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# EXPRESSION

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**Chief Editor :**

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## Guidelines for Contributors

**Submission of Manuscript:** Manuscript should be in English only on one side of good quality paper, with attachment to Editor journal.expression@gmail.com. The manuscript must have neither be published nor be adequate margin on all four sides. It must be complete in all respects such as abstract, illustrations, appendices etc.

**Preparation of Manuscript :** Manuscript should be presented in as concise a form as possible. Pages should be numbered consecutively and arranged in following order.

**Title :** the title should to brief nor unnecessarily long. It should reflect the content of the paper so as to derive the maximum advantage in indexing.

**Abstract :** The abstract, usually not exceeding 200 words, should indicate the scope and significant content of the paper, highlighting the principal findings and conclusion. It should be in such a form that abstracting can use it without modification.

**Introduction :** Long and elaborate introduction should be avoided. It should be brief and state the exact scope of periodicals can use it without modification. the study in relation to the present status of knowledge in the field.

**Figure :** Figures should be numbered in order of mention in the text. Each figure should have a descriptive name.

**Mathematical Expression :** Wherever possible, mathematical expressions should be typewritten, subscripts and superscripts clearly shown. It is helpful to identify ambiguous symbols in the when they first occur. Equations must be displayed exactly as they should appear in print and numbered in parentheses placed at the right margin.

**Tables :** Tables should have short descriptive caption and numbered consecutively

**References :**References must be prepared in proper format

## Message from Chief Editor

Let me first of all take this opportunity to wish all our readers a very happy, peaceful and prosperous New Year 2016. It has been Two years since I was given the privilege to serve as the Chief Editor of the **EXPRESSION: A JOURNAL OF SOCIAL SCIENCE.** It is a great pleasure for me to humbly shoulder this duty despite it being a constantly demanding task. This is the first issue of the second volume of **the EXPRESSION: A JOURNAL OF SOCIAL SCIENCE.** Our goal is to create a new forum for exchange of information on all aspects of social science. I would like to encourage you to submit original research papers. A total of 13 articles are presented in the third issues and I sincerely hope that each one of these provided some significant stimulation to a reasonable segment of our community of readers.

Over the past two years, the journal has not undergone major change. However, regular and timely publication has been ensured which is important for its continuing growth. On a positive note, there has been a steady increase of articles received for publication indicating a growing interest among researchers to publish their work in this journal.

Finally, we wish to encourage more contributions from the readers to ensure a continued success of the journal. Authors, reviewers and guest editors are always welcome. We also welcome comments and suggestions that could improve the quality of the journal.

**Dr. Nisha Singh**
Principal MCPS

## About the Journal

Founded in 2003, Modern College of Professional Studies, Ghaziabad has already established a reputation as a medium to expand one's knowledge & enhance skills to achieve success. The strength lies in the strong academic faculty, focus on research and collaboration with industry The publication of first International Journal of MCPS **"EXPRESSION - A Journal of Social Science"** proved to be a milestone in achieving academic expertise. Now, we are bringing the second issue of the journal.

The Volume-II, Issue-I of **EXPRESSION** covers finest peer-reviewed research in all fields of management, IT, Education, Commerce, Law and Social Science and taking contemporary issues and latest trends in the global village. It contains diverse collection of original articles and research work of researchers, academicians and scholars.

Through this journal, we would like to share globally our experiences and learning with other education assessors or evaluators. The basic objective is to provide opportunities for all those interested in learning more about in the field of Social Science.

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# Executive Training And Development In Organizations : A Conceptual Study

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**Abstract :**

The postwar popularity of executive development programmes raises in slightly new form from the old question of what should be the training of the executive. The executive development programme is a conference, course or seminar lasting from one or two days to a month. Executives are usually drawn from "middle management" which are brought together under the auspices of an academic institution or a trade association, to hear talks by the "experts" of professors of administration or executives of larger organization, to engage in discussion, and in some cases to engage in "simulation" of administrative situation. The study has been undertaken to provide some guidelines to Executive Training and Development to make the work more worthy. The primary concern of an organization is its viability, and hence its efficiency. There is a continuous environment pressure for efficiency. If the organization does not respond to this pressure it may find itself rapidly losing whatever share of market it has. Executive training and development therefore, imparts specific skills and knowledge them in order to contribute to the organization's efficiency, and be able to cope with the pressure of a changing environment. Training and development in organizations, top management commitment, various studies on training and development in India, Executives' performance, productivity and problems and challenges of training and development have been discussed in this paper.

**Keywords:** Executive, development, management, training, efficiency, Changing environment.

## I. INTRODUCTION

Effective management of any research organization is depends on human resource that need to be shaped for better management practices and help to create better "enabling" environment to face the challenges of competitiveness and dwindling economics in Public sector **(D. Rama Raoet al. 1968 )**. Each industry requires managerial talent with different functional areas of specification and professionalism. Manager in higher echelons posses not only functional specialization in one particular area such as finance, personnel, marketing or a special branch of engineering but also professional expertise in that particular industry or sector."Executive" in an industrial context is 'senior executives; that is probably thinking about the people in the top of a management hierarchy.

Training and development in public and private enterprises are big business. It is not a course: it is a continuous series of experiences in which learning takes place. It may be relevant to mention that the growth rate of an organization is likely to be limited more by its personal than by any other factors. The ability to maintain and help good people is tied partially to proper payment, but significantly influenced by the ability of a company to provide opportunities to each individual to develop and, to utilize his abilities, to find continuing job satisfaction and individual will to learn. The Managers in today's world cannot progress and manage if they do not possess right "vision". They can make or mar the companies on the basis of their management quality if they are not capable of fulfilling their responsibility effectively as well as are not able to lead the team of peers and employees properly. It is the question of discussion to develop attitude in employees towards the organization and commitment.

The executive functions are challenging than ever before. It is a challenge to those who are motivated and who have executive potential. To meet this challenge, the executive must be prepared for it. Since all executives can improve and since rapidly changing conditions require new skills, all who accept the challenges must strive for improvement; otherwise all is lost.

## II. APPLICATION OF CONCEPT OF EXECUTIVE TRAINING AND DEVELOPMENT

M.C. Farland, "defines several concept used in the development of human resources. Although training and education are closely connected, these concepts differ in crucial ways. While the term "training" relates to imparting specific skills for specific objectives, the term "education" involves the development of the whole individual socially, intellectually and physically. Management education and training have been widely accepted as a crucial input for improving managerial competence which ultimately increases

organizational efficiency and effectiveness. The Competencies are best used as a tool keeping in the background until they are needed. They can be of particular benefit in structuring the training and development of people.

A systematic approach to training depends on:

- rigorous review of the present situation;
- a clear statement of objectives;
- a well balanced assessment of alternative ways of achieving those objectives; and
- a careful evaluation of the results of the training journey that has been undertaken.

The rapid increase of knowledge and the technological revolution makes it increasingly that education must be viewed as a continuing lifelong process. The Training manager must recognize that there are changes, trends, challenges and issues that must be dealt with now-while they can be shaped, redirected, or exploited and before their full effects are seen.

## III. TOP MANAGEMENT'S COMMITMENT FOR TRAINING AND DEVELOPMENT

For training activities to be effective the top management has to have a commitment, and they should take interest in the training activiti es of the organization. It is to be treated as an investment and there should be provision of adequate fund in their budgets. What is normally noticed is that when the budget deficit, the axe falls firstly on the training department. Without commitment of top management people are unlikely to take much interest in training, and training activities will remain domant. It should always be considered as an important wing of the organization; then only it will be able to play a significant role.

## IV. TRAINING AND DEVELOPMENT TODAY AND TOMORROW

Management training as it is imparted in India today, has its origins in the west and is, therefore, strongly influenced by the western environment and economic conditions. "We are entering a world where the old rules no longer apply". The opening quote in a best seller rising Sun by Michael Crichton (1992) sums up how rapidly the future is changing and becoming unpredictable. Given the commitment to the continuous changes taking place in all type of organizations, like their best human resources functions, change will be only certainly for training functions and those responsible for training & development initiatives in their organizations. Training functions will have to run differently as organizations expect more evidence that they are contributing to organizational success. In response to calls for changes in the way, training has traditionally been done, many have responded by calling for redefining the mission of training and even firing or getting rid of in-house training together because it is not cost-effective. In short, the pressure is on trainers and training functions to reinvest, revitalize, remake, and improve what they do.

Industry is today aware of the need for qualified men to manage and operate the industrial complex of our modern society. Few men are born managers. Most of them learn by experience or must be taught by formal methods. It is the company that provides the executives with his greatest learning opportunity. No competent schools have tried to make learning a substitute for experience. In the late 1940's management became convinced that additional training might be useful to the supervisors and the executives of an organization.

## V. OBJECTIVES OF EXECUTIVE DEVELOPMENT

The Main Objectives of Any Programme of Executive Development are to

- Improve the performance of managers at all levels.
- Identify the persons in the organization with the required potential and prepare them for higher positions in future.
- Ensure availability of required number of executives / managers succession who can take over in case of contingencies as and when these arise in future.
- Prevent obsolescence of executives by exposing them to the latest concepts and techniques in their respective areas of specialization.
- Replace elderly executives who have risen from the ranks by highly competent and academically qualified professionals.
- Improve the thought processes and analytical abilities.
- Understand the problems of human relations and improve human relation skills.

## VI. THE IMPORTANCE OF EXECUTIVE DEVELOPMENT IS APPRECIATED IN MORE ORDERLY MANNER IN THE SUCCEEDING PARAGRAPHS

- Change in organizations has become sine quo non with rapid changes in the total environment. A manager, therefore, requires to be imparted training to abreast of and cope with on-going changes in organization. Otherwise, the manager becomes obsolete. In this context, **Dale Yoder views that** "without training, the executives lose their punch and drive and they die on the vine. Training and development are the only ways of overcoming the executive dropouts".
- With the recognition that managers are made not born, there has been noticeable shift from owner managed to

professionally managed enterprises, even in family business houses like Tata. That is also indicated by the lavish expenditure incurred on executive training by most of the enterprises these days.

- Given the knowledge era, labour management relations are becoming increasingly complex. In such situation, the managers not only need job skills but also behavioral skills in union negotiations, collective bargaining, grievance redresses, etc. These skills are learned through training and development programmes.
- The nature and number of problems change along with increase in the size and structure of enterprise from small to large. This underlines the need for developing managerial skills to handle the problems of big, giant and complex organizations.

Inaugurating the Tata Management Training Centre at Pune in 1965, Mr. J.R.D Tata extolled the importance of management training in these words. "Trained managers are vital to the economic development of the country... This business of executive development has been one of the most crucial, essential ends, at the same time; one of the most difficult elements is providing continuity and efficient management". As regards the importance of management development, the renowned behavioral scientist Peter Drucker opines that, "an institution that cannot produce its own managers will die soon. From an overall point of view, the ability of an institution to produce managers is more important than its ability to produce goods efficiently and cheaply". In short, the importance of executive management development in an organization can best be put as: anything minus management development in an organization mounts to nothing.

## VII. SIGNIFICANCE OF TRAINING AND DEVELOPMENT FUNCTION

The common training methods used achieving methods in management programmes include classical academic teaching methods like lectures, reading assignments, etc. –case study method, participative methods and simulation methods which include management games, exercises, simulation models, role play, in basket, ' training on the job' and application project methods. Many researchers in the field of training have indicated that various participatory training methods used for imparting knowledge and development of management skills are found highly effective to compare other traditional methods of management training and education. Hawrylyshyn(1967) studied the effectiveness of various participative methods used for development of management skills and found that the group project, role play, decision simulation, case method, incident methods, and field study are most effective for developing, motivating, communicating, deciding, diagnosing problems, selecting pertinent data, and observing skills respectively. A participative methodology is based on principles of inductive learning; using experiential learning approach was develop by Ralf Coverdale, a British social psychologist with his experiences of human behavior during world war II and later as manager with two leading business organizations of the U.K. viz., Steel co. of Wales and Esso Petroleum as a training consultant. The learning from the Coverdale methodology is practiced by a large number of managers of leading business organizations in about 80 countries of the world.

## VIII. VIEWS ON EXECUTIVE TRAINING AND DEVELOPMENT

With the development of high technologies, training and development will become central in the global economy as a profession and as a corporate function. In spite of its importance, training and development function may not be receiving adequate attention in public sector Enterprises. Late Prime Minister Rajiv Gandhi expressed the view that, "I find in public sector enterprise, there is almost no training at all. There is no attempt to build up the quality of management," Arjun Sengupta Committees also expressed that, "one of the most vital but neglected areas in public enterprises has been the training." Singh went a step further stating that, "if we look at the objectives of the public enterprises, one notice that Human Resource Development has never been mentioned as one of the objectives."Argyris advocates the concepts of training involving the recognition of authentic interpersonal relationships, individual responsibility for self-development, the growth of emotional and intellectual learning, self awareness and changes in attitude and behavior. Bennis raises questions regarding the inadequacy of training programmes for developing the adaptive and innovative participants in the organizational setting. The problem in training individuals who are alert and receptive of new ideas, innovative, flexible and posses a great deal of commitment to changing situations.

## IX. MANAGEMENT TRAINING AND DEVELOPMENT FOR IMPROVING PERFORMANCE OF EXECUTIVES

Training is a short term facet of Human Resource Development concerned with the development of present skills of a job and also the future skills that would help in its efficient execution. Management development on the contrary is a long term and continuing phenomenon equipping a person with skills and concepts that could prepare him to take up new responsibilities and challenges . A study of the key ratios relating to the management training and development forming a major part of the HRD shows that the training and management development expenditure per employee was US $ 960 in Europe, US $ 531 in Canada, US $ 386 in Japan and

US $ 650 in USA. The training and development expenditure as percentage of payroll was 3 % in Europe, 1.5 percent in Canada, 1 percent in Japan and 1.8 percent in the USA. The ratio of the employee and the trainer was 257:1 in Asia and Pacific, 504:1 in Canada, 1706:1 in Japan and 400:1 in USA. The percentage of employees receiving training was 75.5 in Europe, 68.9 in Canada, 44.9 in Japan and 75 percent in the USA. The payments made to outside experts/ training institutions as percentage of total expenditure was 45.4 percent in Europe, 27 in Canada, 31 in Japan and 27 percent in USA. The Indian proportions are minuscule and do not deserve any mention. This can be seen in the context of the expenditure on HRD as a percentage of GDP. USA and France spend about 20 percent of their GDP on HRD. A small country such as Belgium spends about 40 percent on HRD. India pledged to spend a mere 6 percent of GDP on HRD. All these countries spent about 1-4 percent of the money on training and development as a percentage of their turnover. It is claimed that India is emerging as an IT superpower. However, an average Indian employee is wide off the mark as compared to US and Japanese employee.

India is opening up the challenges to provide a wide range of opportunities subject to the acquisition of relevant skills, competencies and concepts. Executive must specifically strengthen and reinforce their executive core qualification (ECQ), skill and knowledge to make informed decisions and devise new innovation solutions to the complex challenges they continuously encounter. The executive development Plan (EDP) is a key tool in assisting executives in their continued development. EDPs should outline the short term and long-term developmental activities that will enhance an executive's performance. These activities should meet organizational need for leadership, managerial improvement, and result. EDPs should be reviewed annually and revised appropriately by an Executive Resource Board or similar governing body designated by the agency to oversee executive development.

## X. IMPROVEMENT IN PRODUCTIVITY

Knowledge and skills have a significant impact on the productivity of a workforce. The subsequent impact of these two factors affects the competitiveness of a country's products and its ability to attract investment. Although there are many pre-conditions to be met to achieve higher productivity, managing one's human resources through training, development an d participation has proven to be one of the most important. The following factors quoted from S.R.de Silva's (1993) paper highlighted the importance of training and development in achieving higher productivity: "Training and development are essential to produce improvement and quality which are in turn important to productivity, improvement training needs to be continuous and on-going process if enterprises are to meet the rapidly changing skill requirements and flexible workforce, which is crucial to productivity improvement in the context of shorter product life."

## XI. PROBLEMS AND CHALLENGES OF TRAINING AND DEVELOPMENT

Training is one of the most commonly used mechanisms for developing effective team's world ever. Preparation of a need based curriculum and selection of an appropriate methodology or combination of methods for running an effective management development training programs with focus on team work is one of the crucial decisions for the trainers have to make in order to achieve optimum results. An effective methodology on one hand should help trainers in learning new skills required for the formation of a strong team and on the other hand it must facilitate the functioning of a team through the application of learnt skills in different work situations. To ensure effective learning among adult, a trainer needs to take certain important steps like setting unambiguous objectives, designing a need based module, selecting an appropriate faculty and venue and lastly a befitting methodology or combination of methods before conducting training programmes. Trainers face real challenges in finalizing a methodology or selecting methods for training which cover the principle of effective learning and the process of transformation in case of adults. As such there may be many aspects of relationship between' principle of effective learning and transformation in case of adult' and the training methods'. It is worthwhile to examine in brief why training and development activities have often not been able to help bring about the desired changes in the thinking of top management. Often training as seen in this context, has not been able to make the desire impression. This may be due to the fact that line and top management often think of achieving short term goals and therefore fail to see how training and development can help contribute the better performance. Besides, training may not be seen as an integral part of the whole gamut, if top management is not committed to it. Lake of commitment and the resultant lack of an effective training programme may lead to frustration among new entrants in an organization and 'rusting' among the older executives. However, it is true that many times and in most of the organizations built in the principles of the hierarchical pyramid, there is a direct or indirect resistance to introduction of change since training implies possibilities of change in the organizational culture, there is a tendency to treat it lightly if not derisively.

The major barrier, therefore, to the acceptance of training and development plans by the top management as part of a phased plan of change as their potentially "threatening" nature-threatening to the status quo. The rapid changing environment in India calls for new orientation on the part of top management. Those who wi`ll not adapt to new changes will find it difficult to survive for long. In the last few years the

Indian business environment has changed drastically. Hence the role of the training and the need for the involvement of the top management in making this function a live component of an enterprise. Today training is the fastest growing business in the country. In the age of the global competition, it is likely to grow even faster in the next few years. Unfortunately, much of the training effort goes in vain. The reasons for such a waste are many: the most important one is the basic mistake in thinking that the goal of all job- related training is to achieve long –term improvement in the way employees do their jobs. This paper is concerned with the executive training and development, that is, a training programme is conducted to increase the knowledge of management groups concerning functional management theory and practice. With the increasing emphasis on training, it would seem that in this period of scientific management, enterprise will be aware of the advantages, disadvantages, and the effectiveness of training.

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# Beggaring: Dearth of Provisions to Eradicate The Meanace

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**Abstract :**

Begging, technically known as panhandling, has been a matter of concern since ages. It has of-lately assumed a startling proposition. But despite of vital efforts made on the national front, India is still struggling to eradicate the menace from the roots of their land. The present research paperhighlights the consequences of the mountinghazard of panhandling and provides alternatives to deal with the present situation. It further explores the gravity of the situation in the country and the dearth of provisions to cater to the peril begging.
**Keywords:** Beggar, Begging, Panhandling, Anti-beggary Laws, Remedial measures

## I. INTRODUCTION

In India, the problem of beggary has attained astonishing altitude. Beggars of modern times have adopted beggary as a profession, it has changed its form in the modern period and the problem has become anenormous one. Beggars do nothing, apart from begging and leading a life of atrocious moral corruption. Moreover, due to less productivity and all-round backwardness beggary is mounting at alarming rate.Though there is inadequate literature and scarce written documents which reveal that where and when of the practice of begging began. Some oral traditions and hearsay indicated that it was started when people begun a competitive life across the entire world.

## II. DEFINITION OF BEGGAR

A beggar is one "who asks for alms or charity or performs such actions which derive sympathy from others who give something in return".
A "beggar" is a person who indulge in "begging or Panhandling".
The legal definition of a beggar, can be traced back to the Bombay Prevention of Begging Act, 1959, section 2(1)(I) defines begging as –

- Soliciting or receiving alms, in a public place whether or not under any pretence such as singing, dancing, fortune telling, performing or offering any article for sale;
- entering on any private premises for the purpose of soliciting or receiving alms;
- exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound injury, deformity of diseases whether of a human being or animal;
- having no visible means of subsistence and wandering, about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exist soliciting or receiving alms;
- allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms; but does not include soliciting or receiving money or food or given for a purpose authorizes by any law, or authorized in the manner prescribed by the Deputy Commissioner or such other officer as be specified in this behalf by the Chief Commissioner.

According to the Section 363 A (4) of Indian Penal Code,

(a) 'begging' means-

(i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortune-telling, performing tricks or selling articles or otherwise;
(ii) entering on any private premises for the purpose of soliciting or receiving alms;
(iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;
(iv) using a minor as an exhibit for the purposeof soliciting or receiving alms.

## III. CATEGORIES OF BEGGARS

Beggars have been classified into various categories. Beggars can be basically classified under the following heads:

**III (A) The Child Beggars** – A child who may be a paid or an unpaid assistant of the adult beggar.

**III (B) The Disabled Beggars-** Theymay include the deaf, dumb, blind, crippled, maimed and deformed. Besides these, there are chronically under-nourished and those afflicted with various organic troubles, or suffer from weakness of the vital organs.

**III (C) The Mentally Defective Baggers-** including a large proportion of the destitute, immoral, delinquent and criminal population.

**III (D) The Diseased Persons-** The diseased person suffering from various infections or diseases like T.B., epilepsy, leprosy, skin diseases, venereal diseases, amputated organs and with sores and ulcers covered with plasters on which countless flies settle and feed.

**III (E) The Able-bodied-** They considers begging as their birth-right and bully, harass and troubles the public by forcing them to give alms. Such beggars often beg during the day and turn into thieves or robbers by night.

**III (F) The Religious Beggars-** Like Sadhu, Sanyasi, Yogi, Bairagi, and Fakir. These people are mostly seen in paraphernalia of saffron robe, wood-bead-necklace and bowl in hand. They seem to preach the goodness of religious texts but actually they are totally unaware of the religious texts.

**III (G) The Bogus Beggars-**They are the able-bodied persons, who change their paraphernalia from time to time and deceive the general public by gaining sympathy. These bogus beggars often use make-up tricks to attract the attention and sympathy of the innocent, soft-hearted people.

**III (H) The Tribal Beggars-** They are beggars, who move about from place to place singing and reciting local songs and begging. They are purposeless wanderers who move from place to place, begging for food and other basic amenities of life.

**III (I) The Employed Beggars-**They are the persons, who work in night shi fts in factories and go out begging during the day. Theses beggars need to resort to begging because of insufficiently paying jobs.

## IV. ROOT CAUSE OF THE PROBLEM

Begging is a multifaceted problem that is mostly caused by numerous interrelated individual, social, communal and structural factors. Some of the root causes of this problem are as follows:

(a) Poverty
(b) Relocation of People
(c) Illiteracy
(d) Discrimination
(e) Released Criminals
(f) Natural Disasters
(g) Lack of knowledge about their Rights
(h) Over-population
(I) Unemployment

There are variousother reasons for a human being to solicit alms, which are as follows-

Firstly, it may be that beggar is down-right lazy and doesn't want to work;

Secondly, beggar may be an alcoholic or a drug-addict in the hunt for financing his next drink or dose;

Thirdly, beggar may be at the mercy of a leader of a beggary gang;

And, fourthly, there is also the probability that beggar may be starving, homeless and helpless;

## V. LATEST STATISTICS ON THE NUMBER OF BEGGARS

As per the State-wise Census 2011 details furnished by the Office of Registrar General & Census Commissioner, India, the number of Beggars in India is as follows:

I) Total Beggars - 413670
ii) Child Beggars - 45296
iii) Total Disabled Beggars - 70506

## VI. LAWS RELATED WITH BEGGARY IN DIFFERENT LEGISLATIONS

Various laws have been enacted to eliminate beggary. Some of them directly deal with it and others indirectly deal with anti-beggary laws, which are as follows-

**VI (A) The Constitution of India-** Article 21 provides protection of life and personal liberty as the fundamental rights. And Article 21 of the Constitution is also violated in case of beggary.

The State has constitutional obligation to provide assistance in cases of unemployment, old age, sickness and disablement as under Article 41. The fundamental duty of the state is to ensure decent standard of life and to raise the level of nutrition and standard of living of its citizens.

**VI (B) The Indian Penal Code-**Section 363 A of the Indian Penal Code provides that Whoever kidnaps any minor for the purpose of begging shall be imprisoned for a tem which may extend to ten years, and shall also be liable to fine. It further states that whoever maims any minor purposes of begging shall be punished with imprisonment for life, and shall also be liable to fine. It also states that where any person, not being the lawful guardian of a minor, employs any minor for the purposes of begging, it shall be presumed that he kidnapped or otherwise obtained the custody of that minor for the purposes of begging.

**VI (C) The Bombay Prevention of Begging Act, 1959-** Section 6 of The Bombay Prevention of Begging Act, 1959 provides that if a person is convicted for the second or subsequent time the court can order him to be detained for a period of 10 years in a certified institution. The court may

convert any such period of detention not exceeding 2 years into a sentence of imprisonment extending to a like period.
Section 7 of The Bombay Prevention of Begging Act, 1959 states that all the offences under this Act except the provisions given in section 11 shall be tried in a summary way.
Section 9 of The Bombay Prevention of Begging Act, 1959 provides that the Court may order detention of persons wholly dependent on beggar. If a person is detained under section 5 or 6 of the said act, the court after making necessary inquiry and order detention of any person who is wholly dependent on such person detained in a certified institution. Before passing such an order the reliant person shall be given a chance of being heard. Where the dependent person is a child, the court shall forward him to a court constituted under the children Act for being dealt with.
Section 11 of The Bombay Prevention of Begging Act, 1959 provides for imprisonment for a term which may extend to 3 years and not less than 1 year for employing or causing persons to beg or using them for purposes of begging.
Section 25 of The Bombay Prevention Of Begging Act, 1959 provides the when a person has been ordered to be detained in a Certified Institution under the provisions Sections 5 or 6 or 9 the court shall forward him to the nearest Receiving Centre with a copy of the order of detention. The person shall thereupon be handed over into the custody of the Superintendent of the Receiving Centre and shall be detained in the Receiving Centre until he is sent there from to a Certified Institution.
It further states that when a person has also been sentenced for imprisonment, the court shall forward a warrant to a jail in which he is to be restricted and shall forward him to such jail with the warrant together with a copy of the order of detention.
Section 31 of the Bombay Prevention of Begging Act, 1959 provides that the offences under sections 6 and 11 of this Act shall be cognizable and non-bailable.

## VII. CASE LAWS

In the casePeople's Union for Civil Liberties v. Union of India, the Supreme Court has directed all the States and Union Territories to identify the families living below poverty line as well as the beneficiaries under the various centrally sponsored schemes such as Antyodaya Anna Yojana, Annapurna Schemes etc. for proper implementation of the schemes.
The people living under below-poverty line, old age people and children have got a right to adequate food and to be free from starvation and undernourishment in order to develop.
In Maneka Gandhi v. Union of India,the Supreme Court has observed that the right to live with human dignity includes all that goes along with it, the bare necessaries of life such as, adequate nutrition, clothing and shelter and other facilities.
Further in the case Francis Coralie Mullin v. Union Territory of Delhi,the Supreme Court has held that the right to live is not limited to mere animal way of life. It means something more than physical survival.
In the case Air India Statutory Corporation v. United Labour Union, the Supreme Court has held that the right to work in not a fundamental right but according to Article 41 of the Constitution, the State has constitutional obligation to make effective provisions for securing the right to work within the limits of its economic ability and progress.
In the recent case Ram Lakhan v. State, In this case the petitioner filed a revision petition against the order passed by the learned Additional Sessions Judge. The learned Additional Sessions Judge had rejected petitioner's appeal against the judgment and order on sentence passed by the learned Metropolitan Magistrate. The learned Metropolitan Magistrate held that the petitioner is a "beggar" and ordered to detain him in a Certified Institution for one year in accordance to the provisions under Section 5 (5) of the Bombay Prevention of Begging Act, 1959 [As extended to the Union Territory of Delhi]. The Learned Additional Sessions Judge also upheld that the petitioner is a beggar but reduced the duration of the detention to 6 months. Although the courts below had directed that the petitioner to be detained in a Certified Institution, he was actually sent to Tihar Jail which is completely contrary to the provisions of the Act. The High Court of Delhi set aside impugned judgment and directed the release of the petitioner.
In the case The People of the State of New York v. Eric Schrader, the validity of the ban on begging in the New York City Transit System came in question, when comparing the solicitation of funds by legitimate charities and begging by individuals in need.

## VIII. CONCLUSION AND SUGGESTIONS

Beggary is a vast complex social problem in India. The government is planning to train sabout 3,000 beggars to sing such places as the bards of yore on local trains in major cities with a view to popularize them among urban commuter folk. The government intends to provide remuneration for such work. By this government initiative, they would not need to beg any more.
The following curative measures may be adopted to conquer the evils of beggars and to restrain the practice of begging.

- Anti-beggary laws are often misused to criminalize homeless persons. This must halt. Some homeless persons work and do not beg, and even those who do beg, should not be treated as offenders, but as persons to whom the state must extend social protection on priority.
- The government should make appropriate provisions for providing accommodation and medical facilities to the beggars at low-prices.
- The government should provide financial assistance and social security to the beggars.
- The government should make an endeavor to improve the

literacy level of beggars and provide relevant vocational education so that the beggars can also seek gainful employment and lead a respectable life.

- The society as a whole needs to bring change in the pessimistic attitude of general population towards the beggars. This awareness needs can created with the help of social media.
- The parliament should try to make an ideal anti-beggary legislation for the protection and up-liftment of beggars.
- Last, but not the least, every citizen of India should give respect to beggars because they are also the part of the society. The citizens and NGO's should also extend reasonable feasible help to such beggars.

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[10] Section 25 of The Bombay Prevention of Begging Act, 1959

[11] Section 11 of The Bombay Prevention of Begging Act, 1959

[12] Section 25 of The Bombay Prevention of Begging Act, 1959

[13] 2007(1) SCC 719

[14] AIR 1978 SC 597

[15] 1981 AIR 746

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# Open School Education and Student- Problems

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## I. INTRODUCTION

Any nation or a society's development is based upon the education system. But in today's fast growing industrialization and time of science's effect, social change is ongoing in full swing.
So the aim of education is also changing. The concept of education in modern era is being viewed and understood as a wide aspect. Therefore education is focused according to the every man's need and access prior to each level of life.

The need for a literate population and universal education for all children in the age group of 6-14 was recognized as a crucial input for nation building and was given due consideration in the constitution as well as in successive Five year plans. The National Policy on Education(NPE) 1986, revised in 1992 ,resolved to achieve the goal of enrolment; universal retention up to 14 years of age, and to bring about substantial improvement in the quality of education to enable all children to achieve essential levels of learning.
The policy set the goal of decentralised planning and management of elementary education. This thinking led to the 73rd and 74th constitutional amendments that provide for decentralisation of the activities and facilitate transfer of power and participation of local self-

Government institutions or the Panchayti Raj Institutions (PRIs).
In Unnikrishnan Vs. state of Andhra Pradesh, Supreme Court held that the citizens of this country have the fundamental right o education and said that right flows from article 21 of the constitution. This right, is however, no an absolute right. Every child/citizen of this country has the right to free education until he/she completes the age of 14 years. Thereafter, his/her right to education is subject to limits of the economic capacity and development of the state. This movement has culminated in the right of children to free and compulsory education act, 2009 notified on 27 august, 2009, popularly called as RTE act. Sarva shiksha abhiyan was launched by the government of India for the achievement of universalization of elementary education in a manner, as mandated by 86th amendment to the constitutions of India making free and compulsory education to the children of 6-14 years age group, a fundamental right.
After the success of SSA, pressure has increased n the secondary education sector. The Govt. of India is now moving towards universalization of secondary education, for which the RMSA (Rashtriya Madhyamik Shiksha Abhiyan) has been launched on the line of SSA in a missionary mode. There is a move to expand the scope RTE act to target group beyond 14 years of age.
Today our effort is to create healthy atmosphere and effective education policy for maximum students under limited resources and time.
For getting education many options are open from the wide concept of education. Education is provided now under the era of communication revolution. From the efforts of generalization of education now it is beyond the limit of four walls. Open education is developed under this. Open education has made its own existence. Its chief aim is to provide learning and studying.

While the countries have struggled to build a schools and train teachers, both of which are necessary to achieve universal primary education, the limited primary infrastructures and inadequate economic resources and lack of quality teaching learning mechanisms to provide secondary schooling are serious challenges that are being faced by government policy makers. Therefore, there is a need of serious and strategic planning to achieve the massive tasks ahead. In this backdrop , open and distance learning, has the paramount importance for achieving the goals of education for all with the potential of surpassing traditional barriers that may result from prior educational ,financial, geographic, time or disability- related constraints.
His or her selected means for accomplishing the learning and demonstrating its attainment, and his or her need for student support service that will that will maximize the individuals chances of success thus has emerged as a potential alternative system of educations. As a result massive expansion of open schooling institutions has been found over the past few years.

Globally the progress of open schooling program is varied in nature and scope. Whereas in some countries the open school program has made significant strides, in several countries it is at the initial stage some countries have not started the open schooling program, but they essentially need to open up to the idea of open schooling to achieve the goal of education for all. The idea of open schooling came in 1974 and matured in 1979. It was adopted completely in 1983. On the school level National Open Schooling was established by ministry of Human resources development as autonomous institute. National Open Schooling was established upon the basis of National Education Policy, 1986. In the session 2002-03 it was named as National Institute of Open Schooling (NIOS).Just like National Institute of Open Schooling established upon national level, State Open Schools are also started upon state level. These institutes of national and state level are providing qualitative education in the area of Open Education System. In Rajasthan open education was started in Board of Secondary Education in 1992-93. Later, Rajasthan Government opened Rajasthan State Open School, Jaipur on 21.03.2005 under session 2004-05. Study centre of NIOS are also promoting open education in Rajasthan. R.S.O.S. and N.I.O.S. are providing education in difficult circumstances to the suppressed, backward classes, working women and the people in remote areas. Central government has prepared a plan for Rajasthan for generalization of education in the backward areas from educational point of view to promote open education. In the 32 districts study centre will be established in government scho ol under 186 educational backward blocks. In which educational and professional courses for class 10th and 12th will be conducted. Total 67 study centre have been registered under N.I.O.S for open education institution and 441 Sandarbh Kendra at state level under R.S.O.S.

At present 1 crore 90 lakh Secondary and senior secondary level students registered under N.I.O.S.and in Rajasthan 3, 34,724 students have been joined under R.S.O.S. Therefore total 78,334 students were registered in which 54,943 students were from secondary and 23,391 were from senior secondary in the year 2012-13. In short the full picture of SOS in Rajasthan does not look encouraging. The future 0f SOS in Rajasthan hangs on how successful] the concept of open schooling is able to capture the imagination of political leaders, parliamentarians, legislators and bureaucrat apart from the public at large. What is required is a ch ange in the mind set for all these groups. This only will make them realize the immense benefit the society that will flow from a flourishing open school system.

A vast number of students show clearly that open education is now fulfilling the need of large group in the open education institutes. The back bone of the open schooling system in India is the national institute of open schooling. The apex body functioning from the capital Delhi this was wasted with the authority to register examine and certify students registered, with it up to pre degree level courses. Its objective is to provide relevant continuing education at school stage up to pre degree level through open learning system to prioritised client groups a an alternative to formal system in pursuance of the normative national policy documents and in response to the need assessment of the people and through it to make it share of contribution to universalisation of education to greater equity and justice in society and to the evolution of a learning society.

NIOS has adopted the spirit of open and distance learning its new paradigm namely from teachers centred to learners centred from teacher as instructor to teacher as facilitator from oral instructions to technology aided instruction from fixed time to anytime learning, from education as one time activity as life long activity

The courses which are conducted by the open schools have the speciality of self-learning by students, Selecting the subject according to need, interest and capability, continue the education by the medium of Information Technology, maximum age bar for the admission, personal contact program on the study centre, Evaluation by assignment, Credit point facility with 9 examinations for years, Re- entry for Partially successful candidates when completed five years registration, etc. Its chief aim is to provide learning and studying for all.

In spite of increasing popularity of school education students are facing difficulty towards various aspect of open education. Growing numbers of students and flexibility of open education has created many problems in its qualified aspects. Students face various problems in open education after being accepting the fruitfulness in spreading secondary education. Now the question arises is that after being flexibility of admission process and fees guidelines why students are facing problems? The main medium is study material for students in this open education system. Is the study material is being provided on time for students? Are the students are satisfied from availability? Are the students are satisfied with print quality and its content and guidance? On what level students are satisfied from consultancy? Are the contact classes justifying their guidance and making solutions to problems? What problems are related to evaluation, assignment, examination and result? What level are students facing problems?

The problems that we face are with regard to reaching the unreached in the nook and corner of the country. The access of these unreached to the media is a question mark. For instance the power shortage in the town and villages is a chronic problem. Many a times it is just not available for days together. The internet facilities are purely urban phenomeron and are not available the type of clientele that that we seek to reach. The challenge that remains and will continue to remain is how

to reach the child in remote rural and tribal areas directly? Because of uneven development ion almost in all spheres we have to operate with different types of technologies suitable for various techno economic development level of the community concerned. A complete paradigm shift to fully utilize the electronic media is at the moment not possible. Thus a drastic shift from one mode of technology to the other is neither possible nor desirable. What is significant in this context is the rapidly increasing demand for secondary education from the growing population of young people. Open schooling in the true sense of the term is a response to this demand. This is not an end in itself because the next step towards higher education. The most attractive aspect of open schooling is its cost effectiveness when conducted at scale. For the young adults who need further schooling but who either can not or do not wish to go back the conventional class room in formal school, open schooling is a boon.

Secondary education is divided in two levels of education-secondary and senior secondary education. Probably students are getting education in senior secondary after completing secondary. Thus it is thinkable that what is the difference in the level of student's difficulty? As open institute provide education to urban as well as rural students but mostly study centre are situated in urban areas. Therefore, what is the difference in the problem of rural and urban students? There is a special place of women and girls under deprived class of education. Girls hardly continue their study via open education. In this way the question is that how girls face problems in comparison of boys. In this way the main fact upon the basis of above question is that open education became a new education system. What are the upcoming problems and targets to students? For this, experienced base research upon the problems of studying students under open education is much needed.

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# E- Learning System- Risks And Remedies

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**Abstract :**

One of the most effective applications of Information and Communication Technology (ICT) is the emergence of E-Learning. Considering the importance and need of E-Learning, recent years have seen a drastic change of learning methodologies in Higher Education. Undoubtedly, the three main entities of E-Learning system can be considered as Student, Teacher & Controlling Authority and there will be different level, but a good E-Learning system needs total integrity among all entities in every level. Apart from integrity enforcement, security enforcement in the whole system is the other crucial way to organize the it. As internet is the backbone of the entire system which is inherently insecure, during transaction of message in E-Learning system, hackers attack by utilizing different loopholes of technology. So different security measures are required to be imposed on the system. In this paper, emphasis is given on different risks called e-risks and their remedies called e-remedies to build trust in the minds of all participants of E-Learning system.
**Keywords** – E- learning, E-learning Risks, Digital Right Management (DRM)

## I. INTRODUCTION

E-learning is a new education concept by using the Internet technology, it deliveries the digital content, provides a learner-orient environment for the teachers and students. The e-learning promotes the construction of life-long learning opinions and learning society.

It means:

- E-learning is a new education concept; it may different from the old educational concept. We should provide a new explanation to this new concept.
- Delivery of the digital content is the main characters of e-learning. We can tell what is e-learning and what is not.
- This definition extends the environment on the Internet. We mean that the Internet provides a learning environment for the students and teachers. This environment is learner-oriented, so we can throw out the thoughts of traditionally teacher-center's instruction in classroom.
- As a new concept of education, e-learning gives a condition for us to realize the life-long learning principle and help us to build a more real learning society.

As a new education system, it has been developed fast in china, But I think the development progress is different from the western countries. The e-learning plays more in high education for the reason of fast need of high education.

Education via the Internet, network, or standalone computer. E-learning is essentially the network-enabled transfer of skills and knowledge. E-learning refers to using electronic applications and processes to learn. E-learning applications and processes include Web-based learning, computer-based learning, virtual classrooms and digital collaboration. Content is delivered via the Internet, intranet/extranet, audio or video tape, satellite TV, and CD-ROM..E-learning was first called "Internet-Based training" then "Web-Based Training" Today you will still find these terms being used, along with variations of e-learning such as relearning, learning, and E-learning.

## II. TYPES OF E-LEARNING

There are fundamentally two types of E-Learning:

**II(A) Synchronous,** means "at the same time," involves interaction of participants with an instructor via the Web in real time. For example – VCRs or Virtual class rooms that are nothing else but real classrooms online. Participants interact with each other and instructors through instant messaging, chat, audio and video conferencing etc and what's more all the sessions can be recorded and played back. Its benefits are:

- Ability to log or track learning activities.
- Continuous monitoring and correction is possible
- Possibilities of global connectivity and collaboration opportunities among learners.
- Ability to personalize the training for each learner.

**II(B) Asynchronous,** which means "not at the same time," allows the participants to complete the WBT (Web-based training) at their own pace, without live interaction with the instructor. Basically, it is information that is accessible on a self-help basis, 24/7. The advantage is that this kind of e-Learning offers the learners the information they need whenever they need it. It also has interaction amongst

participants through message boards, bulletin boards and discussion forums. These include computer based training,(CBTs) modules on CD-Rom's, Web based training accessed through intranet (WBTs) or through well written articles and other write ups. Its advantages are:-

- Available 'just in time' for instant learning and reference.
- Flexibility of access from anywhere at any time.
- Ability to simultaneously reach an unlimited number of employees.
- Uniformity of content and onetime cost of production.

A new form of learning known as blended learning is emerging. As the name suggests it is an amalgamation of synchronous and asynchronous learning methods. Using both online training through virtual classrooms and also giving CD's and study material for self study is now being increasingly preferred over any single type of training.

## III. ADVANTAGES & DISADVANTAGES OF E-LEARNING

Advantages of e-Learning to the Trainer or Organization- Some of the most outstanding advantages to the trainer or organization are:

**III (A) Reduced Overall** cost is the single most influential factor in adopting e-learning. The elimination of costs associated with instructor's salaries, meeting room rentals, and student travel, lodging, and meals are directly quantifiable. The reduction of time spent away from the job by employees may be the most positive offshoot.

**III (B) Learning Times Reduced** an average of 40 to 60 percent, as found by Brandon Hall (Web-based Training Cookbook, 1997, p. 108).

**III (C) Increased Retention** and application to the job averages an increase of 25 percent over traditional methods, according to an independent study by J.D. Fletcher (Multimedia Review, Spring 1991, pp.33-42).

**III (D) Consistent Delivery** of content is possible with asynchronous, self-paced e-learning.

**III (E) Expert Knowledge** is communicated, but more importantly captured, with good e-learning and knowledge management systems.

**III (F) Proof of Completion and Certification,** essential elements of training initiatives, can be automated.

## IV. ADVANTAGES TO THE LEARNER

Along with the increased retention, reduced learning time, and other aforementioned benefits to students, particular advantages of e-learning include:

**IV (A) : On-demand availability** enables students to complete training conveniently at off-hours or from home.

**IV (B) : Self-pacing** for slow or quick learners reduces stress and increases satisfaction.

**IV (C) : Interactivity** engages users, pushing them rather than pulling them through training.

**IV (D) : Confidence** that refresher or quick reference materials are available reduces burden of responsibility of mastery.

## V. DISADVANTAGES TO THE TRAINER OR ORGANIZATION-

E-learning is not, however, the be all and end all to every training need. It does have limitations, among them:

**V (A) : Up-front investment** required of an e-learning solution is larger due to development costs. Budgets and cash flows will need to be negotiated.

**V (B) : Technology issues** that play a factor include whether the existing technology infrastructure can accomplish the training goals, whether additional tech expenditures can be justified, and whether compatibility of all software and hardware can be achieved.

**V (C) : Inappropriate content** for e-learning may exist according to some experts, though are limited in number. Even the acquisition of skills that involve complex physical/motor or emotional components (for example, juggling or mediation) can be augmented with e-learning.

**V (D) : Cultural acceptance** is an issue in organizations where student demographics and psychographics may predispose them against using computers at all, let alone for e-learning.

## VI. DISADVANTAGES TO THE LEARNER

The ways in which e-learning may not excel over other training include:

**VI (A) Technology Issues** of the learners are most commonly technophobia and unavailability of required technologies.

**VI (B) Portability** of training has become a strength of e-learning with the proliferation of network linking points, notebook computers, PDAs, and mobile phones, but still does not rival that of printed workbooks or reference material.

**VI (C) Reduced Social and Cultural Interaction** can be a drawback. The impersonality, suppression of communication mechanisms such as body language, and elimination of peer-to-peer learning that are part of this potential disadvantage are lessening with advances in communications technologies.

## VII. THREATS AND RISKS

A loss of an asset is caused by the realization of threats or risks. All threats /risks are realized through the medium of vulnerability. The major threats and as follows:

**VII (A) Confidentiality Violation:** An unauthorized party gaining access of the assets present in E-Learning system. Integrity Violation: An unauthorized party accessing and tempering with an asset used in E-Learning system.

**VII (B) Denial of Service:** Prevention of legitimate access-rights by disrupting traffic during the transaction among the users of E-Learning system.
**VII (C) Illegitimate Use:** Exploitation of privileges by legitimate users.
**VII (D) Malicious Program:** Lines of code to damage the other programs.
**VII (E) Repudiation:** Persons denial of participation in any transaction of documents.
**VII (F) Masquerade:** A way of behaving that hides the truth by the hackers.
**VII (G) Traffic Analysis:** Leakage of information by abusing communication channel.
**VII (H) Brute-force Attack:** An attempt with all possible combinations to uncover the correct one.

As a result of above threats following risks may occur during transaction of textual and non-textual messages among different participants of E-Learning system.

## VIII. AUTHOR'S RISK

Modern technology has made it possible for Authors to provide access materials like books, journal papers, etc to a wide range of students, friends and acquaintances. Authors are responsible to develop and implement the contents. The reason why many Authors refrain from providing is the fear that their compiled material might be passed on and processed without the their knowledge. As only registered Students can access those lecturer notes, assignments, etc, it is the Author's duty to protect against unauthorized use, modification and reuse of the data in different contexts related to E-Learning.
Author's lecture notes, class test papers, home assignments etc. may be modified / destroyed by hackers through the above attacks. Therefore, it is in the Author's interest to ensure that the users receive the content unaltered and that the users can check the integrity of the text. Regular data backups and a plan of action in case of a breakdown of certain components (e.g. hard disk, network connections) are essential elements of a risk analysis. Financial interests also frequently play an important role in all such cases.
Only Authors know how much time is required for writing individual chapters and hence total books/materials. So it is the task of the group of Authors to contribute their viewpoints to risk analysis.

## IX. TEACHER'S RISK

Teachers are responsible for providing every possible support to the Students related to academic matter. Teachers may follow or buy the course content, presentations from a third party according to the requirement of the course.
All risks of E-Learning are not to be restricted to the technical system. It is necessary to cover the entire methods of teaching, examination, evaluation and grading. Teaching methodologies change from one Teacher to another but there will be common risks in events such as delivering lecture, sending notes and assignments, accepting and marking answer sheets, preparing and distributing mark sheets.
Discussions are an essential component of teaching any course. One form of discussion can be through the online forum. An advantage of online forum discussions over oral discussions is that all written documents are stored electronically on a server, but the digital storage of contributions to a discussion constitutes a great risk for the privacy of Students as well as Teachers. Though in any teaching system maximum interaction can help Students as well as the Teachers to make their understanding clear .Only robust security mechanism can lead to this kind of interaction in the long run.
There is a risk in the examination system which includes standardization of examination questions and list of questions possibly restrict the academic freedom of individual Teachers. Depending upon contract of jobs, a Teacher will play is role in academic centre. There must be a team to take care of all these risks.
Risk related to examination is directly associated with cheating. Apart from cheating, Teachers must be concerned about availability and non repudiation of assessments. Also at the time of examination Students are more eager to collect materials compared to studying content.
All Teachers must be aware of risk that Students receive the unaltered questions paper before the beginning of the examinations and all answers are stored in an unaltered way as well. Though lecture is the most simple and natural form of communication, there remains always a risk of modification of the class lecture (speech) when it reaches the Students.

## X. MANAGER'S RISK

In any E-Learning system, the concern Board or Authority grants diploma, degree or master certificate to a Student after successful completion of the course. This is like University Grant Commotion (UGC) or All India Council for Technical Education (AICTE), who is responsible for giving approval to any regular fulltime academic institute in India. But every Board always sets few rules and regulations for setting up and running E-Learning institute. It becomes risky at the time of inspection if there is any ambiguity in following those rules.
Main risks in E-Learning involve inelegant people masquerading as Students and writing tests on behalf of enrolled Students and unauthorized help during the writing of online examination, All faculty members and Students tend to neglect legal aspects because they are usually more interested in academic field. Legal issues such as copyright, online testing, sending official documents etc, may be a great risk for

those participants. Managers should take care of enrolment in a course and the cancellation of enrolment as and when required. Enrolment of one particular student in more than one course involves risk for the larger organization. There must be a plan for backups and recovery process test .Otherwise at the time of requirement it will be difficult to make the data up to date.

It is also a risk for the management to distribute responsibilities in sensitive issues like maintaining password of all servers and routers, recordings of daily network traffic, looking after continuous power supply to the server and other network devices. It is the duty of the Manager to control the authorization i.e. access strategies (read, write and execute) to the Students and other participants for efficient running of the system. Otherwise it may difficult to maintain privacy.
So Manager must assign system people (DBA) and authorize E-Learning system user (developer) to perform the operation like index i.e. allows creation and deletion of indices, Resources i.e. allows creation of new tables, Alteration allows addition or deletion of attributes in a relation, Drop i.e. allows deletion of relations .Also authorized to Read, Insert, Update, Delete on parts of multimedia databases of E-Learning materials. But the learner who has some form of authorization may not allow to grant this authorizations to other learners and system administrator who has some authorization may be allowed to withdraw (revoke) an authorization that has granted earlier.
Besides all these, there are several other risks which should be looked after by the Manager. These are as follows

- The server and individual PC may be affected by internet viruses, at the time of receiving e-mail or by running different software on that computer.
- Physical security of the building.
- Remote access, LAN, WAN damages.
- Training, Processing and document accessing problem.
- LMS(learning management system) or CMS(content management system) damages

Also development costs can exceed initial estimates unless clear production goals are established and Implementation will be challenging if not well-planned in advance of development keeping in mind that not all content is suitable for delivery via E-Learning

## XI. SYSTEM DEVELOPER'S RISK

In an existing system, there are some limiting factors. Some time, to improvise the entire system those factors have to be changed. But that is extensive and expensive also. In an E-Learning system, courses are classified into different modules. Due to the requirement of market demand one model (for example, the entire module of MCA has to be changed to MTech [Computer Science]) may be changed to another model. New development team will have to face different problem to maintain and implement new ones unless all modules have been designed earlier.

Designing, developing, and delivering E-Learning products requires a quality of hardware components such as high ended web server & database server ,high bandwidth internet leased line and a quality LMS, along with a robust infrastructure capable of sustaining multiple users and networked applications. System team should suggest the remedies of these risks properly otherwise total project cost will be almost double.
Another risk that developer must deal with storing passwords in clear text in the application code as an intelligent learner may be able to access the source code of the script and get access of the password of the databases. Also a password system may at risks or broken down when users' password can be stolen, changed by attackers. Today attacker are using many tools to guess the user's password (Ref Art 2.(i)).System developer or DBA must aware of SQL injection ,Cross-site scripting (XSS) attacks to maintain multimedia database.

## XII. STUDENT'S RISK

Maximum number of users in E-Learning system is Students who learn as well as share their knowledge with other in the system. Student group can be classified into different levels from junior level, diploma, degree, post graduate, up to doctoral level. But every user must be aware of each and every material received from institute, Teachers or other Students. Otherwise if intruders have edited the question papers or other important documents then the Students will have to face problems at the time of examination.
Risk of storing login information (user ID and passwords). All Students must be aware of misuse of login information, otherwise attacker [9] may attempt to prevent authorized learner from accessing the E-Learning server by the above attacks.
Teachers are not always available to help the Students so they need to be disciplined to work independently without the Teacher's assistance. Students also need to have good writing and communication skills. When Teachers and other Students aren't meeting face-to-face it is possible to misinterpret what was meant. As a feedback mechanism from Students will always enriches a Teacher, there is risk from Students side to send the same feedback to the management of the E-Learning institute.
At last all learners must be aware of phishing where attacker sets up fake web sites which look like a real E-Learning website so well that human eye will not able to distinguish between real and attacker site. Here learners are prompted to enter some confidential information.

## XIII. REMEDIES OF RISKS

Participants of E-Learning system face different risks or threats as discussed in the previous section. Following tools or techniques may be imposed to minimize those risks.

**XIII (A) : Access control using Firewall,** A firewall is a combination of hardware and software security system established to prevent unauthorized access to a corporate network from outside the organization. [15]Technically, a firewall is a specialized version of a router. Apart from the basic routing functions and rules, a router can be configured to perform the firewall functionality, with the help of additional software resources.

Main principle based on the rule is that all traffic from inside to outside and vice versa must pass through the firewall. To achieve this, all access to the local network must first be physically blocked, and access only via the firewall should be permitted. Only the traffic Authorized as per the local security policy should be allowed to pass through. The firewall itself must be strong en ough, so as to render attacks on it useless.

In practical implementations, a firewall is usually a combination of packet filters and application (or circuit) gateways. One such firewall [3] is shown in Figure-1. So sophisticated firewalls can block some incoming traffic but permit E-Learning users (may be Students, Teacher, etc) to the inside to communicate freely from the outside.

So it is the duty of all system administrators to earn knowledge and skills to implement firewall, to configure the firewall and to monitor & troubleshoot firewalls.

## XIV. DIGITAL RIGHT MANAGEMENT (DRM) ON E-LEARNING ASSETS

One of the major strategies to be implemented to reduce risks associated with E-Learning assets [12] is digital right management. Shareable asset is the simple resource, such as a static HTML page or a PDF document, or collection of files, such as images and a style-sheet. On the other hand asset of E-Learning system can be defined as E-Learning content (Exam, Notes, Grade), Cryptographic key content, User personal data, Messages between users, Different group membership data, Network bandwidth, Message integrity and Message availability. In this discussion, writers will define E-Learning asset as services provided by E-Learning system such as learning resources, examination or assessment questions, Students' results, user profile, forum contents, Students' assignment and announcement in the E-Learning system[12]. Digital Right Ma nagement (DRM) [1] makes the system safer for its contents. E-Learning system is working either in a distributed network or in Internet where multiple rights associated with learner, instructors content providers, administrators etc come into play as content and services are created, distributed, aggregated, disaggregated, stored found and used. That is why digitization is needed. In a general sense, DRM should be used for license agreement and copyright protection or prevents copying [16].

## XV. CRYPTOGRAPHY

The purpose of confidentiality is to ensure that information and data are not disclosed to any unauthorized person or entity. Also readers must able to rely on the correctness of the course. One of the techniques in this aspect is cryptography [6]. Different cryptographic tools and techniques are needed for the implementation of security in Internet based transactions. There are two types of algorithms in cryptography

**XV(A) Secret-key algorithms -** In secret-key algorithms the encryption & decryption key is the same, it requires the sender and receiver to agree on the key prior to the communication, the main function of this algorithm is encryption of data. Examples of such algorithms are Data Encryption Standard (DES), International Data Encryption Algorithms (IDEA), and Advanced Encryption Standard (AES).So only for encryption techniques for E-Learning content we can use these techniques.

**XV(B) Public-key algorithms-** Public key cryptosystems, on the other hand, use one key (the public key) to encrypt messages or data, and a second key (the secret key) to decrypt those messages or data. Here three mathematical models are mainly used-Integer factorization, discrete logarithms and elliptic curve. Different public-key algorithms are RSA, El-Gamal, DiffieHellman.We can use these techniques at the time of sending question paper and receiving answer sheets. To authenticate a participant we can use following technologies using public key algorithm;-

- Digital Signature
- Digital certificate

## XVI. NEURAL CRYPTOGRAPHY

It is a new approach based on artificial neural networks (ANN) for data security in electronic communication. It is once again a cryptosystem, which is based on biological ideas including the network architecture, biological operations and the learning process. So the complexity of the generation of the secured channel is linear with the size of the network. This biological mechanism may be used to construct an efficient encryption system using keys which change permanently. It is very simple and fast to implement in context of possible attack at the time of transferring E-Learning document.

## XVII. ELLIPTIC CURVE CRYPTOGRAPHY (ECC)

As huge amount of textual and non-textual messages have to be transfer among participants so ECC will be stronger option than any other cryptography techniques. It is tested a popular key size require for RSA is 2,048 bits where ECC requires 224 bits for same security. Also both confidentiality and authentication may be preserved in case of E-Learning document transfer using elliptic curve digital signature algorithm (ECDSA)[6].

## XVIII. BIOMETRIC AUTHENTICATION

Among all authentication techniques like passwords, smart card, Digital signature and digital certificate, there is no guarantee that dishonest Students will keep their password secret. Password might be misused at the time of submission of assignment, receiving question papers,
downloading of course materials, etc where biometric authenticity would give better security. But this needs a bit more capital investment.

## XIX. DIGITAL WATER MARKING

This technique allows an individual to add hidden copyright notices, audio, video, image signals. So multimedia database server of E-Learning system may be protected against unauthorized use by the way of digital water marking. When also E-Learning information like question papers ,important study materials ,etc will invisible to the viewer ,the chances of hacking will be nil or less.

## XX. CONCLUSION

We presented the risks that may occur by different participants of E-Learning and its counter measure tools/ techniques to minimize those risks. Though in E-Learning only the Student can unlock his private data ,rest all challenges remain on how to implement and maintain higher levels of privacy while setting up the learning process. Always the IT department strives to guarantee the availability of services by using redundant hardware like server ,routers etc. Another important part that minimizes the risks is logs .Logs are distributed by virtue of the fact that they may be stored by different applications operating on different computers. Details of the transaction including the time of its occurrence would be "logged" and the resulting record will be secured using cryptographic techniques. We can further improve the level of security in E-Learning by applying different other techniques to minimize the risk though no system will be absolutely secured. Readers must be able to rely on the correctness of the content other wise by reading incorrect or non-relevant content; readers will loose the trust on the texts or will refuse to read for the next time onwards. In future , the concept of m-learning will come in new electronically learning features ,however new risks will also occur parallel with M-Learning.

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# Selection Factors of Private or Public Sector Companies: A Study of Life Insurance Sector in India

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**Abstract :**

Life insurance is protection cover for human life and works in same manner as shield with sword in the field of battle for soldiers, helmet for bike driver. Insurance provides both safety and protection to individuals and also encourages savings among people. Life insurance companies of India plays a vital role in the welfare of human well-being by providing insurance to millions of people against life risks such as uncertain death or accident. The present study was selected with an objective to identify those factors which influence customers towards selection of insurance company and other factors of decision-making process. The research is descriptive and analytical in nature, which has used the facts and information arranged through direct efforts to analyze the subject matter. The main emphasis of this study is to seek the possibilities of the interest of the people in the field of life insurance services. In this study it was explored whether the people like the public sector insurance services or private sector insurance services and the reasons of their different rationales. Primary source is used for obtaining data from policyholders and a questionnaire is meant for this purpose. The study area is limited to National Capital Region (NCR) of India and sample size is 120 insured people which were selected through random sampling method. The data is analysed through table, charts and other relevant tools. The main finding of the study was that LIC is undoubtedly market leader in life insurance sector in India and enjoying its place. The study will helpful for investors/companies operating in the field, researchers, academicians and students to get an understanding regarding the subject.
**KEY Words:** Life Insurance, Policy Holders, Policies, LIC, Socio-Economic Factors.

## I. INTRODUCTION

The first thing that strikes one's mind, when thinks of Indian Insurance is that the growth potential of this sector is tremendous. There has been a steady rise in the penetration of Insurance, over the last few years. All the same, it still remains at a very low level, when compared with the world standards. The mercurial growth that the industry has witnessed, especially, in the life domain has largely remained restricted to certain pockets- mainly urban and semi-urban, although there has been of late. There has been some progressive growth in rural areas.

Globalisation access the new market for global players, especially in case of Indian corporate world where private companies were not allowed in banking, insurance and other financial services and sectors. The openness provides opportunities not only to the corporations but also to the consumers. With reference to the opportunity of consumers, there is some confusion in their mind when they make decisions regarding the use of multinationals services or products. Still they make decisions, with the influences of large number of factors. In some areas private players are doing well and have a strong dominance. Only few sectors are there, in India, where public sector enterprises still holding a dominance.

For the Indian Insurance Industry to reach global standards, it is very essential that people resort to buy Insurance voluntarily, rather than being persuaded to do so. Poverty has often been quoted as the single largest factor for the poor penetration levels of insurance but when one really undertakes to analyse the causes more rationally, it does not take a great effort to realize that there are other equally forceful factors that are responsible for such a phenomenon. Insurance has not remained at the top of the agenda for a large section of the Indian population that often includes even highly literate persons. While one section of the population often treats Insurance as one of their investment avenues, there are others that dismiss Insurance with disdain, claiming that they are above the risks that insurance seeks to protect.

Life Insurance market in India is growing rapidly after the entry of the private players. The industry is developing very fast and many more players are eyeing to enter this sector shortly. In view of expanding insurance sector it will be of interest to do research on different aspects of insurance business. The insurance sector is still in its infancy and to grow it, the obstacles and problem are to be highlighted and

resolved.

## II. LITERATURE REVIEW

Some of the studies pertaining to the insurance services in insurance industry have been discussed in subsequent section. Manmilla Rajasekhar,(2008) in their article 'Study on customer's expectations of Life Insurance Policies and Services' have found that customers are now identifying newer dimensions attached to life insurance to match their life cycle needs. He classified customer's expectations in two categories i.e. desired service, the level of service the policy taker hopes and believes to receive and adequate service, the level of services the customer will accept. He assert the factor influencing desired services expectations that are personal needs , personal service philosophy and the derived services (services expectations affected by influence groups, such as friends and relatives). Rajasekhar Mallela, Venkata Madhukar Kanagala & Purnananda Kumar Divakaruni (2007) assessed that the particular disclosure "Insurance is the subject matter of solicitation" has little relevance to non life insurance products, primarily because, customer have no ambiguity about the product being insurance, and hence no scope for misleading information by solicitors. TS Rama Krishna Rao and Samuel Babu S (2007) examined that in spite of the aggressive marketing tactics that the private insurer adopted LIC continues to enjoy strong brand equity. This shows that 'trust' is a factor, which determines a person's purchase decision. Despite liberalization, LIC continues to lead the market in terms of market share and enjoys customer support. When they come to claim settlement, LIC leads the table and is far ahead of private life insurance companies. They found that Tata AIG, Met Life, Birla Sunlife, and HDFC are at the top in terms of non-payment or rejection of claims. They conclude that private insurer look keen to push products and sell the products to people but are indifferent when it comes to claim settlement. They found that private life insurance companies settled 72.7% of the claims, LIC managed to settle 96.94 of the same. Athma. P and kumar. R (2007) in the research paper titled "an explorative study of life insurance purchase decision making: influence of product and non-product factors". The empirical based study conducted on 200 sample size comprising of both rural and urban market. The various product and non-product related factors have been identified and their impact on life insurance purchase decision-making has been analyzed. Based on the survey analysis; urban market is more influenced with product based factors like risk coverage, tax benefits, return etc. Whereas rural population is influenced with non-product related factors such as: credibility of agent, company's reputation, trust, customer services. Company goodwill and money back guarantee attracts many people for life insurance.
A number of researches have been done on insurance till now but there is a neglected research on, why people like LIC of India more than private sector insurance companies, the most eminent purpose to purchase insurance, factors which influence the buying decisions of the customers and the insurance plans people like the most. This sector is performing very well. It is providing competitive edge with wider options to the investors/policyholders. That's why I have selected this topic. But due to limitation of time it was not easy to cover some more parameters that's why I took only selected, in my research.

## III. OBJECTIVE OF THE STUDY

The objective of the study are:

- To explore Life Insurance Company (public or private), people like the most.
- To know the extent to which category plans affects buying decisions of the customers.
- To find out the need priority, while people purchase an insurance policy.
- To find out the reason for people's preference in choosing Insurance Company.

## IV. RESEARCH METHODOLOGY

The study covers the life insurance aspect of the insurance sector. The present study is an exploratory and descriptive type in nature. In order to attain the objectives of the study, primary data has been collected with the help of questionnaire through direct efforts consist survey of 120 insured people. The study is also limited to coverage of insured in National Capital Region (NCR) in India.

The data is analyzed with the help of statistical tools viz. Tabulation and percentage. The standardized questionnaire was set up by seeking the opinion and discussing the matter with insurance executives and experts.

### IV (A) Research Frame Work

Universe: National Capital Region (NCR)
Sampling Unit: Life Insurance Policyholders
Sampling Method: Random Sampling
Sample Size: 120

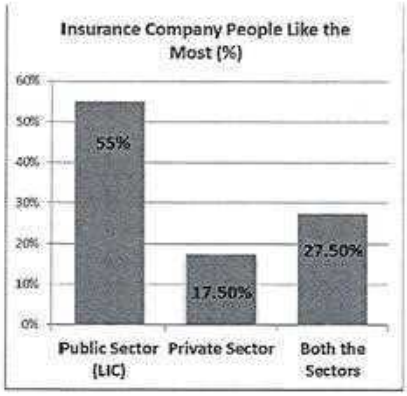
## V. DATA ANALYSIS AND INTERPRETATION

### V(A) Insurance Company People Like the Most

Table No. 1

| Insurer | No. of Respondent | Percentage |
|---|---|---|
| Public Sector (LIC) | 66 | 55.0% |
| Private Sector | 21 | 17.5% |
| Both the Sectors | 33 | 27.5% |
| Total | 120 | 100 |

Source: Customer Survey




The analysis of above table and chart shows that people like the LIC more than that of the private sector insurance companies, where 55 percent respondent like LIC and private sector companies likes by 17.5 percent people. However 27.5 percent people are indifferent towards selection of any type of insurer since they like both private and public sector companies.

### V (B) Plans Affects Customer's Buying Decisions

Table No. 2

| Category of Plans | No. of Respondent | Percentage |
|---|---|---|
| Traditional Plans | 57 | 47.5% |
| Unit Linked Insurance Plan (ULIP) | 33 | 27.5% |
| Both the above | 30 | 25.0% |
| Plans | | |
| **Total** | **120** | **100** |

Source: Customer Survey

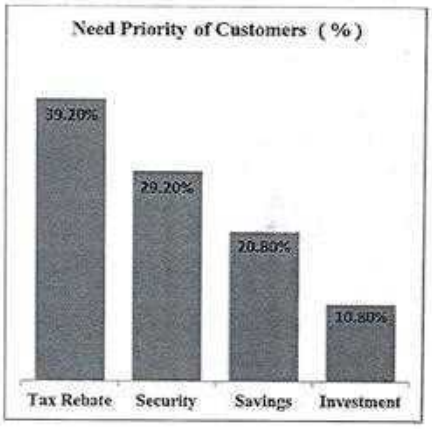

The above table presents that traditional plan affects more (47.5 percent) the buying decisions of the people than compare to other type of plans. It was found that unit linked insurance plans (ULIP) also affects (27.5percent) the buying decisions of the customer next to traditional plans. Another interpretation from the above data is concluded that both the plans affect (25 percent) the buying decisions of the policyholders with approximately equal proportion to the ULIPs.

### V(c) Need Priority of Customers

Table No. 3

| Priority Factor | No. of Respondent | Percentage |
|---|---|---|
| Tax Rebate | 47 | 39.2% |
| Security | 35 | 29.2% |
| Savings | 25 | 20.8% |
| Investment | 13 | 10.8% |
| Total | 120 | 100 |

Source: Customer Survey



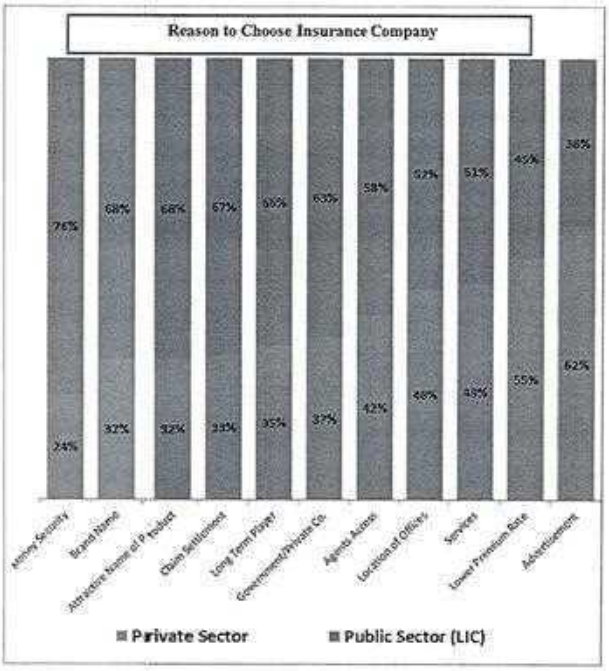

It was found that 39.2 percent people purchase the policy for saving the tax on their income, 29.2 percent people purchase the policy for security of their lives or dependents thereon. Policyholders give priority to savings 20.8 percent and very less in terms of investment for purchasing insurance policy, which was 10.8 percent in this case.

### V (D) Reason to Choose Insurance Company

Table No. 4

| Priority Factor | No. of Respondent | Percentage |
|---|---|---|
| Money Security | 24% | 76% |
| Services | 49% | 51% |
| Brand Name | 32% | 68% |
| Government/Private Co. | 37% | 63% |
| Claim Settlement | 33% | 67% |
| Attractive Name of Product | 32% | 68% |
| Long Term Player | 35% | 65% |
| Agents Access | 42% | 58% |
| Location of Offices | 48% | 52% |
| Advertisement | 62% | 38% |
| Lower Premium Rate | 55% | 45% |

Source: Customer Survey




The factors/reasons considered by the people for choosing an insurance company are analyses as it was found that priority given by maximum people to LIC in case of money security (76%) and services (51%). The preference given to LIC in case of Brand name and attractive name of the products was same (68 percent in both the cases) in comparison to the private insurance companies' i.e. 32 percent in these cases. In other words people select LIC because of its brand name and attractive names of the products. Policy holders give more consideration to LIC than other private companies because of its claim settlement procedure and long term player. Another reason to choose LIC is that its offices are easily approachable. 63 percent choose LIC because of a government company. The product line of LIC is increasing day by day as compared to other private companies. However people were less attracted by the advertisements and lower premium rates of LIC but there are other strong factors which motivate the people to choose LIC.

## VI. LIMITATIONS OF THE STUDY

Sample size of the 120 people is relatively small to make the study very comprehensive. Moreover the findings of the study are based on the information provided by the respondents of NCR only. Therefore this may not lead to formulation of a very definite line of action.

## VII. CONCLUSIONS

To sum up, it may be said that LIC of India is definitely enjoying a better perception of its customers than the competing brands in the Indian insurance sector. It has got a good response from peoples on almost aspects taken by the researcher in his study. On the other hand, private sector insurance companies have failed in getting the positive response on the same aspects by the people.
Public sector Company, LIC was like by most of the people of India and was found a market leader in Indian life insurance industry; private sector insurance companies were still in infancy in front of LIC.

## VIII RECOMMENDATIONS

The insurance sector of India is increasing very rapidly. In a free market environment, it is expected that the most efficient player emerges the most successful. It, however, presuppose that the market freedom is absolute; and success is measured in its entirety. Looking at the performance of the public and private sector insurance companies the management of both the sectors should strive for excellence in every sphere of performance. LIC need to work on some of its performance measurement parameters like product diversification, customer services and need to work hard for trained its agents, and focuses on their skill development, professionalism, market knowledge, personality development etc. It is also required for LIC that to provide attractive advertisement that can easily approachable and make distinctive in its nature.

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# Designing Web Application Navigation Through Finite State Machine UML FSM WWW

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**Abstract :**

Designing is important phase of the software development because it reduces the complexity of the software. It becomes more complex in case of web application development since web apps have the various features and difficulty in deployment. Designing of web application navigation is very complex task due its heterogeneous nature. It is based on the patterns which are used in this phase. There are various suggested pattern but we use the one of most suitable for web apps FSM (Finite State Machine). In this a web apps is design by using FSM as design pattern and UML as modelling. The whole work is validated by using a case study Result Management System.
**Key Words :** Designing, HTML, Software, Web, Application.

## I. INTRODUCTION

Web application is playing vital role in all the field of the world due its availability in world wide. This application makes a man works easy in all respect. Web application is the collection of the web pages .This pages are of two types one client and server depend on their resides and contents. Further client pages are classified into two categories dynamic and static. Static web pages are those which contents are same for the entire user and it is not frequently changed. Dynamic web pages are those which are generated on the request of user and depend on the input provided by the user. Server is responsible for both types of web pages. Web application is having various features like web navigation, web behaviour and web content. All the features is having their own importance and responsible for the web application development. Web navigation provide movement from one page to another .It is feature where one page link with another via a link or any other sources. The user want to visit the pages frequently as per their requirement or sequentially.web navigation provide such feature in web application because it is the collection of sequence of the web pages. The types of navigation of web apps depend on their links and input. Static navigation is having static link and responsible for straight navigation like back to home. Dynamic navigation is having same link but providing the pages on the basis of input. The input of the user and system are based on the requirement for both or individuals. The server provides the services dynamically as per input provided by the users.

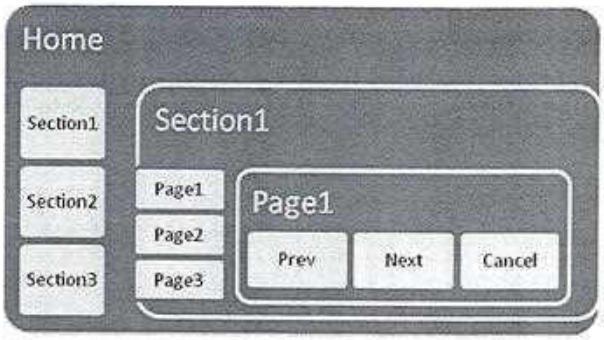


Figure 1.1: Web Application Navigation

According to [1] there are various design pattern used on all the stage of web application development Consumer/Producer, Message Queuing, Master/Slave and Finite State Machine.

FSM (Finite State Machine) are used to design navigation feature in web application since it is suitable for the web application. It contains state and transition which is similar to web pages and navigation of the pages. It provides efficient control in the application due to its navigational nature. FSM is machine which takes input and gives the output depend on the input types. The mechanism of the working of FSM based on the two thing one is state another is transition. The state gives the information about past and represent all possible situations. Transition gives the movement from one state to another. This transition is control by a system which is called control system

which provides the output on the basis of the input taken.
There are many technological challenge the application faces during the design and implementation. That may be hardware and software challenge one of the critical challenge to design pattern which are used while designing the specific web application. We apply the latest design pattern using FSM.
A single web application can be built with components written in many different languages, including procedural, OO, interpreted, and hybrid languages like JSP. Software on the user's computer includes browsers, embedded Scripting languages, and applets; software on the servers includes HTML, CGI, Java Server Pages (JSPs), Java Servlets, .NET technologies,
and databases [9].
There are various components which affect the performance of the web application. The metrics of the web application provides efficient way to design an application. The continuous application of measurements techniques to the soft ware developments process and its product to supply meaningful and timely management information, together with the use of those techniques to improve that process and its products. The metrics are divided into several categories say size, coupling, cohesion, inheritance etc. [8].

## II. RELATED WORK

There are three sections according to method of the development, analysis and testing of the web application. The first section contains the various design method. The second section provide different pattern which are used. In the last section we find the different tools and methodology are used to develop a model for the testing and analysis of the web application. Many researchers have done over to analysing and testing the web application. All the authors use their own model to develop the web application.
In early stage of the web development few model are suggested which based on the diagram. According to [11], a model which are combination of Page navigation Diagram, Object Relation Diagram, Object State Diagram and Function Cluster Diagram. In this model is represented on the basis of diagram and these diagram may be any of them. FSM is used as design pattern and it is represented by the page navigation graph. The design methodology is used reverse engineering.
In [12] a model is proposed which are based on the latest modelling language UML and work for the web application navigation features which are static and dynamic .This model also based on the reverse engineering and work on target page reference by dynamic source page. It develops a tool ReWeb which works on testing and generation of test cases.
A dynamic navigation is achieved by starting with URL and continued with directed graph. It is used for the controlling of the sequence. The authors define multiple types of pages and transition. A model is based on deterministic FSM is developed .It cannot explain temporarily varying mapping.
In this paper a model is proposed for the testing of web apps .This model used FSM which provide the page as state and link as transition in such a way that each input provide new page. So with the help of WP and UIO method test cases are generated by the FSM .This model also provide the mutant and wrong input to check for validity of the web apps. The author used reverse engineering to implement navigational feature of the web apps with the help of graph.
Wang et al works on page explosion. Page explosion is the big problem it arises when client request for the web page there are number child pages created during the requirement of the web pages by the server. They used notion of the abstract URL to control the page explosion. In this new URL is explored if abstract are dose not exists in the navigation graph. However the loss of the navigational behaviour is possible. Wang used reverse engineering method and combinational approach to build a graph. They implemented their model in tools Tonsu [16]
Achkar also proposed a model to test the web apps. This model based on FSM and work on the navigational behaviour of the web apps. The method used by the Achkar is forward engineering to build the model. He used various facts to build their model like requirement document, site maps, mock-up and wire frames etc. He used TestOptimal tools to implement his work. [13]
In this paper the author focussed on the scalable operation of the WWW. REST is an approach to explain the concept and describe the behaviour of web apps in order to maximize the important properties such as simplicity, evolvabiltiy and performance. REST is an architectural style for distributed hypermedia system. It enables for the scalable operation and future evolution of WWW. It is used to improve the information system. REST is important for WWW because it is global information system. This system has equal importance on both a theoretical and a practical approach. In earlier RESTful system provide only core feature and ignore. They proved only modelling the hypermedia system not for the RESTful system [2].
In last we analyse a paper which provides the information about the comparison and analysis of different method on the level of web modelling. The compare is based on navigational behaviour and content of the web apps. In this paper each category and methods which are employed sorted by notion. The main notations used by the reviewed methods are State charts, UML, UML-based Web Engineering, Finite State Machines, Directed Graphs and Control Flow Graphs, Specification and Description Language, Term Rewriting Systems.

## III. PROPOSED WORK

The navigational feature of the web application creates complexity due its movement from one page to another one .Navigation arises multiple conditional statements which increase the coupling between two pages or module .This problem can be reduced when an effective design approach is used for the web application development. There are various approaches are proposed by the different author and research scholar. Two effective methods we find in the designing of the

## IV. WEB APPLICATION

a. Using the concept of Graph.
b. Using the concept of FSM.
We used FSM because it is best suited for the web application since it is the collection of web pages .It can be easily represent in the form of state and transition which are very similar to web pages and navigation. The designing of the web application navigation is done under the four phases which are given below
Phase1: Identify the requirement of the application (prepare the problem sta tement)
Phase2: Draw the use case diagram, class diagram and also identify the actors
Phase3: Design a web application which consist the following steps
3.1. The Web application is partitioned into clusters,
3.2. Logical Web pages are defined,
3.3. FSMs are built for each cluster, and
3.4. An Application FSM is built to represent the entire Web application.
All the above phases are explained by taking a case study.
Case Study: A college has decided to develop web application for the Student Result Management of its different program. In the college vari ous courses are running but we will concentrate over the only one course. For example BCA program. The problem statement is prepared and made the use case and class diagram.
Phase3:
FSM (Finite State Machine)
FSM is generated from bottom level cluster where each web page is itself a cluster. We further move for next level which provide aggregate FSM in which each cluster is represented by a node that is state of the machine .Finally we design an AFSM means application finite state machine. AFSM define model of whole web apps. To simplify the design each FSM is having initial and final node if it increase for aggregate FSM a link is added by an edge form one to another.
The services divided into three users' administrator services (AS), Student S ervices (SS), Staff Services (STS), login screen as a single web page (LS) and a web page for logging off the application (LO).

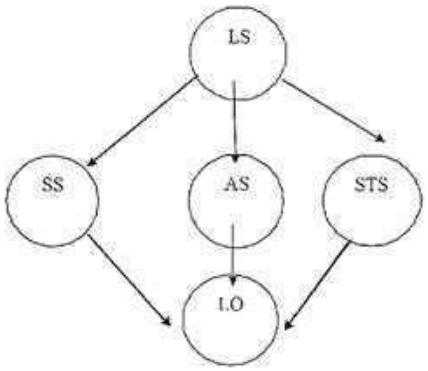


Figure 5.9: FSM Diagram for top level navigation

**IV (A) Result and Discussion**
Designing of web application navigation using FSM is provide a new way of designing. Navigation featured is achieved by using FSM.FSM provides the different state and transition .FSM keeping the state which can store the number of input for long time. It is beneficial when a page require many time. It is also useful when dynamic web page require because it store the input and provide the output on previous record.
**IV (B) Summary and Conclusion**
Web application is collection of web page dynamic and static. Web pages reside on server side it can be retrieving by any application or featured provided by the application. It is generated as per requirement.
Design of the web application is the complex task and become more difficult when navigation featured is to be achieved .Navigation of the web pages is using different design pattern in our dissertation we use FSM. We first take a case study to validate our work.
Firstly we prepare the problem statement of the case study and prepare the UML for that. In next step of work is FSM diagram is prepare for each module of the case study .Finally we aggregate the all the module and provide FSM for the system.
In this we see that the coupling between the modules is increased and try to reduce it by using the design of the application by FSM. Using FSM provide the efficient way of designing web application. The Metric is the quantitative measure of the degree to which a system, components, or process possesses a given attribute. It is the application of the measurement based technique to software development process to identify time and size .In this application CK metrics are calculated which are used in OOD. It is calculated due to application are based on web which used OOD.
Finally a web application can provide efficient and good navigation feature when it is design very effectively. It can be achieved by using FSM as a design pattern because it can easily represent pages and navigation feature in the form of state and transition.

## V. LIMITATION AND FUTURE SCOPE

Designing is one of the important phase of the web application development because it provide the efficient way for the developer. In this dissertation object oriented concept are used to develop a web application which can be easily converted into the FSM. It is very difficult when we use the concept of the procedural approach. The limitation of this design is it is not suitable for the traditional software application.

In future we prepare an algorithm for this design. This algorithm is used in the development of the web application .It is also require the model to design all the features of web application.

This concept will provide the efficient way of web application development. This model will reduce the complexity factor of the application .As we have seen that coupling is the key factor when navigation feature is used and using FSM it will reduced by reducing the conditional statement. Finally the scope of this approach is very good and it will provide better result when it is implemented by using XML.

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# Conciliation Process In Labour Law With Special Reference To Industrial Dispute Act 1947.

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**Abstract :**

Conciliation is one of the machinery provided in the industrial law for resolving industrial disputes. An industrial dispute is always a collective dispute and it presumed it affects entire industrial atmosphere of the industry and large numbers of workman are interested in it. So in order to resolve the dispute amicability, the concept of conciliation brought in the Industrial disputes Act and same is borrowed by the respective state governments in their own Act dealing with industrial disputes. In this process, the appropriate government constitutes a Conciliation Board consisting one officer of appropriate government, who is usually Labor commissioner or Additional Labor Commissioner or Deputy Labor Commissioner or assistant ant Labor Commissioner, at least one member of management and one from workmen. In case, the dispute affects the large nos. of industries the members of management and workman side may be more than one. The entire Board tries to get resolve the industrial dispute in arriving the amicable settlement and if a settlement arrived the same is reduced in writing and signed by the all the parties. This settlement is binding upon the parties and has full force of law. In case, parties failed resolve dispute and conciliation proceeding are failed.

This paper is based on both primary and secondary sources such as books, news papers, articles etc. the style of writing used is descriptive and analytical.

**Key words:-** Conciliation, Industrial Dispute, Authorities, Strike, Layoff

## I. INTRODUCTION

Conciliation is an alternative dispute resolution process whereby the parties to a dispute (including future interest disputes) agree to utilize the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from arbitration in that the conciliation process, in and of itself, has no legal standing, and the conciliator usually has no authority to seek evidence or call witnesses, usually writes no decision, and makes no award. Conciliation differs from mediation in that the parties seldom, if ever actually face each other across the table in the presence of the conciliator. This latter difference can be regarded as one of species to genus. Most practicing mediators refer to the practice of meeting with the parties separately as "caucusing" and would regard conciliation as a specific type or form of mediation practice -- "shuttle diplomacy" -- that relies on exclusively on caucusing. All the other features of conciliation are found in mediation as well.

If the conciliator is successful in negotiating an understanding between the parties, said understanding is almost always committed to writing (usually with the assistance of legal counsel) and signed by the parties, at which time it becomes a legally binding contract and falls under contract law. Recent studies in the processes of negotiation have indicated the effectiveness of a technique which deserves mention here. A conciliator assists each of the parties to independently develop a list of all of their objectives (the outcomes which they desire to obtain from the conciliation). The conciliator then has each of the parties separately prioritize their own list from most to least important. She then goes back and forth between the parties and encourages them to "give" on the objectives one at a time, starting with the least important and working toward the most important for each party in turn. The parties rarely place the same priorities on all objectives, and usually have some objectives which are not on the list compiled by parties on the other side. Thus the conciliator can quickly build a string of successes and help the parties create an atmosphere of trust which the conciliator can continue to devlop.Most successful conciliators are highly skilled negotiators. Some conciliators operate under the auspices of any one of several non-governmental entities, and for governmental agencies such as the Federal Mediation and Conciliation Service.

Conciliation may be voluntary or compulsory. It is voluntary if the parties are free to make use of the same, while it is

compulsory when the parties have to participate irrespective of whether they desire to do so or not. Section 4 of the Industrial Disputes Act, 1947 provides for appointment for conciliation officers and Section 5 for constitution of Boards of Conciliation. The Board of conciliation is to consist of an independent Chairman and two or four member representing the parties in equal number. While the former is charged with the duty of mediating in and promoting the settlement of industrial disputes, the latter is required to promote the settlement of industrial disputes. The act generally allows registered trade unions or a substantial number of workers/ employees and also in certain cases individual workman to raise disputes. The performance of conciliation machinery, though it does not appear to be unsatisfactory , causes delays due to casual attitude of the parties towards conciliation, defective processes in the selection of personnel and unsatisfactory pre-job training and period-in-service-training . Delays in conciliation are attributed partly to the excessive work-load on officers and partly to the procedural defects. Since conciliation officer has no powers of coercion over labour and management, he can only persuade them to climb down and meet each other. The settlements that are claimed to result from conciliation are increasingly the result of political intervention. Success of conciliation depends upon the appearances and their sincere participation in conciliation proceedings of the parties before the conciliation officers. Non-appearance and non- participation of the parties in conciliation proceedings poses a serious hindrance in this direction. On the attitude of the parties National Commission on Labour observed conciliation is looked upon very often by the parties as merely hurdle to be crossed for reaching the next stage. The representatives sent by the parties to appear before him are generally officer who do not have the power to take decisions or make commitments: they merely carry the suggestion to the concerned authorities on either side. This dampens the spirit of a conciliator. We have been told by the employers and workers, organizations alike that the conciliation machinery is weakened because of its falling into this type of disuse in recent years, Section 11 of the Act has clothed the conciliation officers with the power to enter premises occupied by any establishment and also has been invested with the powers of civil court under the Civil Procedure Code, 1908 when trying a suit for enforcing the attendance of any person and examining him on oath, compelling the production of documents and material objects and issuing commission for examination of witness for the purpose of inquiry in to any existing or apprehended industrial dispute. These provisions are seldom enforced. Moreover, conciliators most often do not have requisite information on the employers and trade unions, up to date wage/productivity, information and relevant up to date case laws which affect his capability to conciliate effectively. The National commission on labour in this context laid emphasis for pre job and on the job training of conciliation officers.

Arbitration: The resort to arbitration procedure may be compulsory or arbitrary. Compulsory arbitration is the submission of disputes to arbitration without consent or agreement of the parties involved in the dispute and the award given by the arbitrator being binding on the parties to the dispute. On the other hand in case of voluntary arbitration, the dispute can be referred for arbitration only if the parties agree to the same. Section 10A of the Act, however, provides only for voluntary reference of dispute to arbitration. This system, however, has not been widely practiced so far. One of the main reasons for not gaining popularly of this procedure is lack of arbitrators who are able to command respect and confidence of the parties to the dispute. Inter Union rivalry also sometimes makes it difficult in arriving at an agreement on settlement of an arbitrator who is acceptable to all the trade unions in the industry.

The Apex court in case Kurnal Leather Employess Union v Liberty Footwear Co. has held that the remedy under section 10K is voluntary and alternative for settlement of industrial dispute but if the parties to the dispute have agreed in writing for settlement of their disputes through arbitrator, then the Govt. cannot refer the dispute to the Tribunal for adjudication.

Adjudication: If despite efforts of the conciliation officer , no settlement is arrived at between employer and the workman, The Industrial Dispute a provides for a three tier system of adjudication viz. Labour Courts , Industrial Tribunals and National Tribunals under section, 7 , 7A and under section 7B respectively. Labour Courts have been empowered to decide disputes relating to matters specified in the Second Schedule. These matters are concerned with the rights of workers, such as propriety of legality of an order passed by an employer under the standing orders, application and interpretation of standing orders, discharge or dismissal of workman including reinstatement of grant of relief to workman wrongfully discharged or dismissed, withdrawal of any customary concession or privilege and illegality The industrial tribunals are empowered to adjudicate on matters specified in both the Second and third schedule i.e. both rights and interest disputes. The jurisdiction of the Industrial Tribunal is wider that the labour courts.

In Paulosv State of Kerala , per Mathew J. The government entrusted the work of selection of candidates for the appointment of presiding officers of industrial tribunals and labour courts to the advocate-general . This mode of selection of candidates was challenged by writ petition in High Court of Kerla on the ground that the government is bound to make appointment to this post after giving on opportunity to all eligible persons before considering for appointment by proper publicity through advertisement in newspapers. In the absence of such opportunity being given to all the persons having such prescribed qualification to be appointed, the method was unfair and arbitrary, and, therefore, violative of Article 14 and

16 of the Constitution. A Single Judge of the Kerala High Court upheld the appointment holding that the action taken by the government was within the powers enjoined by law and it is not the requirement of law that for every recruitment to an office under state, there must be an advertisement in the public press. Therefore, it is not necessary that the state must in every case of public employment issue an advertisement or notice inviting applications for an office.

In Shellac Industries Ltd v Their workmen , per Dutt J. A tribunal once appointed cannot be abolished by an executive act merely because the government chooses to put an end to it when a reference is pending before it , for the state cannot do indirectly what is not permissible to it to do expressly or impliedly under the Act. Hence, a dispute pending before such a tribunal cannot be referred to another tribunal under Sec 10 (1) (d) as that can be done only under Section 33 B.

In case of disputes which in the opinion of the Central Govt. involve question of national importance or is of such nature that workers in more than one State are likely to be affected. The Act provides for constitution of National Tribunals.

Industrial adjudication has undoubtedly played a conclusive role in the settlement of industrial disputes and in ameliorating the working and living conditions of labour class. In this context the National Commission of Labour observed :

the adjudicating machinery has exercised considerable influence on several aspects of conditions of work and labour management relations. Adjudication has been on of the instruments for the improvement of wages and working conditions and for securing allowances for maintaining real wages, bonus and introducing uniformity in benefits and amenities. It has also helped to avert many work stoppages by providing an acceptable alternative to direct action and to protect and promote the interest of the weaker sections of the working class, who were not well organized or were unable to bargain on an equal footing with the employer.

The Act empowers the appropriate government to refer industrial disputes when the industrial disputes exist or are apprehended . The Apex court has also held in ShambuNathv Bank of Baroda that the power conferred by Section 10 (1) on the Govt. to mak e reference can be exercised not only when an industrial dispute exists but when it is also apprehended. Kotwal J. Kashmir Ceramtics Ltd. v Labour Court It is not permissible for the labour court to entertain more disputes than are contemplated in the reference not is it permissible for it to decline to adjudicate matters which clearly arise in the terms of the reference.

In the case State of Madras v C.P. Sarathi and Secretary, India Tea Association vAjeet Kumar Bharat , it was held that to make a reference is the administrative act of the Government and the same view has been taken in the case Telecom Conway Divers Mazdoor Sangh& authorities v State of Bihar and in M/s Avon Services ( Production Agencies ) Pvt. Ltd v Industrial Tribunal Faridabad with the result that the State Government has little choice in referring to make references of the disputes after failure of conciliation proceedings . The adjudication system is not immune from its weakness. The adjudication is dilatory and expensive . The Apex Court in case Ajaib Singh v Sirhind Co Op. Marketing Cum Processing Service Society Ltd .has also held that reference of industrial dispute to labour court is not subject to limitation under Article 137 of the limitation Act . Thus no period of limitation having been prescribed under the Act during which the industrial disputes can be raised and referred for adjudication sometimes state disputes which arose even 15 to 20 years back are referred for adjudication. Moreover the Labour court , Tribunal and National Tribunal do not posses power of executing the order/awards passed by them although they are presided over by highly qualified and experienced judicial officers such as District Judges and High Court Judges with the result that generally workmen, weaker sections of the society suffer on account of non-implementation of the order/awards. However, there is no viable alternative to this system. Stringent provisions, therefore are required for ensuring the time limit within which the orders /awards to be implemented and clothe the courts and tribunal with powers of contempt of court for non-implementation of orders /awards passed by them.

Under the Act, an award made by the adjudication authority is final as there is no appeal. However actual practice almost every award made against the employer is challenged in the High Court under Article 226 and 227 & in the Supreme Court under Article 136. It takes year before final orders are passed in writ petitions pending before the High Court/Supreme Court. If the period taken before the adjudicating authority is counted, it does not take less 10 to 20 years before the protracted litigation could be disposed off. It is the weaker sections who are inconvenienced and handicapped the most, by the delay.

It is submitted that the need of the day is to evolve the frame-work in which workers and the management perceive the need to co-operate. Bilateral regulation is the most effective method of evolving norms which enjoy wide acceptance.

## II THE INDUSTRIAL DISPUTES ACT, 1947

During the post-independence era we have witnessed the development of a new jurisprudence, namely the 'Industrial Law'. The Industrial Law in pre-independence days was in rudimentary form. But later on with development of industry, the Industrial Law developed side by side. The growth of this law was slow in the beginning but gained its pace in recent years as is evident from the bulk of the cases before Supreme Court on Industrial Law matters. A large section of the Indian population is affected by Industrial laws. Some like industrialists and their work men are directly affected and many others are unconsciously affected by these laws. The economic growth of a country is dependent upon industrial

development. Therefore, the progress of a country being dependent upon the development of industry, the industrial laws play an important role in national economy of a country.

The object of industrial relations legislation in general is industrial peace and economic justice. The prosperity of any industry very much depends upon its growing production. The production is only possible when the industry functions smoothly without any interruptions in production. There are some other factors that influence the production namely absence of disputes , i.e., harmonious relationship between the labour and management. Therefore, every industrial relations legislation necessarily aims at providing conditions congenial to industrial peace.

Economic justice is another objective aimed at by such legislations. Almost all interruptions in production are due to industrial disputes. Dissatisfaction with the existing economic conditions is the root cause of industrial disputes. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in various forms, e.g., (a) increase in wages, (b) resistance to decrease in wages and (c) grant of allowance and benefits, etc . If a labourer wants to achieve these gains individually, he fails because of his weaker bargaining power; the management with better economic footing stands in a better position to dictate its terms. Therefore, the economic struggle of labour with capital is for collectively by organized labours. If the labour organizes the bargains collectively, he is definitely placed in a position to exert greater pressure upon the capital to provide them fair return to their labour. It is with a view to provide economic justice by ensuring fair return to the labour that the state as the custodian of public interest intervenes by 'state regulation'. Economic justice has also been ensured to the people of India by our Constitution.

The Industrial Disputes Act, 1947 extends to the whole of India. It came into operation on the first day of April, 1947 the object of the act as laid down in the preamble of the act is to make provision for the investigation and settlement of industrial disputes. The object of all labour legislations is to ensure fair wages and to prevent disputes so that production might not be adversely effected . The principal objects of the act as analyzed by the supreme court are as follows :

The promotion of measures for securing amity and good relations between the employer and workmen;

An investigation and settlement of industrial disputes between employers and employers, employers and workmen or workmen and workmen with a right of representation by a registered Trade Union or Federation of Trade Union or Association of employers or a federation of association of employers ;

The prevention illegal strikes and lock-outs;

Relief to workmen in the matter of lay-off, retrenchment and closure of an undertaking;Collective bargaining.The Industrial Disputes Act is a progressive measure of social legislation aiming at the amelioration of the conditions of workmen in industry .

1.2 Authorities under the Act

The Industrial Disputes Act also aimed at investigation and settlement of industrial disputes. With that object in view various authorities have been created by the Act. The adjudication of industrial disputes has at the first instance been kept out of the jurisdiction of Municipal Courts so that efforts may be made for settlement of such disputes through some other agencies. The Works committee, conciliation officer, board of conciliation and courts of inquiry endeavor to settle the difference before it may be adjudicated upon by the labour court or the industrial tribunal. They all aim at amicable settlement of the industrial dispute. The various modes of settlement of disputes provided by the Act may be broadly classified under 3 heads: 1) conciliation; 2) adjudication; and arbitration.

Those authorities that make use of conciliation as the sole method of settlement of disputes are the: 1) works committee, 2) conciliation officer and 3) Board of conciliation. The labour court, tribunal and national tribunal are adjudicating authorizes that decide any disputereferred under the act.

Section 10 A of the Act makes provision for voluntary reference of disputes to arbitration. Apart from the above, provisions have also been made for the constitution of a court of inquiry whose main function is to inquire into any matter appearing to be connected with or relevant to an industrial dispute.

**II (A) Works Committee**

The works committee is an authority under the Act the following are the duties of the works committee:

a) To promote measures for securing and preserving amity and good relations between the employers and workmen;
b) To achieve the above object' it is their duty to comment upon matters of common interest or concern of employers and workmen;
c) To endeavor to compose any material difference of opinion in respect of matters of common interest or concern between employers and workmen.

The main purpose of creating the works committee is to develop a sense of partnership between the employer and hiswokmen. It is a body which aims to promote goodwill and measures of common interest. This section is applicable only to such industrial establishment in which one hundred or more workmen are employed, or to an establishment in which a minimum of one hundred workmen have been employed on any day in the preceding 12 months. The word "workmen" in this section is used in the same sense in which it appears in section 2(s) of the Act. It means that must be many categories of employees are excluded from the definition of workmen. The appropriate government under section 3(1) is authorized by general or special order, to require the employer to

constitute in the prescribed manner a works committee. The committee shall consist of representatives of employers and workmen engaged in the establishment. The no. of representatives of workmen on the works committee shall not be less than the no. of representatives of the employers. The representatives of workmen shall be chosen in the prescribed manner from amongst the workmen engaged in the establishment and in consultation with their trade union if any registered under the Indian Trade Unions Act 1926.

The workmen's representative on the committee shall be elected in two groups, namely :

1) Those to be elected by the workmen of the establishment who are members of the registered trade unions or unions ; and
2) Those to be selected by the workmen of the establishment who are not members of the registered trade unions.

**II (B) Conciliation Officer**

The appropriate government may by notification in the official gazette appoint conciliation officer. These officers are charged with the duty of mediating in and promoting the settlement of industrial disputes. The appropriate government may appoint one or more conciliation officers as it thinks fit. A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries. The appointment may be made either permanently or for a limited period. The jurisdiction, powers and other matters in respect of the conciliation officer shall be published in the official gazette.

**II (C) Boards of Conciliation**

The provision for appointment of boards of conciliation is made under the act to bring the two parties to a dispute to sit together and thrash out their differences and to find out ways and means to settle them. Section 5 of the Act provides that the appropriate government may, by notification in the official gazette, constitute a Board of Conciliation. The object of appointing the board is promotion of settlement of an industrial dispute. The board shall consist of a chairman and two or four other members as the appropriate government thinks fit .

**II (D) Courts of Inquiry**

If any matter is referred to a court by appropriate government it shall inquire and make a report ordinarily within a period of six months from the commencement of inquiry. Section 6(1) points out that if "occasion arises" the appropriate government may constitute a court of inquiry. The purpose of constitution of court of inquiry is to inquire into any matter appearing to be connected with or relevant to such dispute. The court shall not inquire into the industrial dispute itself.

On a perusal of the relevant sections relating to the court specially section 22, 23and 33 of the Act it may be seen that during the pendency of a proceeding before a court o0f inquiry the following rig hts remain unaffected, namely:

I. The right of a workmen to go on strike.
II. The right of an employer to lock out his business.
III. The right of employer to dismiss or otherwise to punish the workmen in certain case under section 33.

**II (E) Labour Court**

The power of appointment of a labour court under section 7 of the act is vested with the appropriate government. The appropriate government may constitute one or more labour courts. The constitution of the labour Court together with names of persons constituting the labour court should be notified in the official gazette. The functions of the labour court as provided in the act are:

I. Adjudication of industrial disputes relating to any matter specified in the second schedule.
II. Performing of such other functions as may be assigned to them under this Act.

The following matters are specified in the second schedule, namely:

I. The propriety or legality of any order passed by an employer under the standing orders,
II. The application and interpretation of standing orders.
III. Discharge or dismissal of workmen, including reinstatement of, or grant of or relief to workmen wrongfully dismissed.
IV. Withdrawal of any customary concession or privilege.
V. Illegality or otherwise of a strike or lockout.
VI. All matters other than those specified in the third schedule.

According to section 7(2) a labour court shall consist of one person only who shall be appointed by the appropriate government.

**II (F) Tribunals**

In our country the industrial tribunals work for the first time created by the industrial disputes act 1947 commenting upon the status of these tribunals the supreme court has observed that the tribunals under the Act are invested with many trappings of a court but do not have the same status as courts. These tribunals need not follow the strict technicalities of law in adjudication of industrial disputes.

The power to constitute industrial tribunal is conferred upon the appropriate government. The appointment of an industrial tribunal together with the names of persons constituting the tribunal shall be notified in the official gazette. Further, one or more than one tribunals may in the discretion of appropriate government, be constituted. It the duty of the tribunal to adjudicate upon any industrial disputes relating to any matter, relating to any matter whether specified in the second schedule or the third schedule. These tribunals shall perform such other functions as may be assigned to the under this act.The tribunal shall consist of one person only who shall be appointed by the state government any person having one of the following qualifications may be appointed as the presiding officer of the industrial tribunal namely:

a) If he is, or has been, a judge of a high court or
aa) if he has for a period of not less than three years been a district judge or an additional district judge.

**II (G) National Tribunal**

1) Unlike the other authorities under the act a national tribunal can only be constituted by the central government. The power is to be exercised by issuing of notification in the official gazette the name of the person constituting the national tribunal shall also be notified in the official gazette. the central government may constitute one or more tribunals. National industrial tribunals are constituted for the adjudication of industrial dispute, which in the opinion of the central government

(a) Involves question of national importance or
(b) Are of such a nature that the industrial establishment situated in more then one state are likely to be interested in or effected by suc dispute.it is sole discretion of the central government to decide that the industrial dispute involves the question of national importance or industrial establishments situated in more then one state are interested in or effected by the dispute.

2) A national tribunal shall consist of one person to be appointed by the central government.
3) A person shall not be qualified for appointment as the presiding officer of national tribunal unless he is or has been a judge of a High Court.
4) The central government may, if it thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceedings before it.

## III. ARBITRATION AND CONCILIATION ACT, 1996.

The Indian Industrial law was poised for a monumental take-off at this juncture as the Industrial Disputes Act, 1947 provided for the creation of a specialised adjudicatory mechanism which was a departure from the common law adversarial dispute settlement machinery and thereby opened up new vistas till then unknown to law. The Act removed all fetters known to the adversarial justice system for the adjudicators constituted under it. The Conciliators or Adjudicators were not required to follow the classical procedural or substantive law. The only guiding principle was the securement of industrial peace and justice. However, the procedure observed would have to be in consonance with the principles of natural justice.

The Arbitration and Conciliation Act, 1996 is an attempt by Parliament to take a holistic approach to alternative dispute resolution in India. In the past, domestic and international arbitrations were dealt with separately under different legislations; the Arbitration Act, 1940 dealt only with domestic arbitrations. Foreign arbitral awards were further classified on the basis of the New York and Geneva Conventions and governed by the Foreign Awards (Recognition and Enforcement) Act, 1961 and the Arbitration (Protocol and Convention) Act, 1937 respectively. The Act is cast in terms of the UNCITRAL Model Law on International Commercial Arbitration11 and seeks to break away from the regulated and supervised forms of ADR as have been in existence in India. The need to provide flexibility to the parties in a legal relationship to decide for themselves the mode of settlement of their differences has finally been recognized. While the major changes have been in the area of arbitration, it is noteworthy that conciliation has received recognition. The Act seems to have been a reaction to the response of the judiciary to ADR in the past. There are several provisions that clearly seek to settle certain issues that have been the subject of great contention before the Supreme Court of India. The salient provisions of this Act in the matter of arbitration are:

1. Limited judicial intervention.
2. Duty of the court where a suit is filed, upon application in this behalf, to refer the parties to arbitration in accordance with the arbitration agreement between the parties.
3. Power of the arbitrators to award interest from the date of the cause of action till the date of the satisfaction of the award.
4. Empowering the arbitrators to order interim measures for the protection of the subject matter or to ensure satisfaction of the award.
5. Empowering the arbitrators to decide on their jurisdiction
.6. Equating the arbitral award to a decree of a court.
7. Limiting the number of statutory appeals from the award to one.

Since the basic premise for the courts to strike down certain actions of the arbitrators was that they were not empowered to act in a certain manner to decide on certain matters, the Act specifically empowers the arbitrators in these areas and consequently, certain decisions of the court may be nullified to the extent to which they differ from the provisions of the Act.

While granting the arbitrators more powers, the Act also imposes on them the duty to give reasons for their award, unless the parties specifically agree that no reasons need be given. This would make the arbitrators open to criticism from the courts who had, until now, refused to interfere in most cases of non-speaking awards since they had little material to go by.

The Act, for the first time in India, provides for recognition of conciliation in commercial disputes. Part III of the Act provides for "...conciliation of disputes arising out of legal relationships, whether contractual or not and to all proceedings relating thereto." This provision similar to that relating to arbitration, is arguably, the most important issue and needs careful attention.

The choice of the method of ADR is a function of the kind of relationship and the nature of the dispute between the parties. The Act clearly applies only to commercial arbitrations and

conciliations. From the description of the scope and application in section 61 one needs to understand if only legal obligations may be the subject of conciliation. Can differences of opinions that have an impact on the relationship between the parties be the subject matter of the conciliation? If the subject matter of the dispute is the legal obligation of the parties then a choice of the ADR mechanism is clearly available: the parties may choose either arbitration or conciliation. To equate conciliation to arbitration on so simplistic an analysis is to grossly understate the relevance of conciliation. While it is no doubt true that conciliation could be used in place of arbitration and parties may be happier with a settlement than an award, it must be recognised that conciliation has one special characteristic, i.e., it can go to the root of the difference, the real problem between the parties that had led them to disagree with each other. This is best explained with an illustration:

In a joint venture agreement between an Indian and an American company, each holding

50% of the shares in the Indian joint venture company, certain matters are "reserved" i.e, decisions on these matters may be taken only if the directors nominated by both the partiesvote in favour of the resolution in a meeting of the Board of Directors. Typically these would include expansion of the capital base, diversification of activities, creation of subsidiaries, mergers and acquisitions, creation of liabilities exceeding a certain amount, etc. If the American partner wishes to expand the equity base of the joint venture company so that it may undertake larger projects or expand its activities but the Indian partner is unable to match the capital contribution required to maintain the ratio of shareholding due to unavailability of free resources at that point of time, the Indian partner will instruct its nominee directors to vote against the resolution even though it agrees, in principle, that the company needs additional funds for the expansion. The Indian partner may wish to increase the debt exposure of the joint venture company, which the American partner may view as an ad hoc response, rather than as a long-term solution.

The Indian partner may perceive this action as a threat by the American partner to suppress the Indian partner by forcing the dilution of its control in the joint venture company. This may be the first sign of insecurity of the Indian company and the beginning of the loss of trust between the partners. Once the resolution fails, the American partner may not be very interested in the joint venture as it sees that the company is unlikely to grow in a manner that it expects. It may also perceive the Indian company as lacking in vision and ambition. This may be a natural inference by the persons who make the policies and direct the activities of the American partner. If the American partner is allowed to continue to hold this view, it would sour the relationship between parties that was based on the understanding of equality.

The difference of perception of the situation could not be the subject of arbitration since there is no breach of any obligation of the parties under the joint venture agreement. There is no obligation on the parties to vote in a particular manner on issues that are in the list of reserved matters. At best the parties could allege that the other did not act in good faith and in the best interest of the joint venture company. This however, could be a matter that could be referred to conciliation. The parties could express their concerns and feelings in the matter to the conciliator who could help them find a solution to the problem after understanding their concerns. It may be that the parties have not been able to communicate their understanding of the situation to each other adequately, have failed to understand each other's perception of the situation, have a difference of opinion regarding the future of their relationship or differ in their vision for the joint venture company. In most of these cases, conciliation will help them communicate their views so that, at the very least, the air may be cleared for a review of the relationship.

In the present illustration, a possible solution that may be acceptable to both parties could be an expansion of the capital base of the company by a fresh issue of shares to the American partner with a right to the Indian partner to purchase half the shares at an agreed price(or formula) within a fixed period of time in the future. Thus, though the Indian partner may hold fewer shares for a short while, the American partner may continue to treat the Indian partner as a full and equal partner thereby putting to rest the fear of the Indian partner that the increase in the share capital is a ploy to dilute its control in the joint venture.

Whether the 'difference of opinion' in the above illustration qualifies for the benefits under section 61 of Part III of the Act is therefore an issue . It would if one takes a view that it is a proceeding relating to disputes arising out of a legal relationship. The Supreme Court of India has held that the phrase "arising out of" is of the widest amplitude and should not be read restrictively .

Whether the fact situation in the illustration would qualify as a 'dispute' would be the next level of enquiry. While dealing with the issue of the date from which limitation runs in a matter to be referred to arbitration, the Supreme Court was required to determine the date when the dispute or difference arose. It held that the "...dispute or difference arises on unequivocal denial of claim of one party by the other party as a result of which the claimant acquires the right to refer the dispute to arbitration." If one were to expect that the courts would interpret the word "dispute" in the context of conciliation in a similar manner, it may be necessary for the agreement containing the conciliation agreement to confer a right on the parties to resort to conciliation in situation where the difference of opinion, which may not be a breach of any legal obligation, is likely to affect their relationship. This would ensure that the parties have always a course of action to resolve their differences and are not left without a chance to resolve such differences that could be fatal to the joint venture company (in the illustration above).

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# Domestic Violence Act – Judicial Interpretation

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**Abstract :**

Domestic Violence can be described as when one adult in a relationship misuses power to control another. It is the establishment of control and fear in a relationship through violence and other forms of abuse. The violence may involve physical abuse, sexual assault and threats. Sometimes it's more subtle, like making someone feel worthless, not letting them have any money, or not allowing them to leave the home. Social isolation and emotional abuse can have long-lasting effects as well as physical violence.

It is one of the crimes against women which is linked to their advantageous position in the society. Domestic violence refers to violence against women especially in matrimonial homes. Therefore domestic violence is recognized as a significant barrier to the empowerment of women, with consequences for women's health, their health-seeking behaviour and their adoption of small family norms.

This paper is based on both primary and secondary sources such as books, news papers, articles etc. the style of writing used is descriptive and analytical.

**Key words:-** Domestic violence, Abuse, Jurisdiction, Protection, victims

*"The privilege, ancient though it may be, to beat her with a stick, to pull her hair, choke her, spit on her face, or kick her about the floor, or to inflict upon her like indignities is not now acknowledged by our law."*

*- Fulgham v. State, 46 Ala. 143, 146-47 (1871)*

## I. INTRODUCTION

The Domestic Violence Act, 2005 clearly defines the concepts it works with. The recognition of domestic violence as a crime has resulted in broadening the understanding of what domestic violence is, who may seek protection under the act, and what type of protection may be sought. The language of the Act is exceptional, and the Act, if implemented properly, has great potential to make a difference in the lives of women victimized by domestic violence.

## II. CONSTITUTIONAL CHALLENGES TO THE ACT

Several constitutional questions have risen with respect to the Domestic Violence Act especially that the legislation is gender-specific in nature and therefore arbitrary. Courts have unequivocally held that the Act is constitutional.

In Aruna Parmod Shah v. Union of India , a mother-in-law sought to quash proceedings initiated against her under the Act. She challenged the constitutionality of the Domestic Violence on two grounds – first, the gender-specific nature of the Act, by excluding men, is arbitrary and, hence, violates Article 14 of the Constitution; and second, the placing of "near or like marriage" status (relationships in the nature of marriage) at par with 'married' status in Section 2(f) of the Act leads to the derogation of the rights of the legally-wedded wife. The gender-specific nature of the Act was held to be a reasonable classification in view of the object that the Act seeks to achieve and, hence, was held to be constitutionally valid. The Court rejected the second contention by saying that there is no reason why equal treatment should not be accorded to a wife as well as a woman who has been living with a man as his "common law" wife or even as a mistress. The court opined that, "like treatment to both does not, in any manner, derogate from the sanctity of marriage since an assumption can fairly be drawn that a 'live-in relationship' is invariably initiated and perpetuated by the male".

Similarly in Dennison Paulraj and Ors. v. Union of India and Ors. , a writ petition was filed by the husband and his family members challenging constitutionality of the Act and alleging that the proceedings initiated in the lower court was a complete abuse of process of law. The main grounds of challenge were – first, the Act violates Articles 14 and 21 of the Indian

Constitution as the law does not permit a husband to file an application against the wife; second, sections 4, 12, 18, 19, 23 and 29 of the Act were challenged as providing preferential treatment to the wife and hence, affecting the right to life and liberty of the husband and his relatives; and section 23 in particular was challenged as arbitrary and conferring unrestricted powers on the Magistrate. It was argued that special protection provided to women is intelligible differentia and hence, the gender-specific nature of the Act does not make it unconstitutional. The Madras High Court held however that when the Constitution itself provides for making special provision for women, the contention that there could be no special treatment for women cannot be accepted. The court highlighted the fact that the Act was enacted as a special legislation for women in keeping with Article 15(3) of the Constitution. It was also pointed out that this provision on special measures has been widely used to enact legislations and executive orders for women and the courts have upheld their validity. The Madras High Court went on to cite several judgments of the Supreme Court where sex was held to be a sound classification under Articles 14 and 15. Hence, this writ petition was dismissed by the court.

## III. DOMESTIC VIOLENCE

Much of the legal scholarship devoted to domestic violence in India revolves around the concept of physical abuse. Section 3 of the Act however provides an expansive definition of the term "domestic violence" in terms of mental, physical, sexual, verbal, emotional and economic abuse. The definition also specifically includes within its ambit any conduct that harasses, harms, injures, or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry, property, or valuable security. Furthermore, any such conduct that has the effect of threatening the aggrieved person or any person related to her or otherwise injures or causes physical or mental harm to her has been brought within the ambit of domestic violence. The extent of domestic violence hence extends from physical hurt, to emotional and economic blackmail and may be interpreted by courts and lawyers to include and punish marital rape as well7. Not only does the Act proscribe acts of abuse, it also proscribes the threat of any physical, sexual, verbal, emotional, or economic abuse. This liberal expansion of the term domestic violence extends the right to protection into many areas that have traditionally been considered private family matters. As compared to this, the 2002 bill included only acts of assault and cruelty, and exempted cases in which the assaulter committed the act in self defence, or in the protection of his property. Also, it recognized the offence of domestic violence only if the abuser "habitually" assaulted the abused.

### III (A) Relevance of Economic Abuse

Domestic violence is prevalent among women regardless of age, education level, socio-economic class, and family living arrangement. Eighty-five percent of men surveyed by the International Center for Research on Women (ICRW) admitted that they had engaged in some form of domestic violence inthe past year. Statistics further indicate that while physical violence declines as a woman's socio-economic status rises, other types of violence, including emotional and sexual abuse, either remain constant or increase among women of different socio-economic statuses. Therefore, although a household may have more economic and social security, the women ofthe household often do not, and thus it is important to include inthe ambit of domestic violence, concepts such as economic abuse that may not traditionally be included in its ambit.

Characterizing economic abuse as a form of domestic violence is a particularly significant step towards advancing women's rights in India. Given the rampant practice of dowry in India, effective implementation of the law requires a broad interpretation of the economic abuse provision. According to noted scholar Pami Vyas, "economic abuse" must be interpreted broadly to include the deprivation of a woman's control over her economic resources. Economic abuse would therefore include situations in which a woman is deprived the right to employment outside of the home or forced to turn over all of her earnings to her husband or in-laws. This broad interpretation is essential to ensure that women of all socio-economic levels have economic rights consistent with India's legal obligations.

According to the statute, economic abuse includes (a) deprivation of economic resources to which the victim is entitled and requires out of necessity, (b) disposal of household goods to which she is entitled to use by virtue of the domestic relationship, or (c) prohibition of access to resources which she is entitled to use by virtue of her domestic relationship. While the latter two aspects of economic abuse include only those resources which the victim is entitled to use by virtue of the domestic relationship, the first provision concerns economic deprivation of resources to which the victim is entitled by law, or requires out of necessity.

In order to be consistent with the purpose of the statute and in light of India's constitutional and international human rights obligations, "economic abuse" must be interpreted broadly to include not only a deprivation of economic or financial resources such as basic subsistence as the statute may imply, but also the deprivation of a woman's control over her economic resources. Such an interpretation would characterize the deprivation of the right to employment outside of the home or a situation in which a woman is forced to turn over all of her earnings to her husband or in-laws as economic abuse.

### III (B) Domestic Violence in Other Jurisdictions

In the UK, both the Family Law Act, 1996, and the Domestic

Violence, Crime and Victims Act, 2004, have not clearly defined the term domestic violence, although there are provisions for occupation orders and non-molestation orders. However, it appears that the ambit of the domestic violence is narrow and does not extend to emotional, verbal, or economic abuse. In the USA, the Violence against Women Act, 1994, has defined domestic violence to include felony or misdemeanour crimes of violence and does not extend to emotional abuse by the family.

In Malaysia, Domestic Violence Act, 1994 provides that domestic violence includes wilfully or knowingly placing, or attempting to place, the victim in fear of physical injury, causing physical injury to the victim by an act that is known or ought to have been known would result in physical injury, compelling the victim by force or threat to engage in any conduct or act, sexual or otherwise, from which the victim has a right to abstain, confining or detaining the victim against his or her will or causing mischief, destruction or damage to property with intent to cause, or knowing that it is likely to cause distress or annoyance to the victim. Its ambit is again confined to physical injury, threats, force, and confinement and does not include emotional, verbal, or economic abuse. The Act is therefore novel in this respect.

## IV. DOMESTIC RELATIONSHIP

The Act allows the institution of proceedings by an 'aggrieved person' who has been defined as any woman who is or has been in a domestic relationship with any adult male person and who alleges to have been subjected to any act of domestic violence by him, or his relatives.

The Act also introduces the concept of "domestic relationship" and thus broadens the scope of who may claim relief under the Act. Previously, only a woman who could prove a relationship with the respondent either by blood or marriage could avail of relief against domestic violence. 'Domestic relationship' includes any "two persons who live or have, at any point in time, lived together in a shared household". The present Act only requires the proof of a domestic relationship as the basis for action. This provision goes a long way in recognizing existing social realities in India, where a vast number of marriages are legally invalid due to a number of reasons. The Act now makes it possible for the victims of violence in such relationships to approach the court for redressal. It embraces relationships based on consanguinity, marriage, adoption, and cohabitation, and therefore, provides protection for all women who have a relationship with the abuser, including sisters, widows, mothers, in-laws, and unmarried women living with the abuser as opposed to anti-dowry and anti-cruelty provisions that protect only wives and daughters-in-law. Until the passing of this Act, no legislation had conferred specific protection against abuse meted out by members of the family into which one was born. After the enactment of this legislation, there has been a case in Rajasthan where a young girl went to court against her father who was forcing her into a marriage. The court restrained this marriage from taking place without her consent and directed the father to pay a sum of Rs. 2000 per month towards her college education in accordance with her wishes. Similarly, in Uttar Pradesh, an elderly mother obtained an order restriang her son from evicting her from the shared household. In Karnataka, a woman filed for a protection order against her husband who was stalking her and her parents who were forcing her back into an unwanted marriage. However, the most significant and commendable feature of this definition is that for the first time in India 'live-in relationships' have been given legal recognition.

### IV (A) Nature of Relationship in Other Jurisdictions

The definition of a domestic relationship as provided under the Act, although extensive, is not exhaustive, especially when contrasted with similar legislation in the UK , the USA , and Malaysia.

Like in India, a similar concept of domestic relationship is included in the domestic violence legislation in England where co-habitants are protected against domestic violence under law. The law in England also moves away from the hetero-normative paradigm and includes within its ambit complaints by same-sex couples. Like in India, past co-habitants are protected as well.

The Indian understanding of domestic relationship does not, however, provide redressal to male family members who suffer from domestic violence. On the contrary, the progressive Malaysian domestic violence legislation includes in the ambit of aggrieved parties a spouse, former spouse, children, mentally incapacitated adults, and any other family member.

The Indian Act also does not provide relief to victims of violence with whom the accused might have shared a relationship in the past who are accounted for in other domestic violence legislations, like S.1(vii) of the domestic Violence (South Africa) Act. Under the South African legislation, the definition of a domestic relationship includes people who are or were married to each other (whether they live together or not); same-sex partners (whether they live together or not); any person who is or was in an engagement, dating or customary relationship, including an actual or perceived romantic relationship; intimate or sexual relationships of any duration; parents of a child; and people who share or recently shared the same residence.

### IV (B) Status of Child

It is not clear whether a child can be an aggrieved party under the Act. Section 18© seems to suggest that a child may be an aggrieved party , however, the rest of the Act does not lead to the same conclusion, since s. 2(a) defines an aggrieved person specifically as a woman, and in many cases the prescriptions in the Act are not child-friendly. In contrast to this, the status of

the child in the England legislation is unambiguous, and domestic violence law clearly applies to children. Here greater responsibility is placed on adults who live with children. They can be made liable not only for intentionally causing hurt of any kind to the child, but also for failing to protect the child from harm. Most provisions in the Act are geared towards the protection of adult women. Children, especially those who have lost their parents, are the most vulnerable targets of domestic violence and hence the Act does not sufficiently recognize their requirements. It is questionable however whether it is expedient to combine child-protection laws with domestic violence legislation as the two have substantially different requirements.

3.3 Understanding the Terms 'Respondent' and 'Relative'

The Proviso to Section 2(q) of the Act examines the term 'respondent' and provides that a complaint can be filed against relatives of the husband or male partner. There has been considerable debate as to the scope of the term 'relative' and especially whether the term extends to female relatives of the husband.

In Smt. Sarita v. Smt. Umrao , a revision petition was filed challenging the order of the appellate and trial courts, which withdrew proceedings under the Act against the mother-in-law on the basis that women cannot be made respondents under the Act. The Rajasthan High Court held that the term "relative" is quite broad and includes all relatives of the husband irrespective of gender or sex. Similar judgments have also been passed clearly stating that women can be made respondents under the PWDVA in Nand Kishor and others vs. State of Rajasthan and Rema Devi v. State of Kerala .

## V. SHARED HOUSEHOLD

A key provision of the Act is the creation of a woman's right to reside in the "shared household" or to seek support for alternative housing arrangements. A shared household is a household where a woman lives or has lived in a domestic relationship, whether or not she has any ownership rights in the property. This provision is intended to protect a woman from eviction even where her in-laws hold title to the house in which she lives with her husband. It recognizes only a right to reside in the household in which she has become accustomed to living and does not create an ownership interest in the house. This right was incorporated in the Act because, in India's socio-economic setup, most women do not have the option to return to their parents' home or the resources to live on their own. If the woman does not want to return to the shared household, the court can order the abuser to provide alternative accommodations for her.

### V (A) Judicial Restriction of 'shared Household'

The first case that came up regarding the concept of shared household was that of Abha Arora v. Angela Sharma where the court held that an order under the Act restraining the respondent from alienating, disposing of or disturbing possession can be made only in respect of a shared household and even a claim for alternate accommodation can be made only against the husband and not against the in-laws.

Although the interpretation of "shared household" was intended to cover a broad range of intimate housing arrangements, the Indian Supreme Court narrowly interpreted the scope of the definition in S.R. Batra v. Taruna Batra, the only Supreme Court case to date interpreting the Act. In Batra, a husband and wife lived together on the second floor of a house owned by the husband's mother. After some time, the husband filed for divorce and moved out of the house. The wife, who was locked out by her mother-in-law, applied for an injunction to prohibit her dispossession of the marital home. The High Court held that the wife was in possession of the matrimonial home and granted the injunction. The mother-in-law and husband appealed to the Supreme Court. The Act became effective while the case was pending in the Supreme Court, and the wife argued that sections 17 and 19(1) of the Act protected her right to remain in the shared household. She argued that the plain meaning of section 2(s), which defines shared household, encompasses not only a household where the victim lives, but also any household in which she has lived at any stage of the domestic relationship. The Supreme Court rejected the wife's argument, and removed from the scope of shared household a house owned entirely by a woman's in-laws. The Court held that section 17(1) of the Act entitles the wife to claim a right to reside in the shared household only when the house is joint family property. Here, the property did not belong to the husband, the husband did not pay rent, and the house was not joint family property. Therefore, the Court vacated the injunction, thus permitting the woman's in-laws to evict her from the home if they so desired.

One of the criticisms of this opinion is that the judge disregarded the plain language of the Act. The language of section 2(s) expressly states: "shared household means a household where the person aggrieved lives or at any stage has lived in a domestic relationship . . . irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household". Therefore, the Act is intended to protect the right to reside in the shared household no matter who holds title to the property. Although the Court criticized section 2(s) as being "not very happily worded, and the result of clumsy drafting", adherence to the plain meaning of the section would have led to a contrary conclusion. The Court's insistence that it "give [section 2(s)] an interpretation which is sensible and which does not lead to chaos in society" does exactly the opposite; this decision strains India's commitment to end domestic violence by failing to consider some of the fundamental traditions underlying Indian culture. In a patriarchal society that prevents women from returning to their natal families after marriage, this decision may have a

debilitating effect on the protections afforded under the Act.
Although women's groups acknowledge the impact of this restrictive interpretation, the decision has not been fatal to the women's movement or the effectiveness of the Act thus far. As evidenced in Shalu Bansal v. Nitin Bansal , the courts may be willing to find creative ways to circumvent the Supreme Court's narrow construction of the term shared household. In this case, a Delhi magistrate judge took notice of the Supreme Court's decision in Batra but held that the woman could not be dispossessed of the marital residence without due process of law, and in the event that she was dispossessed, the husband must pay the woman rent as maintenance. Therefore, it appears that even though Batra is a setback for the women's movement, judicial activism may find a way to keep it alive.
Similarly in Vandana v. Mrs. Krishnamachari & Ors. , a suit for permanent injunction filed by the wife restraining the respondents from dispossessing her, the Madras High Court provided a broad interpretation to "shared household" and "domestic relationship" as defined under Section 2(s) and Section 2(f) of the PWDVA, respectively. The respondent-husband contested the right of the aggrieved wife to reside in the shared household under Section 17 of the PWDVA because the parties had not "lived together" in the shared household for even a single day after their marriage. The parties disputed even the very fact of marriage. The Court, upholding the right of the aggrieved wife to reside under Section 17, held that she has a de jure right to live in the shared household because of her status as a wife in the domestic relationship.
In P. Babu Venkatesh & Ors. v. Rani , a criminal revision petition was filed by husband and family seeking reversal of an order of the lower court in an application filed by the wife under Section 23 (2) of the Act, alleging dispossession from the matrimonial home. The Magistrate's Court had granted a residence order and allowed the police to break open the lock of the "shared household". The husband and his family contended that the house in question was, in fact, owned not by the husband but, by his mother, in whose name it was registered. Hence, it was not a "shared household" for the purposes of the Act. Dismissing this contention, the High Court of Madras held that the ratio laid down by the Supreme Court in S.R. Batra v. Taruna Batra could not be applied to the instant case as the facts clearly demonstrated that the husband, with the intention of defeating the rights of the wife, had transferred the household into the name of his mother, after the matrimonial dispute arose. In arriving at its conclusion, the Court recognised the fact that, before the wife's dispossession, both parties resided jointly in the said household.
In Archana H. Naik v. Urmilaben I. Naik , the question arose as to whether a residence order could be passed against a female given that section 2(q) of the Act specifically uses the work adult 'male' member or 'male' partner. The court however was of the view that if the legislative intent had been that the relative of the husband or male partner be only a 'male' relative, it would have specifically used the work male in the proviso. Further, the proviso to section 19(1), clearly implies that the residence order in terms of any of the clauses of section 19(1) except clause (b) can be passed against a respondent who is a woman.
In Kavita Gambhir v. Harichand Gambhir and ors. the court held that where some member of a joint family holds any property in his own name and it is shown by some other member that when that particular property was acquired there was some joint family nucleus out of which further acquisitions could be made, then the burden shifts to the member in whose name the property in question stands and who claims the same to be his self-acquired property to establish that it was his self-acquisition.
In S. Meenavathi v. Senthamarai Selvi the court held that an application under s. 12 of the Act is not maintainable as against women relatives, and that in the guise of passing a residence order under s. 19(1)(b) of the Act, women members of the family cannot be directed to be removed from the shared household.
In the case of Shammi Nagpal v. Sudhir Nagpal , the court held that where an employer provides the husband with accommodation, the same can be treated as matrimonial home and the wife will have a claim against the same for as long as the employee-husband either continues to be in possession of such home or is entitled to remain in possession thereof till termination of his service or till retirement or resignation or dealth or termination of service occupancy agreement.
In the case of Vimalben Ajitbhai Patel v. Vatslaben Ashokbhai Patel the apex court recognising this 'right of residence' has placed it on a higher pedestal to the existing right of maintenance as conferred under previous legislations. To exercise this right, the Act provides for a residence order that may be obtained by the victim either restraining the respondent from dispossessing her of the shared household or disturbing her possession irrespective of whether or not he/she has a legal or equitable interest in it, directing him to remove himself from the shared household, restraining him or his relatives from entering any portion in which the victim resides, restraining him from alienating, disposing off, encumbering, or renouncing his rights in it, directing him to secure an alternate accommodation for the victim of the same level of comfort. However, the Act clearly states that no residence order against a woman may be obtained that directs her to remove herself from the premises.
It is also pertinent to note here that in two recent judgments, the Supreme Court has held that the right to residence is part and parcel of the wife's right to maintenance and this right cannot be defeated by the husband by will. If there is any dispute pertaining to the husband's property, he cannot fail to defend his right by collusion, connivance or neglect and the wife would be entitled to defend the same but her right in the property cannot exceed her husband's right over the same.

### V (B) Comparison with Laws Across The World

These provisions are similar to the relief provided under Malaysian law and the occupation orders available under the Family Law Act, 1996, of Britain, which goes a step further and recognizes the right of both spouses to occupy the matrimonial home.

### V (C) Difficulties in Recognising Right to Residence

Since the Act pertains to the violence inflicted by the family of the victim, both residence orders and protection orders might not only be impractical to implement but may also prove to be ineffective or, worse yet, counterproductive, thereby further straining the relationships in the family.

## VI. REFERENCES


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[2] Aruna Parmod Shah v. Union of India, WP (Crl.) 425/2008, High Court of Delhi, (Decided on 07.04.2008) (citation unavailable).

[3] Dennison Paulraj and Ors. v. Union of India and Ors., WP No.28521 of 2008 and M.P.No.1 of 2008, High Court of Madras, (Dec ided on 03.04.2009) (citation unavailable).

[4] Section 3 of the Protection of Women from Domestic Violence Act, 2005 defines domestic violence as an omission, commission, or conduct that "harms or injures or endangers the health, safety, life, limb, or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse". On a combined reading of the Act and the Protection of Women from Domestic Violence Rules 2006, the scope of the terms 'physical abuse', 'sexual abuse', 'verbal and emotional abuse', and 'economic abuse' and the sense in which they are to be interpreted becomes evident. Physical abuse includes any act or conduct that causes bodily pain, harm, or danger to life, limb, or health or impairs the health or development of the aggrieved person and includes assault, criminal intimidation, and criminal force. According to the Protection of Women from Domestic Violence Rules, 2006, it would also include any physical abus e meted out to the children of the aggrieved person. Sexual abuse has been defined to include any conduct of a sexual nature that abuses, humiliates, degrades, or otherwise violates the dignity of women. It includes forced sexual intercourse, forcing the watching of pornographic material, and forcing the aggrieved person to entertain others sexually. Verbal and emotional abuse also co vers a wide range of conduct that includes insults for not bringing dowry or for not having a male child, ridicule, humiliation, accusations of unchastity, name calling, repeated threats to cause physical pain to any person in whom the aggrieved person is interested, threatening to commit suicide, attempts to commit suicide, forcing the aggrieved person to marry any particular person, forcing her not to attend any educational institution, or preventing her from leaving the house, meeting any particular person, taking up a job of her choice, or marrying a person of her choice. Economic abuse also includes a wide range of acts and omissions such as the deprivation of all or any economic or financial resources to which the aggrieved person is entitled under law or custom or which she requires out of necessity including inter alia household necessities for her and her children, her stridhan, and property either jointly or separately owned by her, payment of rent for the shared household, maintenance, etc. It also includes the disposal of household effects; the alienation of assets, valuables, shares, securities, bonds, etc, in which she has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by her or her children; and the disposal or alienation of her stridhan or any other property jointly or separately held by her, etc. A prohibition or restriction on her continued access to resources or facilities, which the she is entitled to use or enjoy including access to the shared household, would amount to economic violence.

[5] Section 3(b), Protection of Women from Domestic Violence Act, 2005.

[6] Section 3©, Protection of Women from Domestic Violence Act, 2005.

[7] Section 4(2), Domestic Violence Bill, 2002.

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[12] Pami Vyas, "Reconceptualizing Domestic Violence in India: Economic Abuse and the Need for Broad Statutory Interpretation to Promote Women's Fundamental Rights" 13 Michigan Journal of Gender & Law (2006) 177.

[13] Section 33, The Family Law Act, 1996.

[14] Section 42, The Family Law Act, 1996.

[15] Section 42(6) of the Violence against Women Act, 1994, as inserted by Section 3 of the Violence against Women and Department of Justice Reauthorization Act, 2005.

[16] Section 2, The Domestic Violence Act, 1994.

[17] Section 2(f) of the Act states that "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.

[18] Section 2(f), Protection of Women from Domestic Violence Act, 2005.

[19] Some reports show that 40% to 50% of marriages are void in India on the grounds like that of improper performance of ceremonies. See M. Giri, "Marriages of Convenience" The Hindu, (June 29th 2003).

[20] Indira Jaising and Monica Sakhrani, Law of Domestic Violence xxxvi (2nd ed., Universal: Delhi, 2007).

[21] XIV Lok Sabha Debates, 23 August 2005

[22] Under Section 62(3) of the Family Law Act, 1996, in England and Wales, the definition similar to that of an 'aggrieved person' under the Act, ie 'person associated with another person' includes those persons who (i) are or have been married to each other; (ii) are cohabitants or former cohabitants; (iii) live or have lived in the same household, otherwise than merely by reason of one of them being the other's employee, tenant, lodger, or boarder; (iv) are relatives; (v) have agreed to marry one another (whether or not that agreement has been terminated); (vi) are in relation to any child, ie is a parent or has or has had parental responsibility for the child; and (vii) are parties to the same family proceedings.

[23] Section 40002(6) of the Violence against Women Act, 1994, of the USA as inserted by Section 3 of the Violence against Women and Department of Justice Reauthorization Act of 2005, provides that 'domestic violence' may be committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. Moreover, this Act also provides protection against 'dating violence', which may be committed by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim [Section 40002(8)], and 'sexual assault', which may be committed by a stranger as well as any person related to the victim by blood or marriage [Section 40002(23)].

[24] Under Section 4 and 5 of the Domestic Violence Act 1994 of Malaysia, a protection order may be available to the complainant who may be a (i) spouse, (ii) former spouse, (iii) child, (iv) an incapacitated adult, or (v) any other member of the family.

[25] S. 3, S.5, Domestic Violence, Crime and Victims Act, 2004.

[26] S.2, Domestic Violence Act, 1994. (Malaysia).

[27] Lillian Artz, "Policing the Domestic Violence Act: Teething Troubles or System Failure" 47 Agenda (2001) 4.

[28] Section 18 provides that "The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from – ...© entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person."

[29] S.5, Domestic Violence, Crime and Victims Act, 2004.

[30] Section 18© suggests that an 'aggrieved person' as defined under Section 2(a) would include a child, however the fact that Section 2(a) is concerned with any 'woman' who is or has been in a domestic relationship suggests that children would not be included within its ambit.

[31] XIV Lok Sabha Debates, 23 August 2005

[32] Asha Bajpai, Child Rights in India – Law, Policy and Practice 87 (Oxford University Press: New Delhi, 2003).

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[36] Amy Hornbeck et. al., "The Protection of Women from Domestic Violence Act: Solution or Mere Paper Tiger?" 4 Loyola University Chicago International Law Review (Spring/Summer 2007) 273.

[37] Section 2(s), Protection of Women from Domestic Violence Act, 2005 provides that a 'shared household' means "a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title, or interest in the shared household".

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# Needs of Witness Protection in The Present Scenario

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**Abstract :**

Witness protection is protection of a threatened witness or any person involved in the justice system, including defendants and other clients, before, during, and after a trial, usually by police. While a witness may only require protection until the conclusion of a trial, some witnesses are provided with a new identity and may live out the rest of their lives under government protection. Witness protection is usually required in trials against organized crime, where law enforcement sees a risk for witnesses to be intimidated by colleagues of defendants. It is also used at war crime trials.

In this paper the author therefore focus on the various legislations which are relating to the protection of witness at national as well as international level

This paper is based on both primary and secondary sources such as books, news papers, articles etc. the style of writing used is descriptive and analytical

**Keywords :** Witness, Criminals, Accused, Law Commission, Justice.

## I. INTRODUCTION

In the words of Wadhwa J.: "A criminal case is built on the edifice of evidence, evidence that is admissible in law. For that, witnesses are required whether it is direct evidence or circumstantial evidence. A witness is therefore an important party in a case a part from the complainant and the accused. "By giving evidence relating to the commission of an offence, he performs a sacred duty of assisting the court to discover the truth. It is because of this reason that the witness either takes an oath in the name of God or solemnly affirms to speak the truth, the whole of the truth and nothing but truth. He submits himself to cross-examination and cannot refuse to answer questions on the ground the answer will incriminate him".

The expression "witness" has not been defined in Criminal Procedure Code, 1973. According to Oxford dictionary meaning "witness" mean "one who gives testimony in a Court" A witness is defined as one who gives evidence in a case, an indifferent person to each party, sworn to speak the truth, the whole truth. Black's Law Dictionary defines witness as one who sees, knows, or vouches for something or one who gives testimony, under oath or affirmation in person or by oral or written deposition, or by affidavit.

In recent years terrorism and transnational organized crime has emerged as new face of crime. Criminal organizations are becoming stronger and more diverse criminal activities. In the investigation and prosecution of crime, particularly the more serious and complex forms of crime, it is essential that witnesses, the cornerstones for successful investigation and prosecution, have trust in criminal justice systems. Witnesses need to have the confidence to come forward to assist law enforcement and prosecutorial authorities.

In India, the trend is such that the witnesses do not wish to come to the courts to give their statements and evidences. This is primarily because of the fact that they feel unsafe. Even when they do come to the court, they tend to turn hostile, thereby opening avenues for the accused to be acquitted.

The present judicial system has taken the witness completely for granted. Witnesses are summoned to the Court regardless of the fact that they have no money, or that they cannot leave their family, children, business etc. and appear before the Court. When he does appear in Court, he is subjected to unchecked and prolonged examination and cross examination and finds himself in a hapless situation. This weariness of the witness has rightly been observed by Supreme Court in Swaran Singh v. State of Punjab: "A witness has to visit the court at his own cost, every time the case is differed for a different date. Now-a-days it has become more or less fashionable to repeatedly adjourn a case. Eventually the witness is tired and gives up."

There are two broad aspects to the need for witness protection. The first is to ensure that evidence of witnesses that has already been collected at the stage of investigation is not allowed to be destroyed by witnesses resoling from their statements while deposing on oath before a court. This phenomenon of witnesses turning hostile on account of the failure to protect their evidence is one aspect of the problem. The other aspect is the physical and mental vulnerability of the witness and to the taking care of his or her welfare in various respects which call for physical protection of the witness at all stages of the

criminal justice process till the conclusion of the case, by the introduction of witness protection programs.

## II. INTERNATIONAL LAWS

Under the English law, threatening a witness from giving evidence is contempt of Court. So also any act of threat or revenge against a witness after he has given evidence in Court, is also considered as contempt. Recently the U.K. Government has a law known as Criminal Justice and Public Order Act, 1994 which provides for punishment for intimidation of witnesses. S.51 of the Act not only protects a person who is actually going to give evidence at a trial, but also protects a person who is helping with or could help with the investigation of a crime.

The Australian Witness Protection Act, 1994 establishes the National Witness Protection Program in which (amongst others) the Commissioner of the Australian Federal Police arranges or provides protection and other assistance for witnesses [Section 4]. The witness must disclose a wealth of information about himself before he is included in the Program. This includes his outstanding legal obligations, details of his criminal history, details of his financial liabilities and assets etc. [Section 7]. The Commissioner has the sole responsibility of deciding whether to include a witness in the Program.

The Witness Protection Act, 1998 of South Africa provides for the establishment of an office called the Office for Witness Protection within the Department of Justice. The Director of this office is responsible for the protection of witnesses and related persons and exercises control over Witness Protection Officers and Security Officers. The Director, having due regard to the report and the recommendation of the Witness Protection Officer, takes into account the following factors, inter alia, [Section 10] for deciding whether a person should be placed under protection or not:

- The nature and extent of the risk to the safety of the witness or related person.
- The nature of the proceedings in which the witness has given evidence or may be required to give evidence.
- The importance, relevance and nature of the evidence, etc.

The Security Council of the United Nations, under Chapter VII of the Charter of UN, constituted the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1st January, 1994 and 31st December, 1994.

There is a Witness and Victims Support Section for Prosecution as well as Defence witnesses, in order to:

a) Provide impartial support and protection services to all witnesses and victims who are called to testify before the Tribunal;
b) Recommend the adoption of protective measures for victims and witnesses;
c) Ensure that they receive relevant support, including physical and psychological rehabilitation, especially counselling in case of rape and sexual assaults;
d) Develop short and long term plans for the protection of witnesses who have testified before the Tribunal and who fear a threat to their life, property or family;
e) Respond to the Trial Chambers upon consultation, in the determination of protective measures for victims and witnesses
f) 3Request a Judge or a court to order appropriate measures for the privacy and protection of victims and witnesses, provided that the measures are consistent with the rights of the accused.

This section is responsible for protecting the privacy and ensuring the security and safety of all witnesses who are called by both the Defence and the Prosecution. It is also responsible for the movement of the witnesses from the place of residence to the headquarters of the Tribunal where they are called to testify. It provides the witnesses with all required assistance to enable them to travel safely and to testify in a secure and conducive environment.

The Section also organizes, accumulates, and provides, multifaceted support and the physical and international protection of witnesses. The Section ensures easy immigration to other countries by negotiations through UN. The Section maintains anonymity of witnesses and following up on them aftertheir testimony.

1. Participation in an organized criminal group;
2. Money-laundering;
3. Corruption in the public sector;
4. Obstruction of justice;
5. Trafficking in persons;
6. Illicit manufacturing of and trafficking in firearms, their parts and components and ammunition;
7. Smuggling of migrants;
8. Other serious crimes as defined in the Convention, encompassing the elements of transnationality and involvement of an organized criminal group and terrorism

## III. REPORTS OF THE LAW COMMISSION OF INDIA

The 14th Report of the Law Commission (1958) examined the question of providing adequate facilities to witnesses attending cases in courts. It highlighted the failure of conviction rates due to lack of protection of witnesses. However, the said Report was very limited in purpose as it dealt with only provision of facilities to the witness as a method for protecting them. The main feature with respect to witness protection under the said Report can be analyzed as follows:

- Provision for Adequate Arrangements for the convenience of the witness within the court premises.
- Provision of Allowance enabling them to arrive for testimony promptly and thus avoiding delay.
- There was no mention for the provision of any physical protection for the witness within this report. The 4th Report of the National Police Commission (1980) acknowledged the troubles undergone by witnesses attending proceedings in courts.

The 154th Report of the Law Commission (1996) particularly noted:"Necessary confidence has to be created in the minds of the witnesses that they would be protected from the wrath of the accused in any eventuality."

The 172nd Report of the Law Commission (2000), dealing with the review of rape laws suggested that the testimony of a minor in the case of child sexual abuse should be recorded at the earliest possible opportunity in the presence of a Judge and a child support person. It further urged that the court should permit the use of video-taped interview of the child or allow the child to testify by a closed circuit television and that the cross examination of the minor should be carried out by the Judge based on written questions submitted by the defence. The Commission also recommended insertion of a proviso to sec. 273 Cr.P.C. to the effect that it should be open to the prosecution to request the court to provide a screen so that the child victim does not see the accused during the trial.

In its 178th Report (2001), the Law Commission recommended the insertion of sec.164A in the Cr.P.C. to provide for recording of the statement of material witnesses in the presence of Magistrates where the offences were punishable with imprisonment of 10 years and more but it is still not been made a part of Cr.P.C.

In its 185th Report (2003) the Commission suggested further amendments to Cr.P.C., 1973 on the basis of which the Criminal Law (Amendment) Act, 2005 was brought into force, containing provisions for proper recording of evidence given by witnesses.

In its 198th Report (2006) dealing with "Witness Identity Protection and Witness Protection Programmes", the Commission has talked about a multi-phase implementation of a concrete Witness Protection Programme, which will help to keep the whereabouts of important witnesses in a case, a secret and will punish anyone who discloses important information relating to a witness.

## IV. PROTECTION OF IDENTITY OF WITNESS v. RIGHT OF THE ACCUSED

In United States, the right to silence is contained in the Bill of Rights, in the Fifth Amendment of the Constitution, providing that 'no person "shall be compelled in any criminal proceeding to be a witness against himself." Confession not obtained from free will and rational intellect is inadmissible in court as per the fourteenth amendment of US Constitution. The accused has the right to remain silent as provided in the Fifth Amendment of the American Constitution.

The Constitution of India provides certain safeguards to persons who are accused of some criminal offence. The accused is presumed to be innocent, and it is for the prosecution to establish his guilt. The accused need not make any statement against his will.The constitutional perspective as to right against self-incrimination entrusts a protection to the accused against any extraction of evidence against him. With the protection, as enunciated under Art. 20, the right of the interested persons gets a constitutional mandate against the state action. The power of the judicial review further accentuates the aforesaid constitutional mandate.

Sec.327 Cr.p.c provides for trial in the open court and Sec.327 (2) provides for In-camera trials for offences involving rape under s.376 IPC and under Sec.376 A to 376 D of the IPC.

Sec. 273 requires the evidence to be taken in the presence of the accused. Sec. 299 indicates that in certain exceptional circumstances an accused may be denied his right to cross-examine a prosecution witness in open court. Further, under Sec.173 (6) the police officer can form an opinion that any part of the statement recorded under Sec.161 of a person the prosecution proposes to examine as its witness need not be disclosed to the accused if it is not essential in the interests of justice or is inexpedient in the public interest.

Supreme Court in **Gurbachan Singh v. State of Bombay**, upheld a provision of the Bombay Police Act, 1951 that denied permission to a detenue to cross-examine the witnesses who had deposed against him. It was held that the law was only to deal with exceptional cases where witnesses, for fear of violence to their person or property, were unwilling to depose publicly against bad characters.

At this stage, the issue was not examined whether the procedure was 'fair'. The decisions in **G.X. Francis v. BankeBihari Singhand Maneka Sanjay Gandhi v. Rani Jethmalanistressed** the need for a congenial atmosphere for the conduct of a fair trial and this included the protection of witnesses. Fair Trial being an essential element of any criminal procedure under the Constitution of India

In **Kartar Singh v. State of Punjab** the Supreme Court upheld the validity of ss.16 (2) and (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) which gave the discretion to the Designated Court to keep the identity and address of a witness secret upon certain contingencies; to hold the proceedings at a place to be decided by the court and to withhold the names and addresses of witnesses in its orders. The court held that the right of the accused to cross-examine the prosecution witnesses was not absolute but was subject to exceptions. The same reasoning was applied to uphold the validity of Sec. 30 of the Prevention of Terrorism Act, 2002 (POTA) in **People's Union of Civil Liberties v. Union of India.**

In **Sakshi v. Union of India** the Supreme Court referred to the 172nd Report of the Law Commission and laid down that certain procedural safeguards had to be followed to protect the victim of child sexual abuse during the conduct of the trial. In the **Best Bakery Case,** in the context of the collapse of the trial on account of witnesses turning hostile as a result of intimidation, the Supreme Court reiterated that "legislative measures to emphasize prohibition against tampering with witness, victim or informant, have become the imminent and inevitable need of the day."

In 2007, in *Jessica Lal* Murder Case trial the key witness ShyamMunshi had been sent to jail for turning hostile. It was for the first time that an Indian Court has punished a witness for the offence of 'Perjury' u/s 193 of IPC. In Best Bakery Case, on March 8, 2006 the Supreme Court sentenced Zahira Sheikh to one year imprisonment and imposed a fine of Rs. 50,000 for the offence of perjury.

In **Neelam Katara v. Union of India** (Crl WP 247/2002), Delhi High Court issued guidelines to the police on providing protection to witnesses to curb the menace of their turning hostile leading to acquittal of accused in heinous crimes.

The guidelines were as follows:

1) Member Secretary, Delhi Legal Services Authority would be competent authority who on, receipt of a request on a witness, decide "whether a witness requires protection, to what extent and for what duration", the court said.
2) However the protection would be available only to witnesses who were to depose in cases punishable with death sentence or life imprisonment.
3) In deciding whether to grant protection to a particular witness, the Competent Authority "shall" take into account the nature of the risk to the security of witness emanating from the accused or his associates and the nature of probe or the criminal case.
4) The authority shall also consider the importance of the witness and the value of evidence given or agreed to be given by him/her besides the cost of giving protection to him or her.
5) While recording the statement of witness under Section 161 of the Cr.p.c, it would be the duty of the investigating officer to make the witness aware of these guidelines and also the fact that in case of any threat he/she can approach the Competent authority.
6) Once the competent authority decides to extend the protection to a particular witness, it "shall" be the duty of the police Commissioner to provide protection to him or her.

The court further said that the guidelines shall operate for the protection of witnesses till enactment of a suitable legislation.

Although, the guidelines for witness protection laid down by the Delhi High Court in Neelam Katara v. Union of India require to be commended, they do not deal with the manner in which the identity of the witness can be kept confidential either before or during the trial. It also excludes the family of the witness from purview of such protection which needs to be included.

The judgment of the Full Bench of the Punjab and Haryana High Court in **Bimal Kaur Khalsa,** which provides for protection of the witness from the media, does not deal with all the aspects of the problem.

The most historic and relevant case that brought witness protection back into focus was the **Zahira Habibullah Sheikh v. State of Gujarat.** The main points with respect to witness protection within the said case were as follows:

- **Evolution of a balance of competing interests:** It was stated by the Supreme Court that a delicate judicial balancing of competing interests in a criminal trial, the interests of the accused and the public and to a great extent that of (the) victim have to be weighed not losing sight of the public interest involved in the prosecution of persons who commit offences.
- **Change in place of trial:** In the present case, the Supreme Court decided to shift the venue of the case from Gujarat to Maharashtra since the Court felt that the witnesses would not be able to depose their statements freely in the said state. It was a landmark step taken by the Court as it provided another avenue for the witness protection. Thus, it has been provided that the venue of the trial may be shifted if the witnesses or victims are not in a position to depose freely due to various reasons.

These judgments highlight the need for a comprehensive legislation on witness protection.

## V. THE NEED FOR WITNESS ROTECTION

The major problem in this regard is about safety of witnesses and their family members who face danger at different stages. They are often threatened and the seriousness of the threat depends upon the type of the case and the background of the accused and his family. Many times crucial witnesses are threatened or injured prior to their testifying in the court. If the witness is still not amenable he may even be murdered. In such situations the witness will not come forward to give evidence unless he is assured of protection or is guaranteed anonymity of some form of physical disguise.

The onus of protecting witnesses rests with the police, who have a dubious reputation in discharging this duty. The traditional exclusive dependence on the police to protect the witness has proven ineffectual in building the confidence of witnesses to take risks for bringing the guilty to justice. With the nexus between the police and criminals coming to light at regular intervals, this process has suffered a further setback.

## VI. EXTENT OF PROTECTION TO THE WITNESS

The extent and duration of the protection granted to a witness is another important ground of consideration. Justice Anoop Mohta of Bombay High Court is of the view that anonymity of witness is required only up-to trial stage and there is no needof maintaining anonymity at the appellate stage.Lt. Col. S.K. Agarwal from Judge Advocate General branch has opined that anonymity should be maintained only during investigation, inquiry and at stage of committal proceedings, if any.

As for the process of identifying the witnesses who would qualify for protection, the law commission in its 198th report has opined that there has to be a process of preliminary inquiry. In such inquiry, identity of the witness should be kept secret and it should be done ex parte in camera. Once the need of protection to a witness and its extent is accepted and made out in such an enquiry, the protection should begin there from.

## VII. PROBLEMS IN IMPLEMENTING A WITNESS PROTECTION PROGRAMME

There are many hindrances to the practical efficacy of the witness protection programme in India.

The first and most important problem is with regard to anonymity of witnesses and the balancing of interests of the prosecution in protecting the witness and the rights of the accused. The Section 327 of the Code of Criminal Procedure, 1973, in India specifies the importance of an open trial. Thus, the rights of the accused in knowing who is testifying against him are very important, especially if he has to defend himself against such testimony. Section 299 of the same statute gives one of the few exceptions to this rule and says that only if the accused is not available or has absconded and cannot be found by reasonable means, then the court can order the prosecution witnesses to testify without the presence of the accused.

Another important problem is that of corruption in the administration and judiciary. Though the argument seems rhetorical and trite, no witness protection programme can function with a corrupt administration. If one is provided with false identities and relocated and the approved authority is bribed and sells the information, the whole system is undermined. Thus, corruption and political pressure remains the main problem when addressing the hostile witness situation. Therefore, it is suggested that a completely different body that lies outside political control be constituted to ensure the protection of witnesses during all stages of trial. Even if all the above provisions were enacted, the system would be futile if witnesses were not informed about their rights. They must have the right to be informed about the judicial process, their role, forms of protection available to them and possible reparations. Not only must they have a right, but it must be the duty of the magistrate and the public prosecutor to inform the witnesses about such rights.

## VIII. CONCLUSION

It is thus clear that Witness protection programme and witness protection laws are simply the need of the hour. In fact, it is the absence of these laws that has helped in further strengthening the criminals and offenders, for example, at the trial of Mukhtar Ansari (legislator- Bahujan Samaj Party), who was being tried for the murder of a Jail Superintendent (Mr. R.K Tiwari), was acquitted because all the witness in the case (36 in number) turned hostile. It happened because of the inadequate protection given to the witnesses, because of which they were influenced to change their earlier statements. In the Best Bakery Case in the context of the collapse of the trial on account of witnesses turning hostile as a result of intimidation, the Supreme Court reiterated that "legislative measures to emphasize prohibition against tampering with witness, victim or informant, have become the imminent and inevitable need of the day."

Therefore, as per the recommendations of the Law Commission of India, in its 198thReport (2006), a separate legislation for witness protection needs to be drawn up. This legislation should clearly define the term "Witness" and the conditions under which witnesses may turn hostile. It should lay down stringent punishments for disclosing the identity of witnesses or failing to provide adequate protection to them.

It is also suggested that not only the witnesses but their family members and close relatives should also be given adequate protection depending upon the genuine threat perception keeping in mind the peculiar facts and circumstances of each case. Protection to witnesses should be made available at all the stages i.e. Investigation, Inquiry and Trial and even post trial if the circumstances so demand.

Following measures may also be taken into account:

Recording of witness' statements through video or other electronic means.

Avoiding exposure of the witness to media.

Effective control over the persons involved in the safety of the witnesses.

Strict action in case of any breach against the officials responsible for such breach.

There is a need to enact strict laws on witness protection keeping in mind the needs of the witnesses in our system. Meanwhile the step taken by the Delhi High Court in laying down the guidelines regarding witness protection (NeelamKatara's case) is worth appreciating. These guidelines and the recommendations made under various reports of Law Commission should be considered by the legislature while enacting a suitable legislation.

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# A Comparative Study of Professional Attitude Between Male and Female Pupil-teacher

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**Abstract :**

In this study, the investigators have tried to study and compare the professional attitude of male and female pupil teacher on six different dimensions of professional attitude which are teaching profession classroom teaching, child centered practices, attitude towards education process, attitude toward pupils and toward teachers. Sample comprise of 50 male and 50 female from 5 co-educational B.Ed colleges of G.Z.B, selected by simple random sampling method. Descriptive survey method of research is used in this study. Data is collected through teacher's attitude inventory of S.P. Ahluwalia. Mean S.D and t- test are used to analyze the collected data. The result reveals that significant difference is found in the professional attitude of male and female pupil teachers, on the four dimensions i.e. attitude towards teaching profession, attitude towards classroom teaching, attitude towards child- centered practices and attitude towards teachers. It concludes that female pupil teacher have more positive attitude than male on the above four dimensions of professional attitude, while no significant differences is found in attitude towards educational process and attitude towards teachers between male and female pupil teachers.
**Keywords :** Pupil, Education, Tool, Dimension, Professional

## I INTRODUCTION

- It is considered that education is the greatest instrument in the development and the advancement of a country. It is not only a means for the development of human personality but it also has been recognized as one of the best and most powerful instrument for the growth of nation. Education plays an important role in developing cultural, intellectual, ethical, social and political field. When we turn over the pages of history, we find that education was very well recognized in ancient times but today, there is a progressive change and a rapid advancement in technology and science with the rise in material advan cement, which has changed all the structure &process of education.

The whole process of education is shaped and molded by the human persona lity called teacher. Teacher plays an important role in education. The impact of any educational programme or innovation on the pupils operates through the pupil teachers. Today, teachers have to play an important role in restoring humanity among masses. It is the teacher who can create the spirit of co-operation, socialism and the spirit of humanism in the heart of student. The quantitative expansion and qualitative improvement o f secondary education has raised the problems of selecting dedicated and effective teachers with enriching programmes of teacher preparation.

It is a challenging profession and only those teachers can bear the heavy responsibilities of nation building, who are adequately prepared and have sound professional attitude. If the teachers are well trained and highly motivated, learning will be enhanced. The teaching profession demands a clear set of goals, love for profession and obviously the more favorable professional attitude.

## II. NEED & SIGNIFICANCE OF THE PROBLEM

A teacher's attitude not only affects his behaviour in class-room but also influence the behaviour of his students. It has been seen that female students prefer teaching profession more than male students. On the contrary, male students have tendency to choose teaching profession as a last option. By comparing professional attitude of female and male pupil-teachers it can be seen that whether they have actually significant difference in their professional attitude or not.

By getting views of pupil teacher we can improve and make favorable changes in the area of education, so that right direction will be given to the B.Ed training program.

## III. STATEMENT OF THE PROBLEM

"A Comparative Study Of Professional Attitude Between Male and Female Pupil-teachers."

## IV. DEFINITIONS OF THE KEY TERMS

**Attitude :-** A predisposition or a tendency to respond positively or negatively towards a certain idea, object, person or situation. Attitude influences an individual's choice of action and responses to challenge, incentive and rewards.

**Professional attitude:-** By professional attitude means the views of pupil teachers towards their profession, on following six dimensions of teacher's attitude:-

1. Teaching profession
2. Class-room teaching
3. Child centered practices
4. Educational process
5. Towards Pupils
6. Towards Teachers.

**Male Pupil-teachers:-** Those male students who are under-training of B.Ed. program in co-educational colleges affiliated to C.C.S. University, Meerut.

**Female Pupil-teachers:-** Those female students who are under-training of B.Ed. program in co-educational colleges affiliated to C.C.S. University, Meerut.

## V OBJECTIVES

1. To compare the attitude towards teaching profession of male and female pupil- teachers.
2. To compare the attitude towards class-room teaching of male and female pupil- teachers.
3. To compare the attitude towards child-centered practices of male and female pupil- teachers.
4. To compare the attitude towards educational process of male and female pupil- teachers.
5. To compare the attitude towards pupils of male and female pupil- teachers.
6. To compare the attitude towards teachers of male and female pupil- teachers.
7. To compare the composite professional attitude of male and female pupil- teachers.

## VI. HYPOTHESES

1. There is no significant difference in attitude towards teaching profession between male and female pupil-teachers.
2. There is no significant difference in attitude towards class-room teaching between male and female pupil-teachers.
3. There is no significant difference in attitude towards child-centered practices between male and female pupil-teachers.
4. There is no significant difference in attitude towards educational process between male and female pupil-teachers.
5. There is no significant difference in attitude towards pupils between male and female pupil- teachers.
6. There is no significant difference in attitude towards teachers between male and female pupil- teachers.
7. There is no significant difference in composite professional attitude between male and female pupil-teachers.

## VII LIMITATIONS

1. Area of research is limited to Ghaziabad city only.
2. Only five co-educational colleges affiliated to C.C.S University have been taken for research.
3. Only 50 male and 50 female pupil-teachers of co-educational B.Ed colleges have been taken for research.
4. Professional attitude of pupil-teachers has measured with the help of the questionnaire given by S.P.Ahluwalia.

## VIII. RESEARCH METHOD

"Descriptive Survey Method" has been u2sed in this research.

## IX SAMPLE

From the list of all the B.Ed colleges (co-educational) of Ghaziabad, 5 colleges have been selected randomly by simple random sampling and then 10 male pupil teachers and 10 female pupil teachers have been selected from each of these 5 co-educational B.Ed colleges of Ghaziabad, through Simple random sampling.

## X TOOL

In this research "Teacher Attitude Inventory" by S.P. Ahluwalia is used. It contains 90 questions to know the professional attitude of teachers. It contains six aspects of professional attitude:-Teaching profession, Class-room teaching, Child centered practices, Educational process, Pupils and Teachers.

## XI STATISTICAL METHOD:

In this research, Mean, S.D, t-value has been calculated to analyzes the data.

## XII. RESULT

To test the significance differences of mean scores on different dimensions of attitude t- value is calculated where degree of freedom is N1 +N2-2= 98 and for the interpretation of the result 0.01&0.05 both level of significance has been considered.

**Table Showing Mean, S.D, T-Value of Male & Female on Different Dimension of Professional Attitude**

| Components of Professional attitude | Gender | No. of pupil teachers | Mean | Standard Deviation | t-value | Result |
|---|---|---|---|---|---|---|
| Teaching Profession | Male<br>Female | 50<br>50 | 35.12<br>40.08 | 8.23<br>5.02 | 3.64 | Significant Difference |
| Class Room Teaching | Male<br>Female | 50<br>50 | 36.80<br>43.52 | 7.58<br>5.19 | 5.17 | Significant Difference |
| Child Centered Practices | Male<br>Female | 50<br>50 | 38.96<br>48.36 | 6.59<br>6.83 | 7.01 | Significant Difference |
| Educational Process | Male<br>Female | 50<br>50 | 36.34<br>38.74 | 6.20<br>4.80 | 1.10 | Non-Significant Difference |
| Pupils | Male<br>Female | 50<br>50 | 34.34<br>36.96 | 7.15<br>6.59 | 1.91 | Non-Significant Difference |
| Teachers | Male<br>Female | 50<br>50 | 32.84<br>37.16 | 5.77<br>6.53 | 3.51 | Significant Difference |
| Composite Profssional Attitude | Male<br>Female | 50<br>50 | 214.40<br>244.82 | 41.52<br>34.96 | 3.95 | Significant Difference |

**'t' Table Value at df 98 for Both Levels of Significance.**

| df | Levels of Significance | 't' value |
|---|---|---|
| 98 | .05 | 1.98 |
| | .01 | 2.63 |

## XIII. FINDINGS & CONCLUSION

1. The calculated t-value for the dimension 1 of teacher attitude i.e. for Teaching Profession is 3.64 with df 98.It is more than the't' table values as shown above. The null hypothesis is rejected at both levels of significance. It may be interpreted that there is a significant difference in attitude towards teaching profession between male and female pupil- teachers.
2. The calculated t-value for the dimension 2 of teacher attitude i.e. for Class Room Teaching is 5.17, more than the't' table values. The null hypothesis is rejected at both levels of significance. It may be interpreted that there is a significant difference in attitude towards classroom teaching between male and female pupil- teachers.
3. The calculated t-value for the dimension 3 of teacher attitude i.e. for Child Centered Practices is 7.01, more than the't' table values. The null hypothesis is rejected at both levels of significance. It may be interpreted that there is a significant difference in attitude towards child-centered practices between male and female pupil-teachers.
4. The calculated t-value for the dimension 4 of teacher attitude i.e. for Educational Process is 1.10, less than the't' table values as shown above. The null hypothesis is accepted at both levels of significance. It may be interpreted that there is no significant difference in attitude towards educational process between male and female pupil- teachers.
5. The calculated t-value for the dimension 5 of teacher attitude i.e. for Pupils is 1.91, less than the't' table values. The null hypothesis is accepted at both levels of significance. It may be interpreted that there is no significant difference in attitude towards pupils between male and female pupil- teachers.
6. The calculated t-value for the dimension 6 of teacher attitude i.e. for Teachers is 3.51, more than the't' table values. The null hypothesis is rejected at both levels of significance. It may be interpreted that there is a significant difference in attitude towards teachers between male and female pupil- teachers.
7. The calculated t-value for Composite Professional Attitude is 3.95, more than the't' table values. The null hypothesis is rejected at both levels of significance. It may be interpreted that there is a significant difference in professional attitude between male and female pupil-teachers.

These findings regarding gender difference in professional attitude of male &female pupil teachers are consistent with those of other studies that reported Attitude of female teacher is higher than male teachers (Sant Gogna Kumari, 2010). Several other studies (e.g., Reddy& N. Bhoom 1991; Suhaskumar Patil, 2010) reported that female teacher have more positive teaching attitude & teacher effectiveness than male teacher.

## XIV IMPLICATIONS

This study reveals that female pupil teachers have more positive professional attitude than male. We know that teacher's attitude play a major role in effective teaching so it is very necessary to know the teaching attitude of students towards their profession before admission. The study has following implications-

- Only few questions of teaching attitude and attitude towards teaching profession have been asked in B.Ed. entrance exam, which are not sufficient. For this, separate exam should be there and those who have cleared the exam should get permitted for admission in B.Ed. course.
- Before giving admission, it is also necessary to evaluate teaching attitude, commitment towards teaching

profession, and dedication level of pupil-teachers, so that they will become skillful, ideal and perfect teacher.

- Through competition related to dedication and commitment towards teaching profession we can increase the dedication level of attitude.
- Teachers should realize or accept the moral responsibility of teaching profession and their role in it.
- Effective and dedicated teacher educator should be appointed, So that the weaknesses which remained in selection process can remove in classes by changing their attitude in positive form.
- The curriculum should give importance to certain methods and strategies of teaching for developing positive attitude in pupil-teachers.

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# Senses of Judicial Review

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**Abstract :**

Abstract: The Judiciary plays a very important role as a protector of the constitution and constitutional values that the founding fathers have given us. They try to undo the harm that is being done by the legislature and the executive and also they try to provide every citizen what has been promised by the Constitution under the Directive Principles of State Policy. All this is possible, thanks to the power of judicial review.
**Key words:** Judicial Review, Judicial Creativity, Judicial Activism, Droit Administratiff, Political Sovereignty.

## I. INTRODUCTION

The word 'judicial review' itself suggest 'review by the judiciary'. Judicial review is not an expression exclusively used in constitutional law1. Literally, it means the revision of the decree or sentence of an inferior court by a superior court. Under general law, it works through the remedies of appeal, revision and the like, and prescribed by the procedural laws of the land, irrespective of the political system which prevails. Judicial review has, however, a more technical significance in public law, particularly in countries having written constitutions. In such countries it means that courts have the power of testing the validity of the legislative as well as other governmental actions. The necessity of empowering the courts to declare a statute unconstitutional arises not because the judiciary is to be made supreme but, only because a system of checks and balances between the legislature and executive on the one hand and the judiciary on the other hand provides the means by which mistakes committed by one are corrected by the other and vice versa. The rule of law is the bedrock of democracy, and the primary responsibility for implementation of the rule of law lies with the judiciary. This is now a basic feature of every constitution, which cannot be altered even by the exercise of new powers from Parliament. It is the significance of judicial review, to ensure that democracy is inclusive and that there is accountability of everyone who wields or exercises public power. As Edmund Burke said: "all persons in position of power ought to be strongly and lawfully impressed with an idea that 'they act in trust,' and must account for their conduct to one great master, to those in whom the political sovereignty rest, the people".

The power of judicial review has in itself the concept of separation of powers, an essential component of the rule of law, which is a basic feature of the Indian Constitution. Every State action has to be tested on the anvil of rule of law and that exercise is performed, when occasion arises by the reason of a doubt raised in that behalf, by the courts. The power of Judicial Review is incorporated in Articles 226 and 227 of the Constitution in so far as the High Courts are concerned. In regard to the Supreme Court Articles 32 and 136 of the Constitution, the judiciary in India has come to control by judicial review every aspect of governmental and public functions.

## II. JUDICIAL CREATIVITY

*Prof. W. Geldart* has stated that judicial precedent, no doubt, provides advantages of certainty, possibility of growth, great wealth of detailed rules, and a practical character of these rules, but at the same times it being restrictive and rigid, its binding force is a fetter on discretion of the judge. Commenting on judicial legislature, i. e., the judge-made law, Bentham illustrates it by a single example. He states, "It is the judge that makes the common law, just as a man make laws for his dog. When your dog does anything you want to break him of you wait till he does it and then beat him. This is the way you make laws for your dog and this is the way judges make laws for you and me".

Lord Denning speaking about the reforms of equality observed "the judges do everyday make laws, though it is almost hearsay to say do", Lord Reid also expressed a similar view and held, "we must accept the fact that for better or worse judges so make law". But adopting a contrary approach, Salmond supported the traditional view with reference to English judiciary and held that judges should be passive, the function of the judges is formulation of principles, and policy is the prerogative of the Parliament. Lord Diplock also ruled in a case2 that Parliament makes the law and the judiciary interprets them. Therefore, he was opposed to activist law making by judged.

One forceful argument against judicial creativity and law making by judges may be that judges are not representative of the people like the Parliamentarians and therefore, they have

no democratic mandates to make laws or set aside the clear words of statute. They should only indulge in law-making when Parliament is unwilling or unable to legislate or there is no law on a particular issue3. Duguit favore deminimization of State functions and decentralization of States powers. He contended that legislators do not make law but merely give expression to judicial norms formulated by the consciousness of social group. In this aspect following is the opinion of one jurist as under4:

*"the impression that the judge relies on fairness as the standard against which to measure decisions can have dangerous implications that the judge is free to follow her conscience despite the law. Sometimes the law itself is unfair or unwise, but lacking a constitutional infirmity the judge bound by it. And unless there is a legal basis, the judge cannot right every wrong. In addition, judges do not set their own agendas. Thus, they are dependent on others to bring claims before them. While these are quite obvious to judges and lawyers, they may not be so obvious to those who need to be convinced that judicial independence is to be valued and protected..."*

## III. EXTENT OF JUDICIAL REVIEW IN INDIA

The initial years of the Supreme Court of India saw the adoption of an approach characterized by caution and circumspection. Being steeped in the British tradition of limited judicial review, the Court generally adopted a pro-legislature stance. This is evident from the rulings such as A.K. Gopalan, but however it did not take long for judges to break their shackles and this led to a series of right to property cases in which the judiciary was loggerhead with the parliament. The nation witnessed a series of events where a decision of the Supreme Court was followed by a legislation nullifying its effect, followed by another decision reaffirming the earlier position, and so on. The struggle between the two wings of government continued on other issues such as the power of amending the Constitution5. During this era, the Legislature sought to bring forth people-oriented socialist measures which when in conflict with fundamental rights were frustrated on the upholding of the fundamental rights of individuals by the Supreme Court. At the time, an effort was made to protect the Supreme Court as being concerned only with the interests of propertied classes and being insensitive to the needs of the masses6.

India opted for parliamentary form of democracy, where every section is involved in policy-making and decision making, so that every point of view is reflected and there is a fair representation of every section of the people in every such body. In this kind of inclusive democracy, the judiciary has a very important role to play. That is the concept of accountability in any republican democracy, and this basic theme has to be remembered by everybody exercising public power, irrespective of the extra expressed expositions in the constitution7.

The legislature, the executive and the judiciary are three coordinate organs of the state; all the three are bound by the constitution. The ministers representing the executive, the elected candidates as members of Parliament representing the Legislature and the judges of the Supreme Court and the High Court representing the judiciary have all to take the oaths prescribed by the third schedule of the constitution. All of them swear to bear true faith and allegiance to the constitution. When it is said, therefore, that the judiciary is the guardian of the constitution, it is not implied that the legislature and the executive are not equally to guard the Constitution. For the progress of the nation, however, it is imperative that all the three wings of the State function in complete harmony.

## IV. JUDICIAL REVIEW OF POLITICAL QUESTIONS

In the initial stages of the judicial adjudication Courts have said that where there is a political question involved it is not amenable to judicial review but slowly this changed, in Kesavananda Bharti's8 case, the Court held that, "it is difficult to see how the power of judicial review makes the judiciary supreme in any sense of the word. This power is of paramount importance in a federal constitution. Judicial Review of constitutional amendments may seem involving the Court in political question, but it is the Court alone which can decide such an issue. The function of Interpretation of a Constitution being thus assigned to the judicial power the State, the question whether the subject of law is within the ambit of one or more powers of the legislature conferred by the constitution would always be a question of interpretation of the Constitution."

Than it was in Special Courts Bill, 1978, In this case where the majority opined that, "the policy of the Bill and the motive of the mover to ensure a speedy trial of persons holding high public or political office who are alleged to have committed certain crimes during the period of IIIemergency may be political, but the question whether the bill or any provisions are constitutionally invalid is a not a question of a political nature and the court should not refrain from answering it." What this meant was that though there are political questions involved the validity of any action or legislation can be challenged if it would violate the constitution. This position has been reiterated in many other cases and in S.R. Bommai's case the Court held, "though subjective satisfaction of the President cannot be reviewed but the material on which satisfaction is based open to review..." the court further went on to say that, "The opinion which the President would form on the basis of Governor's report or otherwise would be based on his political judgment and it is difficult to evolve judicially manageable norms for scrutinizing such political decisions. Therefore, by the very nature of things which would govern the decision-

making under Article 356, it is difficult to hold that the decision of the president is justifiable. To do so would be entering the political thicker and questioning the political wisdom which the courts of law must avoid. The temptation to delve into the President's satisfaction may be great but the courts would be well advised to resist the temptation for want of judicially manageable standards. Therefore, the Court cannot interdict the use of the constitutional power conferred on the President under Article 356 unless the same is shown to be male fide."

As Soli Sorabjee points out, "there is genuine concern about misuse by the Centre of Article 356 on the pretext that the State Government is acting in defiance of the essential features of the Constitution. The real safeguard will be full judicial review extending to an inquiry into the truth and correctness of the basic facts relied upon in support of the action under Article 356 as indicated by Justices Sawant and Kuldip Singh. If in certain cases that entails evaluating the sufficiency of the material, so be it."

What this meant was the judiciary was being cautious about the role it has to play while adjudicating matters of such importance and it is showing a path of restraint that has to be used while deciding such matters so that it does not usurp the powers given by the Constitution by way of the power of review at the same it is also minimizing the misusing of the power given under Article 356 to the President.

## V. JUDICIAL REVIEW AS A PART OF THE BASIC STRUCTURE -

In the celebrated case of Kesavanda Bharti v. State of Kerela, the Supreme Court of India the propounded the basic structure doctrine according to which it said the legislature can amend the Constitution, but it should not change the basic structure of the Constitution, The Judges made no attempt to define the basic structure of the Constitution in clear terms. S.M. Sikri, C.J mentioned five basic features:

1. Supremacy of the Constitution. 2. Republican and democratic form of Government. 3. Secular character of the Constitution. 4. Separation of powers between the legislature, the executive and the judiciary. 5. Federal character of the Constitution.

He observed that these basic features are easily discernible not only from the Preamble but also from the whole scheme of the Constitution. He added that the structure was built on the basic foundation of dignity and freedom of the individual which could not by any form of amendment be destroyed. It was also observed in that case that the above are only illustrative and not exhaustive of all the limitations on the power of amendment of the Constitution. The Constitutional bench in Indira Nehru Gandhi v. Raj Narain (1975 Supp SCC 1.) held that Judicial Review in election disputes was not a compulsion as it is not a part of basic structure. In S.P. Sampath Kumar v. Union of India ((1987) 1 SCC 124 at 128.), P.N. Bhagwati, C.J., relying on Minerva Mills Ltd. ((1980) 3 SCC 625.) declared that it was well settled that judicial review was a basic and essential feature of the Constitution. If the power of judicial review was absolutely taken away, the Constitution would cease to be what it was. In Sampath Kumar the Court further declared that if a law made under Article 323-A(1) were to exclude the jurisdiction of the High Court under Articles 226 and 227 without setting up an effective alternative institutional mechanism or arrangement for judicial review, it would be violative of the basic structure and hence outside the constituent power of Parliament.

In KihotoHollohan v. Zachillhur9 another Constitution Bench, while examining the validity of para 7 of the Tenth Schedule to the Constitution which excluded judicial review of the decision of the Speaker/Chairman on the question of disqualification of MLAs and MPs, observed that it was unnecessary to pronounce on the contention whether judicial review is a basic feature of the Constitution and para 7 of the Tenth Schedule violated such basic structure. Subsequently, in L. Chandra Kumar v. Union of India ((1997) 3 SCC 261) a larger Bench of seven Judges unequivocally declared: "that the power of judicial review over legislative action vested in the High Court's under Article 226 and in the Supreme Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure".

Though one does not deny that power to review is very important, at the same time one cannot also give an absolute power to review and by recognizing judicial review as a part of basic feature of the Constitution, courts in India have given a different meaning to the theory of checks and balances this also meant that it has buried the concept of separation of powers, where the judiciary will give itself an unfettered jurisdiction to review anything everything that is done by the legislature.

## VI. EXPANSION OF JUDICIAL REVIEW THROUGH JUDICIAL ACTIVISM

After the draconian exposition of power by the Executive and the Legislature during Emergency the expectations of the public soared high and the demands on the courts to improve the administration by giving appropriate directions for ensuring compliance with statutory and constitutional prescriptions. With the interpretation given by it in Menaka Gandhi case the Supreme Court brought the ambit of constitutional provisions to enforce the human rights of citizens and sought to bring the Indian law in conformity with the global trends in human-rights-jurisprudence. This was made possible in India, because of the procedural innovations with a view to making itself more accessible to disadvantaged sections of society giving rise to the phenomenon of Social Action Litigation/Public Interest Litigation. During the Eighties and the first half of the Nineties, the Court have

broken there shackle's and moved much ahead from being a mere legal institution, its decisions have tremendous social, political and economic ramifications. Time and again, it has sought to interpret constitutional provisions and the objectives sought to be achieved by it and directed the executive to comply with its orders.

The new role of the Supreme Court has been criticized in some quarters as being violative of the doctrine of separation of powers; it is claimed that the Apex Court has, by formulating policy and issuing directions in respect of various aspects of the country's administration, transgressed into the domain of the executive and the legislature. As Justice Cardozo puts it, "A Constitution states or ought to state not rules for the passing hour but principles for an expanding future." It is with this view that innovations in the rules of standing have come into existence. Like all law-making, judging (as lord Wright memorably observed) is an act of will; and that act arises through the political activity of 'balancing' and 'confidential' conflicting interests. The taming, the disciplining of that political will, the will to power, is, ultimately, the enduring problem of hurnan civilization. Informed evaluation of political action, a continuing expose of reality as it is untangled by ideal visions, proposing agenda of alternatives and the capacity to enter into an effective dialogue with those who wield power by those who do not are, ultimately, the basic ingredients in any exercise in the taming of political will in a free society. Einstein had to acknowledge that "politics is harder than physics". At any rate, the critic of the court is engaged in a phenomenon no less comply than nuclear physics; and he remains as responsible for it begin and sinister consequences as the scientist"10.

A judge's independence, paradoxically imposes duties on him (or her); duty to decide according to law and binding precedent, rather than individual choices of the judges notion of justice of the case; the duty not only do justice, but follow a fair procedure which accords with notions of justice: 'appear to be doing justice' , which in turn would mean that the judge is not completely 'free' to follow a personal agenda, but has to decide the merits of the case, according to facts presented by parties.

Now, the impression that the judge relies on fairness as the standard against which to measure decisions can have dangerous implications that judge is free to follow her conscience despite the law. Sometimes the law itself is unfair or unwise, but lacking a constitutional infirmity the judge is bound by it. And unless there is a legal basis, the judge cannot right every wrong. In addition, judges do not set their own agendas. Thus, they are dependent on others to bring claims before them. While these are quite obvious to judges and lawyers, they may not be so obvious to those who need to be convinced that judicial independence is to be valued and protected.

In the words of Justice Micheal Kirby "In a pluralist society judges are the essential equalizers. They serve no majority either their duty is to the law and to justice. They do not been the knee to the Governments, to particular religions, to the military, to money, to tabloid media or the screaming mob. In upholding law and justice, judges have a vital function in a pluralist society to make sure that diversity is respected and the rights of all protected."

Two centuries ago, John Marshall, the Chief Justice of the United States of Supreme Court said on the role of the Court: "We must never forget that it is the Constitution that we are expounding intended to endure for ages to come." And that made the Supreme Court of the United States Supreme in due course of time. Nevertheless, neither the judiciary nor the supporters of its new role of judicial activism should forget that courts are no substitute to the Executive or Legislatures. All the three must play their roles in a manner that will appropriately bring into effect the provisions of the Constitution.

Dr. B. R. Ambedkar, defended the provisions of judicial review as being necessary. According to him, the provisions for judicial review, in particular the writ jurisdiction that gave quick relief against the abridgment of fundamental rights, constituted the heart of the Constitution; the very soul of it. Nevertheless, the Supreme Court at times has also observed the necessary restrain in exercising judicial activism. Justice Ray in M. P. Oil Extraction v State of M. P., while declining to entertain a petition concerning policy decision of the government at paragraph 41 observed that:

"This Court, in no uncertain term, has sounded a note of caution by indicating that policy decision is in the domain of the executive authority of the State and the Court should not embark on the unchartered ocean of public policy and should not question the efficacy or otherwise of such policy so long the same does not offend any provision of the statute or the Constitution of India. The supremacy of each of three organs of the State i.e. legislature, executive and judiciary in their respective field of operation needs to be emphasized. The power of judicial review of the executive and legislative action must be kept within the bounds of constitutional schemes so that there may not be any occasion to entertain misgivings about the role of judiciary in out-stepping its limit by unwarranted judicial activism being very often talked of in these days. The democratic set up to which the polity is so deeply committed cannot function properly unless each of the three organs appreciates the need for mutual respect and supremacy in their respective field".

Former Chief Justice A. S. Anand in his Millenium Law Lectures, while defending judicial activism, emphasized the need for caution to ensure that activism does not become 'judicial adventurism', otherwise, he warned, it might 'lead to chaos and people would not know which organ of the state to look for to stop abuse or misuse of power'. Quoting approvingly the observations in respect of policy making by Lord Justice Lawton in Laker Airways, he reiterated the

principle that 'the role of the judge is that of a referee. I can blow my judicial whistle when the ball goes out of play; but when the game restarts I must neither take part in it nor tell the players how to play.' Justice Anand added: "The judicial whistle needs to be blown for a purpose and with caution. It needs to be remembered that Court cannot run the government, The Court has the duty of implementing the constitutional safeguards that protect individual rights but they cannot push back the limits of the Constitution to accommodate the challenged violation".

In France, droit administratiff doctrine has been strictly followed by which all three organs of the States i. e. executive, legislature and judiciary confine to their its own parameters not encroaches the power of other by way of probably four reasons:

1. The first was a historical reason, namely, that during the 16th, 17th, and 18th centuries, the highest court of the Ancient Regime had prevented the King from effecting desirable reforms- reforms desired by both the king and the people. Therefore, at the time of the French Revolution, a tight wall was built between the three powers.
2. Secondly, though admitting, the logic of chief justice Marshall's argument that a law contravening the Constitution was not law at all and was void, the French considered it very difficult to organize judicial review in such a way that the general will, if reasonable, would not be disregarded by sovereign Court.
3. Thirdly, the French felt that judicial review almost inevitably obliged a judge to take political decisions and therefore such a result must be avoided. The legislature must also be deemed to obey the Constitution and if the Courts again considered the problem they would do so as courts of appeal from the legislature. But there was no reason why the courts should be above the legislature- they should be n the same level.
4. Finally, the struggle between the Supreme Court and the legislature is not in the interest of nation. The French had the impression that something dangerous was going on, that nine judges or seven judges or a majority of judges taking the place of the Government and that it would be extremely dangerous to have a "Government of Judges" according to the famous slogan.

## VII. LIMITATION ON THE POWER OF REVIEW

The expansion of the horizon of judicial review is seen both with reverence and suspicion; reverence in as much as the judicial review is a creative element of interpretation, which serves as an omnipresent and potentially omnipotent check on the legislative and executive branches of government. But at the same time there is a danger that they may trespass into the powers given to the legislature and the executive. One many say that if there is any limitation on judicial review other than constitutional and procedural11, that is a product of judicial self-restraint. As justice Dwivedi empathically observed, "Structural socio-political value choices involve a complex and complicated political process. This court is hardly fitted for performing that function. In the absence of any explicit Constitutional norms and for want of complete evidence, the court's structural value choices will be largely subjective. Our personal predilections will unavoidably enter into the scale and give color to our judgment. Subjectivism is calculated to undermine legal certainty, an essential element of rule of law12."

The above observations also reveal another assumption to support an attitude of self-restraint, viz., the element subjectiveness in judicial decision on issues having socio-political significance13. When one looks at the decisions of the Supreme Court on certain questions of fundamental issues of constitutional law one can see that there is a sharp division among the judges of the apex court on such basic questions of power of the Parliament to amend the Constitution, federal relations, powers of the President etc. This aptly demonstrates the observation of the judge. This would mean that though there has been expansion of powers of judicial review one cannot also say that this cannot be overturned. Judicial self-restrain in relation to legislative power manifests itself in the form the there is a presumption of constitutionality when the validity of the statute is challenged. In the words of Fazal Ali, "...the presumption is always in favor of the constitutionality of an enactment, and the burden is upon him who attacks it to show that there has been a clear transgression of the constitutional principles14".

## VIII. CONCLUSION

The growth of judicial review is the inevitable response of the judiciary to ensure proper check on the exercise of public power16. Growing awareness of the rights in the people; the trend of judicial scrutiny of every significant governmental action and the readiness even of the executive to seek judicial determination of debatable or controversial issues, at times, may be, to avoid its accountability for the decision, have all resulted in the increasing significance of the role of the judiciary. There is a general perception that the judiciary in this country has been active in expansion of the field of judicial review into non-traditional areas, which earlier were considered beyond judicial purview.

The Judges have a duty to perform, which is even more onerous to keep the judicial ship afloat on even keel. It must avoid making any ad hoc decision without the foundation of a juristic principle, particularly, when the decision appears to break new grounds. The judgments must be logical, precise, clear, and sober, rendered with restraint in speech avoiding

saying more than that, which is necessary in the case.

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# A Technological Overview of Big Data

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**Abstract :**

The promise of data-driven decision-making is now being recognized broadly, and there is growing enthusiasm for the notion of "Big Data." While the promise of Big Data is real.
Heterogeneity, scale, timeliness, complexity, and privacy problems with Big Data impede Progress at all phases of the pipeline that can create value from data. The problems start right away during data acquisition, when the data tsunami requires us to make decisions, currently in an ad hoc manner, about what data to keep and what to discard, and how to store what we keep reliably with the right metadata. Much data today is not natively in structured format; for example, tweets and blogs are weakly structured pieces of text, while images and video are structured for storage and display, but not for semantic content and search: transforming such content into a structured format for later analysis is a major challenge. The value of data explodes when it can be linked with other data, thus data integration is a major creator of value. Since most data is directly generated in digital format today, we have the opportunity and the challenge both to influence the creation to facilitate later linkage and to automatically link previously created data. Data analysis, organization, retrieval, and modeling are other foundational challenges. Data analysis is a clear bottleneck in many applications, both due to lack of scalability of the underlying algorithms and due to the complexity of the data that needs
to be analyzed.
**Key words:** - Data, Technology, operational, Mobile devices, sensor.

## I. INTRODUCTION OF BIG DATA

Big data is being generated by everything around us at all times. Big data is not merely a data, rather it has become a complete subject, which involves various tools, technqiues and frameworks. Every digital process and social media exchange produces it. Systems, sensors and mobile devices transmit it. Big data is arriving from multiple sources at an alarming velocity, volume and variety [1]. The term Big Data in its current use was coined by Roger Magoulas .To extract meaningful value from big data, you need optimal processing power, analytics capabilities and skills. It is a buzzword, or catch-phrase, used to describe a massive volume of both structured and unstructured data that is so large it is difficult to process using traditional database and software techniques. In most enterprise scenarios the volume of data is too big or it moves too fast or it exceeds current processing capacity[2]. Despite these problems, big data has the potential to help companies improve operations and make faster, more intelligent decisions.
So Big data means really a big data, it is a collection of large datasets that cannot be processed using traditional computing techniques. 90% of the world's data was generated in the last few years[3].

## II. AN EXAMPLE OF BIG DATA

An example of big data might be petabytes (1,024 terabytes) or exabytes (1,024 petabytes) of data consisting of billions to trillions of records of millions of people—all from different sources (e.g. Web, sales, customer contact center, social media, mobile data and so on)[4]. The data is typically loosely structured data that is often incomplete and inaccessible.
Due to the advent of new technologies, devices, and communication means like social networking sites, the amount of data produced by mankind is growing rapidly every year. The amount of data produced by us from the beginning of time till 2003 was 5 billion gigabytes. If you pile up the data in the form of disks it may fill an entire football field. The same amount was created in every two days in 2011, and in every ten minutes in 2013. This rate is still growing enormously[5]. Though all this information produced is meaningful and can be useful when processed, it is being neglected.

## III. BIG DATA: IS THIS VOLUME OR TECHNOLOGY?

While the term may seem to reference the volume of data, that isn't always the case. The term big data, especially when used by vendors, may refer to the technology (which includes tools and processes) that an organization requires to handle the large amounts of data and storage facilities[6]. The term big data is believed to have originated with Web search companies who needed to query very large distributed aggregations of loosely-structured data

## IV. CATEGORIES OF BIG DATA

Big data consist of the data generated by different equipments and applications. following are some of the fields that come under the umbrella of Big Data[7].

**IV (A) Black Box Data:** It is a component of helicopter, airplanes, and jets, etc. It captures voices of the flight crew, recordings of microphones and earphones, and the performance information of the aircraft.

**IV (B) Social Media Data:** Social media such as Facebook and Twitter hold information and the views posted by millions of people across the globe.

**IV(C) Stock Exchange Data:** The stock exchange data holds information about the 'buy' and 'sell' decisions made on a share of different companies made by the customers.

**IV (D) Power Grid Data:** The power grid data holds information consumed by a particular node with respect to a base station.

**IV (E) Transport Data:** Transport data includes model, capacity, distance and availability of a vehicle.

**IV (F) Search Engine Data:** Search engines retrieve lots of data from different databases.

## V. OPERATIONAL BIG DATA

This include systems like Mongo DB that provide operational capabilities for real-time, interactive workloads where data is primarily captured and stored.

NoSQL Big Data systems are designed to take advantage of new cloud computing architectures that have emerged over the past decade to allow massive computations to be run inexpensively and efficiently. This makes operational big data workloads much easier to manage, cheaper, and faster to implement.

Some NoSQL systems can provide insights into patterns and trends based on real-time data with minimal coding and without the need for data scientists and additional infrastructure.

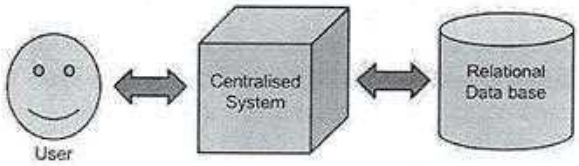
## VI. ANALYTICAL BIG DATA

This includes systems like Massively Parallel Processing (MPP)[8] database systems and MapReduce that provide analytical capabilities for retrospective and complex analysis that may touch most or all of the data.

Map Reduce provides a new method of analyzing data that is complementary to the capabilities provided by SQL, and a system based on Map Reduce that can be scaled up from single servers to thousands of high and low end machines. These two classes of technology are complementary and frequently deployed together.

## VII. TRADITIONAL APPROACH

An enterprise will have a computer to store and process big data[9]. Here data will be stored in an RDBMS like Oracle Database, MS SQL Server or DB2 and sophisticated softwares can be written to interact with the database, process the required data and present it to the users for analysis purpose.




## VIII. LIMITATION

This approach works well where we have less volume of data that can be accommodated by standard database servers, or up to the limit of the processor which is processing the data. But when it comes to dealing with huge amounts of data, it is really a tedious task to process such data through a traditional database server. In this case following techniques can be used.

## IX. DIFFERENT TECHNOLOGIES USED TO HANDLE THE BIG DATA

**IX (A) Map Reduce :** A Google's Solution

Google solved this problem using an algorithm called Map Reduce. This algorithm divides the task into small parts and assigns those parts to many computers connected over the network, and collects the results to form the final result dataset. This is a programming paradigm that allows for massive job execution scalability against thousands of servers or clusters of servers. Any Map Reduce implementation consists of two tasks:

The "Map" task, where an input dataset is converted into a different set of key/value pairs, or tuples; The "Reduce" task, where several of the outputs of the "Map" task are combined to form a reduced set of tuples (hence the name).

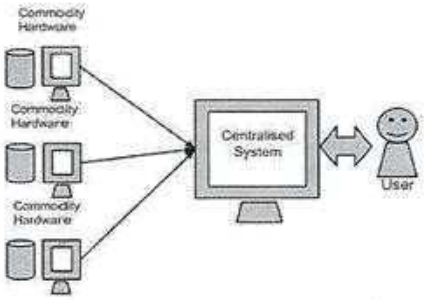



*Figure 1: shows different hardwares which could be single CPU machines or servers with higher capacity.*

**IX (B) Hadoop**

Doug Cutting, Mike Cafarella and team took the solution provided by Google and started an Open Source Project called HADOOP in 2005 and Doug named it after his son's toy elephant. Now Apache Hadoop is a registered trademark of the Apache Software Foundation.

Hadoop runs applications using the MapReduce algorithm, where the data is processed in parallel on different CPU nodes. In short, Hadoop framework is capabale enough to develop applications capable of running on clusters of computers and they could perform complete statistical analysis for a huge amounts of data.

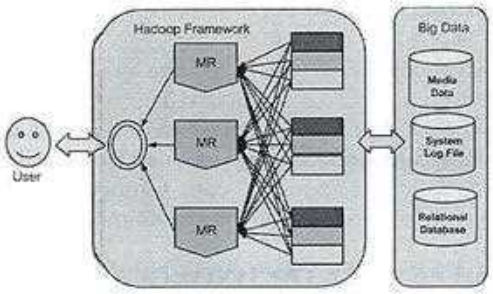



Figure 2. Hadoop Architecture

Hadoop is by far the most popular implementation of Map Reduce, being an entirely open source platform for handling Big Data. It is flexible enough to be able to work with multiple data sources, either aggregating multiple sources of data in order to do large scale processing, or even reading data from a database in order to run processor-intensive machine learning jobs. It has several different applications, but one of the top use cases is for large volumes of constantly changing data, such as location-based data from weather or traffic sensors, web-based or social media data, or machine-to-machine transactional data.

**IX (C) Zoo Keeper**

Zoo Keeper is a distributed co-ordination service to manage large set of hosts. Coordinating and managing a service in a distributed environment is a complicated process. Zoo Keeper solves this issue with its simple architecture and API. Zoo Keeper allows developers to focus on core application logic without worrying about the distributed nature of the application. The ZooKeeper framework was originally built at "Yahoo!" for accessing their applications in an easy and robust manner. Later, Apache ZooKeeper became a standard for organized service used by Hadoop, HBase, and other distributed frameworks.

For example, Apache HBase uses ZooKeeper to track the status of distributed data. This tutorial explains the basics of ZooKeeper, how to install and deploy a ZooKeeper cluster in a distributed environment, and finally concludes with a few examples using Java programming and sample applications.

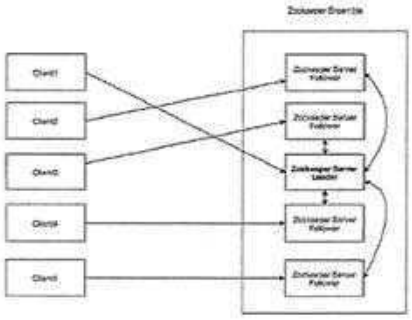


Figure 3. Zoo Keeper architecture

**IX (D) Hive**

Hive is a data warehouse infrastructure tool to process structured data in Hadoop. It resides on top of Hadoop to summarize Big Data, and makes querying and analyzing easy.

Initially Hive was developed by Facebook, later the Apache Software Foundation took it up and developed it further as an open source under the name Apache Hive. It is used by different companies. For example, Amazon uses it in Amazon Elastic MapReduce.

Hive is a "SQL-like" bridge that allows conventional BI applications to run queries against a Hadoop cluster[10]. It was developed originally by Facebook, but has been made open source for some time now, and it's a higher-level abstraction of the Hadoop framework that allows anyone to make queries against data stored in a Hadoop cluster just as if they were manipulating a conventional data store. It amplifies the reach of Hadoop, making it more familiar for BI users.

**Hive is not**

A relational database

A design for OnLine Transaction Processing (OLTP)

A language for real-time queries and row-level updates

**Features of Hive**
It stores schema in a database and processed data into HDFS.
It is designed for OLAP.
It provides SQL type language for querying called HiveQL or HQL.
It is familiar, fast, scalable, and extensible

**Architecture of Hive**
The following component diagram depicts the architecture of Hive:

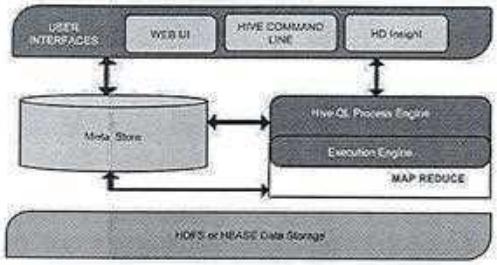



Figure 4. Architecture of Hive

**IX (E) PIG**
PIG is another bridge that tries to bring Hadoop closer to the realities of developers and business users, similar to Hive. Unlike Hive, however, PIG consists of a "Perl-like" language that allows for query execution over data stored on a Hadoop cluster, instead of a "SQL-like" language. PIG was developed by Yahoo!, and, just like Hive, has also been made fully open source.

**IX.(F) Platfora**
Perhaps the greatest limitation of Hadoop is that it is a very low-level implementation of Map Reduce, requiring extensive developer knowledge to operate. Between preparing, testing and running jobs, a full cycle can take hours, eliminating the interactivity that users enjoyed with conventional databases. PLATFORA is a platform that turns user's queries into Hadoop jobs automatically, thus creating an abstraction layer that anyone can exploit to simplify and organize datasets stored in Hadoop.

**IX (G) Wibi Data**
WibiData is a combination of web analytics with Hadoop, being built on top of HBase, which is itself a database layer on top of Hadoop. It allows web sites to better explore and work with their user data, enabling real-time responses to user behavior, such as serving personalized content, recommendations and decisions.

## X. BENEFITS OF BIG DATA

Big data is really critical to our life and its emerging as one of the most important technologies in modern world[11]. Follow are just few benefits which are very much known to all of us:
Using the information kept in the social network like Facebook, the marketing agencies are learning about the response for their campaigns, promotions, and other advertising mediums.
Using the information in the social media like preferences and product perception of their consumers, product companies and retail organizations are planning their production.
Using the data regarding the previous medical history of patients, hospitals are providing better and quick service.

## XI. BIG DATA CHALLENGES

The major challenges associated with big data are as follows:
Capturing data
Curation
Storage
Searching
Sharing
Transfer
Analysis
Presentation

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# A Study of Values Among Adolescent Students In Relation To Their Gender At Secondary Level

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**Abstract :**
"Values is worth, utility, desirability and qualities on which these depend."

**Oxford English dictionary**

Present study aims at finding out whether there is any difference in values between Boys Adolescents students and Girls Adolescents Students at Secondary level. The sample consists of 400 Adolescents students (200 boys students and 200 girls students) Standardized tool developed by R.K Ojha (The Study of Values Test) had been used for the present study to collect data. The result indicates that there is a significant difference between the Boy Adolescents students and Girl Adolescents students in respect to different Values. Hence the response pattern of Boy Adolescents students and Girl Adolescents students were observed to be of different nature. Both Boy Adolescents students and Girl Adolescents students have different opinion towards different values.

**Key Words :** Values, Adolescents, Gender, Secondary level.

## I. INTRODUCTION

"It has been pointed out that man acts to satisfy his wants, anything which satisfies, a human want becomes thereby a Values."

**Henderson**

Values are virtues, ideals and qualities on which actions and beliefs are based. Values are guiding principles that shape our world outlook, attitudes and conduct. Values however are either innate or acquired. Innate Values are our inborn divine virtues such as love, peace, happiness, mercy and compassion as well as the positive moral qualities such as respect, humility, tolerance, responsibility, cooperation, honesty and simplicity Acquired Values are those external Values adopted at your "place of birth" or "place of growth" and are influenced by the immediate environment.

Values are associated with what fulfils or has the capacity of fulfilling the needs of man, which might be physical, psychological or spiritual. The object that has the capacity of appeasing the hunger of man and nourishing his body is considered valuable as food. Certain objects possess the capacity to cure diseases, so they have medicinal Values. There are certain rules and regulations meant for the moral growth of man, and they are moral Values. Hence Values always refer to human needs. Values are thus inseparable from life of the individual. It permeates the whole life, since education is an essential requirement and an integral point of education, the aims of education, content and methodology is viewed in terms of Values development. Values and development are used interchangeably. Human development cannot be conceived in the absence of Values.

The family system in India has a long tradition of imparting Values right from the ancient practice of the gurukul system. But with modern developments and a fast changing role of the parents, it has not been very easy for the parents to impart relevant Values in their wards. Therefore many institutes today conduct various Values education programs that meet the rising needs of modern society, code of conduct and Values. These activities concentrate on the development of the children, young adults etc. focusing on areas like happiness, humility, cooperation, honesty, simplicity, love, unity, peace etc. Once, we understand our Values in life, we can examine and control the various choices we make in our lives. It's our duty to uphold the various types of Values in life such as cultural Values, universal Values, personal Values and social Values.

The future destiny of a country rests not in the hands of soldiers and merchants but in those of students and scholars. Dr. Annie Besant beautifully remarks, "The destiny of a nation is folded within its budding youth as is the flower within the close embrace of the petals. That is what our youths think today the nation will think tomorrow". Standing on the threshold of budding youth, a student cherishes splendid visions, colorful dreams and buoyant hopes. It is the spring time of his life when his energies are at the highest. It is a season of life when one can either make or mar one's career forever. It has been described rightly as the period of preparatory training for the practical duties of mankind. A student should, therefore, very carefully

observe the path he walks upon during this period and make his life a living success by judicious application of his energies into right channels. But it is a fact that now-a-days our students are tossed around like rudderless boats on the rapidly changing waters of modernity.

In educational institutions a teacher can play a significant role in modifying the Values of students towards a constructive and right direction. But to inculcate appropriate Values among students the teacher should also have a ideal Values pattern. For this it is necessary that such Values pattern should be developed among the teachers since the initial teacher-training period (Kukreti, 1993). To inculcate Values among students, we need effective teachers who themselves are Values oriented. It is our everyday experience to observe that children imitate their teachers not in words but in their behavior. Another significant aspect of the Values is that Values can never be inserted from outside, but these could be imbibed only when any individual feels convinced towards them. Teachers play very significant role in making students realize the necessity to follow positive Values among the students.

Perhaps people of every generation always feel that the Values have declined in their time as compared to what they were in the 'golden past'. Even the Greek civilization had reached its heights, Plato (427- 347 B.C) stated more than two millennia ago; "what is happening to our young people. They disrespect their elders, they disobey their parents. They ignore the laws. They riot in the street, inflamed with wild notions. Their morals are decaying what is to become of them." The instances of deteriorating standards of human conduct and neglect of social concerns are quite numerous in the recent history of our country in all walks of national life.

The elders are squarely responsible for it owing to their failure to impart knowledge with sound Values. Science and material progress has also contributed to the fall of all types of Values in one way or another. Science has led to industrialization; industrialization to capitalism; capitalism to over- production and concentration of wealth in the hands of the many by a few which results decline in the Values of our adolescents. There are number of reasons for this decline. Some of them are stated as absence of proper religious teaching; fall in moral Values of our political leaders, mass media adopting no proper policy to build moral standards in the society, lack of Values in their elders such as parents and teachers.

Today we are facing so many problems like terrorism, poverty, pollution, violence and population etc. Family and education system is a weapon, whose effect depends on who holds it is his hands and at whom it is aimed. At present there are so many disturbances in the Social Values, Global Values, Environmental Values, Cultural Values, Aesthetic Values, and Recreational Values of the people in the country. This is because Values are missing from very beginning in our children. We have to find what the reasons are and what remedies can be taken to mould children as good citizens. To identify the factors which are responsible for inculcation of values among children? To find relationship among self, parents, education and values in the children.

## II. KEY WORDS

**Values**

A Value is a conception explicit or implicit, distinctive of an individual or characteristic of a group, which influences the selection from available modes, means and ends an action. Values reflect a person's sense of right and wrong or what "ought" to be. Values tend to influence attitudes and behavior. For the achievement of the aims, men frame certain notations and these notations are called Values.

**Adolescents**

A child lying between 13years to 18 years is known as Adolescent

**Gender**

Either as two main groups (Male and Female) in which living things are placed according their reproductive function

**Secondary Level**

IX and X class is known as secondary level. For present study the students of X class are taken under secondary level

## III. OBJECTIVE

- To find out the significant difference between Boy Adolescents Students and Girl Adolescents Students in respect to their different Values.

## IV. HYPOTHESIS

- There is No significant difference between the Boy Adolescents Students and Girl Adolescents Students in respect to their Theoretical Values
- There is No significant difference between the Boy Adolescents Students and Girl Adolescents Students in respect to their Economic Values
- There is No significant difference between the Boy Adolescents Students and Girl Adolescents Students in respect to their Aesthetic Values
- There is No significant difference between the Boy Adolescents Students and Girl Adolescents Students in respect to their Social Values
- There is No significant difference between the Boy Adolescents Students and Girl Adolescents Students in respect to their Political Values
- There is No significant difference between the Boy Adolescents Students and Girl Adolescents Students in respect to their Religious Values

## V. METHODOLOGY

The nature of the problem determines the appropriateness of a method to be used in any research. In present research work the researcher used descriptive survey method of research.

Himachal Pradesh. Thus, 20 schools from Kangra district, Himachal Pradesh were selected. 400 students of various schools (10 boy students and 10 Girl students; total 20 students from each school) were included in the sample. Stratified Sampling has been used for collection data of the study.

Study of Values Test Standardized tool by R.K Ojha Researcher will be used to collect the views of adolescents regarding their priorities about different Values. Tool modified when it was required according to the area. It is a device to assess six value patterns of the Students: Theoretical, Economic, Aesthetic, Social, Political, and Religious valuesThe researcher met personally the students studying in X grade for administration of questionnaires. The aim was that the personal presence of the researcher satisfied the curiosity of the students and also the purpose of the study could be explained to the students in order to ensure reliable responses.Mean, Mode, S.D, t-test. and other suitable Statistical Technique had been applied for the Data in analysis and Interpretation of the study.

## VI. INTERPRETATION AND ANALYSIS

### VI (A) Hypothesis 1

There is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Theoretical Values

**Table – 4.1**

**'t' test of Boy Adolescents and Girls Adolescents towards Theoretical Values**

| Gender | N | Mean | Std Deviation | Std Error Mean | SEdm | t | Significance |
|---|---|---|---|---|---|---|---|
| Boys | 200 | 41.5300 | 4.56214 | .32259 | .498 | 1.443 | Non Significant |
| Girl | 200 | 42.2500 | 5.38260 | .38061 | | | |

From **Table 4.1** it may concluded that Boys Adolescents (N = 200) could achieve (M= 41.53) while Girls Adolescents (N=200) students could get (M= 42.25). So the standard deviation and mean scores show some difference and the calculated Value of t = 1.443 is less than the table Value t = 1.96 at .05 significance level of significance (Two tailed). Therefore the null hypothesis i.e. ***there is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Theoretical Values*** is accepted and we can say that there is no significant difference between the Boy Adolescents and Girl Adolescents in respect to their Theoretical Values. Hence the response pattern of Boy3 Adolescents and Girl Adolescents were observed to be of same nature. Both Boy Adolescents and Girl Adolescents have same opinion towards Theoretical Values.

### VI (B) Hypothesis 2

There is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Economic Values

**Table – 4.2**

**'t' test of Boy Adolescents and Girls Adolescents towards Economic Values**

| Gender | N | Mean | Std Deviation | Std Error Mean | SEdm | t | Significance |
|---|---|---|---|---|---|---|---|
| Boys | 200 | 40.2800 | 4.64970 | .32878 | .46110 | 2.473 | Significant |
| Girl | 200 | 39.1400 | 4.57109 | .32322 | | | |

From **Table 4.2** it may concluded that Boys Adolescents (N = 200) could achieve (M= 40.28) while Girls Adolescents (N=200) students could get (M= 39.14). So the standard deviation and mean scores show some difference and the calculated Value of t = 2.473 is much greater than the table Value t = 1.96 at .05 significance level of significance (Two tailed). Therefore the null hypothesis i.e. ***there is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Economic Values*** is rejected and we can say that there is a significant difference between the Boy Adolescents and Girl Adolescents in respect to their Economic Values. Hence the response pattern of Boy Adolescents and Girl Adolescents were observed to be of different nature. Both Boy Adolescents and Girl Adolescents have different opinion towards Economic Values.

### VI (C) Hypothesis 3

There is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Aesthetic Values

**Table – 4.3**

**'t' test of Boy Adolescents and Girls Adolescents towards Aesthetic Values**

| Gender | N | Mean | Std Deviation | Std Error Mean | SEdm | t | Significance |
|---|---|---|---|---|---|---|---|
| Boys | 200 | 29.6350 | 7.24043 | .51198 | .69763 | 4.164 | Significant |
| Girl | 200 | 32.5400 | 6.70171 | .47388 | | | |

From **Table 4.3** it may concluded that Boys Adolescents (N = 200) could achieve (M= 29.63) while Girls Adolescents (N=200) students could get (M= 32.54). So the standard deviation and mean scores show some difference and the

calculated Value of t = 4.164 is much greater than the table Value t = 1.96 at .05 significance level of significance (Two tailed). Therefore the null hypothesis i.e. there is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Aesthetic Values is rejected and we can say that ***there is a significant difference between the Boy Adolescents and Girl Adolescents in respect to their Aesthetic Values.*** Hence the response pattern of Boy Adolescents and Girl Adolescents were observed to be of different nature. Both Boy Adolescents and Girl Adolescents have different opinion towards Aesthetic Values.

**VI (D) Hypothesis 4**

There is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Social Values

**Table – 4.4**
**'t' test of Boy Adolescents and Girls Adolescents towards Social Values**

| Gender | N | Mean | Std Deviation | Std Error Mean | SEdm | t | Significance |
|---|---|---|---|---|---|---|---|
| Boys | 200 | 44.8000 | 5.97230 | .42231 | .57431 | .435 | Non Significant |
| Girl | 200 | 45.0500 | 5.50445 | .38922 | | | |

From **Table 4.4** it may concluded that Boys Adolescents (N = 200) could achieve (M= 44.80) while Girls Adolescents (N=200) students could get (M= 45.05). So the standard deviation and mean scores show some difference and the calculated Value of t = .435 is less than the table Value t = 1.96 at .05 significance level of significance (Two tailed). Therefore the null hypothesis i.e. there is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Social Values is accepted and we can say that ***there is no significant difference between the Boy Adolescents and Girl Adolescents in respect to their Social Values.*** Hence the response pattern of Boy Adolescents and Girl Adolescents were observed to be of same nature. Both Boy Adolescents and GirlAdolescents have same opinion towards Social Values.

**VI (E) Hypothesis 5**

There is No significant difference between the Boy Addescents and Girl Adolescents in respect to their Political Values

**Table – 4.5**
**'t' test of Boy Adolescents and Girls Adolescents towards Political Values**

| Gender | N | Mean | Std Deviation | Std Error Mean | SEdm | t | Significance |
|---|---|---|---|---|---|---|---|
| Boys | 200 | 43.4950 | 5.75985 | .40728 | .50257 | .249 | Non Significant |
| Girl | 200 | 43.3700 | 4.16411 | .29445 | | | |

From **Table 4.5** it may concluded that Boys Adolescents (N = 200) could achieve (M= 43.49) while Girls Adolescents (N=200) students could get (M= 43.37). So the standard deviation and mean scores show some difference and the calculated Value of t = .249 is less than the table Value t = 1.96 at .05 significance level of significance (Two tailed). Therefore the null hypothesis i.e. **there is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Political Values** is accepted and we can say that there is no significant difference between the Boy Adolescents and Girl Adolescents in respect to their Political Values. Hence the response pattern of Boy Adolescents and Girl Adolescents were observed to be of same nature. Both Boy Adolescents and Girl Adolescents have same opinion towards Political Values.

**VI (F) Hypothesis 6**

There is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Religious Values

**Table – 4.6**
**'t' test of Boy Adolescents and Girls Adolescents towards Religious Values**

| Gender | N | Mean | Std Deviation | Std Error Mean | SEdm | t | Significance |
|---|---|---|---|---|---|---|---|
| Boys | 200 | 40.2850 | 4.40805 | .31170 | .45448 | 2.684 | Significant |
| Girl | 200 | 41.5050 | 4.67754 | .33075 | | | |

From **Table 4.6** it may concluded that Boys Adolescents (N = 200) could achieve (M= 40.28) while Girls Adolescents (N=200) students could get (M= 41.50). So the standard deviation and mean scores show some difference and the calculated Value of t = 2.684 is much greater than the table Value t = 1.96 at .05 significance level of significance (Two tailed). Therefore the null hypothesis i.e. ***there is No significant difference between the Boy Adolescents and Girl Adolescents in respect to their Religious Values*** is rejected and we can say that there is a significant difference between the Boy Adolescents and Girl Adolescents in respect to their Religious Values. Hence the response pattern of Boy Adolescents and Girl Adolescents were observed to be of different nature. Both Boy Adolescents and Girl Adolescents have different opinion towards Religious Values.

## VII. DISCUSSION AND RESULT

Result of the study concluded that the hypotheses no 1, 4 and 5 are related to Theoretical, Aesthetic, and Political values were accepted and we can say that there is no significant difference between the Boy Adolescents students and Girl Adolescents students in respect to their Theoretical, Aesthetic, and Political

Values. Hence the response pattern of Boy Adolescents Students and Girl Adolescents Students were observed to be of same nature. Both Boy Adolescents Students and Girl Adolescents Students have same opinion towards Theoretical, Aesthetic, and Political Values.

In case of hypotheses no 2, 3 and 6 are related to Economic, Social, and Religious values were rejected and we can say that there is a significant difference between the Boy Adolescents Students and Girl Adolescents Students in respect to their Economic, Social, and Religious Values. Hence the response pattern of Boy Adolescents Students and Girl Adolescents Students were observed to be of different nature. Both Boy Adolescents Students and Girl Adolescents Students have different opinion towards Economic, Social, and Religious Values.

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