : In this book the proceedings of meeting, the rules of the group, names of the members etc are recorded in this book. Savings and Loan Register: This book shows the separate savings of each member of the group. This register also shows the savings of the group as a whole. Similarly, the loans of each member of the group are recorded separately. Even the group loans are considered a whole. Similarly repayments, interest collected, balance etc. are entered here. Weekly Register- All the receipts and payments received and given are recorded on weekly basis. This register is updated at every meeting. Members Pass Books : Individual members passbooks encourage regularly saving.

Need for SHGs

- To mobilise the individual resources of a member for collective economic development.
- For uplifting the living conditions of the poor.

- To encourage the habit of savings and fuller utilization of the local resources in form of fuller utilization of individual skills for interest of the group,
- SHG acts as a mediator for the socio-economic development of the village.
- To develop direct and indirect linkages with NGOs etc.
- To help in the recovery of the loan.
- To encourage team work.
- To develop the qualities of leadership.
- To develop trust, mutual understating
- To develop confidence among different individuals of the group.

Women Empowerment and It's Emperical Background

Empowerment as a concept was introduced at the international women's conference at Nairobi (Kenya) in 1985. As per the United Nations (UN) women empowerment has 5 components.

Women's Sense of Self-work.

Right to have and determine choice.

Right to have access to opportunities and resources.

Right to have the power to control their own lives, both within and outside the home.

Ability to influence the direction of social change to create more social and economic order, nationality or internationally.

Women empowerment was present from the Vedic period (1500-1000 BC). Scholars believed that in ancient Indian women enjoyed equal status with man in all fields. They had freedom to choose partners for marriage, etc. However from the Age of Manusmriti (500-200 BC) women were not given much freedom. Not marrying a girl before the age of 14 years was a sin. Even in medieval age women status was low as their was Sati System, Child marriage, ban on widow remarriage. In 19th Century, again women status was tried to improve as Raja Ram Mohan Roy abolished the Sati practice in 1829. Ishwar Chandra Vidyasagar abolished the widow Remarriage act in 1856.

The year 1975-85 was declared as "decade for women" It emphasized that women should get the same opportunities as that to men. The year 2001 was declared as a "Year of women empowerment". The SHG movement, at this time, got full pace to encourage women empowerment in India. SHG model was started with a boost in the Ninth plan (1997-2002) in India. The Ninth Plan encouraged and state and centre to adopt the "Women's Component Plan." This women's component plan through was articulated or suggested in 9th plan but it's basically central to the 10th Plan (2002-07) In this plan, minimum of 30% of funds or benefits had to be used for all women related sectors.

Even this plan continued in Eleventh plan (2007-12). The government during these plans were highly committed to encourage SHGs. As these SHG could act as an agents of social change development and empowerment of women. It's proved as the largest and fastest growing micro finance programme in the developing world.

SHGs and their empirical back ground

SHG is informal and homogeneous group of not more than 20 members. SHG is a voluntary association of poor. The members volunteered to organize themselves into a group for eradication of poverty of the members. They agree to save regularly and convert their savings into a common fund, known as group corpus. The members of the group agree to use their common fund for their financial necessities. This scheme of SHG was started by :- Dr Mohammad Yugnis in 1943 in Grammen Bank of Bangladesh. In India the first SHG for women started in Amravati district, back in 1976. Every month during the introduction stage of this scheme the women's use to contribute 25 paise. In 1991-92, NABARD started promoting SHGs through it's pilot programme by linking 500 SHGs with banks. Now nearly 560 banks, various government insituties and more than 3024 NGOs are actively involved in the promotion of SHG movement. SHG have increased from 500 groups in 1992 to 77.12 lakh groups in 2015. Around 90% of these groups are only women groups. NABARD declared that more than 400 women join the SHG movement every hour.

Income Generating Determinants or Activities of SHGs.

- Agriculture
- Animal Husbandry
- Hosiery
- Cane Items
- Carpets
- Khadi, rather items
- Spinning and wearing
- Basket wearing
- Woolen Blanket wearing
- Sale of fruits
- Vegetable Vending
- Chicken shops
- Mid day meals
- Embroidery
- School uniform stitching units
- Brick making
- Saree business

- Candle making
- Pickle making

Case studies

- Kolanchiammal:- Before kolanchiammal got involved with a SHG, her family suffered a lot from money lenders and it was very difficult for her to maintain her family. She came to know about the importance of SHG and made herself a member in the Vanavil Self Help Group, Which is being looked after by Read (Rural Education and Action Development). After getting a loan from READ, she bought 4 goats and takes care of them well. Now she is having a habit of saving the amount for future use. Thus the total family benefited from this. One of the goats have 2 off spring's.
- Ranjit Kaur of Ghumait village near Ludhiana was thrilled about her success and the recently conducted Kisan Mela at PAv. The hot and sweet chilli pickle made by her and other members of Dhan-Dhan Baba Nand Singh Self-help group were hit at the Mela. They made 150 Kg of pickle and were able to sell all of it.
- Members of Chardikala self-help groups in Jhande village near Ludhiana made around 100kg of mixed fruit jam and were able to sell 80kg of it. So these were some of the success stories of SHGs.
- On 26 Oct, 2009 Punjab Agriculture University established a self help Group for women in state. They formed this SHG to make women self regrant. For instance Amit Jethi, a women in Ludhiana, used to make soft toys and paintings as a hobby. Since she became a member of SHG, she used to make these soft toys and paintings for commercial purpose. In short it became her profession now every month she earns Rs.10,000 to Rs.13000. Becoming an earning hand for her family has made her self reliant and confidence.
- Women in Madhya Pradesh's Sakdi village has started a self help group in which they started depositing a small part of their income in a common pool so that when some is in high need of money, then this money could be used. They saw that number of people from their village and near by, were going hungry. So for this noble cause women of Sakdi village pooled in money and helped in contributing a fistful of food grains. What they did was they collected 50 kg of grains and then they organized an event where they could donate snacks of food grains to widows, landless families, elderly people and those who had no source of income. The main aim was no one should sleep hungry in the village.

Conclusion

The concept of SHGs moulds women into a responsible citizen of the country with social and economic status. It leads women to develop the habit of raising loan's form savings. These women groups when come together actively take part in social welfare programmes focusing on dowry, AID awareness, nutrition, legal literacy, multiple roles of women and poverty alleviation programme. The women groups have taken the initiative to educate their own members with great enthusiasm. Self Help groups are necessary to overcome

exploitation, create confidence for economic self-reliance of rural people, particularly among women who are mostly invisible in the social structure. These groups enable them to come together for common objective and gain strength from each other to deal exploitation, which they are facing in several forms. Therefore, a groups become the basis for action and change.

SUGGESTIONS

- Different banks should adopt SHG banking as a core or main banking activity. This banking should not inter fared by using target fixing or fixing of loan size and interest cap.
- Government should form different federations such as:-Sub district/block level federation. District level federations. These federations will encourage the activities of the SHGs in India.
- The different federations should have their organizing committee's so that the misuse of the money by the groups could be avoided.
- Regular training and guidance should be provided by the NGOs or state government to promote effective functioning of the SHGs. These trainings. Should strictly focus on "Financial literacy and Credit counseling."
- Different banks should be given license for encouraging the SHG banking and thereby encouraging the competition among them.
- Skills should be imported to NGOs so that they can organize motivational camps and training programmes. These programmes should be designed in such away that these can further help in motivating the villagers. Villagers should have faith in SHGs and this faith can only be created if there is greater transparency in the system and all the mat practices at any level are avoided.
- NGOs should help the SHGs in backward as well as forward linkages, as this can provide SHGs with a market support in particular.
- Motivational training programmes should be organized for banks as well. So that they can have a sense of cooperation and positive orientation towards self help group (SHGs)
- Continuously the office because or office heads should be rotated. Women are supplementary earners as well as productive member of the economy society.
- At present the gestation period of an SHGs to avail the loan for economic activity or to get it's grading points, takes almost 1 year. Sometimes SHGs do not get loan from the banks even after more than one year of it's formation. Therefore, to improve this all the authorities of grading, etc should be given to an independent agency for avoiding these kinds of partial hurdles faced by different SHGs.
- SHGs should be encouraged to undertake productive activities instead of traditional unproductive activities.

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Performance of Foreign Direct Investment (FDI) In India: An Investigation

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Abstract

Foreign Direct Investment (FDI) plays very important role in the overall development of any country including India. Its importance lies in the fact that it is non-debt creating foreign capital resources. It may engender benefits by bringing latest technology, skill development, new employment and spillovers. On the other hand Outward Direct investment (ODI) offers an additional path for developing country like India to link up to global markets and production systems. Healthy flow of direct investments, either inward or outward, reflects increasing integration of an economy with the rest of the world. The relationship between FDI and economic growth has long been a subject of great curiosity in the field of international development. Meagerness of foreign direct investment retained many countries as poor country. Keeping in above backdrop, present study is a humble attempt to analyze the FDI inflows in Indian economy in the form of growth rate, sectors attracting the highest FDI, its performance and to draw policy implications flowing from the study.

Key-Words: FDI Inflows, Performance, Sectors, India.

I. INTRODUCTION

Foreign Direct Investment (FDI) plays multidimensional role in the developing world as it has considered a growth enhancing factor in developing countries like India. The relationship between Foreign Direct Investment (FDI) and economic growth has long been an issue of great concern. There are two type of flow of FDI i.e. inflows and Outflows. FDI Inflows helps transfer and improves technology; enhance skills and managerial capabilities. It also provides competitive edge to country's exports improves efficiency as well as quality of services & goods and helps to create employment opportunities. It is mostly preferred source of external finance for the reason that they are not debt creating as well as non-volatile in nature and their returns relay on the projects financed by the investor. Healthy flow of direct investments, either inflows or outflows, reflects increasing integrity of an economy with the rest of the world. A significant objective to promote FDI in any developing country in general and India in particular has been to increase efficiency in production and increase exports. Keeping in above backdrop, we will analyze the FDI inflows in Indian economy. Section II is dedicated on the review of literature on the present issue. Section III describes the objectives of the study & methodology. Section IV analyzes

the FDI in flows in India, Performance of FDI inflows will be examined in section V. And lastly, Section VI concludes the study with policy implications.

II. LITERATURE REVIEW

There is no dearth of literature on the present issue. Review of various studies available on FDI reveals that foreign investment is still a matter of debate that whether FDI is boon or bane for host countries economic growth and development? Opinions are still divided. FDI has its own merits and demerits. To justify the need of present study, following literature has been reviewed:

Bhrambhatt et. al. (1996) in his study have identified four major weaknesses (inadequate macroeconomic policies, high levels of protection, inefficient transportation and communications infrastructure and poorly equipped and inflexible labour) depress Indian firms and FDI investors from focusing on export market. They contend that FDI can help to increase the private investment without incurring additional debt and can help relax key infrastructure constraints. Bajpai and Sachs (2000) identified the issues and problems associated with India's present FDI regimes, and more importantly the other associated factors responsible for India's unattractiveness as an investment location. They examine that India's performance in attracting FDI flows have been far from satisfactory. They concluded that a controlled FDI regime, high import tariffs, exit barriers for firms, stringent labor laws, centralized decision making processes, poor quality infrastructure and limited scale of export processing zones make India an unattractive investment location. Kumar (2001) stated that Foreign Direct Investment (FDI) has emerged as the most important source of external finance for developing countries. Chakraborty and Basu (2002) in their study applied co-integration and an error-correction model to examine the link between FDI and economic growth in India and find that GDP in India is not Granger caused by FDI, and the causality runs more from GDP to FDI. V.N Balasubramanyam and Vidya Mahambre (2003) in their study of FDI in India conclude that FDI is a very good means for the transfer of technology as well as knowhow to the developing countries. They agree with the advocacy of the policies designed to eliminate various sorts of distortion in the product and factor markets. These are policies which should be adopted for both the domestic and foreign investment. Lee (2005) argued that foreign direct investment along with trade liberalization is the key for economic development. Herzer et al. (2007) has argued that with 28 developing countries data there is no long-term & short-term effect of FDI on growth; in fact, there is not a single country having positive unidirectional long-term effect from FDI to GDP. Chakraborty and Nunnenkamp (2008) analyzed sectoral growth impact of FDI on Indian economy. They found that FDI in the service sector appears to have promoted growth through cross-sector spillovers in the manufacturing sector and ultimately results to economic growth. Gohou and Soumare (2010) assess the impact of Foreign Direct Investment (FDI) on welfare across African regions. They use human development index (HDI) and real per capita GDP. As FDI measure, they use per capita FDI net inflows, FDI net inflows over GDP and FDI net inflows over gross capital formation (GCF). They found that there is a strong positive relationship between FDI and welfare at the aggregate Africa level. However, when taken at the regional level, the impact of FDI on welfare is no longer obvious and differs across regions. Goel M. M. & Walia Ritu K. (2013) in his study analyzed the growth and performance of FDI in Indian economy through country wise, sectoral and

total FDI inflows of FDI. Study also examined the relationship between FDI and economic growth and concluded that FDI promotes economic growth significantly.

It is also evident from the above literature that FDI proves to be an engine of economic growth in any country in general and India in particular. In light of above literature, the present paper is a humble attempt to analyze flow of FDI in Indian economy and suggest policy measures to boost flow of FDI to India and from India.

III. OBJECTIVES & RESEARCH METHODOLOGY

The present paper is a humble attempt to analyze the performance of FDI in Indian economy. The specific objectives of the study can be enumerated as follows:

- To analyze the growth trend of FDI inflows in India.
- To explore the country wise FDI inflows in India
- To study the sectoral distribution of FDI inflows in India
- To find out the of FDI Inflows Performance Index of India.

The present study is of analytical in nature and exclusively based on secondary data which has been collected from the various issues of Handbook of Statistics on the Indian Economy and Reserve Bank of India Bulletin published by Reserve Bank of India (RBI). The study considers the time period from the year 1991 onwards. To examine the Foreign Direct Investment in India, the available data have been processed and presented in suitable tables and graphs and percentage growth rate of FDI is computed.

To judge the performance of FDI, the FDI performance index is calculated. This index is developed by the UNCTAD to measure a country's relative position in the world in terms of FDI performance. Formally, it is the ratio of a country's share in global FDI flows to its share in global GDP and can be calculated as follows:

$$\text{FDI Performance Index}_i = \frac{\text{FDI}_i / \text{FDI}_{\text{world}}}{\text{GDP}_i / \text{GDP}_{\text{world}}}$$

If a country's share of global inward FDI matches its relative share in global GDP, the country's Inward FDI Performance Index is equal to one. A value greater than one indicates a larger share of FDI relative to GDP indicating that one attract more FDI than could be expected on the basis of their relative GDP size, a value less than one indicates a smaller share of FDI relative to GDP. A negative value means foreign investors disinvested in that period. To calculate performance index data from UNCTAD has been used.

IV. FOREIGN DIRECT INVESTMENT INFLOWS IN INDIA

India followed a fairly preventive foreign private investment policy until 1991 - relying more on bilateral and multilateral loans with long maturities. With the introduction of economic reforms (1991) in the form of liberalization, globalization and privatization, there has been a paradigm shift in FDI inflows in India. Thus, there is a global race to attract foreign funds through this route. Over the years FDI inflows in India has been increasing. As shown in table no 1 cumulative inflows of FDI in India from April 2000 to March 2017 is US \$ 484,351million and inflows of FDI equity is US \$ 331,991 Millions.

TABLE 1: TOTAL FDI INFLOWS (FROM APRIL, 2000 TO MARCH, 2017)

Cumulative Amount of FDI Inflows (Equity inflows + Re-invested earnings + other Capital)	US \$ 484,351 Million
Cumulative Amount of FDI Equity Inflows (Excluding, amount remitted through RBI's-+NRI Schemes))	US \$ 331,991 Million

Source: Government of India (GOI), FDI Statistics, Department of Industrial Policy and Promotion

Investment opportunities in India are high at present time. The factors that attracted investment in India are stable economic policies, availability of cheap and quality human resources, and opportunities of new unexplored markets. As a result of which investors are showing their growing confidence in the immediate and medium term prospects of the Indian economy.

In this regard the FDI inflow in India from the year 1991-92 has been shown in the table 2. It was \$ 165 Million in 1991-92 and increased to US \$ 60082 million in March 2017. Percentage growth over previous year is also shown in table 2. It is highest in year 2006-07.

TABLE 2: FDI INFLOWS IN INDIA FINANCIAL YEAR WISE

Year	FDI Inflows (US \$ Million)	Percentage Growth over Previous Year
1991-92	165	-
1992-93	393	138.18
1993-94	654	66.41
1994-95	1374	110.09
1995-96	2141	55.82
1996-97	2770	29.38
1997-98	3682	32.92
1998-99	3082	-16.30
1999-00	2439	-20.86
2000-01	4029	65.19
2001-02	6130	52.15
2002-03	5035	-17.86
2003-04	4322	-14.16
2004-05	6051	40.00
2005-06	8961	48.09
2006-07	22826	154.72
2007-08	34843	52.65
2008-09	41873	20.18
2009-10	37745	-9.86

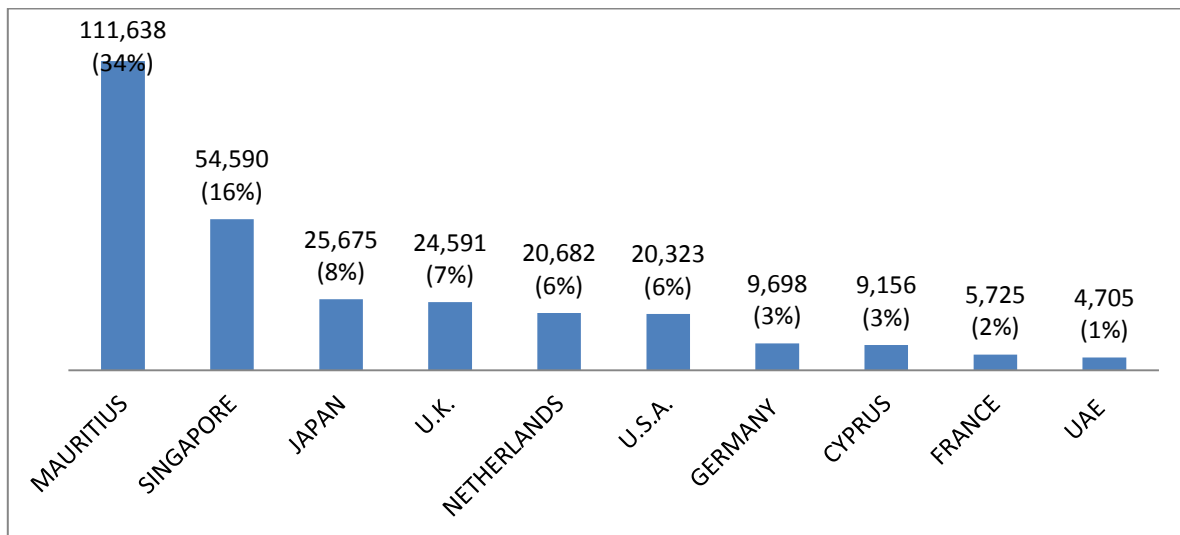
2010-11	34847	-7.68
2011-12	46556	33.60
2012-13	34298	-26.33
2013-14	36049	25.24
2014-15 (P)	45148	23.99
2015-16 (P)	55559	22.83
2016-17 (P)	60082	8.0

Source: Economic Survey, GOI, & SIA Newsletter (various FDI fact sheets).

Percentage growth rate of FDI inflows has slowed down in 2016-17 which may be due to slowing economic growth and falling commodities prices weighed on FDI flows to developing economies (UNCTAD, Feb 2017). There are fluctuations in FDI inflows, which may be due to the effect of global economic slowdown. As our economy has adopted some safeguard policies so after some time there is positive growth in FDI inflows. Various studies have projected India among top five favored destinations for FDI. Figure 1 presents the share of major investing countries in India. It is found that Mauritius emerged as one of the largest foreign investors in India. Upto March 2017, 86 per cent of FDI inflows in India is contributed by these ten countries while remaining 14 percent by rest of the world. Country wise FDI inflows to India are dominated by Mauritius (34%), followed by Singapore (16%), Japan (8%), U.K. (7%), Netherlands and U.S.A. (6%), Germany and Cyprus (3%), France (2%), UAE (1%).

FIGURE 1: COUNTRYWISE FDI EQUITY INFLOWS IN INDIA

(Cumulative Inflow from April 2000 to March 2017 in US \$ Million)



Note:*(%) are percentages of FDI to total FDI inflow in India

Source :Government of India (GOI), FDI Statistics, Department of Industrial Policy and Promotion

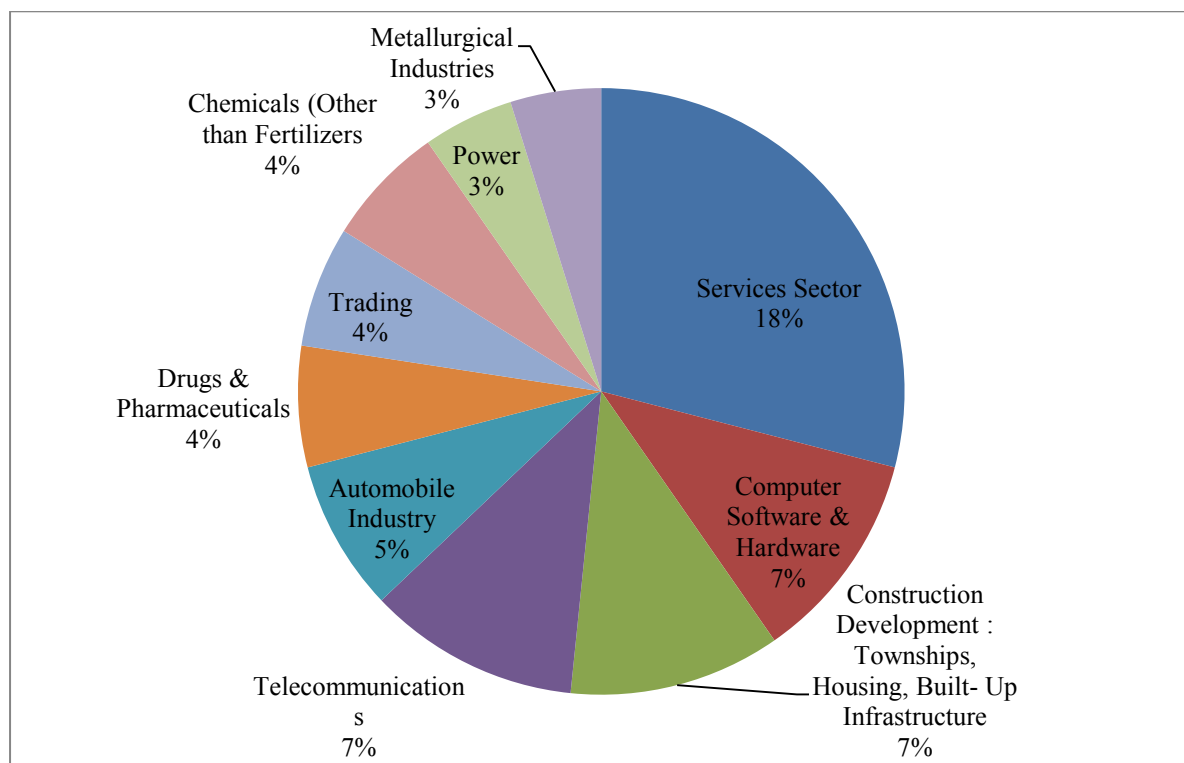
It needs to be pointed out that the FDI inflows from Mauritius to India are misleading. This is so because Mauritius has low rates of taxation and agreements between India on double tax avoidance regime. In order to get benefits out of the low tax agreement between Mauritius and India. Large number of foreign firms and even some Indian firms started dummy companies in Mauritius, and then invested in India via Mauritius.

Sectoral distribution of FDI equity inflows is shown in figure 2. Based upon the data there are sixty three sectors in which FDI inflows are seen but top ten industries attract almost 62 per cent of FDI equity inflows. However, from April 2000 to March 2017, service sector has been the highest contributor of FDI inflows to India (18%), followed by Computer software & hardware (7%), construction development (7%) , Telecommunication (7%), Automobile Industry (5%), Drugs & Pharmaceuticals (4%), Trading (4%), Chemicals (other than fertilizers (4%), Power (3%), , Metallurgical industries (3%).

The main reason in highest investment in service sector is due to low cost wages and wide demand-supply gap in financial services particularly in banking, insurance and telecommunication. Gradually India has become important Centre for back-office processing, call centers, technical support, medical transcriptions, knowledge process outsourcing (KPOs), financial analysis and business processing hub for financial services and insurance claims.

FIGURE 2: SECTORS ATTRACTING HIGHEST FDI EQUITY INFLOWS

(Percentage to Total FDI Equity Inflows, April 2000 to March 2017)



Source: Government of India (GOI), FDI Statistics, Department of Industrial Policy and Promotion

V. PERFORMANCE OF FDI IN INDIA

The Government of India has taken an inclusive review of the FDI policy and allied procedure recently. Many measures have been initiated to improve the performance of FDI. The FDI inflows performance index is shown in table 2. It is clear from the table that FDI performance index is very low in 1991. over the period of time, as government adopts favorable policies towards FDI it improves. It is clear from the following table that FDI inflows continue increase up to 1997 and down during 1998 to 2000 and improves again 2000 onwards.

It is lowest in 2009; the reason may be global economic slowdown/crisis and later starts improving again. It was greater than 1 in 2010 and 2014, showing attractive destination for foreign investors. Large market size and potential, low wage cost and availability of skilled labour force in India are the main key for attracting foreign investors.

TABLE 2: FDI INFLOWS PERFORMANCE INDEX SINCE 1991

Year	Performance Index
1991	0.04
1992	0.13
1993	0.22
1994	0.33
1995	0.53
1996	0.53
1997	0.56
1998	0.28
1999	0.14
2000	0.19
2001	0.55
2002	0.65
2003	0.51
2004	0.52
2005	0.46
2006	0.79
2007	0.65
2008	0.61
2009	0.06
2010	1.34
2011	0.87
2012	0.67
2013	0.75
2014	1.06

Source: Authors Calculation based on UNCTAD data.

VI. CONCLUSION WITH POLICY IMPLICATIONS

In brief, the present paper makes an analysis of growth and performance of FDI in Indian economy through examining country-wise, sectoral and total inflows of FDI. The study confirms that Mauritius, Singapore, Japan, U.K., Netherlands are top five nation contributing highest share in FDI equity inflows in India. In terms of sectoral share, the

services sector is enjoying first place in attracting FDI inflows. Therefore, FDI is necessary for creation of jobs, expansion of existing manufacturing industries and development of the new one. Indeed, it is also essential in the healthcare, education, infrastructure development, R&D, retailing and in long-term financial projects. We should welcome the inflow of foreign investment because it enable us to achieve our cherished goal like making favorable the balance of payment, rapid economic development, removal of poverty, and internal personal disparity in the development and also it is very much convenient and favorable for Indian economy. It is clear from the study that FDI inflow performance index for Indian economy has improved over the time period. But India is lacking behind china. Government must pay attention to attract FDI to improve the health of different sectors of Indian economy. It is also said that the government must promote sustainable development through FDI by further strengthening of quality education, healthcare facilities and R&D system, political involvement of people and by ensuring personal security of the citizens in the country.

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Provisions under National Laws for the Protection of Children

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Abstract

Internationally as well as nationally, the child has been subjected to special laws and legal protection by reason of his tender age, weak physique and immature mind and understanding. In India various Constitutional and legislative measures were undertaken. All such legislations are premised on the notion to provide for the rehabilitation and protection of the socially and economically abused and neglected children. Rights of the child were for the first time recognized in the Constitution of India and the manifestation of the same connote incorporation of several articles which provide for their literacy, livelihood, non discrimination in educational spheres, development of childhood, prohibition of employment in factories, mines and hazardous employment, compulsory and free education, etc. Article 15 (3) is premised on the notion that children require special treatment on account of their physical and mental immaturity. Article 21 provides for the protection of life and personal liberty of the people including children. The right to life has been interpreted not merely to physical existence but it includes within its ambit the right to live with human dignity. The present paper discusses the issues regarding the rights of the children.

Key Words: Constitution, Legislative measures, Children, child abuse, Rights of the child.

Introduction

Traditionally, in India the responsibility for care and protection of children lies with the family. In the patriarchal society, children were the recipient of welfare measures. While exercising full control over the children, it was never realized that children are also individuals with their own rights. In most of the sections of Indian society, traditionally as well as conventionally children were often ignored while arriving at decisions affecting their lives. In almost every aspect of life, views of children were not given priority. It was only during the later evolution of civilization that the concept of children's rights came up, which marked the shift from welfare to the rights based approach. In this right based approach, children were also viewed as citizens. India may take pride in being a country with one of the youngest populations in the world but as a nation there seems to be turning of eyes towards the marginalized children of our society. Keeping in mind the alarming number of children in need of care and protection and the growing need to augment the issue of child rights protection, need to create an enabling environment through appropriate legislation

was felt. Legal intervention to exhaustively deal with child rights was pressed upon. Thus, internationally as well as nationally, the child has been subjected to special laws and legal protection by reason of his tender age, weak physique and immature mind and understanding. In India various Constitutional and legislative measures were undertaken. All such legislations are premised on the notion to provide for the rehabilitation and protection of the socially and economically abused and neglected children. The following outlines the various provisions under the Constitution and other national laws for the protection of children.

The Constitutional Provisions for the Protection of Children

(a) Fundamental Rights of Children under the Constitution

Children are the valuable asset of any nation. The future of the nation depends upon its children. Fundamental rights re the negative obligations of the State in the sense they prohibit State from interfering with the enjoyment of these rights. Fundamental rights are those inalienable rights which are essential and fundamental for the survival, growth and well being of the people which includes children. Fundamental rights when implied in the context of children connote the idea of ensuring rights aiding the overall development and growth of children. Rights of the child were for the first time recognized in the Constitution of India and the manifestation of the same connote incorporation of several articles which provide for their literacy, livelihood, non discrimination in educational spheres, development of childhood, prohibition of employment in factories, mines and hazardous employment, compulsory and free education, etc. The following fundamental rights are guaranteed under the Constitution for children either expressly or impliedly:

(i) Right to Equality

Articles 14 and 15 lay down the right to equality under the Constitution of India. Article 14 declares that State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The word 'person' thus, appearing in Article 14 includes children also. The Constitution mandates equality of treatment to all persons including children but with a rider. Equality among unequal would ensure inequality. The varying needs of different classes of persons often require separate treatment. The equal protection of laws guaranteed by Article 14 does not mean that all laws must be general in character. It does not mean that the same laws should apply to all persons. It does not mean that every law must have universal application for all persons are not by nature, attainment or circumstances in the same position. From the very nature of society there should be different laws in different places and the legislature controls the policy and enacts laws in the best interest of the safety and security of the State.¹ In *Suneel Jatley v. State of Haryana*² the reservation of 25 seats for admission to M.B.B.S and B.D.S course for students who were educated from classes I to VIII in common rural schools was held to be violative of Article 14 and invalid as the classification between rural educated and urban educated students for the purpose of admission was wholly arbitrary and irrational having no nexus to the object sought to be achieved of providing extra facilities to students coming from rural schools to enter medical college. Further, contextualizing the concept of

1 *Chiranjit Lal v. Union of India*, AIR 1951 SC 41

2 (1984) 4 SCC 296,

equality Article 15(1) provides that state shall not discriminate against any citizen on the ground only of religion, race, caste, sex, place of birth or residence or any of them. Article 15 (3) is in the nature of an exception to the rule of equality laid down in Article 14 and 15 (1). It empowers the State to make special provisions for women and children.

Article 15 (3) is premised on the notion that children require special treatment on account of their physical and mental immaturity. Separate positive provision serves the purpose of avoiding any controversy and demonstrates the concern, however inadequate of the framers of the Constitution that the State shall strive to promote the welfare of the people including children. Our solicitude for children and repulsion for the exploitation of children of tender age, impelled our founding father to make a specific mention of them, the state can make law for the welfare of children, giving them preferential treatment over other persons in the society.³

(ii) Right to Life

Article 21 provides for the protection of life and personal liberty of the people including children. The right to life has been interpreted not merely to physical existence but it includes within its ambit the right to live with human dignity. (**Francis Coraile case**) The Honorable Supreme Court in *R. D. Upadhaya v. State of Andhra Pradesh*⁴ showing grave concern regarding the plight of children living in jails with prisoner mothers issued detailed directions for protecting the rights of children including their food, shelter, medical care, clothing, education and recreation facilities. The court held that before sending to jail a woman who is pregnant, the authorities concern must ensure that jail in question has basic minimum child delivery facility as well as for providing pre-natal and post-natal care for both, the mother and child. Highlighting the grave concern for children while going to schools, the Gauhati High Court in *Swapan Kumar Saha v. South Point Montessary High School and others*⁵ has held that the school management is under obligation to provide safe journey to children to school. The Court held that the overloading of school bus is violative of the right of school children to travel to school buses safely under Article 21 of the Constitution.

The right to life becomes all the more important tracking the rampant increase in female foeticide. Thousands of female foetus are murdered in their mother's womb, thus denying them the much acclaimed right to life under the Constitution of India. In *CEHAT & Others v. Union of India and others*⁶, various guidelines were issued by the Supreme Court for the proper implementation of P.N.D.T Act, thus upholding the right to life of female foetus. Article 21 of the Constitution may be interpreted to mean that the word 'person' applies to all human beings including the unborn off springs at every stage of gestation. The State cannot discriminate against persons who are fetuses by offering them less or no protection than other persons. Thus, the State is under an obligation under Article 21 of the Constitution not only to protect the life of unborn child from arbitrary and unjust

3 Paras Diwan, "Indian Constitution: A Document of People's Faith",

Allahabad Law Agency at pg 150

4 AIR 2006 SC 1946

5 AIR 2008 (NOC) 236 Gau.

6 2001 5 SCC 577

destruction but also not to deny it equal protection under Article 14 of the Constitution of India.⁷

The Right to Education

Prior to 2002, the right to education was one of the unenumerated fundamental right emanating from the right to life under Article 21 of the Constitution of India. The 86th Constitutional Amendment Act 2002, introduced Article 21 A which provide that State shall provide free and compulsory education to all children of the age of six to fourteen years. Thus, right to education, now is one of the enumerated fundamental rights under the constitution of India. Prior to 2002, with the aid of judicial intervention the "Right to Education" was implied as a fundamental right from Article 21. The word "life" was held to include 'education' because education promotes good and dignified life.⁸ In *Mohini Jain v. State of Karnatka*⁹ the Supreme Court has held that the right to education is a fundamental right under Article 21 of the Constitution which cannot be denied to a citizen by charging higher fee known as the capitation fee. The right to education flows directly from right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The education brings excellence; it enriches the mind and illuminates the spirit. It prepares a child for a good citizenship. It liberates from ignorance, superstition, prejudices and ultimately unfolds the vision and truth. In *Unni Krishnan v. State of Andhra Pradesh*¹⁰ the Court has reiterated the proposition that having regard to the fundamental significance of education to the life of an individual and nation, the right to education is implicit in, and flows from the right to life guaranteed by Article 21. Further that right is not absolute and the parameters of the same have to be determined in the light of the Directive Principles contained in Articles 41, 45 and 46 of the Constitution of India. With the 86th Amendment Act 2000, Article 21A was introduced which provided right to education as fundamental right of children in express terms. In *Avinash Mehrotra v. Union of India and Others*¹¹ it was held that educating a child requires more than a teacher and a blackboard, or a classroom and a book. The right to education requires that a child should study in a quality school and a quality school certainly should pose no threat to a child's safety. The Honorable Supreme Court while considering the policy of requisitioning school teachers to conduct elections during normal school hours, in *Election Commission of India v. St. Mary's School*¹² observed that certain laws and policies of the Government actively impede the achievement of the constitutional goal of universal primary education laid down under Article 21 A. The Honorable court while recognizing the paramount importance of free and fair elections held that nevertheless the fundamental right to primary education could not be subordinated to this constitutional priority. Taking note of the deplorable condition of primary education in India, it was laid down that teaching staff should ordinarily be deployed for election duties only on holidays and non-teaching days.

7 G.V.Ramaiah, "Right to conceive vis-à-vis Right to birth", AIR (Journal), 1996 at pg. 136
8 MP Jain pg. 1129
9 AIR 1992 SC 1858
10 AIR 1993 SC 2178
11 MANU/SC/0555/2009
12 AIR 2008 SC

(iii) Right against Exploitation

Article 23 of the Constitution prohibits traffic in human beings, beggar and other similar forms of forced labour and exploitation. Although this Article does not specifically speak of children, yet it is applied to them and is more relevant in their context because children are the most vulnerable section of the society. There is no denial in the fact that many a times, particularly in cases of poor strata of the society, children are exploited even by the parents who allow exploitation of their children because of their poverty. Such children are deprived of education, made to do all sorts of work which may be injurious to their health and personality.¹³ It has been come across through news items or otherwise that in rural areas, children are pledged by destitute parents to the landlords as full time servant or part time worker to look after both domestic and agricultural operation. In Urban setup, the exploitation of children is manifested in number of ways in the form of helpers to artisans and skilled workers and also as domestic servant.¹⁴ In a reference to children the word "begar" offers wider connotation. Not only total absence of payment amounts to 'begar', inadequate payment for the work rendered by the child also amounts to 'begar' or forced labour. Capturing and maiming of children by gangs so as to accommodate such children in begging business, constitutes the most heinous and atrocious violation of the rights of children. Further in violation of Article 23, children of tender age are enticed for the flesh trade. Article 24 prohibits the employment of children below the age of 14 years in factories, mines or hazardous employment. This provision is definitely in the interest of public health and safety of life of children. Article 24 is plainly and indubitably enforceable against everyone and by reason of its compulsive mandate no one can employ a child below the age of 14 years in hazardous employment. In *People's Union for Democratic Rights v. Union of India*¹⁵ and *Labours Working on Salal Hydro Project v. State of Jammu and Kashmir*¹⁶ it was held that the construction work is a hazardous employment and children below 14 cannot be employed in this work. In *M.C. Mehta v. State of Tamil Nadu*¹⁷ the Court has considered the constitutional perspectives of the abolition of child labour in Sivakasi Match Industries and has issued detailed directions to eradicate the practice of employing children below the age of 14 years in this hazardous industry. The Courts has insisted that the employers must comply with the provisions of Child Labour (Prohibition and Regulation) Act. The Court has emphasized that abolition of child labour is definitely a matter of great public concern and significance.

(c) Directive Principles of State Policy and Children

In addition to the above mentioned mandates in the Constitution, there are certain other provisions contained in Part IV providing for the Directive Principles of State Policy. The provisions in Part IV though do not lay direct emphasis on child welfare, yet children are deemed to be beneficiaries in the event of implementation of these provisions. The underlying principle of the Directive Principles of State Policy is to fix certain social and economic goals for immediate attainment by bringing about a non violent social revolution.

13 V.N. Shukla, *Constitution of India*, Eastern Book Company, 2001 (9th ed.) at pg. 310

14 Sudesh Kumar Sharma, "Child and the Constitution: An Appraisal in Distributive Justice Prospective", *Supreme Court Journal*, 1989 (II) at pg 12

15 AIR 1983 SC 1473

16 AIR 1984 SC 177

17 (1996) 6 SCC 756

With the aid of such social revolution the Constitution also endeavor to achieve the objectives of child welfare.¹⁸ The Directive Principles lay down the goals which may be achieved through various means which have to be devised form time to time. They strive to promote the welfare of people by securing and protecting as effectively as it may a social order in which justice social, economic and political shall inform all the institutions of national life.¹⁹ An effective implementation of the above stated principle results in promoting the welfare of people manifested in social, economic and political justice and in the wake of that child welfare id also promoted proportionally. It²⁰ provides that State shall direct its policy towards securing the principle to protect health and strength of workers (Including children above 14 years and children below 14 working in non-hazardous employments) and tender age of children and to ensure that they are not forced by economic necessity to enter avocations unsuited to their age or strength. Further that, children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. The Government of India in pursuance of the directives contained in Article 39(e) and (f) has evolved a National Policy for the Welfare of Children. The policy declares: "The Nation's Children are a supremely important asset". The Policy sets out measures which the Government of India seeks to adopt for the welfare of children and to protect them from cruelty and exploitation.²¹ In *Sheela Barse v. Union of India*²² the Supreme Court in pursuance of Article 39(f), has directed release of all children below the age of 16 years form jails. Further, the Court has exhorted the States to set up necessary remand homes and juvenile courts. The Supreme Court while laying down detailed guidelines to regulate adoption of Indian children by foreigners in *Lakshmi Kant Pandey v. Union of India*²³ has laid emphasis upon the great significance of child welfare in the country. It was recognized that the welfare of entire community depends on the health and welfare of its children. Further Article 47 imposes duty upon the State to raise the level of nutrition and the standard of living of its people and the improvement of public health. By necessary connotation it can be inferred that it is the responsibility of State to provide nutritious food to children as the word "people" includes not only adults but children as well. In fact the provision becomes all the more relevant in case of children as malnutrition can cause irreparable damage to the personality of the children through development of various deformities on account of lack of balanced diet.²⁴ Standard of living of people in a country has a direct relationship with level of economic development of the country. The higher the standard of living of the citizens of the country, the higher is the level of economic development. The standard of living in turn is dependent on the availability of the food to the people in particular children. On account of needs of growing bodies of children, the State has utmost duty in case of children to perform. Further State has the responsibility to make improvement in public health and in particular improvement in the health of children. In *Paschim Banga Khet Mazdoor Samity v. State of*

18 Tapan buk ornage iphone pp74-75

19 Article 38(1) of Indian Constitution

20 Article 39 (e) and (f) of Indian Constitution

21 MP Jain, pg 1379

22 AIR 1986 SC 1773

23 AIR 1984 SC 469

24 Blue book Gopal Bhargava, pg 71

*West Bengal*²⁵ the Supreme Court has observed that “in a welfare state the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health centers which provide medical care to the person seeking to avail of those facilities”. Thus, state is under responsibility to provide for adequate medical health facilities for children also. Adequate efforts should be made to provide for immunization of children and protecting them from various diseases.

Provisions Under Various National Laws for the Protection of Children

Various national laws for the protection of children have been formulated from time to time, in consonance with the Constitutional mandate to provide protection to children and in fulfillment of various obligations undertaken at the international level. State is under obligation internationally, moral if not legal to provide for various welfare measures for the children. Proactive rather than protective approach is the underlying theme of various efforts taken by the legislature in India. Appropriate laws have been framed to prevent exploitation economic and social of children. At the same laws incorporating positive directives in the form of providing for various welfare measures have been undertaken. While there are laws which deal exclusively with children, to prevent their exploitation and to improve their conditions such as, the Child Labour (Prohibition and Regulation) Act 1986, the Right to Education Act 2009, The Protection of Children from Sexual offences Act 2012, The Prohibition of Child Marriage Act 2006 etc. There are also laws which include certain provisions for Children, for instance IPC, Cr.P.C, C.P.C, Hindu Marriage Act 1956 etc. legislative initiatives aimed at protection of children are outlined below:

(a) Various laws Prohibiting Child Labour

In order to fulfill the Constitutional and International obligation towards the elimination of child labour in India under various occupations, various legislative measures were enacted from time to time. Apart from various legislative measures that deal with labour force generally including children, The Child labour (Prohibition and Regulation) Act, 1986 is the Act dealing exclusively with children. The Child labour (Prohibition and Regulation) Act, is an outcome of various recommendations made by series of Committees such as, the National Commission on Labour 1969, the Committee on Child Labour 1979, Gurupadswamy Committee on Child Labour 1976 and Mehta Committee 1984. The Child labour (Prohibition and Regulation) Act, 1986 came into force on 23rd December 1986 with the objective to ban the employment of children who have not completed 14 years of age in certain specified operations and procedures²⁶ and to regulate the conditions of work of children in employments where they are not prohibited from working. The Act prohibits the employment of children in excess of number of hours specified for an establishment, **(Section 7(i))**, maximum period for work for child at stretch is specified as 3 hours and mandatory interval for at least one hour**(7(ii))** with specified shift of work for not more than 6 hours;**(7(iii))** child shall not be permitted or required to work between 7 p.m. and 8 a.m.;**(7(iv))** written notice to jurisdictional inspector within 30 days of employment of child

25 AIR 1996 SC 2426

26 (Section 3 and rest from footnote 212 pg 301 Dr. Nuzhat book

should be sent;(9(ii))penalties for employment of children in contravention of provisions of the Act(14)

(b) The Hindu Adoption and Maintenance Act 1956

Adoption facilitates the right to family of orphaned, destitute, abandoned child. (though not always, even a child with parents can be adopted) At the same time adoption afford continuance of lineage of the childless persons. But the vital consideration is the protection of the interests of the children aims at exclusion of commercialization of relationship. The Hindu Adoption and Maintenance Act is the only personal law that provides for adoption of hindu and by hindu. The Act gives privacy to the act of adoption by prescribing simple ceremony of giving and taking child in adoption;(Section 9)both male and female hindu have after the amendment act of 2010 has the equal right to adopt a child provided they are major and of sound mind;(Section 7 and 8) to prevent any sexual exploitation of the adopted child it is provided that there shall be minimum age difference of 21 years between the adoptive parents and the adopted child if they are of opposite sex;(Section 11) to prevent sex selective adoption and to ensure equality of opportunities for adoption Act provides no adoption of male child if son, son's son and son's son's son living at the time of adoption. Similarly no adoption of female child if daughter or son's daughter is living at the time of adoption. (Section 11)

(c) The Commission for the Protection of Child Rights Act, 2005

The Commission for the Protection of Child Rights Act provides for the establishment of National commission of the Protection of Child rights.(Section 3(1))The Act provide for major functions of commission inter alia, to study and monitor all matters relating to Constitutional and Legal Rights of Children; to review the existing laws and suggest amendments required; to examine the factors which hinder the enjoyment of rights of children n adverse circumstances; to monitor implementation of laws and programmes relating to the survival, welfare and development of the children; to look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate medical measures; to create child rights awareness The Act under Section 25 provides for the establishment of Court of Session as Children's Court in every district.(Section 25)

(d) The Child Marriage Restraint Act, 1929 and The Prohibition of Child Marriage Act 2006

The Child marriage results in violation of human rights of children and more often girl child. On account of early pregnancy in such marriage and social isolation, child marriage compromises the development of girl child. The Child Marriage Restraint Act, 1929 was enacted to prevent solemnization of child marriages. It lays down the minimum age of marriage for boys at eighteen and for girl at fifteen. The Child Marriage Restraint Act prohibits the child marriage, but once child marriage takes place, the marriage is neither void nor illegal but perfectly valid and only punishment imposed is sentence for 3 months and fine.²⁷ The Prohibition of Child Marriage Act 2006 with the underlying objective to provide for the prohibition of solemnization of child marriages and matters connected

27 Section 5 of Child Marriage Restraint Act 1929

therewith or incidental thereto, came into force on 10th January 2007²⁸ and it is a secular Act, a piece of uniform civil code. The Act lays down that a “child marriage” is a marriage to which either of the contracting parties is a child(**section 2(b)**) and “child” as a person who if male has not completed the age of twenty one years and if a female has not completed the age of eighteen years.(**Section 2 (a)**) The most significant departure of the Act of 2006 is that it provides that a child marriage is voidable at the option of the contracting party who was child at the time of marriage (**Section 3**) and such marriages null and void in case the child is enticed or taken away from the custody of his/her lawful guardian or is by force compelled or by deceitful means induced to go from any place or is sold for the purpose of marriage and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes. (**Section 12**) Further, in cases where decree of nullity for child marriage is sought, order can be made by the court directing the parties to the marriage and their parents or their guardians for return of money. Gifts etc. received on the occasion of marriage. (**Section 3(4)**) To protect the interest of the child born out of such marriages, Act provided that every child begotten and conceived of such marriage shall be deemed to be a legitimate child for all purposes. (**Section 6**)

(e) The Right of Children To Free and Compulsory Education Act,2009

Premised on the ideology that the values of democracy, equality and social justice and creation of just and humane society are viable only through the availability of inclusive elementary education to all, The Right of Children to Free and Compulsory Education Act came into force on 1st April 2010. Act mandates the responsibility of providing free and compulsory education not only of the school run on or supported by the appropriate governments but also of school which are not dependent on government funds. Act defines “child” as a male or female of the age of six to fourteen years. (**Section 2(c)**) “Elementary education” under the Act means the education from first to eighth class. (**2(f)**) Further, “child belonging to disadvantaged group” means a child belonging to the scheduled caste, the scheduled tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government by notification. (**2(d)**) and “child belonging to weaker section” means a child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification. (**2(e)**) The term “compulsory education” is defined under the Act to provide free elementary education to every child of the age of six to fourteen years and ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years. (**8(a)**) Act provides that every child of the age of six to fourteen years shall have a right to free and compulsory education in a neighborhood school till completion of elementary education (**3(1)**) The remarkable feature of the Act, is the provision of free and compulsory elementary education for a child suffering from disability as defined under Section 2(1) of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1996. Another distinguishing feature of the Act is that it provides that where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then

28 (Statement of Objects and Reasons of The Prohibition of Child Marriage Act 2006)

he or she shall be admitted in a class appropriate to his or her age and that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.(4) To ensure the virtual achievement of free and compulsory education to all, Act incorporates various safeguards, including, ban on collection of capitation fee,(33) no school or person shall while admitting a child, subject the child or his or her parents or guardian to any screening procedure(33), no child shall be denied admission in a school for lack of age proof. (14(2) The Act prohibits a school from holding back a child in any class or expelling a child from school till the completion of elementary education. (16) The Act also prohibits the school from giving any type of physical punishment or mental harassment to any child. (17(1) The Act in order to make education comprehensible for child provides that the curriculum and evaluation procedure shall be laid down taking into consideration all round development of the child, development of physical and mental abilities to the fullest extent and learning through activities, discovery and exploration in a child friendly and child centered manner, making the child free of fear, trauma and anxiety and helping the child to express views freely.(29) The Act also lays down the duty of parents or guardian to admit or cause to be admitted his or her child or ward to an elementary education in the neighborhood school.(10) The Act also provides for pre school education for children. The Act lays down that with a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate government may make necessary arrangement for providing free pre school education for all such children.(11) TO ensure dedicated and quality education Act provides that, no teacher shall be deployed for any non-educational purpose (except those which are mentioned in the section) (27) and that no teacher shall engage himself or herself in private tuition or private teaching activity.(28)

(f) The Protection of Children from Sexual Offences Act, 2012

For the proper development of the child, his or her right to privacy and confidentiality shall be protected and respected. The best interest of the child should be of paramount consideration and efforts should be made to ensure the healthy physical, emotional, intellectual and social development of the child. With all the above objectives in mind and under the aegis of Article 15(3) of the Constitution, The Protection of Children from sexual offences Act was enacted and came into force on 12th June 2012. The Act mandated that sexual exploitation and sexual abuse of children are heinous crimes and need to be effectively addressed. The Act provides for prosecution of child head mainly under five heads, penetrative sexual assault, (Section 3&4) aggravated penetrative sexual assault(5&6) sexual assault(7&8) aggravated sexual assault(9&10) sexual harassment(11&12) While penetrative sexual assault covers all kind of acts using body parts or objects, the other acts come under sexual assault. Sexual harassment covers abuse of child using gestures and spoken words. The term aggravated is prefixed to offences wherein the perpetrator is a person who wields power by virtue of being in a position or authority or trust or when the victim has mental or physical disability.²⁹ The Act further provides punishment for using child in any form of media for the purposes of sexual gratification , including representation

of sexual organs, usage of child engaged in real or stimulated sexual acts and the indecent or obscene representation of a child.(13 &14)

(g) The Juvenile Justice (Care and Protection of Children) Act,2016

In the past history, very less emphasis was paid to the rights of children. No special measures were available to protect children from neglect, exploitation and exposure to hazards. There was no provision to deal separately with those children who offended against the law. But in the last sixty years or so demonstrable progress has been made in the field of government initiative in the form of child specific legislatures. The 2016 Act aims to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach in the adjudication and disposal in matters in the best interest of children and for their rehabilitation through processes provided and institutions and bodies established. The fundamental principle underlying The Juvenile Justice (Care and Protection of Children) Act, 2016 (hereinafter referred to as JJCPA 2016) is that children who commit offences and children who need care and protection both would fall within the ambit of the Juvenile Justice System. The Act provides for certain avenues for the release of the child either to parents, guardians, fit persons or adoptive parents or to people who would provide foster care. However, fundamental principle of the juvenile justice system as is reflected in the statement of object and reasons, is to provide for proper care, protection and treatment by catering to their development needs within an institutional setting. "Child" is defined under the Act to mean a person who has not completed eighteen years of age (**Section 2 (12)**), Distinct terms are used for the children in the Act depending upon the conditions. Three types of offences classified under the Act are, firstly, heinous offences which attract a minimum penalty of seven years imprisonment under any existing law (**Section 2(33)**). Secondly, Serious offences for which imprisonment between three to seven years has been laid down.(**Section 2(54)**) and thirdly, petty offences, those punished with imprisonment upto three years.

(h) Relevant Provisions under the Indian Penal Code

There are many provisions under the penal code which provide for offences against children both before their birth and after their birth. Voluntary causing miscarriage of with child of woman, if such miscarriage is not caused in good faith for the purpose of saving the life of women is punishable. (**Section 312 and 314**) An act done with the intention of preventing the child from being born alive or cause it to die after its birth and resultantly prevent that child from being born alive is punishable with ten years imprisonment or with fine or both. (**Section 315**) Causing death of quick unborn child by an act amounting to culpable homicide is punishable under the Act. (**Section 316**) Provisions for prohibiting offences against children after their birth involve, exposure and abandonment of child under twelve years, by parent or persons having care of it, (**Section 317**) Concealment of birth by disposal of dead body (**Section 318**), Kidnapping from India and kidnapping from lawful guardianship, (**Sections 360 and 361**) kidnapping or maiming a minor for the purposes of begging (**Section 363-A**)Kidnapping for ransom (**Section 364 A**) Kidnapping or abduction with intent secretly and wrongfully to confine person, (**Section 365**) Procurement of minor girl, (**Section 366-A**) Importation of girl from foreign country (**Section 366-B**) kidnapping or

abducting a child under ten years with intent to steal from its person, **(Section 369)** Selling minor for the purpose of prostitution etc., **(Section 372)** Buying minor for the purposes of prostitution **(Section 373)** Unlawful compulsory labour **(Section 374)**. It is submitted that though certain sections in IPC which are outlined as above deal directly with the child but there are other sections which have no direct reference to child. In such sections, wherever word 'person' is used it is construed as child as well.

Conclusion

Every child has the right to grow to adulthood in health, peace and dignity. Ensuring the rights of children to health, nutrition, education, social, emotional and cognitive development is imperative for every country and entails obligations for every government. Ensuring that children enjoy fundamental rights and freedoms not only advances a more equitable society, but foster a healthier, more literate and, in due course, a more productive population. The fulfillment of children's rights, including those to protection, depends on a national movement in which everybody not only understands and respects their duties to children, but also acts upon them. As seen from above, the human rights of children in various areas are being violated and are a cause of concern for every right thinking citizen of the country. Several new plans, schemes and programmes have been initiated to address issues concerning children. Yet, the plight of children across the country has not got better and continues to be precarious. Though our Constitution provides ample safeguards to the children of our country in its various provisions and the laws made under those provisions, yet a lot still needs to be done to ensure that every child in India has a safe childhood and a bright future for him ahead. Children being our supreme asset, nothing concerning their survival, development, protection and participation can be ignored or sidelined anymore.

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