

Assessment Period 2016-2021



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INDEX

SL. NO.	PARTICULARS	PAGE. NO.
2020-21		
1	An Appraisal on Role of Public Healthcare Policy in India during Covid-19 Pandemic Dr.Veerabhadraiah C Vidya Bharathi International Inter-Disciplinary Research Journal 2319-4979, 2021	5-14
2	Media Law -Issues and Emerging Challenges for Reform in India Dr.Veerabhadraiah C Shodh Sanchar Bulletin Journal of Arts Humanities and Social Sciences 2229-3620, 2020	15-24
2019-20		
3	Protection of Internally Displaced Persons In India- A Critical Study Dr. Gayathri Bai S Studies in Indian Place Names (SIPN), Vol 40, Issue 50, March 2394-3114, 2020	25-32
2018-19		
4	Understanding the Idea of Alternative Politics in India: A Saga of Caste Religion and Ethnicity in Indian Politics Harish Lambani Multidisciplinary Quarterly Research Journal Ajanta, Vol-VII, Issue I, January – March 2277-5730, 2019	33-40
2017-18		
5	Centre- State Legislative Conflicts under Article 253 of the Indian Constitution: An Analysis Dr. Sathish Gowda & K.S. Sathish International Journal of Legal Research and Studies, Vol-3, Issue I, March 2456-608X, 2018	41-49
6	An Analytical Appraisal of Contract Labour (Regulation and Abolition) Act 1970	50-56



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	Dr. N. Dhashrath&Veerabhadraiah C International Journal of Multi-Disciplinary Research (IJMR) Vol VII, Issue 4, (I) August 2277-9302, 2017	
7	An Overview of Legislative Response to Addressing The Trafficking of Children India Veerabhadraiah C International Journal of Business, management & Social Sciences, Vol VII, Issue 2, (II) August 2249-7463, 2017	57-61
8	Critical Analysis on Legal Framework of Agency/ Contract workers in UK - An Appraisal Dr. N. Dhashrath&Veerabhadraiah C International Journal Multi-Disciplinary Research,) IJMR), Vol-VII, Issue 4,(I) August 2277-9302, 2017	62-65
2016-17		
9	A Shift from Traditional Parliamentary Legislation to Judicial Legislation with Reference to Residuary Power Dr. Sathish Gowda & K.S. Sathish Bangalore University Law Journal, Vol VII, No-1, January, 2017, 0973-3280	66-79
10	Judicial activism and its Impact on the Doctrine of Separation of Power in India- Analysis Veerabhadraiah C, International Journal of Development in Trade, Commerce &Business(IJDTCB), vol IV, Issue 1 (I), January ISSN-2348-1633, 2017.	80-86
11	Right to Nutritional Standards for Persons with Disabilities as a Human Rights in View of Indian Rights of Persons with Disability Act Veerabhadraiah C Bangalore University Law Journal Vol VII,No -1, January, 0973-3280, 2017	87-92



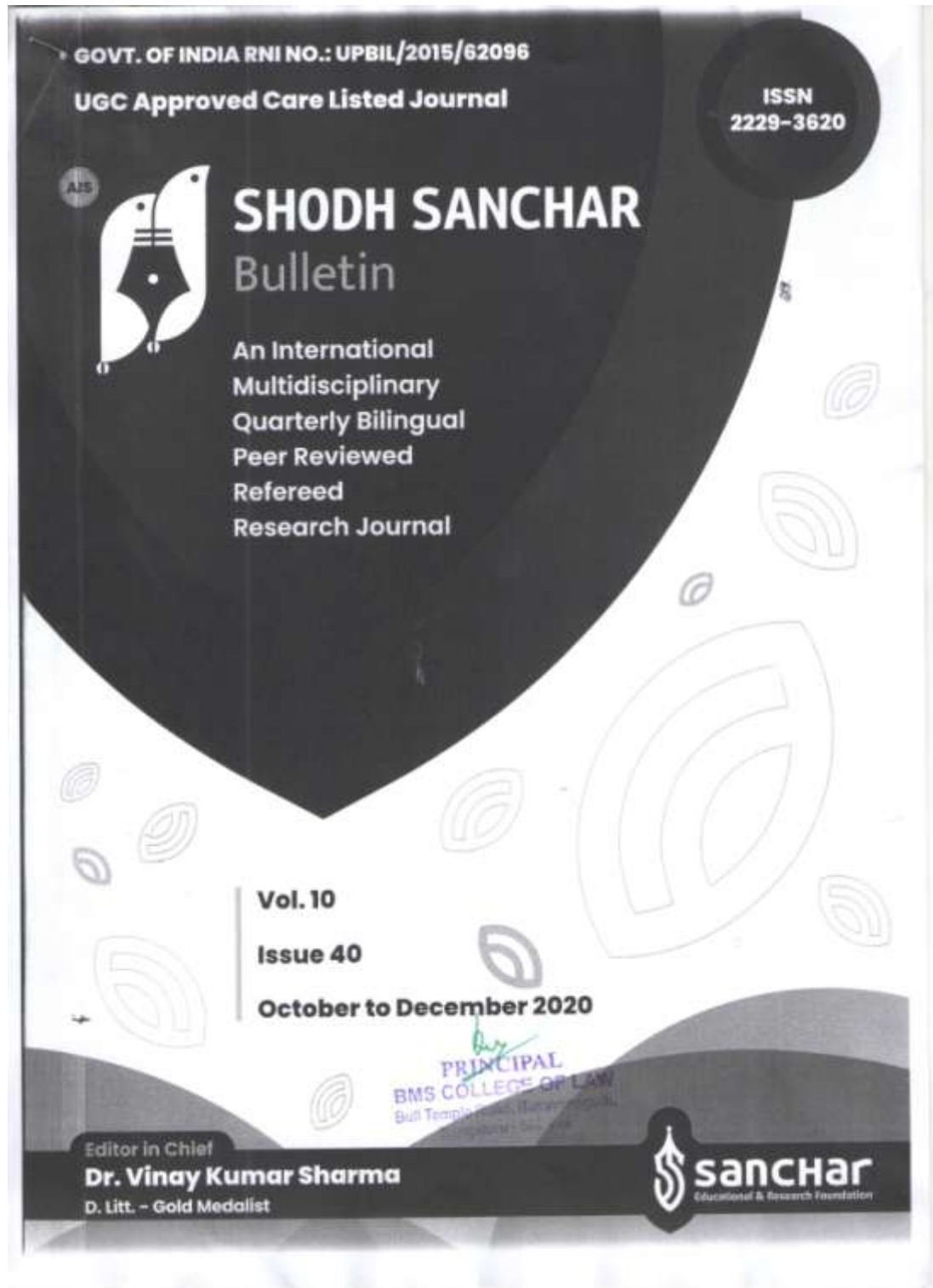
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CONTENTS

S.No.	Title	Name of Authors	Page No.
1.	ENVIRONMENTAL PERIL UNDERSTANDING GREEN CRIME AND HARM AGAINST NATURE	Bijit Das Dr. Joyanta Borbora	1
2.	TOURISM-RELATED MICROENTERPRISE AND SOCIO-ECONOMIC IMPACT A STRATUM-BASED PROPENSITY SCORE ANALYSIS OF MEGHALAYA, INDIA	Dr. Benjamin F. Lyngdoh	6
3.	PRINCIPLES OF GESTALT, PERCEPTUAL ORGANIZATION AND REDUCTIONISM IN FIAT'S 'DON'T TEXT AND DRIVE' ADVERTISEMENT CAMPAIGN - A QUALITATIVE CONTENT ANALYSIS	Dr. Gopakumar AV Mr. Aby Augustine	16
4.	HYPERTENSION IN INDIAN FEMALES & IDENTIFICATION OF ITS BEST ANTHROPOMETRIC PREDICTOR EVIDENCE FROM NATIONAL FAMILY HEALTH SURVEY DATA	Dr. Purushottam Pramanik	25
5.	MEDIA LAW - ISSUES AND EMERGING CHALLENGES FOR REFORM IN INDIA	Dr. Veerabhadraiah. C	34
6.	METAPHORS AND METONYMY IN SIGNIFYING THE CONCEPT OF ALIENATION IN TV CHANDRAN'S FILMS A SEMIOLOGICAL STUDY	Dr. Gopakumar AV Dr. Renjini T	43
7.	A STUDY ON IMPACT OF AVAILABILITY OF LAND THROUGH PUBLIC-PRIVATE PARTNERSHIP ON AFFORDABLE HOUSING	Rehan Ansari Dr. Maqsood Ahmed Khan	56
8.	A COMPARATIVE STUDY ON SELF EFFICACY BEHAVIOUR OF NATIONAL JUNIOR VOLLEY BALL PLAYERS	Smt. Urvashi Kodli Dr. Rajkumar. P. Malipatil	62
9.	A STUDY ON IMPACT OF FACTORS INFLUENCING ONLINE REPURCHASE INTENTION	Mr. Jigar Nagvadia Dr. Viral Bhatt	66
10.	A STUDY ON THE IMPACT OF A HEALTHY WORK ENVIRONMENT ON EMPLOYEE ENGAGEMENT AND GROWTH OF BUSINESS	Mr. Husafid Viraf Bhathena Dr. (Mrs.) Saumitra Sushil Sawant	75
11.	CAUSE OF STRESS AMONG PRIVATE BANK EMPLOYEES AN ANALYSIS	Manjunatha M K Dr. T. P. Renukamurthy	87
12.	EXPENDITURE FOR THE TRIBAL EDUCATION AND THE PARTICIPATION RATE A COMPARISON ON THE BACKDROP OF MINISTRY OF TRIBAL AFFAIRS	Sadhan Kumbhakar Dr. Subhasis Bhattacharya Dr. Sudip Mukherjee	100

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AN APPRAISAL ON ROLE OF PUBLIC HEALTHCARE POLICY IN INDIA DURING COVID-19 PANDEMIC

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ABSTRACT

Right to health is a fundamental right guaranteed by Constitution of India and correspondingly a duty on states to provide good public healthcare facilities. Ever since the spread of Covid-19, the public healthcare system in India broke down because no states adopted effective implementation mechanism to stop the spreading of virus which ultimately took away the lives of many people. This pandemic situation is an eye opener which made us to realize the significance of public healthcare. Government has framed many public health policies; the facilities provided by the government are not sufficient in India when compared to developed countries but India being a developing country able to invent a vaccine for novel corona virus and supported the developed nations to control the present pandemic situation. In the present situation, the judiciary has played a vital role by issuing directions with respect to SOP guidelines, issue of ration kit to needy people, cleanliness, etc., to control the pandemic situation. The government has made new healthcare policies to protect the interest of frontline healthcare workers who are the real soldiers saving many lives. The government of India has laid down new policy for distribution of vaccine to all on priority basis, but the question is when India will become self-sufficient to handle such situation. This research paper will throw light on the role of judicial in public health, the policies framed by the government, implementation mechanism, role of NGO.

Keyword: Public health, Policy, Judiciary, Pandemic, Non-Governmental Organization, Fundamental right, Health workers.

Introduction

Public health is a matter of great concern for every country. India being a developing nation and with vast population making efforts to improve the health of people through effective public health system. Public health system means improving the health of public by providing health care facilities, promoting healthy lifestyle, prevent spreading of diseases, etc. The public health system protects local inhabitants or entire country population with the help of health professionals and public health policies. India since its independence, framing national public health policies from time to time to protect public health which is also a duty of all the states as incorporated in Directive Principles of State Policy of Constitution of India. Public health is a fundamental right impliedly included in right to life under Article 21 of the Indian Constitution. The honorable Supreme Court of India has emphasized the same in many cases. For the first time public healthcare was given importance in 1946 on the basis of the recommendations of Bhore Committee which was constituted by British India Government in 1943 to assess the health condition of India by conducting survey throughout India. The

committee was headed by Sir. Joseph Bhore. The committee suggested the following recommendations:

- Integration of preventive and curative services.
- Development of Primary Health Centre at two stages with short term measures and long term programmes and establish hospitals, providing services of doctors, nurse, midwives, etc.
- Changes in medical education through training programme in preventive social medicine to prepare social physicians.

At present, the Government of India following the same measures giving importance to primary health centers to improve public healthcare system and the biggest challenge is funding of public healthcare system because public health facilities include establishing research institutions, creating health professional jobs, training infrastructures, etc. Public healthcare system which is funded by few sources is assisting middle class and upper class population in availing the health services and the low class people are not able to access the same which has divided India. To overcome this discrimination, National Health Policies have been framed to provide health

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care services to all people at affordable prices specially during the pandemic situation.

National Health Policy

Development of national health policy is a dynamic process and needs to meet the changing situation in all circumstances specially an unexpected pandemic situation like COVID-19 virus spread. The WHO is continuously supporting its member's states to have strong health policies to improve the health of its people. India being a member of WHO, has framed National Health Policy in 1983, 2002 and 2017 as a part of Five Year plan.

The primary objective of health policy is to attain highest possible standard of public health and improve public health system. Health policy of 1983 concentrated on population stabilization through small family norm, medical & health education, primary health center to prevent infections, promote and rehabilitate measures to improve public health system. The 1983 policy has incorporated 20 point programmes to improve the standard of health. It concentrated on re orientation of health personnel, private practice by the government medical experts, giving importance to indigenous medicines, health education, priority for emergency needs, management information system relating to healthcare, health insurance, health legislations, medical research, inter-sectoral cooperation and review of progress. India took all possible measures to improve public health through 1983 policy and we can say that it achieved all the objectives which was planned in the health sector.

National Health Policy of 2002

As the situations changed and demanded new policy to improve the standard of health, India framed a new policy in the year 2002 with the objectives of accelerating the achievements of health sector in socio-economic circumstances which was prevailed then. The policy concentrated on financial resources where both Centre and State Governments concentrated on raising funds to expand the healthcare facilities to all people at affordable price. The policy also adopted the equity principle and tried best to distribute medical facilities to all without

any discrimination between poor & rich which was not removed in 1983 policy. This policy concentrated more on providing facilities to vulnerable sections of the society including children, women and socially backward sections. The main target of 2002 policy was to extend public health infrastructure which was far away from the people. India planned to improve medical and para medical services, providing health equipment in hospitals, essential drugs, to establish more number of hospitals to reduce crowd in existing health center which was very much in need then. The Central Government asks local self-government to take initiative and adopt close supervision of health facilities in both rural and urban areas. Since 1983, medical education was not concentrated equally in all parts of India, as a result of which 2002 policy gave importance for establishing medical colleges with adequate syllabus to meet the primary healthcare needs of people in the society. The most important initiative was use of generic medicines to overcome from the fear of globalization of medicines which resulted in increase of price of drugs. For the first time mental health was given importance and measures were adopted through clinical centers to overcome from mental disorder which was called as spiritual affliction.

The increasing need of healthcare facilities, private sectors were given opportunities to join hands with government to provide good healthcare system in India. National Disease Surveillance Network was established to tackle statistical information relating to polio and HIV/AIDS which increased enormously during 1990s. The policy also concentrated on standard food and drugs for people to improve their health specially women and infants to reduce the death rate of infants.

National Health Policy 2017

The first two policies played a vital role in improving the standard of life and health of people. After a long period of fourteen years, India framed a new set of policy to tackle new challenges in public health sector. In 2017 new policy was laid down with new hopes and objectives like inform, clarify and strengthen the government, role of government in shaping the health care system in all aspects to meet the

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1036

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requirements of public including investment in health sector, organization of healthcare services, prevention of diseases, access to technology, encouraging medical pluralism, building knowledge base, better financial protection strategies and strengthening health insurance.

The main mantras of 2017 policy are professionalism, integrity, ethics, equity, affordability, universality, patient centered, quality care, accountability, decentralization, reinforcing trust in public healthcare system which was lost due to corruption, negligence, etc in healthcare system. Healthy and good environment contribute a lot to improve public health. As a part of this, Government of India coordinated with the following initiatives:

- Swachh Bharath,
- Balanced health diet and regular exercise
- Addressing tobacco and alcohol abuse
- Yatri Suraksha
- Nirbhaya Nari
- Reduce stress and improved safety at work place
- Reducing indoor and outdoor pollution

The policy also initiated developmental strategies and institutional mechanism and to create Swasth Nagarik Abhiyan a social movement to create awareness about public health.

The policy also encouraged school education about health by adopting the same in syllabus to educate young generation about significance of health. To strengthen the force of ASHA women community, the policy insisted the frontline health workers to assist ASHA women to prevent spreading of non-communicable diseases and they are really playing a significant role in the present pandemic situation by pledging their lives. The government through this policy tried closing the gap between human resource and infrastructure. Many new National Health Programmes are introduced by the government to improve public health such as RMNCH+ services, child and adolescent health, interventions to address malnutrition deficiency, universal immunization, elimination of leprosy, control of TB, HIV/AIDS, supportive supervision, emergency

care, disaster preparedness, use of AYUSH medicine, etc.

After completion of medical education, medical practitioners are not ready to render their services in remote rural areas which is a big hurdle in improving public health in rural area. To overcome this, the policy is giving attractive financial and non-financial incentive to doctors to serve in rural areas.

The big question before the government was legal framework for implementation of national health policy in an effective manner. The question is can we come to the conclusion that right to public health is fundamental health? The Part-IV of Indian Constitution speaks about Directive Principles of State Policy which imposes duty on all the state to fulfill their duty towards the society provided it should be economically feasible to perform them. As the research paper mentioned in beginning, the public health system means health facilities shall be provided at reasonable and affordable price and sometime for free of cost. If public health is treated as fundamental right and the violation of the same become offence and state entity can be held responsible for the same. The constitutional provisions relating to right to health and public health will be discussed subsequently.

Right to Health and Constitution of India

According to WHO right to health means right for complete physical, mental and social wellbeing and not just absence of diseases. Article 21 speaks about right to life and personal liberty which can be taken away by due process of law. Right to life includes many implied rights such as right to education, food, environment, etc. but the concept of public health which has very wider interpretation covering the whole population of India. As mentioned above providing public healthcare facilities depends upon the economic stability of state governments.

The honorable Supreme Court of India in a leading case **Paschim Banga mazdoor Samity v. State of West Bengal** while interpreting Article 21, held that as a welfare state each state has a primary responsibility to provide medical aid to all and at the same time it should provide adequate medical facilities for needy people. Article 21 imposes obligation on

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1037

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all state entity to safeguard right to life of every citizen by providing healthcare facility and to preserve the human life.

All the government hospitals have obligation to provide best medical treatment at affordable price and failure of the same may results into violation Article 21.

In the above said case, the Supreme Court laid down some guidelines which are as follows:

- Adequate medical facility at government hospitals to stabilize the health condition.
- Hospitals at district and divisional level shall be improved with goods equipment and facilities to treat patients without any delay.
- Availability of sufficient beds as per the requirements through centralized communication system.
- Proper arrangement of ambulance facility at each public health centers with adequate equipment.

As mentioned above, Directive Principles of State Policy plays a significant role public healthcare system in India. Article 38 imposes liability on all the state governments to secure social order for the welfare of the society and same is incorporated in preamble which says securing economic and social justice to all. Article 39 (e) deals with workers right to health at work place and Article 41 imposes duty on state to provide public assistance to those who are sick and disabled. All the health policies ensure good health of infants and mother, to protect this Article 42 provides maternity benefits to all mother through labour laws.

Article 47 says it's a primary duty of state to improve public health, secure justice, human condition of work, extension of sickness, old age, disablement and maternity benefits and it also imposes obligation on state to prohibit consumption of intoxicate substances. Article 48A ensures that state shall provide pollution free environment for good public health by constructing public parks, growing more trees, etc. As per the decision of the Supreme Court it is a fundamental right impliedly included under article 21. If these obligations are not fulfilled, the court can enforce duty against the public authority to pay penalty for dereliction of duty as per the prescribed law regardless of the financial resource of the state.

The Food Corporation of India being a state agency should implement Article 47 to improve the health and should not allow substandard food grains to reach public for consumption and serious action should be taken against the defaulter.

Under Article 243 G the local self-governments have duty to improve public health by providing following facilities:

- Clean and safe drinking water
- Health and sanitization
- Family welfare
- Women and child development
- Social welfare measures for physically disabled people

Health Policy and Pandemic

Pandemic situation is not new to the world, since time immemorial the world is facing such situation because of many new diseases like plague, H1N1 and now COVID 19 virus which has shaken the entire world and India is not exempted from such unexpected and unprecedented health emergency which took away many lives and shaken economy to the core. When compared to developed countries, India fought very effectively against the said virus and big thanks to all the health workers who saved many lives without caring for their life and family. When whole world was with their family, these frontline health workers dedicated themselves to overcome this pandemic situation. Because of this pandemic situation India is moving towards a universal health system and supporting & contributing for R&D in drugs to cope up the situation. The Covid-19 related health services issues like hospital beds, ICU facility, research on vaccine is addressed in large scale. When compared to other countries, India made good efforts in tackling these issues with expert experience and able to minimize the spreading of virus which even developed countries could not do it. At present, the second wave of the virus has started and Indian Government is trying best to handle the situation without damaging the economy of the country.

Since March 2020 and till date new SOP and lock down guidelines are issued by governments to prevent spreading of virus and to protect public health, but the few people are



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not following the instructions as a result of which government deputed police officials and marshals to enforce strict SOP guidelines. Because of lack of health facilities in government sector, assistance from private entity is need of the hour. To implement this, health policy underwent a drastic change and paved way to purchase of healthcare equipment from private player is allowed. On the other side, private corporate players started taking advantage of the situation through creating monopoly in selling healthcare products such as mask, sanitizers, etc and they made huge profit out of it. To curb this corporate monopoly, government framed policy and started purchasing the same from corporate entities and supplied it to public. As a precautionary measure, government conduct free Covid -19 random test for free of cost which going on still. All these measures shows that India's health policy is really a dynamic which is meeting the requirements of public.

The Union Budget 2021 placed by the Finance Minister Smt. Nirmala Sitaram said 137% increase in healthcare spends to address the increasing need of healthcare facility and additional spend will be there to go towards vaccination, preventive health and to meet the national medical infrastructure focusing on critical care to handle such situation in future. As per Ministry of Health & family Welfare by April 2020, the number of ICU beds stood at 27,360 and by January 2021 this increased to 36,008 and oxygenated bed count rose by over 152% in the same period to meet the pandemic situation. The Central government procured nearly 38,867 ventilators for Rs. 1,850 crores and same was distributed in state to treat infected people. This proves that India is really moving towards good public health policy.

Health Policy and Vaccination

To cope up with the present situation vaccines are developed by many countries to reduce the health risks which caused by various types of virus and vaccines reduces infectious diseases and improve the quality of health. Invention of vaccines is not possible in all countries because of non-availability of funds and technology. To overcome this, Universal Immunization Programme has been adopted in the world through which vaccine will be made available

in free market through decision making framework which confers both economic and health benefits to public. In the recent time many R&D were made to invent vaccine to defeat corona virus which was supported by Government of India. The Serum Institute of India got permission from Drug Controller General of India to conduct clinical trials and another company Bharat Biotech in collaboration with US based company also tried for clinical trial of new vaccine. In India two vaccines namely Covishield and Covaxin were approved as an emergency drugs to fight the virus. The national vaccine drive started from 16 January, 2021 establishing 3,006 vaccine centers across India. On the first day nearly 1,65,714 people received vaccine and government facilitated this through a vaccine web portal by giving information about vaccination. By 1st March 2021, 14 million healthcare and frontline workers received vaccine but it did not reach the expected target. Through web portal government made people to register to receive vaccine with two dose having 8 weeks of gap period. After vaccination of health workers, subsequently senior citizens received vaccines. By adopting this preferential treatment government consider the requirement of people who are more vulnerable to the virus. The procedure followed for vaccination is a part of policy framework which India adopted and India also exported drugs and vaccines to other countries which are in need of it but subsequently same was criticized in order to meet the demands for vaccine increased due to second wave of infection in India.

To conclude, since ancient period public health policy has been playing a vital role improving the health standards of people. Many legislations and policy are being framed to provide good healthcare system but drawbacks of the existing system are corruption at every stage, negligence by hospital authorities, lack of accountability, lack of quality care, unethical practice, poor cooperation between public & private sectors, hurdles in accessing healthcare services and important drawback is people are not aware about the healthcare facilities available to them. To overcome these lacunas, government should take stringent action against defaulter and create awareness among

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1039

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public about healthcare facilities provided by the government only then the purpose of

framing national health policy will be fulfilled.

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1040

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MEDIA LAW – ISSUES AND EMERGING CHALLENGES FOR REFORM IN INDIA

Dr. Veerabhadraiah, C*

ABSTRACT

Today widely proliferated print and electronic media is operating as a most effective watchdog of all democratic systems of governance world over. Its far reaching effect is wonderful. With addition of new media to news media, such as internet, blog writing etc the field of media is now open to anyone. Growing volumes of law in tune with advancing technology accommodated the media law too. Though media persons are subject to general legal regulation, the 'media law' is emerging, because of its peculiar specialization. However, the media's spread being beyond boundaries of any nation, the media law assumed international proposition.

The author of this article likes to focus the legislative and judicial delineation on the Freedom of Speech and Expression including the Freedom of Media. Further the author identifies some issues and challenges that are emerging in the flow of the Freedom of Speech and Expression to the masses.

Keywords: Media, Constitution, Legislative, Judicial, Issues and Challenges

INTRODUCTION

Indian Constitution is one of the lengthiest Constitutions of the World which reflects the American, German, Australian and the Constitution of Ireland.

Fundamental Rights and the Directive Principles of State Policy (DPSP) differ on the border line points such as fundamental rights are justifiable and enforceable both against the State and the private individuals, whereas the DPSP are non-justifiable and non-enforceable rights. These rights are mandates to the States in India for performing its duties towards the citizens as per DPSP.

Yet the most important distinction which is not mentioned or reported in text books of Law is that the fundamental rights do not impose any economic burden on the States, whereas the DPSP impose economic burden on the States for their implementation.

Freedom of Media is one such unremunerated fundamental right yet coming under the scope of fundamental right under Article 19 (a) namely Freedom of Speech and Expression for citizens of India. This right does not impose any economic burden upon the State for ensuring the same to the citizens. However, there is a public broadcaster such as Dhoordharshan and Akashvani etc., which are under the State control. Bulk of the media is through the participation of private sector owners who do have the same freedom of speech and expression.

By now it is an established fact that the Freedom of Press is considered to be the fourth pillar of Democracy. When I say Democracy, then Democracy signifies "participation by all and for all". It is sad that in the recent times the Press and the electronic media including that of internet etc., are commercialized. As a result, a

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common man has to pay independent amount for individual private TV channels which is causing some hindrance for participation in the enjoyment of Freedom of Electronic media.

Furthermore, we have not yet reached consensus even after 70 years of independence a full and final mechanism for regulating electronic and other forms of media such as internet, social media and so on.

The role of the judiciary is highly appreciable in the matter of regulating media in India.

The recent initiative by Election Commission of India (ECI) in view of 2019 April - May Lok Sabha elections by way of Constituting "Media Communication Monitoring Committee" (MCMC) by introducing new measures for flow of messages, fake news through social media, internet and also posting unnecessary advertisements in the matter of elections is highly appreciable.

CONCEPT OF MEDIA

As mentioned above the Freedom of Speech and Expression guaranteed by Indian Constitution do embrace Freedom of Press. Journalism which was previously limited only to press now includes even electronic media. Freedom of Press includes freedom of writing, printing, drawing, pictures, film, movie, word of the mouth etc. It includes freedom of communication and right to express opinion.

Article 19 (1) (a) of the Constitution states that - All citizens shall have right to freedom of speech and expression. However, since no freedom can be absolute, even right to freedom of press is also not absolute. It faces certain restrictions under Article 19 (2), which is as follows - Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and the integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality or in relation to

contempt of court, defamation or incitement to an offence.

Freedom of expression in particular, freedom of the press guarantees popular participation in the decision and actions of the government and popular participation is the essence of our democracy.

i. Development in UK

Historically, restriction of the press has occurred in two ways. The first may be either censorship or mandatory licensing by the government in advance of publication; the second is punishment for printed material, especially which considered by the government to be seditious libel, i.e., material that may excite disaffection against constituted authority. Censorship of the press began not long after the invention of the printing press. Pope Alexander VI issued (1501) a notice requiring printers to submit copy to church authorities before publication, in order to prevent heresy. Penalties for bypassing the censors included fines and excommunication. Stronger restrictive measures were taken by the later Tudor and Stuart monarchs, and censorship came to be applied more to political criticism than religious heresy. John Milton in his *Areopagitica* (1644) attacked the licensing law and called on parliament to suppress offensive publications after their appearance if necessary. Milton's objections to prior restraint eventually became a cornerstone of press freedom, but it was not until 1695 that the licensing and censorship laws were abolished. Severe restrictions on the press continued, however, in the form of seditious libel laws under which the government was able to arrest and punish any printer who published material in any way critical of the government.

ii. Developments in USA

The defense of John Peter Zenger against libel charges in 1735 is often seen as the cornerstone of American press freedom. After the American Revolution, several states provided for freedom of the press, and the First Amendment (1791) to the U.S. Constitution declared that Congress shall make no law abridging the freedom of speech or of the press."



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Wartime situations often present challenges to the legal limits of press freedom. In 1931, the Supreme Court, in *Near v. Minnesota*, for the first time declared almost all forms of prior restraint to be unconstitutional. The only recognized grounds for prior restraint, national security, was tested in 1971 when Daniel Ellsberg, a former government employee who believed that information that should be made public was being withheld by the government, released the pentagon paper a collection of classified government documents concerning the Vietnam War. The government tried to block their publication, but the U.S. Supreme Court, in *New York Times Co. v. United States* permitted their release. The U.S. Supreme Court has recognized no unrestricted right of press confidentiality.

iii. Indian Perspective

Press laws in India have a long history and are deeply rooted in the country's colonial experience under British rule. The earliest regulatory measures can be traced back to 1799 when Lord Wellesley promulgated the Press Regulations, which had the effect of imposing pre-censorship on an infant newspaper publishing industry. Thereafter on 18th June 1857, the government passed the Gagging Act, which among various other things introduced compulsory licensing for the owning or running of printing presses.

Then followed the Press and Registration of Books Act in 1867 and which continues to remain in force till date. Governor General Lord Lytton promulgated the Vernacular Press Act of 1878 allowing the government to clamp down on the publication of writings deemed seditious and to impose punitive sanctions on printers and publishers who failed to fall in line. In 1908, Lord Minto promulgated the Newspapers (Incitement to Offences) Act, 1908 which authorized local authorities to take action against the editor of any newspaper that published matter deemed to constitute an incitement to rebellion. However, the most significant day in the history of press Regulations was the 26th of January 1950 the day on which the Constitution was brought into force.

It is pertinent to mention the observation made by a three-judge bench headed by CJI Dipak Misra speaking through the Supreme Court on March 16, 2018, the bench observed that the electronic media had crossed the line by "writing what they think", and also observed that "We are sorry to say some journalists think as if they are sitting in the pulpit and can write anything."

That is not journalistic independence or culture. They think they can get away with anything. That is not journalists' right to freedom of speech and expression." Commenting about today's media, especially the online and electronic media, the CJI said, "We are of the firm belief that there can be no gagging of media. But the media, especially the electronic media, should be more responsible. I don't want to name any (particular) electronic media, but they cannot write whatever they want on their websites. Some of these writings are sheer contempt of court and also defamatory."

Legislative delineation on Freedom of Press and Electronic media, etc.:

The Press and Registration of Books Act, 1867: This Act regulates printing presses and newspapers and makes registration with an appointed Authority compulsory for all printing presses.

In view of adopting the Policy of liberalization, privatization and globalization of economy (LPG), it was felt that the aforesaid Act need to be relooked and suitably be amended for the purpose of regulating issues of foreign direct investment, facsimile editions, Indian edition of foreign newspapers, syndication, etc. accordingly the aforesaid Act is proposed for amendment through the Bill known as Press and Registration of Books and Publications Bill, 2011, herein after the Bill.

Some of the significant features of the Bill are

- a) every book or publication printed within India shall have legibly printed on it the date of its publication, name of the owner, printer, publisher, editor and complete address of place of printing and the publication



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b) a person, being an entity incorporated and registered in India under any law for the time being in force, or a citizen of India, may bring out a publication, but a person who has been convicted by any court for an offence involving terrorist act or unlawful activity or for having done anything against the security of the State shall not bring out a publication;

The Press (Objectionable Matters) Act, 1951: This enactment provides against the printing and publication of incitement to crime and other objectionable matters.

The Newspaper (Prices and Pages) Act, 1956: This statute empowers the Central Government to regulate the price of newspapers in relation to the number of pages and size and also to regulate the allocation of space to be allowed for advertising matter.

Defence of India Act, 1962: This Act came into force during the Emergency proclaimed in 1962. This Act aimed at restricting the Freedom of the Press to a large extent keeping in mind the unrest prevailing in India in lieu of the war against China. The Act empowered the Central Government to issue rules with regard to prohibition of publication or communication prejudicial to the civil defence/military operations, prevention of prejudicial reports and prohibition of printing or publishing any matter in any newspaper.

Delivery of Books and Newspapers (Public Libraries) Act, 1954: According to this Act, the publishers of books and newspapers are required to deliver, free of cost, a copy of every published book to the National Library at Calcutta and one copy each to three other public libraries specified by the Central Government.

The Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955: It lays down the minimum standards of service conditions for newspaper employees and journalists.

Civil Defence Act, 1968: It allows the Government to make rules for the prohibition of printing and publication of any book, newspaper

or other document prejudicial to the Civil Defence.

Press Council Act, 1978: Under this Act, the Press Council was reconstituted (after 1976) to maintain and improve the standards of newspaper and news agencies in India. Although on one hand, the Constitution confers the fundamental right of freedom of the press, Article 105 (2) provides certain restrictions on the publications of the proceedings in Parliament.

Direct-to-Home Broadcasting Direct-to-Home (DTH) Broadcasting Service refers to distribution of multi-channel TV programmes in Ku Band by using a satellite system and by providing TV signals directly to the subscriber's premises without passing through an intermediary such as a cable operator. The Union Government has decided to permit Direct-to-Home TV service in Ku band in India.

Whistle Blowers Protection Act, 2011 provides a mechanism to investigate alleged corruption and misuse of power by public servants. It aims at protecting anyone who exposes alleged wrongdoing in government bodies, projects and offices. The wrongdoing includes fraud, corruption or mismanagement. This act indirectly protects journalists practicing investigative journalism.

Maharashtra was the first and the only state to enact a bill to protect journalists. Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017 any incident of violence against media persons or damage or loss of property of media persons or media institutions is punishable under this act.

Thanks to the Hon'ble Supreme Court of India for holding that the government does not enjoy the monopolistic power of telecast or broadcast of the views of any one in the society. In Secretary, Ministry of I & B v. CAB, the Supreme Court clearly differed from the aforementioned monopolistic approach and emphasized that, every citizen has a right to telecast and broadcast to the viewers/listeners any important event through electronic media, television or radio and also provided that the



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Government had no monopoly over such electronic media as such monopolistic power of the Government was not mentioned anywhere in the Constitution or in any other law prevailing in the country.

The author frames the issue that till today India does not have a statutory code for regulating the electronic and other forms of public media through internet, social media, twitter, etc. Therefore, it is a great challenge for all ahead in the matter of regulating the private telecasting electronic media and of course the public broadcasting and telecasting media through a law to be made by the Parliament. The process has begun but the law should come out in full form through an Act of Parliament.

Judicial delineation on Freedom of Press and Electronic media

As mentioned above in the introductory part, the Indian Judiciary is proving itself as the most impartial body in regulating the Freedom of Press and electronic media in our country. The author now wishes to focus on some of the important issues resolved by judiciary through its wisdom in the matter of Freedom of Press and Electronic media.

Trial by Media

It has now become a fashion for the private telecasting Television Channels about the "media trial" where the telecast is made as to the commission of an offence and the reasons behind it. This in a way when observed and carefully viewed in Television, it appears that in one or the other way the telecast programme pertaining to media trial interfere with the adversarial function of justice delivery system by our ordinary criminal and subordinate courts in India. Therefore, it is a challenge for all the concern in avoiding and stopping such type of media trials which do interfere with the functions of investigating police officers and decision making judicial officers of criminal courts.

In this connection it is relevant to mention the case of *M. P. Lohia v. State of West Bengal*, that was related to suicide of wife due to her harassment for dowry. The lower court had rejected an application for grant of anticipatory

bail. Special leave petition was pending before Supreme Court. An article was published in a magazine. It was based on an interview of the family of deceased, which extensively quoted the father of the deceased as to his version of the case which could all be material to be decided in forthcoming trial.

Supreme Court was of the view that such article appearing in media would interfere in functioning of judiciary. Supreme Court went further to caution the publisher, editor and the journalist, responsible for the said article, since they engaged in a trial by media, which is likely to affect reputation of the judiciary and judicial proceedings adversely.

In another case of *Aarushi Talwar Murder Case*-The brutal murder of 14-year-old teenager at Noida - Supreme Court took a view that transparency and secrecy in an investigation are two different things. The apex court not only questioned a section of media but also CBI for reckless reporting. The reporting had resulted in tarnishing the reputation of the victim and her family members. It also affected ongoing judicial proceedings.

Commercial Advertisements

Today's views of media be it be through press or television, it may be aptly submitted that the entire programme is with full of 'Commercial breaks' and more so during the telecast of news which is with full of commercial advertisements through commercial breaks. This in a way somehow wipes out the memory of the viewer's concentration on the information of news telecasted in the television. This is a serious issue for one reason, the commercial breaks are very automatic and are with enormous sound which damage the ears and brains of children, young, adults and more particularly the elderly people in the families. In this direction the higher judiciary has now and then cautioned about the unwanted advertisements but yet the regulation on the aspect of commercial advertisements is not completely regulated.

In *Hamdard Dawakhana v. Union of India*, the Supreme Court considered the question of whether advertisements are protected under



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Art. 19(1)(a). In this case, Parliament enacted an Act with a view to control advertisements of drugs in certain cases. The Act was challenged on the ground that restrictions on advertisements was a direct abridgment of the freedom of expression. The Court stated that a true character of an advertisement is to be determined by the object which it seeks to promote.

An advertisement promoting drugs and commodities, the sale of which is not in public interest, could not be regarded as propagating any idea and, as such, could not claim the protection of Art. 19(1)(a). An advertisement meant to further business falls within the concept of trade and commerce and cannot be regarded as a part of freedom of speech.

In *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*, the Supreme Court observed that all commercial advertisements cannot be denied the protection of Art. 19(1) (a) of the Constitution merely because, they are issued by businessmen. Advertising pays large portion of the costs of supplying the public with newspapers.

As one can see, the above two judgments seem conflicting, reading both the judgments together, the Supreme Court has concluded in *Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd.*, that 'commercial speech' cannot be denied the protection of Art. 19 (1)(a) merely because the same is issued by businessmen. The public has a right to receive the 'commercial speech'.

Regulating the Pages and Price of Newspapers

In *Sakal Papers (P) Ltd., And Others v The Union of India*, the Newspaper (Price and Page) Act, 1956 was challenged. As per the act, the Central Government could regulate the prices of newspapers as per their pages and size and could also regulate the allocation of space for advertising matters. The Act fixed the maximum number of pages that might be published by the newspaper according to the price charged and prescribing the nature of supplements that could be issued. The petitioners were required to increase the price of their newspaper if they were increasing the pages. on the other hand, if the

petitioners were to reduce the price, they were required to decrease the number of pages.

The order was challenged as violative of the freedom of press, since its adoption meant either the reduction in the existing number of pages or raising the price. This amounted to directed infringement of the liberty of the press.

The Court held that the Act and the Order were void, being violative of Article 19(1) (a) of the Constitution. They were also not saved by Article 19 (2).

Issue of Censorship

In *K. A. Abbas v Union of India*, K.A.Abbas, wanted to screen his documentary "A Tale of Four Cities". The Film Board refused unrestricted screening of it, because it included scenes from a Bombay red-light district. The board asked Abbas to edit certain scenes if the documentary was to qualify for a screening certificate. Abbas refused to do so. Abbas contended that the board was violating his freedom of expression.

This case was important since it focused on freedom of media. The Apex court held that such censorship was governed by the standards of reasonable restrictions within Article 19(2) of the Indian Constitution. Article 19(2) explains reasonable restrictions on right to freedom. The absence of the word 'reasonable' in the Cinematograph Act was considered inconclusive in this regard. In this case, the word 'reasonable' was related to public order or tranquility. With respect to the issue of insufficient guidelines in the Act and the arbitrary exercise of powers under the Act, the Court found that the guidelines given under the Act read with Article 19(2) of the Constitution were sufficiently clear. The court also opined that the guidelines to differentiate between artistic expression and non-artistic expression in assessing obscenity. This alone was however considered insufficient to strike down the provisions of the Act.

Issues of telecasting views by media rather than news with reference to India

The radio invented by Marconi went underground (irrelevant without use) after the



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emergence of Television and other forms of electronic media. However, the radio again rejuvenated its presence and has become a friend of every one due to broadcasting of programmes through different broadcasting radios such as Radio Mirchi, Fm Rainbow, FM City Radio, etc. But then ofcourse these radio channels are not only entertainment in character but also useful in dissemination of information and news communication. However, children and youth should be careful for the reason that sometimes the programmes are with full of obscene and sex related language. Furthermore, these channels are in a way reducing the use of mother tongue language and using the more of English language which is of course not so useful for everyone.

Therefore, it is a challenge, there is a need for balancing all the types of languages while broadcasting through afore mentioned radios, whereas in most of the cable network television's now a day, it is with full of unwanted views which are contrary to our basic values and good principles of our society. In most of the cases the views of news reader and is accompanying lady staff reporter will dominate the news and give a different meaning to the actual news prevailing in the society. Therefore, it is also a great challenge here that the telecasting bodies are to be regulated for sound and value-based principles of telecasting through cable network televisions.

The author is confident that the public broadcasting and telecasting media of government does not broadcast or telecast views, but many a times news is reported.

Discriminatory practice in the matter of telecasting through televisions

The author is of the view that in India, both public broadcasting, telecasting and private television telecasting programmes practice discriminatory and arbitrary means by not

telecasting the real issues of the exploitation against the Scheduled Castes, Scheduled Tribes, Women, Children and the Minorities (especially the Muslims and Christians). Even they show the news relating to these castes and community population but then the time slot is very short, whereas more attention is given towards the telecasting about the most dominant and rich fortunate people. However, the author stands corrected if the views expressed are wrong, but then the media should be "by all and for all" segments of population in ownership, employment in media and connected matters for the reason that statistics show that around 80% of the employment in both public broadcasting, telecasting and private telecasting is meant for the forward and dominant caste and class of population.

Furthermore, the use of children both boy and girl child are rampant in televisions. This is also an important issue for concern and there is a great challenge ahead for stopping the over exploitation of child resource in the matter of advertisements in televisions. Sweden is the only country in the world which prohibits children for the use of advertisements in televisions.

In a developed country like the USA, the Supreme Court of USA ordered for stopping of discrimination between the blacks and the whites population news telecasting. In the case of *Office of the Communication of United Church of Christ v. Federal Communications Commission* (1966), Justice Warren E Burger allowed PIL for NGO office communication for discrimination against Blacks of TV.

Issue of regulating Social Media, Twitter, Internet, Facebook, Instagram, etc. and SMS by mobiles through Media Communication and Monitoring Committee of Election Commission of India:



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The recent initiative by Election Commission of India (ECI) in view of 2019 April - May Lok Sabha elections by way of Constituting "Media Communication Monitoring Committee" (MCMC) by introducing new measures for flow of messages, fake news through social media, internet and also posting unnecessary advertisements in the matter of elections is highly appreciable.

In the present MCMC body there are members who are connected with managing the affairs of social media, internet, etc. Secondly if any persons or individuals wish to send any SMS in the form of any advertisement pertaining to election such body or individuals should seek prior permission of MCMC. The same will also apply to posting news on elections (2019) through social media, internet, etc.

Furthermore for the first time the MCMC of ECI has entrusted the work of drafting a self-regulatory code for posting news through social media, internet, etc. this is a welcome idea of ECI. Any breach of regulatory measures by MCMC of ECI will be dealt firmly by way of fines, etc.

Regulatory issues and challenges towards press and electronic media:

Media in India is mostly self-regulated. The existing bodies for regulation of media such as the Press Council of India which is a statutory body and the News Broadcasting Standards Authority, a self-regulatory organization, issue standards which are more in the nature of guidelines.

The PCI was established under the PCI Act of 1978 for the purpose of preserving the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in India. The functions of the PCI include among others -

- (i) helping newspapers maintain their independence;
- (ii) build a code of conduct for journalists and news agencies;
- (iii) help maintain "high standards of public taste" and foster responsibility among citizens; and
- (iv) review developments likely to restrict flow of news

The PCI has the power to receive complaints of violation of the journalistic ethics, or professional misconduct by an editor or journalist. The PCI is responsible for enquiring in to complaints received. It may summon witnesses and take evidence under oath, demand copies of public records to be submitted, even issue warnings and admonish the newspaper, news agency, editor or journalist. It can even require any newspaper to publish details of the inquiry. Decisions of the PCI are final and cannot be appealed before a court of law.

Today news channels are governed by mechanisms of self-regulation. One such mechanism has been created by the News Broadcasters Association. The NBA has devised a Code of Ethics to regulate television content. The News Broadcasting Standards Authority (NBSA), of the NBA, is empowered to warn, admonish, censure, express disapproval and fine the broadcaster a sum up to Rs. 1 lakh for violation of the Code. Another such organization is the Broadcast Editors' Association. The Advertising Standards Council of India has also drawn up guidelines on content of advertisements. These groups govern through agreements and do not have any statutory powers. In 2006 the government had prepared a Draft Broadcasting Services Regulation Bill, 2006. The Bill made it mandatory to seek license for broadcasting any television or radio channel or program. It also provides standards for



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regulation of content. It is the duty of the body to ensure compliance with guidelines issued under the Bill.

CONCLUSION

The author concludes by submitting that the role of media of course is highly responsible in helping the democratic functioning and in democratic participation of governments and population respectively. But there is a need for completing the full circle of regulating mechanism through the powerful instrument of law for creating and establishing a strong and firm pillar of democracy namely "the media" in India.

In this connection the writer put forth one suggestion that the concept of criminal

defamation and the Criminal contempt of court under IPC and the contempt of court Act respectively should be relooked for real reform for enlarging the scope of media in India.

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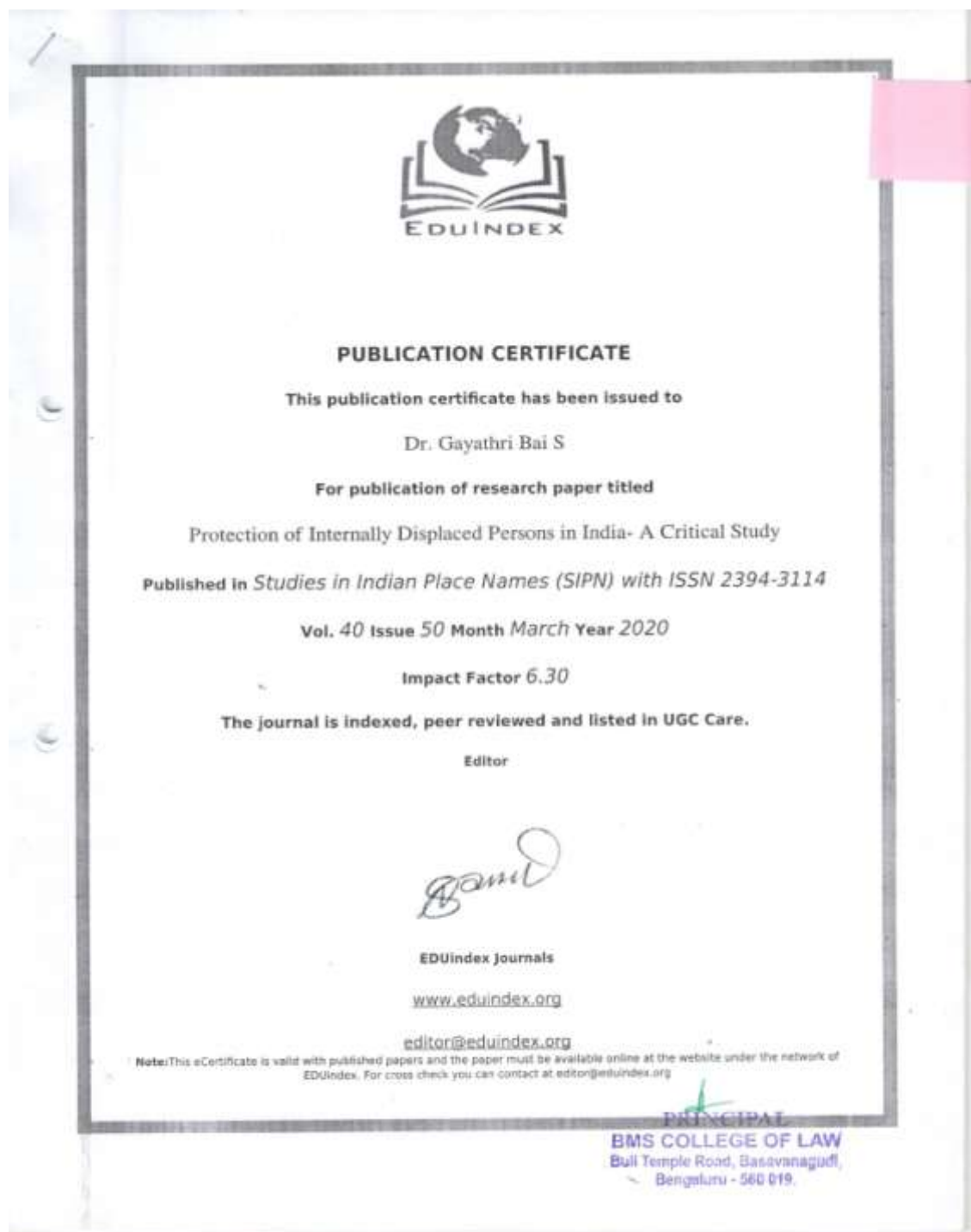


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Protection of Internally Displaced Persons in India- A Critical Study

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Abstract

There is no definite legal framework to define internally displaced persons in a definite term. Mr. Melander by adopting humanitarian law approach said that internally displaced persons are those persons who have left their residence in order to avoid internal war but without crossing the international boundary of their home states. When an attempt to define the term IDP in a definite term the problem lies in the fact that a wide range of situation can be examined, but it has been argued here that the common factor is human right violation against IDPs. This issue made us to think IDPs issue from the perspective of both human rights and humanitarian issues not just concentrating on some groups or geographical area. In order to become a developed nation, government is giving importance to technology and forgetting the ethical issues related to tribal population in India. For the sake of development, the rational population which is a great asset and essential for a democratic form of government and these developmental projects have created internally displaced persons in India.

Keywords: IDP, Developmental Project, Internal conflict, Human rights, Natural disaster

Developmental process is inevitable in all the countries to get tagged as developing economy. India is not an exception to this, like any other developing economies, India has also adopted developmental activities which has displaced many people in many regions of India which has resulted into emergence of internally displaced people. India having vast population of more than 100 crores, has given shelters to many homeless refugees from Tibet, Bangladesh, etc. It is shocked to know that our own people are internally displaced due to conflicts, developmental activities and natural disasters who are displaced from their locality and it has become a matter of serious concern in the present scenario as India has taken the responsibility under international conventions to protect refugees from other countries but has failed in providing protection to its own people who are labelled as IDPs. Nearly one million people are subjected to ethnic violence and forced to leave their homes in north-east India over the last 20 years as it is reported by Internal Displacement Monitoring Centres of Norwegian Refugee Council.¹ Nearly 8,00,000 people migrated from western Assam and

¹ Report published on 28/11/2011, www.internal-displacement.org/countries/india



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Tripura and these people have not received enough assistance which forced them to return to their homes inspite of threat to their life and security.

There are no proper laws governing IDPs as a result of which IDPs are dealt with by UNHCR Refugee structure to provide protection and assistance to IDPs when they are found in the situation of refugees as internal displacement forms a first step towards external displacement.² Internal displacement should be dealt separately as it raises issues of a different nature and few issues related to IDPs are highlighted in this research paper.

Internal displacement and containment policies

In situation of danger, people move from their place and take shelter in nearby area with a hope that they can move back to their homes. In such situation moving to neighbouring countries is limited because of lack of transportation and few countries will close their borders to these people. The increased number of IDPs will showcases the failures of political system of country in protecting its own people. Conflicts among countries involve targeting civilians creating the situation of internal displacement and humanitarian issues.

An international concern

In 1972 Addis Ababa Agreement was signed to put an end to the civil war in Sudan which took place in 1970 and for resettlement of refugees and IDPs. UN Economic and Social Council requested the UNCHR to provide humanitarian assistance to them. In 1972, UNCHR made efforts to stop the civil wars across the world to stop internal displacement and refugee issues.³ During first half of the 1990s, IDPs was increased in Rwanda, Burundi, Republic of Congo, Yugoslavia and in Sudan which became a serious issue. In these countries, IDPs took shelter in refugee camp but their condition was worse than the refugees because refugees are protected by conventions which impose obligations on the countries where as IDPs are protected within their own countries which may increases the death rate of IDPs also. UN has been trying to give importance to humanitarian aspects to internally displacement, towards this many NGOs have joined hands with UNO.⁴

² Catherine Phueng, 'The international Protection of Internally Displaced Persons', Cambridge University Press, Ed 2004, p2

³ Catherine Phueng, 'The international Protection of Internally Displaced Persons', Cambridge University Press, Ed 2004, p7

⁴ Catherine Phueng, 'The international Protection of Internally Displaced Persons', Cambridge University Press, Ed 2004, p8



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Internal Human Rights Perspective

The issue of IDPs can be viewed from many aspects, one among that is human rights perspective of IDPs. When people are compelled to move from their place, directly affect their livelihood, cultural life, residence and many more aspects which are very basic to exist as human beings and these rights are associated with human rights. UN emphasized on human rights aspect and pointed out many questions such as difference between refugees & IDPs, why IDPs shall not be protected as per Refugee Convention 1951. In 1990s UN promoted in-country protection to IDPs to avoid external displacement. Director of UNCHR Department of International Protection stated as follows about IDPs 'the protection is not a theoretical or legal construct. Even though its practice is framed by an important set of international agreed legal principle and guidelines. The protection function is dynamic and action oriented. It has overarching goals and it is performed through a wide range of specific activities ranging from intervention and programme implementation, through advice, promotion and training, to capacity building'.

Legal framework in India

Today, the developmental models legitimize systematic displacement and dispossession of resources, labour and the very means of human existence of the majority include poor, indigenous communities, women and children. In that respect, acquisition and requisition process of the state, serves as an instrument of colonization. Displaced from security of their socio-cultural life and their eco-system the tribes and the dalits are compelled to shift to an alien environment and are reduced to the life of rebels.⁵

Questions of participatory process of development is a bigger issue that has been hogging the headlines during all these years in the process of land acquisition and rehabilitation and resettlement of displaced families. Even after 70 years of Indian independence there is no comprehensive law dealing with rehabilitation of displaced persons in India except few norms are laid down by the Supreme Court from time to time. At policy level we have two major efforts, one in 2003 and in 2007 intending to provide for a comprehensive legal framework for rehabilitation and resettlement. A Bill in 2007 was drafted but could not take the shape of legislation. This was one sincere effort which was made by the legislator after enacting Forest Right Act 2006 which could have taken care of

⁵Gurdip Singh, 'Human Rights in 21st century, changing dimensions', Universal Law Publishing Co, Ed2012, p 379.



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many of the ills affecting displacement process in the wake of developmental efforts of the state system. The realization appears to be dawning on the government process that provision of public facilities or infrastructure which often requires the exercise of powers by the state for acquisition of private property leading to displacement of people, deprives them from their property, livelihood and shelter etc. All these have affected the population which call for protecting their rights, in particular of the weaker section in the society such as tribal and marginal farmers specially.⁶

A group of critics are of view that absence or presence of law is not the main reason for the situation of IDPs but the political intention which is important to look into the matters relating to IDPs. Since land use pattern, the vagueness in regulating them and the widespread corruption therein funds the democratic process in the country, the argument is that political class simply keeps on deflecting the attention of the community rather than addressing the real issues. Haryana Government has provided new land acquisition policy which divided the state into four zones, fixed the land rates for each zone separately and the annuity for 33 years which takes care of future livelihood. It also provides for an innovative no litigation premium of 20 % if the owners promise not to approach the court later. The policy also suggested for skill development, preference employment in upcoming projects and fund for village infrastructure is assured for non-owners affected families. If the same policy model is adopted in whole India, it can protect the interest of displaced persons.⁷

India need to adopt a comprehensive legal and policy framework which will avoid involuntary resettlement, minimizes displacement when it is inevitable and unavoidable. To provide adequate assistance to displaced community. The legal framework must provide for enforcement of right of rehabilitation in court of law.

Displacement in Jammu & Kashmir

India's largest situation of internal displacement stems from the conflict in the north-western state of Jammu and Kashmir between militants seeking either independence or accession to Pakistan, and Indian security forces and police. The status of Kashmir has been in dispute since the creation of an independent India and Pakistan in 1947, and the two countries have twice gone to war over the issue. Election in 2002 raised expectation among

⁶ Gurdip Singh, 'Human Rights in 21st century, changing dimensions', Universal Law Publishing Co, Ed2012, p 385

⁷ Gurdip Singh, 'Human Rights in 21st century, changing dimensions', Universal Law Publishing Co, Ed2012, p 386



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J&K residents that coalition government will put an end to displacement of Kashmir pundits, to implement this government proposed a plan to accommodate 1,25,000 displaced pandit in J&K by building apartments in Anantnag district to them,⁸ but they were not ready to return due to fear of being targeted. According to the Indian government, more than 1,00,000 persons remained displaced due to instability along the LOC as of spring 2003. The ceasefire that was concluded between India and Pakistan in November 2003 has led to substantial improvement of the security situation. The information regarding subsequent return movements is conflicting. While local media has reported that 75 per cent of the population has returned to their homes, another local source says that many still remain in camps awaiting demining of their fields and repair of their homes. A vast demining operation of the border areas (more than one million mines were laid following the build-up of troops after the December 2001 attack on the Indian Parliament) is a prerequisite for a successful return of the displaced.

Displacement in Assam - Ethnic Violence

Violence has broken out in the states of Assam, Manipur, Nagaland, Tripura and Arunachal Pradesh, involving at least eight different ethnic groups (Bodos, Nagas, Kukis, Paites, Mizos, Reangs, Bengalis and Chakmas). The largest forced displacement movements have occurred in the states of Assam, Manipur and Tripura. The largest displacement situation in the state stems from the fighting between Bodos and Santhals which erupted in the early 1990s and displaced an estimated 250,000 persons. The most recent estimates of the number of people remaining in relief camps range between 110,000 and 135,000. The camps are located in Assam's Kokrajhar, Gosaigaon and adjoining districts.⁹ In March 2003, fighting erupted between the Dimas and Hmar tribes over land holding and governance in the North Cachar Hills. Up to 5,000 people were displaced as a result of this conflict. Women, children and the elderly took shelter in relief camps in the states of Manipur and Mizoram. Attacks by Karbi insurgents in October and November 2003 led to the displacement of 5,000 Kukis to Manipur and Nagaland. An unknown number of Karbis were also displaced. In March 2004, following retaliatory attacks, more than 2,000 Karbis fled their homes in the Karbi-Anglong district of Assam to government-run relief camps.

The heinous attack on non-Assamese people occurred in November 2003, when a major wave of violence was launched against Hindi-speaking people, many of them coming

⁸ Hindu Press, 09/03/2003

⁹ The Hindu, 16/03/2004



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from Bihar to find seasonal work in Assam. The conflict was triggered by a row over jobs and reported intimidation of Assam people in Bihar and violence quickly spread from the capital city of Guwahati to areas in upper Assam. Mobs and militants killed at least 56 people and burn down hundreds of houses. There is no estimate of the number of people who became internally displaced within the state, but at least 18,000 fled to about 40 camps.¹⁰

In North Tripura, some estimate that more than 100,000 people are internally displaced due to ethnic fighting and terrorist attacks by tribal insurgent groups targeting non-tribal settlers.¹¹ During the first months of 2003, attacks by the outlawed National Liberation Front of Tripura and All Tripura Tiger Force, sparked off an exodus of non-tribal Bengalis from the interiors of the state. An estimated 31,000 Reangs from Mizoram also remain displaced after fleeing ethnic fighting with the Mizos in 1997. Despite recommendations and orders of the National Human Rights Commission and the central government, the state government of Mizoram refuses to take back the displaced Reangs because they maintain that only half of the displaced are citizens of Mizoram. In Arunachal Pradesh, at least 3,000 Chakmas have been displaced in previous years and the tension between nationalist movements and the Chakmas threatens to displace many more. Residents have protested at the presence of the Chakmas, who began arriving from the Chittagong Hill Tracts of Bangladesh in 1964. Many residents still view the Chakmas as refugees, despite a ruling of India's Supreme Court in 2000 directing the government to grant the Chakmas citizenship. The Chakmas are regularly threatened with expulsion, in particular by an influential Arunachal student organisation, which maintains that the Chakmas should be resettled elsewhere. Controversy mounted over the inclusion of 1,500 Chakma residents in the electoral rolls in April 2004.

Government Response towards Internal Displacement

The government's response to internally displaced from Kashmir has been much more generous than the response to displaced elsewhere in the country. According to an official report in 2000, the Indian government spends \$532,000 per month on financial and food aid for the displaced in Kashmir. Recently, the government also announced a wide-reaching development programme for Jammu and Kashmir where \$2.2 million is earmarked for relief to displaced Kashmiri Hindus. No such assistance is being provided to internally displaced in the North-East. The government does however grant relief on an ad-hoc basis. After the

¹⁰ The Hindu, 02/12/2003

¹¹ Deccan Herald, 20/03/2004



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violence against Hindi-speaking people in Assam, the government announced a relief package including construction of houses for nearly 20,000 people living in 30 relief camps in Assam, supply of relief materials, including food grains and other essential commodities. In Gujarat, reports blame local authorities as well as the state government for failing to address the needs of the displaced altogether, despite promises made by the government with regard to rehabilitation. In a positive development, efforts were made to make displaced voters participate in the national elections. The Electoral Commission ordered that displaced Kashmiri and Reang citizens could vote in their home states by submitting postal ballots. Newspapers also reported that polling booths were put up in relief camps for displaced people in Assam.¹²

In order to sensitize staff to IDP's protection issues, efforts are currently being made to disseminate both the guiding principles on internal displacement and a handbook to facilitate their application in the field. The close relationship between refugee and IDP protection is to be emphasized. IDP protection encompasses the protection of the human rights of the internally displaced and thus about delivering on human rights guarantees. It was argued here that the provision of aid in the midst of internal armed conflict poses new challenges as to how humanitarian action should be conducted. When faced with complex emergencies, humanitarian agencies have had to widen their range of activities and perform new functions. It is increasingly acknowledged that human rights play a crucial part in humanitarian action, where the delivery of aid is pursued in isolation from a human rights framework, assistance programmes do not have the desired impact. In any case, all UN agencies have a duty under Article 55 of the UN Charter to promote universal respect for and observance of human rights and fundamental freedom. When looking at the activities of humanitarian agencies, it seems that increased involvement in IDP protection issues has led them to address human rights concerns more generally. IDP protection has thus providing a strong link between humanitarian assistance and human rights.

The most serious protection problems often occur far from the persons who observe from far. The gravest situations involve countries that either do not acknowledge or do not permit international involvement with displacement within their borders. One should finally note that the protection strategies mentioned above can only provide short-term protection to internally displaced persons.

¹² The Hindu 16/03/2004